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Filed Electronically

Aug 2, 2007

Nancy M. Morris
Secretary
U.S. Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549-1090

Re: **Proposed Distribution Plan for Banc of America Capital Management, LLC (Admin. Proc. File No. 3-11818)**

Dear Ms. Morris:

The SPARK Institute, Inc. ("SPARK")[1] appreciates this opportunity to comment regarding the proposed distribution plan (the "Distribution Plan") for Banc of America Capital Management, LLC ("BofA") that was published by the U.S. Securities and Exchange Commission ("SEC") on July 16, 2007.

The SPARK Institute has filed comment letters regarding many of the distribution plans that have been released by the SEC.[2] Based on our reading of the BofA Distribution Plan as it relates to retirement plan service providers, it appears that it is generally responsive to many of the concerns previously raised by The SPARK Institute. Accordingly, we commend BofA and the Independent Distribution Consultant ("IDC") for proposing a well thought out and practical approach to handling retirement plan accounts distributions. We also commend BofA for

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[1] SPARK represents the interests of a broad based cross section of retirement plan service providers, including members that are banks, mutual fund companies, third party administrators and benefits consultants. SPARK members include most of the largest service providers in the retirement plan industry and the combined membership services more than 95% of all defined contribution plan participants.

[2] Such other comment letters are available at http://www.sec.gov/litigation/admin.shtml.

expressly accepting financial responsibility for certain costs associated with administering the Distribution Plan, including the reasonable costs incurred by retirement plan service providers in allocating distributions among retirement plans that own shares through omnibus accounts. Although we are pleased with most of the Distribution Plan as we understand it, The SPARK Institute requests that BofA, the IDC and the SEC consider the following requests for clarification and modifications.

I. The Distribution Plan Should Permit Retirement Plan Omnibus Account Service Providers to Calculate the Allocation of the Proceeds Among the Retirement Plans Within Such Omnibus Accounts According to Average Share or Dollar Balances of the Plans' Investment in the Affected Funds During the Relevant Period.

As we understand Section 6.6 of the Distribution Plan, retirement plan omnibus account providers may supply certain historical transaction data to the IDC who will in turn calculate the allocation amount among the retirement plans that own shares through such omnibus account. Additionally, BofA has agreed to reimburse the reasonable out of pocket costs incurred by the omnibus account provider in connection with preparing the necessary data for such calculations.

The SPARK Institute requests that the following alternative, which was recently approved by the SEC in the Putnam Investment Management Distribution Plan ("Putnam Plan"), be specifically included as an alternative in the BofA Distribution Plan.[3] Paragraph 42 of the Putnam Plan provides in relevant part that a retirement plan service provider may allocate the proceeds it receives pursuant to the Putnam Plan among retirement plans "according to average share or dollar balance of the [plans'] investment in the Putnam Funds during the relevant period." For certain retirement plan service providers, this approach provides a simpler and more cost effective means of calculating the allocation of payments among retirement plans that owned shares through omnibus accounts. As we have indicated to the SEC in connection with the Putnam Plan, this alternative approach will facilitate plan level allocations without the need to reconstruct and gather as much historical transaction data. Such approach also relieves the omnibus service provider of the challenge of preparing detailed historical data in the IDC's format and relieves the IDC of having to do the calculation.

We also note that including this alternative approach in the Distribution Plan will allow certain retirement plan service providers to follow a consistent approach in handling plan level allocations for this and many other distribution plans (see footnote 3). The SPARK Institute has noted in earlier comments that it is important for plan service providers to have the ability and flexibility to follow a consistent approach in handling the multiple fair funds settlements that impact their retirement plan customers. The ability to follow a consistent approach will help simplify communications with and the education of employers and employees affected by the

[3] The requested or comparable provisions were also approved by the SEC in the Banc One Investment Advisors Corp. distribution plan (May 9, 2007) and the Pilgrim Baxter & Associates, LTD distribution plan (November 22, 2006). The requested or comparable provisions are also included in the following pending distribution plans: Franklin Advisers, Inc. (June 6, 2007), and Janus Capital Management LLC (May 31, 2007).

settlements, as well as help reduce the overall administrative costs. Accordingly, we request that this approach be added to the BofA Distribution Plan.

II. The Distribution Plan Should be Clarified to Provide That BofA Will Reimburse Retirement Plan Omnibus Account Service Providers For The Reasonable Costs Incurred by Such Service Providers in Calculating the Allocations Itself.

As noted above, BofA has accepted financial responsibility for the calculation of allocations among retirement plans that own shares through an omnibus account. As currently written, the Distribution Plan appears to limit the opportunity for reimbursement of expenses to the service provider if the IDC performs the allocation calculation.[4] However, under certain circumstances it may be less burdensome and more cost effective for the retirement plan service provider and BofA if the retirement plan service provider does the plan level allocation. Our request is intended to allow the retirement plan service provider to do the plan level allocation calculation if such retirement plan service provider determines that doing so will be more cost effective for everyone involved. To the extent that the retirement plan service provider is able to do the allocation, BofA will benefit by not having to reimburse as much money. Plan beneficiaries will also benefit because more of the settlement amount will be preserved for distribution. However, any retirement plan service provider that is able to do the allocation itself more cost effectively and that undertakes to do so should not be penalized by not getting reimbursed for its allocation expenses which would have otherwise been reimbursed by BofA had such service provider elected to have the IDC make such allocations. See footnote 5, and accompanying text under Section III.

Accordingly, we request that the Distribution Plan be modified to clarify that BofA will reimburse retirement plan omnibus account service providers for the reasonable costs incurred by such providers who calculate the plan level allocations themselves rather than requesting that the BofA IDC do them, provided that such expenses do not exceed the amounts that would have been incurred had the BofA IDC performed the calculations.

III. The SEC Should Encourage Other Fund Companies and IDCs That are Developing Distribution Plans to Propose Distribution Plans That Substantially Conform to the Modified Putnam Plan Approved by the SEC as Such Plan Relates to Retirement Plan Omnibus Accounts.

The Putnam Plan was approved by the SEC on or about July 20, 2007. In order to minimize the costs and efforts associated with the distribution of settlement proceeds to millions of affected retirement plan participants, retirement plan service providers and plan sponsors need consistency and flexibility among the multiple distribution plans that they must deal with. The Modified Putnam Plan adopts an approach that is generally acceptable to retirement plan service

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[4] "Respondents will reimburse the omnibus account holder for the reasonable out of pocket costs of <u>gathering and supplying</u> the necessary sub-account information." (Emphasis added.) See Section 6.6(c) of the Distribution Plan.

providers.[5] Accordingly, on behalf of our members, The SPARK Institute intends to encourage each fund company and IDC that proposes a distribution plan to adopt a substantially similar approach with respect to retirement plans through the SEC public comment process. However, the time and resources devoted to developing and approving final distribution plans can be minimized to the extent that the SEC and IDCs consider including the recommended provisions in the proposed versions of currently pending distribution plans.

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We thank you for this opportunity to comment on this very important effort. Should you have additional questions or need additional information regarding this comment, please do not hesitate to contact us at (704) 987-0533.

Respectfully,

/s/

Larry H. Goldbrum
General Counsel

[5] Except for the SEC's response to The SPARK Institute's comment regarding certain cost reimbursements made in connection with the proposed Putnam Distribution Plan. Such comment is similar to the comment in Section III herein. Based on the SEC's response included in the Putnam Order, dated July 200, 2007, we have clarified our point regarding cost reimbursement. We note that such comment is not intended as a request for any fund administrator, IDC or fund company to estimate reimbursement costs or perform a cost benefit analysis, as suggested by the SEC's response in the Putnam Order. Further such comment is not intended as a request for additional cost reimbursements. Instead such comment is intended to allow the retirement plan service provider to minimize its request for assistance from fund administrator and minimize the allocation expenses without being penalized by losing the ability to be reimbursed for expenses that it would otherwise be entitled to under the distribution plan.