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Merrill, BofA shareholders approve combination

By IEVA M. AUGSTUMS and STEPHEN BERNARD – 57 minutes ago

CHARLOTTE, N.C. (AP) — Shareholders of Merrill Lynch & Co. and Bank of America Corp. on Friday approved the investment bank's sale to Bank of America, a move that will create the nation's largest financial-services firm.

During a special shareholders meeting at company headquarters in New York, Merrill shareholders approved the sale of the company, bringing to an end the independence of an investment bank founded in 1914.

Bank of America shareholders approved the deal later in the day.

"I'm happy with it, but I still think it is a gamble," said Sam Brooks of Wayland, Mass., who was among several shareholders that spoke at the 90-minute meeting. "I want to give (Chief Executive Ken) Lewis and his team a chance to pull this off."

A majority of those who spoke at the meeting held down the street from the Charlotte, N.C.-based bank's headquarters disapproved of the merger, saying it was risky. Some even asked Lewis to forego his annual compensation package and take a \$1 salary for the year.

"That money can be used to repay shareholders who have lost thousands of dollars," said shareholder Judith M. Koenick, of Chevy Chase, Md.

Bank of America's stock has fallen more than 62 percent this year, as the credit crisis ensued.

Only a handful of shareholders spoke at Merrill's 45-minute meeting in New York's Financial District, with most saying the deal was disappointing, though necessary amid the market turmoil. Many laid the blame for putting Merrill in the position of needing to sell to avoid failure on former Chief Executive Stan O'Neal and the board of directors for not providing the oversight required to protect the bank.

Among those that spoke was Win Smith Jr., a former chairman of Merrill Lynch International and whose father was among Merrill's founders.

During his impassioned speech, Smith singled out the "failed leadership" of O'Neal and the board for Merrill's troubles, noting that they sacrificed the company's foundation and long-

term growth for short-term gains amid the economic and housing booms earlier this decade.

Merrill has posted five consecutive quarterly losses as it has been forced to cut the value of holdings in a wide variety of investments such as mortgage-backed securities. O'Neal presided over Merrill as it ramped up its investments in such products.

O'Neal was ousted in late 2007 and replaced by John Thain, who orchestrated the bank's sale in September as the credit crisis mushroomed leading to the bankruptcy filing of competitor Lehman Brothers Holdings Inc. The deal also prevented the company from being sold at a fire-sale price, as Bear Stearns Cos. was in March.

Thain, speaking at the shareholders meeting, said the combination of the two banks will make them competitive with every other financial firm in the world.

Bank of America's Lewis conveyed similar sentiments, saying: "We think the crown jewel is the wealth management piece. It puts us in a completely different league."

The purchase combines Bank of America, the largest U.S. bank by deposits, with the world's largest brokerage, linking Bank of America's huge customer base with Merrill's investment-banking services.

The move transforms the bank into a business befitting its name. A strong investment bank has been the only missing piece for Bank of America, which has struggled to build one from within. A series of bad bets in the investment banking unit over the past year have sunk companywide profits.

When the market recovers and hits its next boom cycle, it will prove to be quite beneficial to Bank of America, said Anthony Sabino, a professor of law and business at St. John's University in Queens, N.Y.

"Five years from now, everyone will look back and call Ken Lewis a genius because he swooped in and bought Merrill cheap during a bust to take advantage during the next boom," Sabino said.

The deal also gives Merrill the protection and limits on risk that it needs to survive.

Shortly after the Bank of America-Merrill deal was announced, the two remaining big independent investment banks, Goldman Sachs Group Inc. and Morgan Stanley, applied to become bank-holding companies by themselves — the credit crisis effectively doomed the stand-alone investment bank model.

"Shareholders had to vote for this," said Jerry Reisman, a senior partner at the Garden, City, N.Y.-based law firm of Reisman, Peirez & Reisman LLP. Investment banks have to convert to banks or become parts of banks because they need deposits and the added cash to fund their balance sheets, he added.

Under terms of the transaction, Bank of America would exchange 0.8595 of its common shares for each Merrill Lynch common share. Based on Bank of America's closing price of

\$14.34 Thursday, the deal was valued at just less than \$20 billion; the plunge in value since the \$50 billion deal was announced reflects the devastating losses in financial-sector stocks since then.

Shares of Bank of America gained 6 cents to \$14.40, while Merrill Lynch shares jumped 30 cents to \$12.21, in midday trading.

Aside from shareholders, European Union antitrust regulators on Friday also cleared the transaction, saying they saw no problems with the takeover.

The deal is expected to close by the end of the year, pending regulatory approvals.

AP Business Writer Stephen Bernard reported from New York.