

平成 26 年 10 月 2 日

会社名	バンク・オブ・アメリカ・コーポレーション (Bank of America Corporation)
代表者名	ブライアン・T・モイニハン (Brian T. Moynihan) 取締役会会長兼最高経営責任者兼社長 (Chairman of the Board and Chief Executive Officer and President)
(コード番号	8648 東証第一部外国株)
問合せ先	東京都港区元赤坂一丁目 2 番 7 号 赤坂Kタワー アンダーソン・毛利・友常法律事務所 弁護士 田中 収／弁護士 吉井 一浩 TEL 03-6888-1000

付属定款変更に関するお知らせ

当社は 2014 年 10 月 1 日付で、付属定款の変更等を報告するために様式 8-K による報告書を米国証券取引委員会に提出しましたので、以下お知らせいたします。当該 8-K の抜粋箇所の抄訳は、以下のとおりです。

項目 5.03 基本定款又は付属定款の変更、事業年度の変更

2014 年 10 月 1 日に、バンク・オブ・アメリカ・コーポレーション(以下「当社」といいます。)の取締役会(以下「取締役会」といいます。)は、筆頭独立取締役の任命に関連して、当社の全面改訂付属定款(以下「付属定款」といいます。)の変更を承認し、採択しました。下記に要約した付属定款の変更は、取締役会の承認により効力が発生しています。

付属定款項目	変更の内容
第 1 条第 1 項	「筆頭独立取締役」の定義を追加
第 3 条第 11 項	取締役会会長の不在時において、株主総会の議長を務められる者を明確化
第 4 条第 7 項	取締役会の独立取締役の過半数の選択により、ニューヨーク証券取引所(以下「NYSE」といいます。)の上場基準に基づく「独立」した筆頭独立取締役を選任する新しい規定を追加
第 5 条第 2 項	筆頭独立取締役は、選任された場合、臨時取締役会を招集することができることを明確化
第 5 条第 7 項	筆頭独立取締役は、選任された場合、取締役会会長の不在時又は取締役会会長の要請により取締役会の議長を務めることができることを明確化

付属定款項目	変更の内容
第 6 条第 7 項	取締役会会長が、NYSE の上場基準に基づく独立した取締役であることを要求する段落を削除
第 10 条第 2 項	筆頭独立取締役は、選任された場合、「非常事態」(付属定款において定義されます。)において取締役会又はその委員会を招集できることを明確化
形式上の変更	上記の変更に加え、改訂後の付属定款には、重要ではない形式上の変更が含まれます。

上記の付属定款の変更に係る要約は、別紙 3.1 として本書に添付され、参照により本項目 5.03 に組み込まれている付属定款を参照することにより完全となります。(訳省略)

以上

本お知らせは、現地 2014 年 10 月 1 日付で米国証券取引委員会(SEC)に提出された様式 8-K の抜粋箇所を翻訳したものです。原文との間に齟齬がある場合には、原文の内容が優先します。全文(原文)は、以下のとおりです。

**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549**

FORM 8-K

**CURRENT REPORT
PURSUANT TO SECTION 13 OR 15(D) OF THE
SECURITIES EXCHANGE ACT OF 1934**

Date of Report (Date of earliest event reported):
October 1, 2014

BANK OF AMERICA CORPORATION

(Exact name of registrant as specified in its charter)

Delaware
(State or other jurisdiction of
incorporation)

1-6523
(Commission File Number)

56-0906609
(I.R.S. Employer Identification No.)

**100 North Tryon Street
Charlotte, North Carolina 28255**
(Address of principal executive offices)

(704) 386-5681
(Registrant's telephone number, including area code)

Not Applicable
(Former name or former address, if changed since last report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

ITEM 5.03. Amendments to Articles of Incorporation of Bylaws; Change in Fiscal Year.

On October 1, 2014, in connection with the appointment of a Lead Independent Director of the Board of Directors (the “Board”) of Bank of America Corporation (the “Corporation”) (see Item 8.01 below), the Board approved and adopted amendments to the Corporation’s Amended and Restated Bylaws (the “Bylaws”). The amendments, as summarized below, to the Bylaws were effective upon approval by the Board.

Location	Description of Amendment
Article I, Section 1	Adds definition for “Lead Independent Director.”
Article III, Section 11	Clarifies the persons who may preside at meetings of stockholders in the Chairman of the Board’s absence.
Article IV, Section 7	Adds a new provision providing for the election, at the option of a majority of the independent members of the Board, of a Lead Independent Director who is “independent” pursuant to the New York Stock Exchange (“NYSE”) listing standards.
Article V, Section 2	Clarifies that the Lead Independent Director, if one is elected, may call special meetings of the Board.
Article V, Section 7	Clarifies that the Lead Independent Director, if one is elected, may preside at the meetings of the Board in the Chairman of the Board’s absence or at the Chairman of the Board’s request.
Article VI, Section 7	Deletes the paragraph requiring the Chairman of the Board to be independent pursuant to the NYSE listing standards.
Article X, Section 2	Clarifies that the Lead Independent Director, if one is elected, may call a meeting of the Board, or any committee thereof, during an “Emergency” (as defined in the Bylaws).
Technical Revisions	In addition to the changes described above, the amended Bylaws include non-substantive, technical revisions.

The foregoing summary of the amendments to the Bylaws is qualified in its entirety by reference to the Bylaws, a copy of which is attached hereto as Exhibit 3.1 and is incorporated in this Item 5.03 by reference.

ITEM 8.01. Other Events.

On October 1, 2014, the Board elected Brian T. Moynihan, Chief Executive Officer of the Corporation, to the additional position of Chairman of the Board, effective immediately. As Chairman of the Board, Mr. Moynihan succeeds Charles O. Holliday, Jr., who will remain a member of the Board. In addition, the independent members of the Board elected Jack O. Bovender, Jr. to serve as the Corporation’s Lead Independent Director, effective immediately. A copy of the related press release (the “Press Release”) is attached hereto as Exhibit 99.1 and is incorporated in this Item 8.01 by reference.

In connection with Mr. Bovender’s appointment as Lead Independent Director, the Board amended the Corporation’s Corporate Governance Guidelines to: (1) specify that when the Chairman of the Board position is not held by an independent director, a Lead Independent Director will be designated by the Board from among the independent directors by a majority of the independent directors to serve a minimum of one year; and (2) specify the duties and responsibilities of the Chairman of the Board, if independent, or the Lead Independent Director, to include, among others:

- Presiding at all meetings of the Board at which the Chairman of the Board is not present, including executive sessions of the independent directors;
- Calling meetings of the independent directors;
- Serving as liaison between the Chief Executive Officer and the independent directors;
- In coordination with the Chief Executive Officer, planning, reviewing and approving meeting agendas for the Board;
- In coordination with the Chief Executive Officer, approving meeting schedules to assure that there is sufficient time for discussion of all agenda items;
- Advising the Chief Executive Officer of the information needs of the Board and approving information sent to the Board; and
- Being available for consultation and direct communication, to the extent requested by major stockholders.

The provisions of the Corporation’s Corporate Governance Guidelines relating to the duties and responsibilities of a Lead Independent Director, as amended, are attached hereto as Exhibit 99.2 and are incorporated in this Item 8.01 by reference. The complete text of the Corporation’s Corporate Governance Guidelines, as amended, is set forth on the Corporation’s investor relations web site.

ITEM 9.01. Financial Statements and Exhibits.

(d) Exhibits.

The following exhibits are filed herewith:

EXHIBIT NO.	DESCRIPTION OF EXHIBIT
3.1	Amended and Restated Bylaws
99.1	The Press Release
99.2	Provisions of the Corporation's Corporate Governance Guidelines relating to the duties and responsibilities of a Lead Independent Director

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

BANK OF AMERICA CORPORATION

By: /s/ Ross E. Jeffries, Jr.

Ross E. Jeffries, Jr.

Deputy General Counsel and Corporate
Secretary

Dated: October 1, 2014

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Bank of America Corporation

BYLAWS

OF

BANK OF AMERICA CORPORATION

As Amended and Restated by the Board of Directors on October 1, 2014

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BYLAWS OF BANK OF AMERICA CORPORATION

ARTICLE I

DEFINITIONS

Section 1. Definitions. In these Bylaws, unless otherwise specifically provided:

(a) "Advancement of Expenses" has the meaning set forth in Section 2 of Article VIII of these Bylaws.

(b) "Affiliate" means any corporation, partnership, limited liability company, association, trust or other entity or organization that is Controlled By the Corporation.

(c) "Certificate of Incorporation" means the Certificate of Incorporation of the Corporation, as amended and restated from time to time, including any certificates of designation filed with the Delaware Secretary of State setting forth the terms of preferred stock of the Company.

(d) "Common Stock" means the common stock of the Corporation.

(e) "Controlled By" means possession, directly or indirectly, of the power to direct or cause the direction and management of the policies of an entity, whether through the ownership of over fifty (50) percent of the voting securities or other ownership interest, by contract or otherwise.

(f) "Corporation" means Bank of America Corporation, a Delaware corporation, and any successor thereto.

(g) "Delivery Date" has the meaning set forth in Section 2 (c) of Article III of these Bylaws.

(h) "Designated Officers" has the meaning set forth in Section 2 of Article X of these Bylaws.

(i) "DGCL" means the General Corporation Law of the State of Delaware, as the same now exists or may hereafter be amended.

(j) "Emergency" has the meaning set forth in Section 1 of Article X of these Bylaws.

(k) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

(l) "Final Adjudication" has the meaning set forth in Section 2 of Article VIII of these Bylaws.

(m) "Indemnatee" has the meaning set forth in Section 1 of Article VIII of these Bylaws.

(n) "Lead Independent Director" means the independent director appointed by the independent members of the Board of Directors in accordance with Article IV, Section 7 of these Bylaws.

(o) "Meeting Record Date" has the meaning set forth in Section 2 (d) of Article III of these Bylaws.

(p) "NYSE" has the meaning set forth in Section 7 of Article VI of these Bylaws.

(q) "Proceeding" has the meaning set forth in Section 1 of Article VIII of these Bylaws.

(r) "Requisite Percent" has the meaning set forth in Section 2 (a) (i) of Article III of these Bylaws.

(s) "Shares" means the Common Stock and other units into which the equity interests in the Corporation are divided.

(t) "Similar Item" has the meaning set forth in Section 2 (c) of Article III of these Bylaws.

(u) "Special Meeting Request" has the meaning set forth in Section 2 (a) (i) of Article III of these Bylaws.

(v) "Stockholder" means the person in whose name Shares are registered in the records of the Corporation.

(w) "Stockholder Requested Special Meeting" has the meaning set forth in Section 2 (a) (i) of Article III of these Bylaws.

(x) "Stockholder Special Meeting Request" has the meaning set forth in Section 2 (b) of Article III of these Bylaws.

(y) "Undertaking" has the meaning set forth in Section 2 of Article VIII of these Bylaws.

Section 2. Cross-Reference to the DGCL. If any term used in these Bylaws and not otherwise defined herein is defined for purposes of the DGCL, such definition shall apply for purposes of these Bylaws, unless the context shall clearly require otherwise.

ARTICLE II

OFFICES

Section 1. Principal Place of Business. The principal place of business of the Corporation shall be located in the City of Charlotte, County of Mecklenburg, State of North Carolina.

Section 2. Registered Office. The registered office of the Corporation required by the DGCL to be maintained in the State of Delaware is The Corporation Trust Center, 1209 Orange Street, Wilmington, New Castle County, Delaware, 19801. The name of the corporation's registered agent at such address is The Corporation Trust Company.

Section 3. Other Offices. The Corporation may have offices at such other places, either within or without the State of Delaware, as the Board of Directors may from time to time determine or as the affairs of the Corporation may require from time to time.

ARTICLE III

STOCKHOLDERS

Section 1. Annual Meeting. The annual meeting of the Stockholders shall be held each year at a date and hour fixed from time to time by resolution of the Board of Directors for the purpose of electing directors and for the transaction of such other proper business as may come before the meeting. The Board of Directors may postpone, reschedule or cancel any annual meeting of Stockholders previously scheduled by the Board of Directors.

Section 2. Special Meetings.

(a) General.

(i) Special meetings of the Stockholders, for any purpose or purposes, unless otherwise prescribed by the DGCL, may be called by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President, or by the Secretary acting under instructions of the Board of Directors, the Chairman of the Board, the Chief Executive Officer, or the President, subject to any applicable law or regulation (each, a "Special Meeting Request"). A special meeting of Stockholders shall be called by the Secretary upon the written request of record holders representing ownership of at least ten (10) percent of the outstanding Common Stock of the Corporation (the "Requisite Percent"), subject to Subsection (b) of

this Section 2 (a “Stockholder Requested Special Meeting”). Business transacted at any special meeting of Stockholders shall be limited to the purposes stated in the notice. The Board of Directors may postpone, reschedule or cancel any special meeting of the Stockholders previously scheduled by the Board of Directors.

- (ii) For purposes of calculating the Requisite Percent, “ownership” shall be deemed to consist of and include only the outstanding Common Stock as to which a person possesses both (A) the full voting rights pertaining to the Common Stock and (B) the full economic interest in (including the opportunity for profit and risk of loss on) such Common Stock; provided that the ownership of Common Stock calculated in accordance with clauses (A) and (B) shall not include any Common Stock (x) sold in any transaction that has not been settled or closed, (y) borrowed or purchased pursuant to an agreement to resell or (z) subject to any option, warrant, forward contract, swap, contract of sale, other derivative or similar agreement, whether any such instrument or agreement is to be settled with Common Stock or with cash based on the notional amount or value of Common Stock, in any such case which instrument or agreement has, or is intended to have, the purpose or effect of (1) reducing in any manner, to any extent or at any time in the future, the full right to vote or direct the voting of any such Common Stock, and/or (2) hedging, offsetting or altering to any degree gain or loss arising from the full economic ownership of such Common Stock. “Ownership” shall include Common Stock held in the name of a nominee or other intermediary so long as the person claiming ownership of such Common Stock retains the right to instruct how the Common Stock is voted with respect to the election of directors and possesses the full economic interest in the Common Stock, provided that this provision shall not alter the obligations of any Stockholder to provide the notice described in Subsection (b) of this Section 2. Ownership of Common Stock shall be deemed to continue during any period in which Common Stock has been loaned if the person claiming ownership may terminate the Common Stock lending on one day’s notice and during any period in which any voting power has been delegated by means of a proxy, power of attorney or other instrument or arrangement which is revocable at any time without condition. The determination of the extent of “ownership” of Common Stock for these purposes shall be made in good faith by the Board of Directors, which determination shall be conclusive and binding on the Corporation and the Stockholders.

(b) Stockholder Requested Special Meetings. In order for a Stockholder Requested Special Meeting to be called, one or more requests for a special meeting (each, a “Stockholder Special Meeting Request,” and collectively, the “Stockholder Special Meeting Requests”) must

be signed by the Requisite Percent of record holders (or their duly authorized agents) and must be delivered to the Secretary. The Stockholder Special Meeting Request(s) shall be delivered to the Secretary at the principal executive offices of the Corporation by registered mail, return receipt requested. Each Stockholder Special Meeting Request shall (i) set forth a statement of the specific purpose(s) of the meeting and the matters proposed to be acted on at it, (ii) bear the date of signature of each such Stockholder (or duly authorized agent) signing the Stockholder Special Meeting Request, (iii) set forth (A) the name and address of each Stockholder signing such request and of any beneficial owner on whose behalf the Stockholder Special Meeting Request is signed, (B) the amount of Common Stock owned of record and beneficially by each such Stockholder and (C) include documentary evidence of such Stockholder's record and beneficial ownership of such Common Stock, (iv) set forth all information relating to each such Stockholder that must be disclosed with respect to persons involved in solicitations of proxies for election of directors in an election contest (even if the Stockholder Requested Special Meeting does not involve an election contest), or is otherwise required, in each case, pursuant to Regulation 14A under the Exchange Act, (v) contain the information required by Article III, Section 12 of these Bylaws as to each such Stockholder and any beneficial owners on whose behalf the Stockholder Special Meeting Request is signed and (vi) set forth an acknowledgment by each such Stockholder that the Stockholder Special Meeting Request shall be deemed to be revoked (and any meeting scheduled in response may be canceled) if the Common Stock owned by such persons does not represent ownership of at least the Requisite Percent at all times between the date on which such Stockholder Special Meeting Request is delivered and the date of the applicable Stockholder Requested Special Meeting, as well as an agreement by each such Stockholder to notify the Corporation immediately if he, she or it ceases to own any Common Stock. Any requesting Stockholder may revoke a Stockholder Special Meeting Request at any time by written revocation delivered to the Secretary at the principal executive offices of the Corporation; provided, however, that if following such revocation there are Stockholder Special Meeting Requests which have not been revoked from Stockholders holding in the aggregate less than the Requisite Percent, the Board of Directors, in its discretion, may cancel the Stockholder Requested Special Meeting. If none of the Stockholders who submitted a Stockholder Special Meeting Request for a Stockholder Requested Special Meeting appears or sends a qualified representative to present the nominations proposed to be presented or other business proposed to be conducted at the Stockholder Requested Special Meeting, the Corporation need not present such nominations or other business for a vote at such Stockholder Requested Special Meeting.

In determining whether a Stockholder Requested Special Meeting has been requested by the record holders of Common Stock representing in the aggregate not less than the Requisite Percent as of the date of such written request to the Secretary, multiple Stockholder Special Meeting Requests delivered to the Secretary will be considered together only if (i) each request identifies substantially the same purpose or purposes of the proposed Stockholder Requested Special Meeting and substantially the same matters proposed to be acted on at the proposed Stockholder Requested Special Meeting (in each case to be determined by the Board of Directors), and (ii) such Stockholder Special Meeting Requests have been dated and

delivered to the Secretary within sixty (60) days of the earliest dated Stockholder Special Meeting Request.

(c) Calling of a Special Meeting. The Secretary shall not be required to call a special meeting of Stockholders if (i) the Board of Directors calls an annual or special meeting of Stockholders to be held not later than sixty (60) days after the date on which a valid Special Meeting Request, Stockholder Special Meeting Request or multiple Stockholder Special Meeting Requests constituting at least the Requisite Percent have been delivered to the Secretary (the "Delivery Date"); or (ii) the Special Meeting Request or the Stockholder Special Meeting Request (A) is received by the Secretary during the period commencing seventy-five (75) days prior to the first anniversary of the date of the immediately preceding annual meeting and ending on the date of the next annual meeting; (B) contains an identical or substantially similar item (a "Similar Item") to an item that was presented at any meeting of Stockholders held within one hundred and twenty (120) days prior to the Delivery Date (and, for purposes of this clause (B) the election of directors shall be deemed a "Similar Item" with respect to all items of business involving the election or removal of directors); (C) relates to an item of business that is not a proper subject for action by the party requesting the special meeting under applicable law; (D) was made in a manner that involved a violation of Regulation 14A under the Exchange Act or other applicable law; or (E) does not comply with the provisions of this Section 2. The Secretary may call a special meeting of Stockholders at any time as requested by any government or regulatory agency.

(d) Holding a Special Meeting. Except as provided in the next sentence, any special meeting shall be held at such date, time and place, within or without the State of Delaware, as may be fixed by the Board of Directors in accordance with these Bylaws and the DGCL. In the case of a Stockholder Requested Special Meeting, such meeting shall be held at such date, time and place as may be fixed by the Board of Directors; provided, however, that the date of any Stockholder Requested Special Meeting shall be not less than ten (10) days nor more than sixty (60) days after the record date for such meeting (the "Meeting Record Date"), which shall be fixed in accordance with Article III, Section 5 of these Bylaws; provided further that, if the Board of Directors fails to designate, within ten (10) days after the Delivery Date, a date and time for a Stockholder Requested Special Meeting, then such meeting shall be held at 9:00 a.m. local time on the sixtieth (60th) day after the Meeting Record Date (or, if that day shall not be a business day, then on the next preceding business day); and provided further that in the event that the Board of Directors fails to designate a place for a Stockholder Requested Special Meeting within ten (10) days after the Meeting Record Date, then such meeting shall be held at the Corporation's principal executive offices. In fixing a date and time for any Stockholder Requested Special Meeting the Board of Directors may consider such factors as it deems relevant within the good faith exercise of business judgment, including, without limitation, the nature of the matters to be considered, the facts and circumstances surrounding any request for meeting and any plan of the Board of Directors to call an annual meeting or a special meeting.

(e) **Business Transacted at a Special Meeting.** Business to be transacted at a special meeting may only be brought before the meeting pursuant to the Corporation's notice of meeting. Business transacted at any Stockholder Requested Special Meeting shall be limited to the purpose(s) stated in the Stockholder Special Meeting Request(s); provided, however, that nothing herein shall prohibit the Board of Directors from submitting matters to the Stockholders at any Stockholder Requested Special Meeting.

Section 3. Place of Meeting. The Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President of the Corporation, or the Secretary acting under instructions of the Board of Directors, the Chairman of the Board, the Chief Executive Officer or the President, may designate any place, either within or without the State of Delaware, as the place of meeting for any annual meeting of Stockholders or for any special meeting of Stockholders or may, in its sole discretion determine that a meeting of Stockholders shall in addition or instead be held by means of remote communication in accordance with Section 211(a)(2) of the DGCL.

Section 4. Notice to Stockholders. Except as otherwise provided herein or required by law, whenever Stockholders are required or permitted to take any action at a meeting, a written notice of the meeting shall be given which shall state the place, if any, date and hour of the meeting, the means of remote communications, if any, by which the Stockholders and proxyholders may be deemed to be present in person and vote at such meeting, and, in the case of a special meeting, the purpose or purposes for which the meeting is called. Any notice to Stockholders shall be effective if given by a form of electronic transmission consented to by the Stockholder in the manner and to the extent permitted by the DGCL.

Unless otherwise provided by law, the Certificate of Incorporation or these Bylaws, the written notice of any meeting shall be given not less than ten (10) nor more than sixty (60) days before the date of the meeting to each Stockholder entitled to vote at such meeting. Notwithstanding the foregoing, notice may be given to Stockholders sharing an address in the manner and to the extent permitted by the DGCL and by the "householding" rules set forth in Rule 14a-3(e) under the Exchange Act. If mailed, notice is given when deposited in the United States mail, postage prepaid, directed to the Stockholder at such Stockholder's address as it appears on the records of the Corporation.

Any meeting of Stockholders, annual or special, may adjourn from time to time to reconvene at the same or another place. When a meeting is adjourned to another time or place, notice need not be given of the adjourned meeting if the date, time and place, if any, of the adjourned meeting and the means of remote communications, if any, by which the Stockholders and proxyholders may be deemed to be present in person and voting at such meeting are announced at the meeting at which the adjournment is taken. At the adjourned meeting the Corporation may transact any business which might have been transacted at the original meeting. If the adjournment is for more than thirty (30) days, a notice of the adjourned meeting shall be given to each Stockholder entitled to vote at the meeting. If after the adjournment a new record date for determining Stockholders entitled to vote is fixed for the

adjourned meeting, the Board of Directors shall fix a new record date for notice in accordance with Section 5 of these Bylaws and notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at such adjourned meeting as of the record date fixed for notice of such adjourned meeting.

A Stockholder may waive any notice required by the DGCL, the Certificate of Incorporation or these Bylaws before or after the date and time stated in the notice. Attendance of a Stockholder at a meeting shall constitute a waiver of notice of such meeting, except when the Stockholder attends a meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened.

Section 5. Fixing of Record Date. For the purpose of determining Stockholders entitled to notice of or to vote at any meeting of Stockholders or any adjournment thereof, or Stockholders entitled to receive payment of any dividend or other distribution, or in order to make a determination of Stockholders for any other proper purpose, the Board of Directors may fix in advance a date for any such determination of Stockholders, which record date shall not precede the date upon which the resolution fixing the record date is adopted, and which date in any case shall not be more than 60 days and, in case of a meeting of Stockholders, not less than ten days prior to, the date of such meeting or on which such action is to be taken. If no record date is fixed for the determination of Stockholders entitled to notice of or to vote at a meeting of Stockholders, the close of business on the day before the first notice is given, or if notice is waived, the close of business on the day before the date of such meeting shall be the record date. If no record date is fixed for the determination of Stockholders entitled to receive payment of a dividend or other distribution or any other proper purpose, the close of business on the day on which the Board of Directors adopts the resolution relating thereto shall be the record date. When a determination of Stockholders entitled to vote at any meeting of Stockholders has been made as provided in this section, such determination shall apply to any adjournment thereof or any postponement that is to a date not more than sixty (60) days after the record date, in each case unless the Board of Directors fixes a new record date.

Section 6. Stockholders List. The officer who has charge of the stock ledger of the Corporation shall prepare and make, at least ten (10) days before the meeting of Stockholders, a complete list of the Stockholders entitled to vote at the meeting, arranged in alphabetical order, and showing the address of each Stockholder and the number of Shares registered in the name of each Stockholder. The list of Stockholders shall be open to the examination of any Stockholder, for any purpose germane to the meeting, for a period of at least ten days prior to the meeting during ordinary business hours, at the principal place of business of the Corporation, or the Corporation may place the Stockholder's list on a reasonably accessible electronic network as permitted by the DGCL. If the meeting is held in person, the list shall be produced and kept at the time and place of the meeting and be available for inspection by any Stockholder who is present at the meeting. If the meeting is to be held solely by means of remote communication, then the list shall also be open to the examination of any Stockholder for the duration of the meeting on a reasonably accessible electronic network, and the

information required to access such list shall be provided with the notice of the meeting. Except as otherwise provided by law, the stock ledger shall be the only evidence as to who are the Stockholders entitled to examine the list of Stockholders required by this Section 6 or to vote in person or by proxy at any meeting of Stockholders.

Section 7. Quorum. Except as otherwise required by law, a majority of the voting power of the outstanding Shares entitled to vote at the meeting, present in person or represented by proxy, shall constitute a quorum at a meeting of Stockholders. Where a separate vote by a class or series or classes or series is required, a majority of the votes entitled to be cast by the outstanding Shares of such class or series or classes or series, present in person or represented by proxy, shall constitute a quorum entitled to take action with respect to that vote on that matter. In the absence of a quorum, such meeting may be adjourned from time to time by the chairman of the meeting or upon the approval of the majority of the voting power of the outstanding Shares present and entitled to vote at the meeting, even if less than a quorum, without notice other than announcement at the meeting as provided in Article III, Section 4 or as otherwise required by Article III. Once a quorum is present at a meeting, it is deemed present for the remainder of the meeting and for any adjournment of that meeting, notwithstanding the withdrawal of enough Stockholders to leave less than a quorum.

Section 8. Proxies. Each Stockholder entitled to vote at a meeting of Stockholders or to express consent or dissent to corporate action in writing without a meeting may authorize another person or persons to act for such Stockholder by proxy, but no such proxy shall be voted or acted upon after three years from its date, unless the proxy provides for a longer period.

Without limiting the manner in which a Stockholder may authorize another person or persons to act for such Stockholder as proxy pursuant to the previous paragraph, the following shall constitute a valid means by which a Stockholder may grant such authority:

(1) A Stockholder may execute a writing authorizing another person or persons to act for such Stockholder as proxy. Execution may be accomplished by the Stockholder or such Stockholder's authorized officer, director, employee or agent signing such writing or causing such person's signature to be affixed to such writing by any reasonable means including, but not limited to, by facsimile signature.

(2) A Stockholder may authorize another person or persons to act for such Stockholder as proxy by transmitting or authorizing the transmission of a telegram, cablegram, or other means of electronic transmission to the person who will be the holder of the proxy or to a proxy solicitation firm, proxy support service organization or like agent duly authorized by the person who will be the holder of the proxy to receive such transmission, provided that any such telegram, cablegram or other means of electronic transmission must either set forth or be submitted with information from which it can be determined that the telegram, cablegram or other electronic transmission was authorized by the Stockholder. If it is determined that such telegrams,

cablegrams or other electronic transmissions are valid, the inspectors or, if there are no inspectors, such other persons making that determination shall specify the information upon which they relied.

Any copy, facsimile telecommunication or other reliable reproduction of the writing or transmission created pursuant to the previous paragraph of this section may be substituted or used in lieu of the original writing or transmission for any and all purposes for which the original writing or transmission could be used, provided that such copy, facsimile telecommunication or other reproduction shall be a complete reproduction of the entire original writing or transmission.

A duly executed proxy shall be irrevocable if it states that it is irrevocable and if, and only as long as, it is coupled with an interest sufficient in law to support an irrevocable power. A proxy may be made irrevocable regardless of whether the interest with which it is coupled is an interest in the stock itself or an interest in the Corporation generally.

A Stockholder may revoke any proxy which is not irrevocable by attending the meeting and voting in person or by delivering to the Secretary a revocation of the proxy or a new proxy bearing a later date.

Section 9. Voting of Shares. Except as otherwise provided by the Certificate of Incorporation, each outstanding share of Common Stock is entitled to one vote on each matter voted on at a Stockholders meeting. Other Shares are entitled to vote only as provided in the Certificate of Incorporation or the DGCL. If a quorum exists, action on a matter (other than election of directors or the chairman of a meeting) is approved if the votes cast favoring an action exceed the votes cast opposing the action, unless the Certificate of Incorporation or the DGCL requires a greater number of affirmative votes. Where a separate vote by a class or series or classes or series is required, the approval of the majority of the votes entitled to be cast within such class or series or classes or series present in person or represented by proxy at the meeting shall be the act of such class or series or classes or series. Such class or series or classes or series shall not be entitled to vote separately unless expressly required by the Certificate of Incorporation or as otherwise provided in the DGCL.

Section 10. Required Vote for Directors. A nominee for director shall be elected to the Board of Directors if the votes cast for such nominee's election exceed the votes cast against such nominee's election; provided, however, that the directors shall be elected by a plurality of the votes cast at any meeting of Stockholders for which (i) the Secretary receives a notice that a Stockholder has nominated a person for election to the Board of Directors in compliance with the advance notice requirements for Stockholder nominees for director set forth in Article III, Section 12 of these Bylaws and (ii) such nomination has not been withdrawn by such Stockholder on or prior to the tenth day preceding the date the Corporation first mails its notice of meeting for such meeting to the Stockholders. If no nominees for election to the Board of Directors are elected at an annual meeting, a special meeting of Stockholders shall be

called for an election of directors in the manner provided in Article III, Section 2 of these Bylaws.

Section 11. Conduct of Meetings. The Chairman of the Board shall preside as chairman at each meeting of Stockholders or, in the Chairman of the Board's absence, the Chief Executive Officer or President shall so preside. At the request of the Chairman of the Board or the Chief Executive Officer or President, in the event all are absent, such other officer as the Board of Directors shall designate shall so preside at any such meeting. In the absence of a presiding officer determined in accordance with the preceding sentence, any person may be designated to so preside at a Stockholders meeting by a plurality vote of the Shares represented and entitled to vote at the meeting. The Secretary or, in the absence or at the request of the Secretary, any person designated by the person presiding at a Stockholders meeting shall act as secretary of such meeting. The chairman of the meeting shall have the authority to adopt and enforce such rules or regulations for the conduct of meetings of Stockholders and the safety of those in attendance as deemed necessary, appropriate or convenient, including, without limitation, establishing: (a) an agenda or order of business for the meeting; (b) rules and procedures for maintaining order at the meeting and the safety of those present; (c) limitations on participation in the meeting to Stockholders entitled to vote at the meeting, their duly authorized and constituted proxies and such other persons as the chairman of the meeting shall permit; (d) restrictions on entry to the meeting after the time fixed for the commencement thereof; (e) limitations on the time allotted for consideration of each agenda item and for questions and discussion by participants; and (f) procedures requiring attendees to provide the Corporation advance notice of their intent to attend the meeting. The chairman of the meeting, in addition to making any other determinations that may be appropriate to the conduct of the meeting, shall, if the facts warrant, determine and declare to the meeting that a matter or business was not properly brought before the meeting and if the chairman should so determine, such chairman shall so declare to the meeting that any such matter or business not properly brought before the meeting shall not be transacted or considered. The chairman of the meeting may, for any reason, from time to time, adjourn any meeting of Stockholders pursuant to Article III, Section 7, or recess any meeting of Stockholders, without notice other than announcement at the meeting except as provided in Article III, Section 4. The date and time of the opening and closing of the polls for each matter upon which the Stockholders will vote at the meeting shall be announced at the meeting.

Section 12. Notice of Stockholder Business and Nominations. At any meeting of the Stockholders, only nominations for the election of directors and the proposal of other business to be considered that has been properly brought before the meeting in accordance with the procedures set forth in this Section 12 may be conducted. Nominations for the election of directors and the proposal of other business at an annual meeting may be made only: (a) by or at the direction of the Board of Directors or any committee thereof; or (b) by a Stockholder of the Corporation who was a stockholder of record of the Corporation at the time the notice provided for in this Section 12 is delivered to the Secretary, who is entitled to vote at the meeting and who complies with this Section 12.

For nominations or other business to be properly brought before an annual meeting by a Stockholder pursuant to clause (b) of the above paragraph of this Section 12, the Stockholder must have given timely and proper notice thereof in writing to the Secretary and any such proposed business other than the nominations of persons for election to the Board of Directors must constitute a proper matter for stockholder action. To be timely, a Stockholder's notice shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the seventy-fifth (75th) day, nor earlier than the close of business on the one hundred twentieth (120th) day prior to the first anniversary of the preceding year's annual meeting (provided, however, that in the event that the date of the annual meeting is more than thirty (30) days before or more than seventy (70) days after its anniversary date, notice by the Stockholder must be so delivered not earlier than the close of business on the one hundred twentieth (120th) day prior to such annual meeting and not later than the close of business on the later of the seventy-fifth (75th) day prior to such annual meeting or the tenth (10th) day following the day on which public announcement of the date of such meeting is first made by the Corporation). In no event shall the public announcement of an adjournment or postponement of an annual meeting commence a new time period (or extend any time period) for the giving of a Stockholder's notice as described above.

To be proper, the notice by a Stockholder must set forth:

- (a) the name and address of the Stockholder and the beneficial owner (within the meaning of Section 13(d) of the Exchange Act), if any, on whose behalf the nomination is made or the business is proposed;
- (b) a representation that the Stockholder is a holder of record of the Corporation's stock (including the number and class of Shares which are owned of record by such Stockholder as of the date of the notice), entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to make such nomination or to propose such business;
- (c) as to the Stockholder giving the notice or, if the notice is given on behalf of a beneficial owner, as to such beneficial owner, and if such Stockholder or beneficial owner is an entity, as to each director, executive officer, managing member or control person of such entity (any such person, a "control person"):
 - (i) the number and class of Shares which are beneficially owned by such Stockholder or beneficial owner and by any control person as of the date of the notice, and a representation that the Stockholder will notify the Corporation in writing within five (5) business days after the record date for such meeting of the class and number of Shares beneficially owned by the Stockholder or such beneficial owners and by any control person as of the record date for the meeting. For purposes of this paragraph, Shares shall be treated as "beneficially owned" by a person if the person beneficially owns such Shares, directly or indirectly, for purposes of

Section 13(d) of the Exchange Act and Regulations 13D and 13G thereunder or has or shares pursuant to any agreement, arrangement or understanding (whether or not in writing): (A) the right to acquire such Shares (whether such right is exercisable immediately or only after the passage of time or the fulfillment of a condition or both), (B) the right to vote such Shares, alone or in concert with others, (C) investment power with respect to such Shares, including the power to dispose of, or to direct the disposition of, such Shares, and/or (D) a direct or indirect pecuniary interest in such Shares, as determined pursuant to Rule 16a-1(a)(2) under the Exchange Act, or other direct or indirect financial interest in Shares, regardless of whether exempt from the definition of pecuniary interest;

- (ii) whether and the extent to which any hedging or other transaction or series of transactions has been entered into as of the date of the notice by or on behalf of, or any other agreement, arrangement or understanding (including any derivative or short positions, profit interests, options or any borrowing or lending of Shares) has been made, the effect or intent of which is to mitigate loss to or manage risk or benefit of stock price changes for, or to increase or decrease the voting power of, such Stockholder or any such beneficial owner with respect to any Shares, and a representation that the Stockholder will notify the Corporation in writing within five (5) business days after the record date for such meeting of any such hedging or other transaction or series of transactions in effect as of the record date for the meeting;
- (iii) a representation whether the Stockholder or the beneficial owner, if any, and any control person (A) will engage in a solicitation with respect to the nomination or business proposed and, if so, the name of each participant (as defined in Item 4 of Schedule 14A under the Exchange Act) in such solicitation and (B) with respect to any proposal other than a nomination for the election of directors, whether such person intends or is part of a group which intends to deliver a proxy statement and/or form of proxy to holders of at least the percentage of the Corporation's outstanding capital stock required to approve or adopt the business to be proposed (in person or by proxy) by the Stockholders;
- (iv) a description of all agreements, arrangements or understandings with respect to the nomination or proposal among the Stockholder or the beneficial owner, if any, and any control person and each nominee, if any, and any other person or persons (naming such person or persons) including without limitation any agreements that would be required to be disclosed pursuant to Item 5 or Item 6 of Exchange Act Schedule 13D (regardless of whether the requirement to file a Schedule 13D is

applicable to the Stockholder or beneficial owner) pursuant to which the nomination or nominations are to be made by the Stockholder and a representation that the Stockholder will notify the Corporation in writing within five (5) business days after the record date for such meeting of any such agreements, arrangements or understandings in effect as of the record date for the meeting;

- (d) as to each person whom the Stockholder proposes to nominate for election as a director, all information regarding each nominee that would be required to be disclosed in solicitations of proxies for election of directors in an election contest pursuant to Regulation 14A under the Exchange Act and such person's written consent to being named in the proxy statement as a nominee and to serving as a director if elected; and
- (e) as to any other business that the Stockholder proposes to bring before the meeting, a brief description of the business desired to be brought before the meeting, the text of the proposal or business (including the text of any resolutions proposed for consideration and in the event that such business includes a proposal to amend the Bylaws of the Corporation, the language of the proposed amendment), the reasons for conducting such business at the meeting and any substantial interest (within the meaning of Item 5 of Schedule 14A under the Exchange Act) in such business of such Stockholder and the beneficial owner, if any, on whose behalf the proposal is made and of any control person.

The Corporation may require any proposed nominee to furnish such other information as it may reasonably require to determine the eligibility of such proposed nominee to serve as a director of the Corporation, including information relevant to a determination whether such person can be considered an independent director.

Notwithstanding anything in the second sentence of the second paragraph of this Section 12 to the contrary, in the event that the number of directors to be elected to the Board of Directors of the Corporation at an annual meeting is increased and there is no public announcement by the Corporation naming the nominees for the additional directorships at least one hundred twenty (120) days prior to the first anniversary of the preceding year's annual meeting, a Stockholder's notice required by this Section 12 shall also be considered timely, but only with respect to nominees for the additional directorships, if it shall be delivered to the Secretary at the principal executive offices of the Corporation not later than the close of business on the tenth (10th) day following the day on which such public announcement is first made by the Corporation.

Only such business shall be conducted at a special meeting of Stockholders as shall have been brought before the meeting pursuant to the Corporation's notice of meeting. Nominations of persons for election to the Board of Directors may be made at a special meeting of Stockholders at which directors are to be elected pursuant to the Corporation's notice of

meeting (1) by or at the direction of the Board of Directors or any committee thereof or (2) by any Stockholder of the Corporation who is a stockholder of record at the time the notice provided for in this Section 12 is delivered to the Secretary, who is entitled to vote at the meeting and upon such election and who complies with the notice procedures set forth in this Section 12. In the event the Corporation calls a special meeting of Stockholders for the purpose of electing one or more directors to the Board of Directors, any such Stockholder entitled to vote in such election of directors may nominate a person or persons (as the case may be) for election to such position(s) as specified in the Corporation's notice of meeting, if the Stockholder's notice required by the second paragraph of this Section 12 shall be delivered to the Secretary at the principal executive offices of the Corporation not earlier than the close of business on the one hundred twentieth (120th) day prior to such special meeting and not later than the close of business on the later of the ninetieth (90th) day prior to such special meeting or the tenth (10th) day following the day on which public announcement is first made of the date of the special meeting and of the nominees proposed by the Board of Directors to be elected at such meeting. In no event shall the public announcement of an adjournment or postponement of a special meeting commence a new time period (or extend any time period) for the giving of a Stockholder's notice as described above.

Except as otherwise provided by law, the chairman of the meeting shall have the power and duty (a) to determine whether a nomination or any business proposed to be brought before the meeting was made or proposed, as the case may be, in accordance with the procedures set forth in this Section 12 (including whether the Stockholder or beneficial owner, if any, on whose behalf the nomination or proposal is made provided timely and proper notice of such pursuant to this Section 12 or solicited (or is part of a group which solicited) or did not so solicit, as the case may be, proxies in support of such nominee or proposal in compliance with the representation as required by clause (c)(iii) above of this Section 12) and (b) if any proposed nomination or business was not made or proposed in compliance with this Section 12 (including if a Stockholder did not abide by its representation to provide information as of the record date as specified in clause (c) of this Section 12), to declare that such nomination shall be disregarded or that such proposed business shall not be transacted. Notwithstanding the foregoing provisions of this Section 12, unless otherwise required by law, if the Stockholder (or a qualified representative of the Stockholder) does not appear at the annual or special meeting of Stockholders of the Corporation to present a nomination or proposed business, such nomination shall be disregarded and such proposed business shall not be transacted, notwithstanding that proxies in respect of such vote may have been received by the Corporation. For purposes of Article III, Section 2 and this Section 12, to be considered a qualified representative of the Stockholder, a person must be a duly authorized officer, manager or partner of such Stockholder or must be authorized by a writing executed by such Stockholder or an electronic transmission delivered by such Stockholder to act for such Stockholder as proxy at the meeting of Stockholders and such person must produce such writing or electronic transmission, or a reliable reproduction of the writing or electronic transmission, at the meeting of Stockholders. In the event that a qualified representative of the Stockholder will appear at the annual or special meeting of Stockholders (including a Stockholder Requested Special Meeting) to make a nomination or propose business, the

Stockholder must provide notice of the designation, including the identity of the representative, to the Corporation at least forty-eight (48) hours prior to such meeting. Where a Stockholder fails to provide such notice of designation to the Corporation within the required timeframe, such Stockholder must appear in person to present his, her or its nomination or proposed business at the annual or special meeting or such nomination shall be disregarded and such proposed business shall not be transacted as provided for above.

For purposes of this Section 12, “public announcement” shall include disclosure in a press release reported by the Dow Jones News Service, Associated Press or comparable national news service or in a document publicly filed by the Corporation with the Securities and Exchange Commission pursuant to Section 13, 14 or 15(d) of the Exchange Act.

Notwithstanding the foregoing provisions of this Section 12, a Stockholder seeking to include a proposal in a proxy statement that has been prepared by the Corporation to solicit proxies shall comply with all applicable requirements of the Exchange Act and the rules and regulations thereunder with respect to the matters set forth in this Section 12. Nothing in this Section 12 shall be deemed to affect any rights (a) of Stockholders to request inclusion of proposals in the Corporation’s proxy statement pursuant to Rule 14a-8 promulgated under the Exchange Act or (b) of the holders of any series of preferred stock to elect directors pursuant to any applicable provisions of the Certificate of Incorporation.

Section 13. Inspectors of Election. The Corporation shall, in advance of any meeting of Stockholders, appoint one or more inspectors of election, who may be employees of the Corporation, to act at the meeting or any adjournment thereof and to make a written report thereof. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. In the event that no inspector so appointed or designated is able to act at a meeting of Stockholders, the chairman of the meeting shall appoint one or more inspectors to act at the meeting. The inspector or inspectors so appointed or designated shall (a) ascertain the number of Shares outstanding and the voting power of each such Share, (b) determine the Shares of the Corporation represented at the meeting and the validity of proxies and ballots, (c) count all votes and ballots, (d) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspectors, and (e) certify their determination of the number of Shares of the Corporation represented at the meeting and such inspectors' count of all votes and ballots. Such certification and report shall specify such other information as may be required by law. In determining the validity and counting of proxies and ballots cast at any meeting of Stockholders of the Corporation, the inspectors may consider such information as is permitted by applicable law. No person who is a nominee for an office at an election may serve as an inspector at such election.

ARTICLE IV

BOARD OF DIRECTORS

Section 1. General Powers. The business and affairs of the Corporation shall be managed under the direction of its Board of Directors, except as otherwise provided in the Certificate of Incorporation or permitted under the DGCL.

Section 2. Number and Qualifications. Subject to the Certificate of Incorporation, the number of directors of the Corporation shall be fixed or changed from time to time by resolution adopted by the Board of Directors. Directors need not be residents of the State of Delaware or Stockholders of the Corporation. A director of the Corporation shall at all times meet all statutory and regulatory qualifications for a director of a publicly held bank holding company and financial holding company.

Section 3. Terms of Directors. The terms of all directors shall expire at the next annual Stockholders meeting following their election or upon a director's earlier death, resignation, disqualification or removal. A decrease in the number of directors does not shorten an incumbent director's term. The term of a director elected to fill a vacancy shall expire at the next Stockholders meeting at which directors are elected or upon such director's earlier death, resignation, disqualification or removal. Despite the expiration of a director's term, however, such director shall continue to serve until the director's successor is elected and qualified or until such director's earlier death, resignation, disqualification or removal. Any director may be removed at any time with or without cause by the affirmative vote of the holders of a majority of the voting power of the outstanding Shares then entitled to vote at an election of directors. Any director may resign at any time upon notice to the Corporation.

Section 4. Vacancies and Newly Created Directorships. Except in those instances where the Certificate of Incorporation or applicable law provides otherwise, a majority of directors then in office, although less than a quorum, or a sole remaining director, may fill a vacancy or a newly created directorship on the Board of Directors. A vacancy that will occur at a specific later date (by reason of a resignation effective at a later date or otherwise) may be filled before the vacancy occurs by a majority of directors then in office, including those who have so resigned, but the new director may not take office until the vacancy occurs.

Section 5. Compensation. The Board of Directors may provide for the compensation of directors for their services as such and may provide for the payment or reimbursement of any or all expenses reasonably incurred by them in attending meetings of the Board or of any committee of the Board or in the performance of their other duties as directors.

Section 6. Committees. The Board of Directors may from time to time create or eliminate one or more committees, including but not limited to Audit, Compensation and Benefits, Corporate Governance, Credit and Enterprise Risk committees, and appoint members of the Board of Directors to serve on them. Each committee must have one or more members who

serve at the pleasure of the Board of Directors, and the Board of Directors shall periodically approve a charter describing the duties of each committee. The provisions of the DGCL and these Bylaws that govern meetings, action without meetings, notice and waiver of notice, and quorum and voting requirements of the Board of Directors, shall apply to committees and their members as well. To the extent specified by the Board of Directors, each committee may exercise the authority of the Board of Directors, subject to the DGCL and other applicable law. Nothing contained in this Section shall preclude the Board of Directors from establishing and appointing any committee, whether of directors or otherwise, not having or exercising the authority of the Board of Directors.

Section 7. Lead Independent Director. A majority of the independent members of the Board of Directors may elect from among the independent members of the Board of Directors a Lead Independent Director, but the election of a Lead Independent Director shall not be required. The Lead Independent Director may be removed as a Lead Independent Director by vote of a majority of the independent members of the Board of Directors. If a Lead Independent Director shall be elected, then the Lead Independent Director shall have such duties and authority as may be prescribed by the Board of Directors from time to time. For purposes of this Bylaw, “independent” has the meaning set forth in the New York Stock Exchange (“NYSE”) listing standards, unless the Corporation’s Common Stock ceases to be listed on the NYSE and is listed on another exchange, in which case such exchange’s definition of independence shall apply.

ARTICLE V

MEETINGS OF DIRECTORS

Section 1. Regular Meetings. A regular meeting of the Board of Directors shall be held without other notice than this Bylaw provision immediately after, and at the same place as, the annual meeting of the Stockholders. In addition, the Board of Directors may determine the date, time and place, within or without the State of Delaware for the holding of additional regular meetings.

Section 2. Special Meetings. Special meetings of the Board of Directors may be held at any date, time and place, within or without the State of Delaware, upon the call of the Chairman of the Board, the Lead Independent Director, the Chief Executive Officer, the President or of the Secretary acting under instructions from the Chairman of the Board, the Lead Independent Director, the Chief Executive Officer or the President, or upon the call of any three directors. Special meetings may be held at any date, time and place and without special notice by unanimous consent of the directors.

Section 3. Notice. The person or persons calling a special meeting of the Board of Directors shall, at least twenty-four (24) hours before the meeting, give notice thereof by any usual means of communication. Such notice may be communicated, without limitation, in person; by

telephone, facsimile, or other electronic transmission; or by mail or private carrier. Written notice of a directors' meeting is effective at the earliest of the following:

- (a) when received;
- (b) if by facsimile or other electronic transmission, when sent addressed to the director; or
- (c) on the date shown on the confirmation of delivery issued by United States mail or a private carrier, if sent by overnight delivery to the address of the director last known to the Corporation.

Oral notice is effective when actually communicated to the director. Notice of an adjourned meeting of directors need not be given if the time and place are fixed at the meeting being adjourned. The notice of any meeting of directors need not describe the purpose of the meeting unless otherwise required by the DGCL.

Section 4. Waiver of Notice. A director may waive any notice required by the DGCL, the Certificate of Incorporation or these Bylaws before or after the date and time stated in the notice. The waiver must be in writing, signed by the director entitled to the notice, and filed with the minutes or corporate records, except that, notwithstanding the foregoing requirement of written notice, a director's attendance at or participation in a meeting waives any required notice to the director of the meeting unless the director at the beginning of the meeting expressly objects to holding the meeting or transacting business at the meeting because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the directors or members of a committee of directors need be specified in any written waiver of notice unless so required by the Certificate of Incorporation.

Section 5. Quorum. A majority of the number of directors in office immediately before the meeting begins, but in no case less than one-third (1/3) of the total number of directors fixed by the Board of Directors, shall constitute a quorum for the transaction of business at any meeting of the Board of Directors, but if less than such majority is present at a meeting, a majority of directors present may adjourn the meeting from time to time without further notice.

Section 6. Manner of Acting. Except as otherwise provided in the DGCL, the Certificate of Incorporation or herein, the act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the Board of Directors.

Section 7. Conduct of Meetings. The Chairman of the Board shall preside at all meetings of the Board of Directors or, in the Chairman of the Board's absence or at the Chairman of the Board's request, the Lead Independent Director shall so preside; provided, however, that in the absence or at the request of both the Chairman of the Board and the Lead Independent

Director, or if there shall not be persons holding such offices, the person selected to preside at a meeting of directors by a vote of a majority of the directors present shall preside at such meeting. The Secretary, or in the absence or at the request of the Secretary, any person designated by the person presiding at a meeting of the Board of Directors, shall act as secretary of such meeting.

Section 8. Action Without a Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting if the action is taken by all members of the Board of Directors or such committee, as the case may be. The action must be evidenced by one or more consents in writing or by electronic transmission describing the action taken, which consent or consents shall be included in the minutes or filed with the records of the Board of Directors or of such committee.

Section 9. Participation Other Than in Person. Members of the Board of Directors or any committee designated by the Board of Directors may participate in a Board of Directors or committee meeting by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation in a meeting pursuant to this subsection shall constitute presence in person at the meeting.

ARTICLE VI

OFFICERS

Section 1. Officers of the Corporation. The officers of the Corporation may include a Chairman of the Board, a Chief Executive Officer, a President, one or more Vice Chairmen, one or more Division Presidents, one or more Managing Directors (including the officer title of Directors), one or more Vice Presidents (including Executive Vice Presidents, Senior Vice Presidents and Assistant Vice Presidents), a Secretary, a Treasurer, and such other officers, assistant or deputy officers and agents, as may be elected from time to time by or under the authority of the Board of Directors. The same individual may simultaneously hold more than one office in the Corporation, but no individual may act in more than one capacity where action of two or more officers is required. The title of any officer may include any additional designation descriptive of such officer's duties as the Board of Directors may prescribe.

Section 2. Appointment and Term. The officers of the Corporation shall be elected by the Board of Directors, by a committee thereof or by an officer authorized by the Board of Directors or a committee thereof to elect one or more officers; provided, however, that no officer may be authorized to elect the Chairman of the Board, the Chief Executive Officer or the President. Each officer shall hold office until his or her death, resignation, retirement, removal or disqualification or until such officer's successor is elected and qualified.

Section 3. Compensation. The compensation of all officers of the Corporation shall be fixed by or under the authority of the Board of Directors. No officer shall be prevented from receiving such salary by reason of the fact that such officer is also a director.

Section 4. Resignation and Removal of Officers. An officer may resign at any time by communicating such officer's resignation to the Corporation. A resignation is effective when it is communicated unless it specifies in writing a later effective date. If a resignation is made effective at a later date and the Corporation accepts the future effective date, the Board of Directors may fill the pending vacancy before the effective date if the Board of Directors provides that the successor does not take office until the effective date. The Board of Directors, by the affirmative vote of a majority of its members, may remove the Chairman of the Board, the Chief Executive Officer or the President whenever in its judgment the best interest of the Corporation would be served thereby. In addition, the Board of Directors or a committee or an officer authorized by the Board of Directors or a committee thereof may remove any other officer at anytime with or without cause.

Section 5. Contract Rights of Officers. The appointment of an officer does not itself create contract rights. An officer's removal does not itself affect the officer's contract rights, if any, with the Corporation, and an officer's resignation does not itself affect the Corporation's contract rights, if any, with the officer.

Section 6. Chief Executive Officer. The Board of Directors may elect a Chief Executive Officer. The Chief Executive Officer shall, subject to the direction and control of the Board of Directors, supervise and control the business and affairs of the Corporation. In general the Chief Executive Officer shall perform all duties incident to the position of chief executive officer or as may be prescribed by the Board of Directors or these Bylaws from time to time.

Section 7. Chairman of the Board. The Board of Directors may elect from among its members an officer designated as the Chairman of the Board, but the appointment of a Chairman of the Board shall not be required. If a Chairman of the Board shall be elected, then the Chairman of the Board shall have such other duties and authority as may be prescribed by the Board of Directors from time to time. In general the Chairman of the Board shall perform all duties incident to the position of chairman of the board or as may be prescribed by the Board of Directors or these Bylaws from time to time.

Section 8. President. The Board of Directors may elect a President. The President shall perform the duties and exercise the powers of that office and, in addition, the President shall perform such other duties and shall have such other authority as the Board of Directors shall prescribe. In general the President shall perform all duties incident to the position of president or as may be prescribed by the Board of Directors or these Bylaws from time to time. The Board of Directors shall, if it deems such action necessary or desirable, designate the officer of the Corporation who is to perform the duties of the President in the event of such officer's absence or inability to act.

Section 9. Vice Chairman. The Board of Directors may elect one or more officers designated as the Vice Chairman, but the appointment of one or more Vice Chairmen shall not be required.

If one or more Vice Chairmen shall be elected, then one or more Vice Chairmen shall have such duties and authority as may be prescribed by the Board of Directors from time to time.

Section 10. Division Presidents. The Board of Directors may appoint one or more officers designated as Division Presidents, but the appointment of one or more Division Presidents shall not be required. If one or more Division Presidents shall be appointed, then the Division President(s) shall have such duties and authority as may be prescribed by the Board of Directors from time to time.

Section 11. Managing Directors, Principals, Vice Presidents and Officers. The Board of Directors may appoint one or more Managing Directors, one or more Principals, one or more Vice Presidents and one or more Officers. Categories of Vice Presidents may include, but are not limited to, Group Executive Vice Presidents, Executive Vice Presidents, Senior Vice Presidents, and Assistant Vice Presidents. Categories of Managing Directors may include, but are not limited to, the officer title of Director. The Board of Directors may also create categories of Principals and Officers. Each Managing Director, each Principal, each Vice President and each Officer shall have such duties and authorities as may be described by the Board of Directors or by the officer to whom such Managing Director, Principal, Vice President and Officer reports.

Section 12. Secretary. The Secretary shall keep the minutes of meetings of the Stockholders and of the Board of Directors and be custodian of the corporate records, and in general perform all duties incident to the office of the secretary and such other duties as from time to time may be assigned to the Secretary by the Chief Executive Officer, the Board of Directors or a committee created by the Board of Directors.

Section 13. Treasurer. The Treasurer shall have charge and custody of all funds and securities of the Corporation, and in general perform all of the duties incident to the office of Treasurer and such other duties as from time to time may be assigned to the Treasurer by the Chief Executive Officer, the Board of Directors or a committee created by the Board of Directors.

Section 14. Assistant Secretaries and Deputy Treasurers. Assistant Secretaries and Deputy Treasurers, if any, shall, in the event of the death of or the inability or refusal to act by the Secretary or the Treasurer, respectively, have all the powers and perform all of the duties of those offices, and they shall, in general, perform such duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the Chief Executive Officer or the Board of Directors.

ARTICLE VII

SHARES AND THEIR TRANSFER

Section 1. Shares. Shares of the Corporation will be uncertificated unless the Board of Directors by resolution determines otherwise. Shares represented by an existing certificate will remain certificated until such certificate is surrendered to the Corporation. Shares represented by certificates shall be in such form as shall be required by the DGCL, and as determined by the Board of Directors. If certificates are issued, each certificate shall be signed by, or in the name of the Corporation by, the Chairman of the Board, or a Vice Chairman of the Board, or the President, or a Vice President, and the Secretary or an Assistant Secretary or the Treasurer or a Deputy Treasurer of the Corporation certifying the number of Shares represented by such certificate. Any or all the signatures on the certificate may be a facsimile. In case any officer or any transfer agent or registrar (whose roles are described in Section 4 below) who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, transfer agent, or registrar before such certificate is issued, it may be issued by the Corporation with the same effect as if such person were such officer, transfer agent, or registrar at the date of issue.

Section 2. Stock Transfer Books and Transfer of Shares. The Corporation, or its agent, shall keep a book or set of books to be known as the stock transfer books of the Corporation, containing the name of each stockholder of record, together with such Stockholder's address and the number and class or series of Shares held by such Stockholder. Transfer of Shares of the Corporation shall be made on the stock transfer books of the Corporation, and if such Shares are represented by certificates only upon surrender of the certificates for the Shares sought to be transferred by the holder of record thereof or by such holder's duly authorized agent, transferee or legal representative, who shall furnish proper evidence of authority to transfer with the Secretary. All certificates surrendered for transfer shall be canceled, and the Shares shall thereafter be uncertificated, unless otherwise determined by a resolution of the Board of Directors.

Section 3. Lost Certificates. The Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman, any Division President, any Executive Vice President, any Managing Director, the Secretary, the Treasurer, or such other officers, employees or agents as the Board of Directors or any of the designated officers may direct, may authorize the issuance of uncertificated Shares, or, if determined by a resolution of the Board of Directors, a replacement stock certificate, in place of a certificate claimed to have been lost, stolen, destroyed or mutilated, upon receipt of an affidavit of such fact from the person or persons claiming the loss or destruction and any other documentation satisfactory to the Board of Directors or such officer. At the discretion of the party reviewing such claim, any such claimant may be required to give the Corporation a bond in such sum as it may direct to indemnify against the loss from any claim with respect to the certificate claimed to have been lost, stolen or destroyed.

Section 4. Transfer Agent and Registrar; Regulations. The Corporation may, if and whenever the Board of Directors so determines, maintain in the State of Delaware or any other state of the United States, one or more transfer offices or agencies and also one or more registry offices, which officers and agencies may establish rules and regulations for the issue, transfer and registration of certificates and uncertificated Shares not inconsistent with these Bylaws. No certificates for Shares in respect of which a Transfer Agent and Registrar shall have been designated shall be valid unless countersigned by such Transfer Agent and registered by such Registrar. Any such countersignature may be a facsimile. The Board may also make such additional rules and regulations as it may deem expedient concerning the issue, transfer and registration of certificates and uncertificated Shares.

ARTICLE VIII

INDEMNIFICATION

Section 1. Right to Indemnification. Each person who was or is made a party or is threatened to be made a party to or is otherwise involved in any action, suit, arbitration, alternative dispute mechanism, inquiry, judicial, administrative or legislative hearing, investigation or any other threatened, pending or completed proceeding, whether brought by or in the right of the Corporation or otherwise, including any and all appeals, whether of a civil, criminal, administrative, legislative, investigative or other nature (a "Proceeding"), by reason of the fact that he or she is or was a director, officer, or employee of the Corporation or is or was serving at the request of the Corporation as a director, officer, manager or employee of an Affiliate or of another corporation, association, limited liability company, partnership, joint venture, trust or other enterprise, including service with respect to an employee benefit plan (an "Indemnitee"), whether the basis of such Proceeding is alleged action in an official capacity as a director, officer, manager, employee or agent or in any other capacity while serving as a director, officer, manager, or employee or agent, shall be vested with the contractual right to indemnification and be held harmless by the Corporation to the fullest extent authorized by the DGCL, as the same exists or may hereafter be amended, against all expense, liability and loss (including attorneys' fees, judgments, fines, taxes, including ERISA excise taxes, or penalties and amounts paid in settlement) reasonably incurred or suffered by such Indemnitee in connection therewith if the Indemnitee acted in good faith and in a manner the Indemnitee reasonably believed to be in or not opposed to the best interest of the Corporation or other entity covered by this Article VIII, and, with respect to any criminal action or Proceeding, had no reasonable cause to believe that Indemnitee's conduct was unlawful. Such indemnification shall not be retroactively amended to adversely affect the rights of an Indemnitee in connection with any act, omissions, facts or circumstances occurring prior to the date of amendment, shall continue as to an Indemnitee who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the Indemnitee's heirs, executors and administrators; provided, however, that, except as provided in Section 3 of this Article VIII with respect to Proceedings to enforce rights to indemnification and advancement under this Article VIII, the Corporation shall indemnify any such Indemnitee in connection with a Proceeding (or part thereof) initiated by such Indemnitee (including claims and counterclaims, whether such counterclaims are asserted by (a) such

Indemnatee, or (b) the Corporation in a Proceeding initiated by such Indemnatee) only if such Proceeding (or part thereof) was authorized by the Board of Directors of the Corporation. This Article shall supersede any conflicting provisions contained in the corporate governance documents of any Affiliate of the Corporation.

Section 2. Right to Advancement of Expenses. The right to indemnification conferred in this Article shall include the right to be paid by the Corporation the expenses incurred in defending any Proceeding for which such right to indemnification is applicable in advance of its final disposition (an "Advancement of Expenses"); provided, however, that an Advancement of Expenses incurred by or on behalf of an Indemnatee shall be made only upon delivery to the Corporation of an undertaking (hereinafter an "Undertaking"), by or on behalf of such Indemnatee, to repay all amounts so advanced if it shall ultimately be determined by final judicial decision from which there is no further right to appeal (a "Final Adjudication") that such Indemnatee is not entitled to be indemnified for such expenses under this Section or otherwise.

Section 3. Right of Indemnatee to Bring Suit. The rights to indemnification and to the Advancement of Expenses conferred in Sections 1 and 2 of this Article VIII, as limited by Section 7 hereof, are contract rights. If a claim under Sections 1 or 2 of this Article VIII is not paid in full by the Corporation within 60 days after a written claim has been received by the Corporation, except in the case of a claim for an Advancement of Expenses, in which case the applicable period shall be 20 days, the Indemnatee may at any time thereafter bring suit against the Corporation to recover the unpaid amount of the claim. If successful in whole or in part in any such suit, or in a suit brought by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Indemnatee shall be entitled to be paid also the expense of prosecuting or defending such suit to the fullest extent permitted by law. In (i) any suit brought by the Indemnatee to enforce a right to indemnification hereunder (but not in a suit brought by the Indemnatee to enforce a right to an Advancement of Expenses) it shall be a defense that, and (ii) in any suit by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the Corporation shall be entitled to recover such expenses upon a final adjudication that, the Indemnatee has not met any applicable standard for indemnification set forth in the DGCL. Neither the failure of the Corporation (including its Board of Directors, a committee thereof or independent legal counsel) to have made a determination prior to the commencement of such suit that indemnification of the Indemnatee is proper in the circumstances because the Indemnatee has met the applicable standard of conduct set forth in the DGCL, nor an actual determination by the Corporation (including its Board of Directors, a committee thereof or independent legal counsel) that the Indemnatee has not met such applicable standard of conduct, shall create a presumption that the Indemnatee has not met the applicable standard of conduct or, in the case of such a suit brought by the Indemnatee, be a defense to such suit. In any suit brought by the Indemnatee to enforce a right to indemnification or to an advancement of expenses hereunder, or by the Corporation to recover an Advancement of Expenses pursuant to the terms of an Undertaking, the burden of proving that the Indemnatee is not entitled to be indemnified, or to such Advancement of Expenses, under this Article or otherwise shall be on the Corporation.

Section 4. Non-Exclusivity of Rights. The rights to indemnification and to the Advancement of Expenses conferred in this Article shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, the Corporation's Certificate of Incorporation, Bylaws, agreement, vote of Stockholders or disinterested directors or otherwise.

Section 5. Insurance. The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or any person serving at the request of the Corporation as a director, officer, manager, employee or agent of another corporation, association, limited liability company, partnership, joint venture, trust or other enterprise, against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the DGCL.

Section 6. Indemnification of Agents of the Corporation. The Corporation may, to the extent authorized from time to time by the Board of Directors or its designee, grant rights to indemnification, and to the Advancement of Expenses to any agent of the Corporation to the fullest extent of the provisions of this Article VIII with respect to the indemnification and Advancement of Expenses of directors and officers of the Corporation.

Section 7. Limitations on Indemnification. All indemnification and insurance provisions contained in this Article VIII are subject to the limitations and prohibitions imposed by federal law, including the Securities Act of 1933 and the Federal Deposit Insurance Act, and any implementing regulations concerning indemnification.

Section 8. Severability. If any provision or provisions of this Article VIII shall be held to be invalid, illegal or unenforceable for any reason whatsoever (a) the validity, legality and enforceability of the remaining provisions of this Article VIII (including, without limitation, all portions of any paragraph of this Article VIII containing any such provision held to be invalid, illegal or unenforceable, that are not by themselves invalid, illegal or unenforceable) shall not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the provisions of this Article VIII (including, without limitation, all portions of any paragraph of this Article VIII containing any such provision held to be invalid, illegal or unenforceable, that are not themselves invalid, illegal or unenforceable) shall be construed so as to give effect to the intent of the parties that the Corporation provide protection to the Indemnitee to the fullest enforceable extent.

ARTICLE IX

GENERAL PROVISIONS

Section 1. Execution of Instruments. All indentures, mortgages, deeds, conveyances, contracts, notes, drafts, loan documents, letters of credit, master agreements, swap agreements, guarantees, discharges, releases, satisfactions, settlements, affidavits, bonds, undertakings, powers of attorney, and other instruments or contracts may be signed, executed, acknowledged, verified, attested, delivered or accepted on behalf of the Corporation by the

Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman, any Division President, any Managing Director, any Director (as described in Article VI, Section 11), any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, or any individual who is listed on the Corporation's Officer's payroll file in a position equal to any of the aforementioned officer positions, or such other officers, employees or agents as the Board of Directors, the Chief Executive Officer or any officer reporting directly to the Chief Executive Officer may direct in a written delegation kept in the minute book of the Corporation. The provisions of this Section 1 are supplementary to any other provision of these Bylaws and shall not be construed to authorize execution of instruments otherwise dictated by law.

Section 2. Voting of Ownership Interests. The Chairman of the Board, the Chief Executive Officer, the President, any Vice Chairman, any Division President, any Executive Vice President, any Managing Director, the Secretary, the Treasurer, or such other officers, employees or agents as the Board of Directors or such designated officers may direct are authorized to vote, represent and exercise on behalf of the Corporation all rights incident to any and all shares of stock or other ownership interests in any Affiliate or any other corporations, associations, limited liability companies, partnerships, or other entities standing in the name of the Corporation. The authority herein granted to the individuals to vote or represent on behalf of the Corporation any and all ownership interests held by the Corporation may be exercised either by the individuals in person or by any duly executed proxy or power of attorney.

Section 3. Distributions. The Board of Directors may from time to time authorize, and the Corporation may pay or distribute, dividends or other distributions on its outstanding Shares in such manner and upon such terms and conditions as are permitted by the Certificate of Incorporation and the DGCL.

Section 4. Seal and Attestation. Any officer of the Corporation is empowered to affix the corporate seal on all documents, and may attest the signature of any person executing an instrument on behalf of the Corporation. In the execution on behalf of the Corporation of any instrument, document, writing, notice or paper, it shall not be necessary to affix the corporate seal of the Corporation thereon, and any such instrument, document, writing, notice or paper when executed without said seal affixed thereon shall be of the same force and effect and as binding on the Corporation as if said corporate seal had been affixed thereon in each instance.

Section 5. Amendments. The Board of Directors may amend or repeal these Bylaws and may adopt new Bylaws at any regular or special meeting of the Board of Directors; provided, however, that any amendment or repeal of, or the adoption of any Bylaw inconsistent with, Article III, Section 10 of these Bylaws shall also require the approval of the Stockholders of the Corporation. The Stockholders of the Corporation may also amend or repeal these Bylaws and may adopt new Bylaws.

ARTICLE X

EMERGENCY BYLAWS

Section 1. Emergency Bylaws. This Article X shall be operative during any emergency resulting from an attack on the United States or on a locality in which the Corporation conducts its business or customarily holds meetings of its Board of Directors or its Stockholders, or during any nuclear or atomic disaster or during the existence of any catastrophe or other similar emergency condition, as a result of which a quorum of the Board of Directors or the Executive Committee thereof cannot be readily convened (an "Emergency"), notwithstanding any different or conflicting provision in the preceding Articles of these Bylaws or in the Certificate of Incorporation of the Corporation. To the extent not inconsistent with the provisions of this Article, the Bylaws provided in the preceding Articles and the provisions of the Certificate of Incorporation of the Corporation shall remain in effect during such Emergency, and upon termination of such Emergency, the provisions of this Article X shall cease to be operative.

Section 2. Meetings. During any Emergency, a meeting of the Board of Directors, or any committee thereof, may be called by any member of the Board of Directors, the Chairman of the Board, the Lead Independent Director, the Chief Executive Officer, President, a Vice Chairman, the Secretary or any officer reporting directly to the Chief Executive Officer. Notice of the time and place of the meeting shall be given by any available means of communication by the person calling the meeting to such of the directors and the members of the Corporation's Management Operating Committee, or any successor committee thereto, (the "Designated Officers") as it may be feasible to reach. Such notice shall be given at such time in advance of the meeting as, in the judgment of the person calling the meeting, circumstances permit. As a result of any Emergency, the Board of Directors may determine that a meeting of Stockholders not be held at any place, but instead be held solely by means of remote communication in accordance with the DGCL.

Section 3. Quorum. At any meeting of the Board of Directors, or any committee thereof, called in accordance with Section 2 of this Article X, the presence of one director shall constitute a quorum for the transaction of business. Vacancies on the Board of Directors, or any committee thereof, may be filled by a majority vote of the directors in attendance at the meeting. In the event that no directors are able to attend a meeting of the Board of Directors, then the Designated Officers in attendance shall serve as directors for the meeting, without any additional quorum requirement and with full powers to act as directors of the Corporation.

Section 4. Amendments. At any meeting called in accordance with Section 2 of this Article X, the Board of Directors or the committees thereof, as the case may be, may modify, amend or add to the provisions of this Article X so as to make any provision that may be practical or necessary for the circumstances of the Emergency.

Section 5. Contingency Plan. A management contingency plan developed by the Corporation's Personnel Division and reviewed annually by a Corporate Governance Committee

of the Board of Directors shall be maintained in the custody of the Secretary. Absent action by the Board of Directors, the Corporation shall be managed in accordance with the management contingency plan during an Emergency.

Section 6. Liability. No officer, director or employee of the Corporation acting in accordance with the provisions of this Article X shall be liable except for willful misconduct.

Section 7. Repeal or Change. The provisions of this Article X shall be subject to repeal or change by further action of the Board of Directors or by action of the Stockholders, but no such repeal or change shall modify the provisions of Section 6 of this Article X with regard to action taken prior to the time of such repeal or change.



October 1, 2014

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Brian Moynihan Elected Chairman of the Board of Directors

Bovender Elected Lead Independent Director

CHARLOTTE – Bank of America's Board of Directors elected Chief Executive Officer Brian Moynihan as chairman, succeeding Charles “Chad” Holliday, Jr., effective immediately. Jack Bovender, Jr., a member of the board of directors since August 2012, will become the board’s lead independent director.

“There’s more work ahead, but Brian’s strategy to simplify the company and connect it with the real economy continues to build value for shareholders,” said Holliday.

“The board strongly supports the strategy that Brian has set and, after careful deliberation, has decided to take these next steps in our governance responsibilities.”

Bovender, the former chairman and chief executive officer of HCA Inc., is a member of the board’s Credit and Enterprise Risk committees. Among other responsibilities and consistent with what the board believes are best practices in corporate governance, the duties established for Bovender include:

- Together with the chairman/CEO, planning, reviewing, and approving meeting agendas for the board.
- Advising the chairman/CEO of the information needs of the board and approving information sent to the board.
- Acting as a liaison between the chairman/CEO and the 13 independent directors.
- Calling meetings of the independent directors.

“On behalf of the board and our shareholders, I thank Chad for his leadership and look forward to continuing to work with him, Jack, and the other directors to build on the sound governance processes the board has put in place,” said Moynihan.

Moynihan became chief executive officer and a member of the board of directors of Bank of America on January 1, 2010.

Additional information about the board's actions, including the newly-established lead independent director duties, is available on the company's current report on Form 8-K filed today with the Securities and Exchange Commission.

Bank of America

Bank of America is one of the world's leading financial institutions, serving individual consumers, small businesses, middle-market businesses and large corporations with a full range of banking, investing, asset management and other financial and risk management products and services. The company provides unmatched convenience in the United States, serving approximately 49 million consumer and small business relationships with approximately 5,000 retail banking offices and approximately 16,000 ATMs and award-winning online banking with 30 million active users and more than 15 million mobile users. Bank of America is among the world's leading wealth management companies and is a global leader in corporate and investment banking and trading across a broad range of asset classes, serving corporations, governments, institutions and individuals around the world. Bank of America offers industry-leading support to approximately 3 million small business owners through a suite of innovative, easy-to-use online products and services. The company serves clients through operations in more than 40 countries. Bank of America Corporation stock (NYSE: BAC) is listed on the New York Stock Exchange.

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**Provisions of the Corporation's Corporate Governance Guidelines
relating to the duties and responsibilities of a Lead Independent Director**

Lead Independent Director. When the position of Chairman is not held by an independent director, a Lead Independent Director will be designated by the Board. The Lead Independent Director will be selected from among the independent directors by a majority of the independent directors to serve a minimum of one year.

Responsibilities and Duties. In addition to any other responsibilities and duties set forth in these guidelines or the Bylaws, the responsibilities and duties of the Chairman, if independent, or the Lead Independent Director will consist of the following:

Board Leadership

- In the case of the Chairman, presiding at all meetings of the Board and, in the case of the Lead Independent Director, presiding at all meetings of the Board at which the Chairman is not present, including at executive sessions of the independent directors;
- Calling meetings of the independent directors, as appropriate;
- In the case of the Lead Independent Director, if the Chief Executive Officer of the Company (the "CEO") is also Chairman, providing Board leadership if the CEO/Chairman's role may be (or may be perceived to be) in conflict;

Board Culture

- Serving as a liaison between the CEO and the independent directors;
- Establishing a close relationship and trust with the CEO, providing support, advice and feedback from the Board while respecting executive responsibility;
- Acting as a "sounding board" and advisor to the CEO;

Board Focus

- ***Board Focus:*** In consultation with the CEO, other members of the Board and senior management, ensuring that the Board focuses on key issues and tasks facing the Company and on topics of interest to the Board;
- ***Corporate Governance:*** In consultation with the CEO, assisting the Board, the Corporate Governance Committee and management in complying with these guidelines and promoting corporate governance best practices;
- ***CEO Performance Review and Succession Planning:*** Working with the Corporate Governance Committee, the Compensation and Benefits Committee and members of the Board, contributing to the annual performance review of the CEO and participating in CEO succession planning;

Board Meetings

- In coordination with the CEO, planning, reviewing and approving meeting agendas for the Board;
- In coordination with the CEO, approving meeting schedules to assure that there is sufficient time for discussion of all agenda items;
- Advising the CEO of the information needs of the Board and approving information sent to the Board;
- Developing topics of discussion for executive sessions of the Board;

Board Performance and Development

- *Board Performance*: Together with the CEO, ensuring the efficient and effective performance and functioning of the Board;
- *Board Assessment*: Consulting with the Corporate Governance Committee on the Board's annual self assessment;
- *Director Development*: Providing guidance to the CEO on the ongoing development of directors;
- *Director Assessment/Nomination*: With the Corporate Governance Committee and the CEO, consulting in the identification and evaluation of director candidates' qualifications (including candidates recommended by directors, management, third party search firms and stockholders) and consulting on committee membership and committee chairs;

Stockholders and Other Stakeholders

- Being available for consultation and direct communication, to the extent requested by major stockholders; and
- Having regular communication with primary bank regulators (with or without management present) to discuss the appropriateness of the Board's oversight of management and the Company.