



TESTIMONY FOR THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON FINANCIAL SERVICES  
BOSTON, MASSACHUSETTS  
DECEMBER 14, 2004

My name is Maureen Flynn and I am the Deputy Director of the Massachusetts Association of Community Development Corporations (MACDC). Thank you, Chairman Bachus and Congressman Frank, for giving MACDC the opportunity to submit testimony regarding recent bank mergers in Massachusetts.

**MACDC's Mission and Accomplishments**

MACDC is the trade association and advocacy arm of over 70 community development corporations (hereafter, "CDCs") in Massachusetts. We are the policy and capacity-building arm of the community development movement in Massachusetts. We support and advance the affordable housing, economic development and community-building strategies of our members. We work to build the power of low- and moderate-income (hereafter, "LMI") people to achieve greater economic, social and racial justice. Over the past two years, our CDCs have built or preserved over 1,000 homes; created or preserved almost 2,400 job opportunities, helped start or grow 1,200 locally owned businesses, and attracted \$179 million in private and public investment to revitalize our communities. In addition, in 1998, MACDC spearheaded a successful legislative campaign creating the first and only state insurance community reinvestment law, which has yielded nearly \$200 million in insurance community development investments.

MACDC has been a leader on and advocate for, community reinvestment negotiations, agreements, plans, and initiatives, because our member organizations serve and are composed of LMI communities and individuals. Over the past almost fifteen years, together with other community-based partners, we have developed and negotiated community investment agreements with banks, including agreements related to: the Bank of Boston/Bay Bank merger, the Fleet Bank/Shawmut Bank acquisition, the Citizens Bank/US Trust merger, the Fleet Bank/BankBoston merger, and Sovereign Bank's entrance into the Massachusetts market.

More recently, we have participated in, together with the New England Conference of the NAACP (hereafter, NEC of the NAACP), the Massachusetts Affordable Housing Alliance (hereafter, MAHA), the Fair Housing Center of Greater Boston (hereafter, the Fair Housing Center), and the Lawyers Committee for Civil Rights Under Law (hereafter, the Lawyers Committee), the negotiations for a new Sovereign Bank community investment agreement, and a

community investment agreement with Bank of America. I will address the questions put to the panel then regarding those two mergers.

# **1. The Effects of the Sovereign Bank/Seacoast Bank and Bank of America/Fleet Bank Mergers on Jobs and Employees of the Acquired Banks.**

We are, of course, concerned when there are a large number of layoffs in any industry, especially when the layoffs and job reductions disproportionately affect lower income employees, a specific geographical area of the state, or employees/job positions in a specific company which have yielded important results. On those terms, the two most recent bank mergers, which we are addressing today, both had deleterious effects on our communities:

## Sovereign Bank

Southeastern Massachusetts, which includes the cities of Fall River and New Bedford, has a lower median income than the Boston area and has struggled with other dramatic workforce challenges, including the decline of the fishing industry. This area has also experienced a large percentage of job losses due to recent bank mergers, particularly attributable to the Sovereign Bank acquisition of Seacoast Bank. According to a report prepared by the Center for Policy Analysis at the University of Massachusetts at Dartmouth, between 1993 and 2003, employment in the banking industry in the southeastern Massachusetts decreased by 31%; most of those job losses were attributable to bank mergers. The 1995 Fleet acquisition of NBB Bancorp resulted in the loss of 179 employees and the closing of the NBIS headquarters in downtown New Bedford; the Bank of Boston/Bay Bank merger cost the area 100 employees; and, worst of all, the Sovereign Bank/Seacoast Bank merger eliminated 350 employees in southeastern Massachusetts.

## Bank of America

The recent Bank of America acquisition of Fleet Bank resulted in the loss of key bank positions and employees who were able to make positive connections between Fleet Bank and the communities and consumers that CDC's serve. For example, several Fleet Bank staff who were laid off served on local small business advisory boards and loan review committees for community-based organizations. One employee was instrumental in helping get attention within the bank to projects that might have otherwise been overlooked. Several others were advocates for local, small business development. All of them, through their participation with local programs, had a solid understanding of the needs of local business owners in LMI communities and therefore supported programs and services that encouraged small business development. Those are important connections to the community that Bank of America is now missing. In addition, Bank of America has effectively reduced its CRA staff so that there is just one CRA officer covering two states – Massachusetts and Rhode Island.

Bank of America needs to dedicate itself to restoring and rebuilding these connections in order to achieve strong community investment results.

- 2. The extent to which acquiring banks have entered into commitments during the merger process relating to employment, affordable mortgage lending, small business loans, community development, minority hiring and procurement and serving LMI individuals, the specificity of the commitments, and the extent to which such commitments are being met, are enforceable, and by whom.**

Sovereign Bank

On December 1, 2004, Sovereign Bank signed a new Community Investment Agreement (hereafter, "Sovereign Agreement") for the years 2004-2008. The negotiations for this Agreement actually started two years ago with a coalition of community groups, including the aforementioned organizations. The Sovereign Agreement, therefore, was not written pursuant to Sovereign's acquisition of Seacoast Bank but rather as an extension of Sovereign Bank's original three year agreement for Massachusetts. The Sovereign Agreement includes the following:

- ✓ \$940 million affordable mortgage loans;
- ✓ \$1.2 billion small business lending in the following categories:
  - \$300 million in loans to LMI census tracts;
  - \$300 million in loans under \$100 million;
  - \$300 million loans to companies with revenues under \$1 million; and
  - \$120 million in majority-minority census tracts;
- ✓ \$30 million in equity investments for community development initiatives;
- ✓ A minimum of \$30 million in the purchase of Low Income Housing Tax Credits;
- ✓ \$25 million in loans and investment in the Boston Empowerment Zone;
- ✓ Notification to a designated community group on branch closings;
- ✓ A commitment to achieve 20% racial and gender diversity within all EEO-designated categories;
- ✓ A commitment to achieve a goal awarding 20% of all Massachusetts based purchasing contracts to firms owned by people of color; and a commitment to awarding 15% of the aforementioned to women-owned businesses;
- ✓ \$222 million in community development financing;
- ✓ \$4.5 million in grants to community-based non-profits, including those involved in community development and civil rights issues; and last, but not least,
- ✓ A commitment to maintain a Massachusetts Commonwealth Advisory Group.

The Agreement, in essence, contains all of the provisions which the community coalition requested – most importantly: commitments to affordable housing and small business lending, an advisory council, and goals on diversity in hiring and awarding contracts. We negotiated on the levels of commitments and in the end, Sovereign Bank was able to actually make the commitments, put them in writing, sign a Community Investment Agreement, and create a partnership with a community coalition to do as the state and federal community reinvestment laws require: make a pro-active attempt to meet the credit needs of LMI communities. The bank, in making commitments to hiring and contract goals, went beyond the requirements of the law and in doing so, has demonstrated that it wants to be a contributing member of creating an economy and society which is inclusive of and reflective of all of its citizens. Could Sovereign Bank do more to mitigate the effects of its acquisition of Seacoast Bank, especially for the southeastern Massachusetts? Absolutely. Does the Agreement contain a plan for mitigating the effects of job loss? No. Our work is not finished on the merger and neither is theirs. We intend to work with them, through the framework of this Agreement and through the Advisory Council, so that Sovereign Bank becomes a true community partner and leader in southeastern Massachusetts. The fact that we have an Agreement with them makes that possible.

#### Bank of America

In November 2003, just after Fleet Bank announced that they were accepting an acquisition proposal by Bank of America, a coalition of community groups, including the NEC of the NAACP, MAHA, the Fair Housing Center, and the Lawyers Committee, proposed a Massachusetts- specific “Community Investment Plan” to Bank of America based on what we understood, as representatives of the community, were community credit needs. This proposal contained almost identical categories as those contained in previous Sovereign Bank and Citizens Bank agreements. The proposal was also based on the relative size of Bank of America and its ability to provide services, investment, and lending in Massachusetts. A copy of that proposal, and our follow up proposal is attached.

We expected that Bank of America would literally sit down with us, as Sovereign Bank and Citizens Bank had done, and work out a community investment agreement based on our proposals. In the end, we would have a mutually developed agreement that would chart and outline Bank of America’s path to meeting community credit needs.

In February, after several meetings and intense discussions with Fleet Bank and Bank of America officials, Bank of America agreed, in writing, to a written Massachusetts plan.

It is important to note the distinction here between so called community investment “plans” and “agreements.” A plan may be issued by a bank in an attempt to meet their CRA requirements but it is not a mutually developed “agreement” that a bank and community representatives write together. An agreement involves community groups identifying to the bank community credit needs and the bank responding with a proposal to meet those credit needs, then the bank and community groups working out a mutual “agreement.” Typically, agreements are more specific and more easily monitored than commitments, although of course it varies from situation to situation. As previously noted, currently, the two other largest banks in Massachusetts, Citizens Bank and Sovereign Bank, have agreements with community groups.

In the first few months of this year, Bank of America agreed to make several commitments on areas contained in our proposal. The bank:

- ✓ Joined the Federal Home Loan Bank of Boston;
- ✓ Committed to making 3,000 home mortgage loan under the Soft-Second Program, which is Massachusetts's successful affordable mortgage program;
- ✓ Agreed to convert some of their state-required Massachusetts Housing Partnership loan obligation to equity, which will then provide much needed pre-development funds for community-based non-profit housing developers, like our members;
- ✓ Agreed to establish a basic checking and savings account that meets the minimum account requirements that the Massachusetts Community Banking Council has established to serve LMI customers;
- ✓ Agreed to make investments in the Massachusetts Housing Investment Corporation; and
- ✓ Made a charitable contributions commitment to the Northeast, although the commitment to date has not included a specific budget for Massachusetts, nor has it provided assurance that community development will continue to receive the same proportion of grants from Bank of America as it did from Fleet Bank.

We appreciate Bank of America's commitments to date and think the commitments are a good first step in partnering with Massachusetts communities. To date, however, more than one year after Bank of America announced their plan to acquire Fleet Bank, there are four extremely important outstanding issues on which Bank of America has not agreed to make commitments or set goals:

- ✓ Small business lending goals by loan type and area. We had requested that Bank of America establish specific lending goals as follows:
  - loans by geography
    - 25% of small business loans should be in LMI census tracts;
    - 20% of small business loans should be made in majority-minority census tracts;
    - 15% of small business loans should be made in rural/non MSA areas;
  - 80% of its small business loans under \$100,000; half of these under \$50,000 and 25% in the geographical areas of focus mentioned above;
  - 80% of its loans to businesses with under \$1m in revenue;
- ✓ Goals for diversity in hiring - 20% of its employees be persons of color within all employment levels, including management categories;
- ✓ Goals for diversity in awarding contracts - award 20% of its vendor contracts to companies owned by people of color and 20% of its vendor contracts to companies owned by women; and

- ✓ The establishment of a formal Massachusetts bank-community advisory council.

Without these goals set, Bank of America's work on CRA then is incomplete.

Why should Bank of America include the missing goals in an agreement, or even in a bank issued plan?

First, issuing specific goals for small business lending by type and geographic area provides the bank with a guide and program with which to do small business lending so that they know they are meeting smaller businesses' credit needs, the credit needs of businesses located in geographical areas that desperately need investment, both LMI areas, and majority-minority census tracts, and the credit needs of locally grown start-up businesses who are most likely to need smaller loans. Federal CRA regulations require banks to be assessed on their small business lending based on these categories for this very reason: to ensure that banks are meeting the credit needs of the all of communities they serve.

Second, while the federal CRA law doesn't include a provision requiring banks to set goals for either contracting with businesses owned by people of color and women, or hiring and maintaining a diverse workplace, a comprehensive community investment plan would include such goals because in doing so, a bank is acknowledging its economic and moral responsibility to invest in and support all of the businesses and the total potential workforce in the communities the bank serves.

Third, a formal Massachusetts Advisory committee or council is a necessary component to a comprehensive community investment plan. It establishes the necessary framework through which the bank and community groups can review the implementation of the components of a plan.

In addition, without these goals set, there can be no written community investment agreement or plan with Bank of America that adequately attempts to serve the credit needs of the citizens of Massachusetts.

We have spent the last eight months repeatedly meeting with Bank of America officials on these issues under the impression that the time and energy spent in these meetings would result in some agreement on these outstanding issues. We even submitted to the bank, at the bank's request, further information, on what should be included in a Massachusetts plan. Despite all of this effort, the bank announced that it would be issuing a plan this past week, the contents of which, up until late Friday afternoon, were unknown to us.

As we mentioned, we appreciate the commitments that Bank of America has made so far to Massachusetts. Sovereign Bank and Citizens Bank have been able to meet the standard established by our state in terms of being parties to solid community investment agreements. We only ask that Bank of America meet that standard as well, or even, as their advertising campaign suggests, that they try to achieve a "higher standard," reflective of their preeminent ranking in the financial market as the second largest bank in the country.

**3. Whether current laws, including the Bank Holding Company Act and the Community Reinvestment Act, provide sufficient criteria for the review of the impact of bank mergers on communities, and are adequate to ensure that the communities' interests are protected after the merger has been completed.**

The current Bank Holding Company Act and the Community Reinvestment Act do not provide sufficient review of the impact of bank mergers and are woefully inadequate to ensure that communities' interests are protected after a merger.

First, CRA regulations should include an assessment of how well banks' have met the credit needs of communities of color. CRA is broad enough to encompass a bank's obligation to meet the entire community's credit needs and specifically includes in that obligation, the need to address LMI communities credit needs. The law does not specifically exclude any other facets of communities and should therefore be interpreted to obligate banks to meet the credit needs of communities of color. One of the main reasons advocates pushed for the passage of CRA was many financial institutions' historical practice of redlining out communities of color. How can CRA regulations, and in turn, the Bank Holding Company Act, be adequate to assess the impact of bank mergers and whether communities' interests are being served if this issue is ignored?

Second, there are two inadequacies in section 3 of the Bank Holding Company Act, which requires that in determining whether to approve an acquisition application, banks' regulators must assess whether the merging banks have complied with the CRA law in meeting the credit needs of a community:

- a) The assessment is made on past history, i.e., how the two merging banks have met credit needs in the past. The assessment is not based on the one merged bank's plans to meet credit needs AFTER a merger. In contrast, all of the other factors regulators must weigh under section 3 are prospective – after a merger is complete. The regulators must assess the competitive factors, managerial factors, safety and soundness of the two banks if they are merged. The only factor to which regulators look to the past is the banks' CRA records. This would seem to be a huge deficit in the law. There is therefore, no means to address the effect of a merger or acquisition on the banks' ability to meet communities' credit needs. To win a merger application, banks must face rigorous questions about their business plans, ostensibly to ensure for the banks' stockholders and the public that the bank does not fail. We propose that banks undergo the same rigorous evaluation about their community investment plans, again to ensure that the bank does not fail the public.
- b) Last, there is no requirement that regulators compare the performance, under CRA, of the merged bank to the two banks' CRA performance before they merged. Therefore, there is no incentive for banks to take into account any diminution of services, investment, or lending post-merger. This type of assessment should be part of the merged bank's first CRA exam post-merger to ensure that the merged bank is either maintaining or improving its performance on all CRA-related activities.

Again, we thank the Committee very much for allowing us to submit testimony on these very important issue to Massachusetts citizens.

## PROPOSED COMMONWEALTH INVESTMENT PLAN FOR BANK OF AMERICA

### Mortgage Lending/Soft Second Program

The Soft Second Program is the most affordable mortgage program in the state. It is a partnership between banks, non-profit organizations, state government, and local communities that has served over 7,000 home buyers since its inception in 1991. In addition to being the most affordable mortgage option, the Soft Second program has a delinquency rate below the state wide average for all mortgage loans.

Bank of America will make a commitment to offer the program in Boston, where it originated as a response to the 1989 Federal Reserve Bank study on racial disparities in mortgage lending, and throughout the state. Fleet has been the leading lender in the SoftSecond program, and Bank of America will be as well.

### Massachusetts Housing Partnership Obligation

Bank of America will be responsible for making a several hundred million dollar loan commitment to the Massachusetts Housing Partnership (MHP) per the requirements of Massachusetts General Law Chapter 167A and Chapter 102. The precise amount of the requirement will be determined by the Massachusetts Housing Partnership in accordance with state law. Four years ago, when Fleet merged with BankBoston, the bank had a \$250 million obligation to MHP. Fleet agreed to a \$143 million loan to MHP and to convert the remaining portion of the debt into a \$12 million grant to MHP. These funds were then used by MHP to finance more affordable housing for Massachusetts residents. Bank of America will agree to converting some of its commitment to MHP into equity to enable the program to better serve low- and moderate- income families.

### Basic Banking Services

- Branches – Bank of America will commit to not closing any Fleet branches in any low- or moderate- income census tract within the Commonwealth of Massachusetts.
- Basic Banking Account – This voluntary low cost checking and savings account program was started by the Massachusetts Community Banking Council in 1992. More than 80% of the branches in the state now offer this product which features the following:
  - \* monthly checking fee of no more than \$3.
  - \* 8 free checks or ATM withdrawals.
  - \* savings account with \$10 minimum balance and maximum monthly fee of \$1.



The Bank will establish specific annual goals for enrolling new customers in the Basic Banking Account. Those goals will equal or exceed Fleet's recent track record.

#### Community Development Financing

Bank of America will set aggressive goals for community development financing, including lending for the acquisition, construction, and permanent financing for commercial, industrial and mixed-used properties in low and moderate income communities.

#### Equity Investments

Bank of America will establish a goal of investing equity in community development financial institutions, community development corporations, and equity loan pools. Fleet is the leading investor in the Massachusetts Housing Investment Corporation's loan pool. However, Fleet has decided that in January, 2004, it will decrease its commitment to the loan pool. Bank of America will reverse Fleet's decision and maintain Fleet's current level of investment.

The bank will also invest in the so called "New Market Tax Credits."

Fleet's present investment in housing tax credits programs is lower than the prior investments made separately by Fleet and each of the three banks that Fleet has acquired in the last few years (Shamut, BayBank, and Bank of Boston). Bank of America's investment post merger will be increased to this prior level of commitment

#### Small Business Lending

Bank of America will establish aggressive goals for the percentage of loans under \$100,000 and under \$50,000 that it makes to small businesses grossing \$1 million or less each year. It will also establish goals for making a considerable percentage of these loans in low- and moderate income census tracts. The Bank will also maintain its involvement in loan programs sponsored by the U.S. Small Business Administration, including the community express program.

In addition, the Bank of America will employ a second look program for all of its small business applications. Bank of America will work with local partners to refer declined loans to technical assistance programs and nontraditional lenders where appropriate. The Bank will also continue and expand Fleet's contracts with community-based organizations that provide technical assistance to small businesses so that the small businesses can prepare quality loan applications.

### Workforce Diversity

The Bank will commit to a goal of having 20% of its employees be persons of color within all employment levels, including sub-management categories.

### Procurement

The bank will award 20% of its vendor contracts to vendors owned by people of color and 20% of its vendor contracts to vendors owned by women. The Bank will verify, either internally or externally, that all contracts counted in these categories are legitimately owned by the respective group members.

### Charitable Giving

In 1999, Fleet Boston made a commitment to provide \$11 million in charitable contributions for Massachusetts per year, with one-third of which was designated for community development purposes. The bank has also provided approximately \$1 million per year in technical assistance funds to Massachusetts organizations. The Bank of America will increase this commitment to reflect its considerable assets and the impact of inflation since 1999.

During this plan, Bank of America will commit to make \$12 million per year in charitable contributions to non-profit organizations in Massachusetts, with a minimum of \$4 million directed to community development efforts. Bank of America will also continue the technical assistance grant program with \$1 million per year in funding for Massachusetts organizations.

### Individual Development Accounts

In the past four years, Individual Development Account Programs have grown at the community level to 650 accounts throughout the state. IDA participants have saved money, developed their personal financial skills, and invested in homes, businesses, and colleges throughout Massachusetts. Fleet Bank assisted in the development of IDAs and has made a commitment to grow individual assets by taking IDA programs up to scale on a level comparable with other states. Bank of America will continue Fleet's initiative and make a match funds commitment as part of this plan.

### Membership in the Federal Home Loan Bank

Bank of America will continue Fleet's membership in the Federal Home Loan Bank and will continue to participate in the FHLB's programs at the same level at which Fleet participated in its programs.

### Community Advisory Board

Bank of America will establish a Massachusetts community advisory board to oversee the implementation of the Commonwealth Investment Plan. The Bank will also make a commitment to quarterly meetings of this board so that the Bank's progress on the Plan can be monitored.

February 6, 2004

Mr. Doug Woodruff, President  
Community Development Banking  
Bank of America  
800 Market Street  
St. Louis, Missouri 63101

Dear Doug:

Thank you for meeting with us on January 13, 2004 to continue discussing the proposal that we sent to you in November regarding a Bank of America community investment plan for Massachusetts. We are glad that Bank of America has decided to develop a Massachusetts "business strategy," and that the Bank has agreed to several of the items in our original letter, including: joining the Boston chapter of the Federal Home Loan Bank, participating in the Massachusetts Soft-Second Program, maintaining an investment in the Massachusetts Housing Investment Corporation, and converting some of the Bank's Massachusetts Housing Partnership lending liability to equity.

As you know, there are several issues outstanding on which we have yet to reach a conclusion. . In the hopes of moving forward in a timely manner, we are sending a list of those issues from our original proposal that we believe require further action. Where we did not include specific details on these issues originally, either because we lacked the information to provide such detail, or it would have been inappropriate to include the detail, we have now included those specifics.

It is our understanding that Fleet officials would like to meet with us on February 10<sup>th</sup>. It is our expectation that we will be discussing some of the issues included herein and hopefully, coming to agreement on some of those issues. If this is not the case, please let us know in advance of the meeting. We would appreciate your attendance at that meeting since we have been meeting with you and communicating with you since the beginning of this process, and we believe it is most productive to have Bank of America represented by someone with decision making authority.

Of those issues remaining to be addressed, we would like to discuss the form of the Massachusetts Housing Partnership obligation, basic banking services, charitable giving, and IDA accounts at the meeting on February 10<sup>th</sup>. At that time, we would appreciate a tentative schedule of subsequent meeting topics and dates, which should include: small business lending, procurement and diversity, and a Massachusetts Community Advisory Board.

Thank you in advance for your attention to these matters. We look forward to working cooperatively with you so that Bank of America can develop a quality, specific community investment business strategy for Massachusetts.

Sincerely,

Massachusetts Association of Community Development Corporations

Massachusetts Affordable Housing Alliance

Citizens Housing And Planning Association

Fair Housing Center of Greater Boston

New England Area Conference of NAACP

Cc: Congressman Barney Frank  
Gail Snowden, Fleet Bank  
Michael Glavin, Fleet Bank

# **Bank of America**

## **Community Investment-Related Issues Remaining**

### **1. Massachusetts Housing Partnership Obligation**

There are three issues related to the bank's obligation to the Massachusetts Housing Partnership (MHP):

#### **a. The Amount of Equity Conversion**

As the attached chart shows, Fleet, Citizens and Bank North have converted some or all of their MHP loan obligation to equity/grant funding. The percentage of the amount converted ranges from 100% to a low of 41%. In 1998, Fleet converted almost 43% of its loan obligation to equity.

MHP has used the majority of the equity conversion funds to finance their "Perm Plus" program, which provides 0% interest deferred payment 20 year financing loans to affordable housing developers.

According to MHP, there is approximately \$6 million left in "equity" from prior conversions. Approximately 78% of the equity funds have been lent/granted to non-profit borrowers. According to MHP, their current pipeline of projects will use all of this equity. The fact that Bank of America is buying the last and biggest bank headquartered in New England means that this is a critical opportunity to finance the Perm Plus program with enough equity sufficient to match need. Therefore, there is a great need for an infusion of more equity to be used for the PermPlus program.

The conversion rate for all equity conversions since 1995, the year of the first conversion, has been .1112.

**We are requesting that Bank of America convert 35% of its loan obligation to equity. This would provide approximately \$21.3 million in equity funds. The conversion rate should not be lowered.**

#### **b. The Amount of Set-Aside for Lower Interest Loans for Not-for-Profit Developers**

Four banks have provided a set aside for lower interest rate loans to non-profit developers. The percentage of the set-aside of the banks' total loan obligation has ranged from 10% to 51%. The interest rate set aside has resulted in more cost efficient developments and allowed non-profits to finance affordable housing developments at a reasonable rate.

**Bank of America should set aside 10% of its total loan obligation at a lower interest rate for non profit developers, which would equal a set aside of approximately \$55**

**million.** Fleet was able to set aside 10% of its loan obligation in 1998 and the percentage rate is reasonable given other banks' set-asides.

c. The Amount of Forward Rate Lock Accessible on Loans

Four banks have also set aside an amount of their loan obligation for "forward rate lock" loans. The percentage has ranged from 10% to 51%.

**Bank of America should set aside 10% of its total loan obligation for "forward rate lock" loans, which would equal a set aside of approximately \$55 million.**

## 2. Basic Banking Services

### Branches

**As we mentioned in our last meeting, we are requesting notification to the signatories on this letter before Bank of America closes a branch in a LMI and/or majority-minority census tract.** We would like at least 10 days from the date of such notification to raise issues or concerns before the bank actually files for regulatory approval of such closure.

Branch closings must be reported to the state banking commission and advance notice to us would not therefore be a significant burden to the Bank. In addition, we may be able to assist you in making that decision and/or help you to understand what a closing in the potentially affected area would mean to its residents.

### Basic Banking Account

According to the Massachusetts Community Banking Council, Bank of America's "My Community Access" account would not meet definition of a basic banking account because the monthly fee is too high (\$5.95) without direct deposit. Many low wage workers do not have access to direct deposit through their employers.

**Bank of America should continue Fleet's practice of offering a product that complies with the MCBC standard by July 1, 2004.**

## 3. Small Business Lending

Bank of America should commit to the following small business lending goals:

### Loans by Geography

**Bank of America should commit to making 40% of its small business loans in Massachusetts to the following areas:**

- **25% of small business loans should be in LMI census tracts;**
- **20% of small business loans should be made in majority-minority census tracts;**
- **15% of small business loans should be made in rural/non MSA areas.**

#### Loans under \$100,000

**Bank of America should commit to making 80% of all small business loans under the amount of \$100,000. Half of these loans should be under \$50,000. Twenty-five percent (25%) should be made in the geographic areas of focus mentioned above.**

#### Loans to Businesses with under \$1m GAR

**Bank of America should commit to making 80% of its small business loans to businesses with under \$1m GAR. Of these loans, 25% should be made to businesses in the geographic area mentioned above.**

#### Second Look Program

**If a small business loan is denied by credit score, Bank of America should take a “second look” at the loan before sending a denial letter.**

**If Bank of America denies a loan or if Bank of America is approached by a business in need of help with their business plan or if the business is in need of another type of small business related assistance, the Bank should work with local programs to send referrals.**

#### Participation in Local Small Business Programs

**The Bank should encourage staff (both lenders and community development banking staff) to participate in community based business assistance advisory committees and loan review committees.**

#### Community Express Program

**The Bank should continue offering the SBA Community Express Program.** This program attaches a pre- and post-loan technical assistance component to the loan’s approval. The Bank should continue the program, which, as initiated by Fleet Bank, offers a contract opportunity for technical assistance providers to receive funding on a loan by loan basis for post-loan technical assistance.

## **4. Workforce Diversity**

**We reiterate that the bank should commit to a goal of having 20% of its employees be persons of color within all employment levels, including management categories.** Two other banks in Massachusetts revealed to us, under strict confidentiality, their employment levels by race for all positions. While Bank of America is under no obligation to do so, it would be helpful for us to know how the bank is performing currently and how much progress needs to be made to reach a 20% goal.



## 5. Procurement

**We reiterate that the bank should award 20% of its vendor contracts to companies owned by people of color and 20% of its vendor contracts to companies owned by women.**

Again, another large bank doing business in Massachusetts has agreed to these separate goals. Simply because Bank of America currently has achieved only an 8.5% combined level for vending contracts with companies owned by people of color and companies owned by women should not mean that the Bank's goal is substandard. A twenty percent goal is reasonable and achievable. We do not expect the goal to be reached this year but within five years, or the length of the Massachusetts "business strategy." We also want to understand better how the plan to ensure that Massachusetts-based MWBEs are able to secure business with the bank.

## 6. Charitable Giving

We understand from discussions with Fleet officials that Bank of America has now committed to \$28 million per year in charitable giving contributions for the current Fleet footprint, with the potential for that number to grow higher within the context of the bank's national commitment to provide \$1.5 billion in philanthropy. (Actually, there is some confusion as to whether this commitment applies to the Fleet footprint, the Northeast or New England. Please clarify precisely what geographic area is covered by that commitment). We restate our request that Bank of America make a Massachusetts-specific commitment to charitable giving that starts at the average of the last four years (to be determined with Fleet) and rises 40% over the next ten years.

According to Fleet and Bank of America representations in prior discussions, Fleet currently dedicates approximately 60% of its charitable giving to community development activities whereas Bank of America only dedicates approximately 25% to community development activities. Please confirm these numbers, if possible.

**Bank of America should increase its charitable giving to community development efforts to 60% so that there is no retrenchment in Fleet's giving while Fleet's community investment plan would have been in place.**

**Bank of America should also increase its charitable giving to local civil rights organizations.**

## 7. Individual Development Accounts

**Bank of America should continue and expand Fleet's commitment to IDA's by committing to establishing 2000 accounts over 5 years with a total commitment of \$8 million.** There is a need to establish this level of accounts based on community need throughout the state and the capacity of for example, Massachusetts IDA Solutions (MIDAS) members' ability to establish asset development opportunities for low-income residents.

MIDAS members have been overwhelmed by the demand on their IDA programs and are currently limited in the number of families that they can serve.

## **8. Massachusetts Community Advisory Board**

We reiterate that Bank of America should institute a Massachusetts Community Advisory Board. The Fleet Community Advisory Board was incredibly helpful to Fleet and to the community as a place to share information about the bank's progress, products and programs over the last 3 plus years of the Fleet community investment plan.