From: Lisa A White
Sent: 09/14/2008 09:49 PM EDT
To: Jennifer Burns; Stacy Coleman; Mac Alfriend; Jeffrey Lacker; Sally Green
Subject: BAC Update

Just got off the phone with Amy Brinkley. She says that a deal with Merrill is solidified except for a few legal details that need to be worked out. Both boards have approved the deal, and once the legal issues are finalized, they will make an announcement. This will be an all stock transaction equating to 0.8595/share or $50B total. The combined firm will be headquartered in Charlotte with the investment bank headquarters being based in NY. There are no deposit cap issues, because Merrill just has a thrift and an ILC. BAC management estimates the deal will be 2.5% dilutive the first year and 6-7% accretive in years 2 and 3. Amy indicated that BAC management feels a much higher level of comfort with Merrill than it did with Lehman, specifically with the value of the franchise and the marks on the assets. While Amy acknowledged that it may look to the outside world as if BAC is paying a bit of a premium for Merrill, BAC's estimates of Merrill's asset values indicate they are getting the firm at a 30-50% discount. Chris Flowers, the prominent private equity guru, has done extensive due diligence on Merrill over the past few months for potential equity investors, and I got the impression that BAC is at least partially relying upon this work. The estimated close date will be 1Q09.

Will pass along more details as we get them.

Lisa

2/19/08

3:30pm

?B, KW, RK

?le, Baily
?teffanson
?n Clark

?n Lewis BA
?e Price
?n McConnaughy

?Hedge
?rs Cummings
?t Angelo
?m Bayto
?acker

?ulson

BAC

Ken Lewis:

since spoke 2 days ago
pre tax $[18.1] → [21.4]b
goodwill impairment is most
↳ [2.3b gross] 200 mm placehold
↳ $1.7b net
500 mm private equity
400 mm 1 expected bankruptcy
200 mm
400 mm legal reserves

HP - If close on Jan 1, what numbers shown for losses for 4Q?

- BA normal earnings release in mid/late Jan

HP - KL said had not lost confidence in Thane or Montag

HP: dispute on MAE clause now not good for System, for BA or for ML

↳ try to renegotiate + redo process w/ s/h also looks perilous + extended

↳ what needs to be done to stabilize mkts + allow deal to proceed?

(2)

KL: several issues

- Fed deny

- purchase assets
  or wrap by Gov't
  that allows lower tangible
  capital ratio

  $189b notional
  79b MTM

- Merrill needs abt $13b
  more TARP (above $10b already)

HP: need to work quickly
to get numbers and understand them

↳ may be easier to take BAC
assets + bring in FDIC

HP - need to explain what happened
+ what this means going forward

BB: need to take serious look at

21b investment portfolio

Citi took 1st loss plus

HP: Citi, only tail risk taken by Govt: expected loss
plus taken by Citi

(3)

KL: why Fed want deal to proceed?
- Cast doubt on due dil by BA
- cast doubt structure + mgmt of co (BA)
- Fed won't reconsider deal : positions for BA

Art Angelo:
decline in bus common cap
as much driven by
BA decline as ML

add FDIC
+ OCC

BA + DB call OCC

K to call
Sheila

- need Fed to understand #s
hope to be ready Sunday

- stand alone BA
- ML
- pro forma combined
- call HP after all regulators talk

- figure out market reaction
to 2 routes
- merger
- MAC debate

- consult w/ HP Monday
+ decide strategy

- call w/ KL

From:
To: Deborah P Bailey
Cc: Donald L Kohn; Kevin Warsh; Michelle A Smith; Randall S Kroszner; Rita C Proctor; Roger Cole; Scott Alvarez
Subject: Re: status
Date: 12/21/2008 10:03 AM
Encrypted

Thanks. I think the threat to use the MAC is a bargaining chip,.and we do not see it as a very likely scenario at all. Nevertheless, we need some analysis of that scenario so that we can explain to BAC with some confidence why we think it would be a foolish move and why the regulators will not condone it.

My current thinking is that we should have a regulator call without treasury (including though occ and fdic) to work out our joint position. We then need a second call, perhaps with fewer staff than the first, to discuss the findings and implications with Treasury. That all has to happen today, so anything we can do to move the regulators call up a bit would probably be helpful. Depending on how that goes, it might be principals only calling Lewis tonight or tomorrow morning.

I talked to Lacker yesterday but have not spoken to Lewis since the call on Friday.

Jeffrey Lacker address deleted

Jeffrey Lacker address deleted

12/20/2008 11:12 AM

To "Mac Alfriend" address deleted , "Sally Green" address deleted , "Jennifer Burns" , "James McAfee" , Trish Nunley address deleted

cc

Subject The ChairMan

Just had a long talk with Ben. Says they think the MAC threat is irrelevant because its not credible. Also intends to make it even more clear that if they play that card and then need assistance, management is gone. (Forgot to tell him KL is near retirement.) Hopes a Citi-like deal can be done w/o us taking 3rd loss, but if we got away w/ the gov just backstopping $74 that would be cheap given the size of the companies. He'd be surprised if that's all it takes though.

Preliminary, confidential views from scott and me (see note below plus attachment) without benefit of sup and reg staff input

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--Sent from my BlackBerry Wireless Handheld

From: Kevin Warsh
Sent: 12/21/2008 12:42 PM EST
To: Kevin Warsh, Chairman's email address redacted.

Attached please find some discussion points that Scott and I iterated overnight. Obviously, the actual talkers will depend significantly on what we hear from our Staff this afternoon.

Great work on de-escalating BA, the more time we have the better.

It is key that we understand how December is faring for BA's comparable banks. It is also critical to understand BA's view on disclosure requirements (e.g., 8-K), particularly whether they would need to discuss pro forma financials if and when transaction is consummated in first week of January. If their first disclosure is at time of Jan 19 earnings announcement, then we can better evaluate the prospects for a private capital raise by the company in the new year.

Thanks

Kevin

Analysis of Bank of America & Merrill Lynch Merger

Restricted FR
(Second Draft)
December 21, 2008

I. Summary Overview

Bank of America (BAC) has sufficient resources to consummate the merger with Merrill Lynch (MER).

- Upon consummation of the merger, based on current projections for both firms, the combined entity would have an 8.6% Tier I risk based capital ratio and a Tier 1 leverage ratio of 5.2%. However, the amount of tangible common equity at the combined firms will be among the lowest of the large BHC at 2.2% on day one of the acquisition.
- An immediate vulnerability would be BAC's access to market funding. On a stand alone basis, BAC has a significant short term funding dependence. MER has significant dependence on the government funding programs, and will likely increase the short term funding pressure on the combined firm.
- The principal vulnerability of the combined firm, similarly to other large BHCs, would be:
  - Potential losses from BAC's consumer and commercial credit portfolios, which will be contingent upon the economic environment going forward and will be realized over time.
  - MER has the largest exposure to financial guarantors across US financial institutions. Unlike the timing of loss recognition in the loan portfolios, losses associated with financial guarantor exposures could be realized in a more compressed timeframe. Moreover, the timing of potential losses from these exposures is highly uncertain.

From the perspective of regulatory capital, Bank of America ("BAC") currently exceeds regulatory minima for well-capitalized on a stand-alone basis, with an expected Tier I capital ratio of 9.2% at year-end 2008. However, only about one third of the firm's Tier I capital is in the form of tangible common equity.

- When viewed from the standpoint of tangible common equity to total assets (the TCE ratio) the firm is among the more thinly capitalized of the five largest domestic BHCs. This ratio is closely watched by analysts and investors and further deterioration of the firm's TCE ratio would likely cause increased uncertainty among market participants about the firm's prospects.

Since September, continued economic deterioration and substantial market disruptions have weakened the condition of both firms.

- MER's deterioration has been substantially worse than BAC's and all but ensures that the firm could not survive as a stand-alone entity without raising substantial new capital (and\or government support) that is unlikely to be available given the uncertainty about its prospects and further future losses.

- Management now projects Q4 after-tax losses of roughly $14 billion for MER, and approximately a $1.4 billion after-tax quarterly net loss for BAC, which for BAC represents more than four times management's projected losses from just two weeks ago. The losses at MER will erode over 50% of MER's tangible common equity.

While the extent of the market disruptions that have occurred since mid-September were not necessarily predictable, BAC management's contention that the severity of MER's losses only came to light in recent days is problematic and implies substantial deficiencies in the due diligence carried out in advance of and subsequent to the acquisition.

- In the merger proxy statement and investor presentations the firm explicitly asserts that it has an understanding of MER's business activities, financial condition and prospects as well as an understanding of the outlook for the firm based on prospective economic and market conditions.
- Staff at the Federal Reserve has been aware of the firm's potentially large losses stemming from exposures to financial guarantors, which is the single largest area of risk exposure and driver of recent losses that have been identified by management. These were clearly shown in Merrill Lynch's internal risk management reports that BAC reviewed during their due diligence.

  - The potential for losses from other risk exposures cited by management, including those coming from leveraged loans and trading in complex structured credit derivatives products ('correlation trading') should also have been reasonably well understood, particularly as BAC itself is also active in both these products.

  - Having done a quick analysis on the specific positions/exposures at MER that generated the largest losses for MER in Q4, FRS staff see no clear indication that they were driven by overly aggressive marking down of positions in advance of the acquisition. This general conclusion notwithstanding, some of the marks do appear somewhat conservative and the appropriateness of the timing of the impairment charge taken against goodwill is hard to assess. On the other hand, credit valuation adjustments against financial guarantors are not particularly aggressive relative to those staff has observed at other firms.

The combined firm remains vulnerable to a continuing downturn.

- At the time of the completion of the merger, based on current projections for both firms, the combined entity would have an 8.6% Tier 1 capital ratio, and a TCE ratio of less than 2.2%. This is in relation to BAC's stand-alone ratios of 9.2% and 2.6%, respectively.

- Based on stress analysis performed by staff, under moderate and severe stress scenarios the combined BAC-MER firm would be among the most vulnerable of the largest domestic BHCs, but not substantially more vulnerable than many others.
- In the event that actual losses were in line with stress projections, TCE and Tier I capital would be substantially eroded, with Tier I risk based capital ratios of 6.4% and 4.0%, respectively, under the moderate and severe stress tests.
- Resulting from the impacts of a moderate or severe recession, our scenario analysis suggests that the combined entity would need to raise roughly $21 billion and $67 billion of Tier I capital, achieve a Tier I risk-based capital ratio of 7.5% at year-end 2009.

A failure to merge is likely to create immediate financial market instability.

Interbank and credit markets will likely be disrupted as the counterparties will be considering the immediate and longer term implication of the acquisition termination. This will likely affect financial institutions broadly but will have a very significant impact on all firms which have announced acquisitions/mergers but have not yet consummated such as NCC/PNC and WFC/WAC.

A failure to merge also will call into question the viability of both firms.

Merrill Lynch

- The termination will have immediate impact on its access to the interbank funding markets as market participants will view the termination as a confirmation of the lack of value for the firm.
- There will be an immediate pull back from the name severely limiting its ability to fund and transact with counterparties.
- The costs associated with ML's failure to operate as an ongoing concern will balloon losses and wipe out capital.
- The failure of the firm will have wide and significant impact on firms which have exposures to ML that will increase losses for many financial institutions.

Bank of America

- The market may interpret BAC's move to terminate as a critical move towards self preservation leading to further speculation regarding BAC's vulnerability and financial strength.
- The firm will likely be vulnerable in the interbank and credit markets. The extent of this vulnerability is unclear, and depends on the timing of the announcement and the condition of the markets.
- Inasmuch as the firm has benefited from a flight to quality over the past 12 months, it is likely the firm will experience a significant reversal.
- It will certainly call into question management competence and the firm's strategic direction, which will drive a decline in investor/counterparty confidence.
- As a result of the market reaction there may be additional downgrades by the rating agencies stemming from reduced access to funding markets.
- The weakened liquidity position and the vulnerability of the firm may create incentives for corporate clients to draw on committed lines of credit further exacerbating liquidity vulnerabilities.

Overview of "Capital Waterfalls" Stress Methodology

This assessment includes an analysis of the firms' capital on an individual and combined basis applying stress scenarios, known internally as "capital waterfalls." The model measures the potential impact of near-term events (marked-to-market write-downs and onboarding of structured traded credit products/vehicles) and the longer-term impact of traditional charge-offs associated with a gradual deterioration of the credit environment under two scenarios:

- A "Moderate" scenario, which assumes market dislocation similar to current conditions, GDP contraction of 1.75%

- A "Severe" scenario, which assumes market dislocation beyond current conditions, GDP contraction of 4.5%

A more detailed explanation of the model and its key assumptions is appended as Annex A.

II. Summary of Merged Entity

Capital Ratios - Current and under Severe Scenario

	Tier 1 Ratio (%)		TCE Ratio (%)	
	Current	Severe 3Q09	Current	Severe 3Q09
BAC	7.55	5.61	3.29	0.95
MER	7.02	-2.96	1.26	-1.98
Combined	8.07	3.94	2.19	-0.73

Note: BAC current Tier 1 is as of 3Q08, exclusive of TARP and common capital raise. MER current Tier 1 is projected for 4Q08 by BAC, exclusive of TARP and 4Q08 loss projections, and adjusted for goodwill write-down. Combined current Tier 1 is based on 4Q08 BAC projection, exclusive of TARP and 4Q08 loss projections. BAC TCE ratio is 3Q08, MER TCE ratio is 4Q08, and combined TCE ratio is 4Q08. All 3Q09 estimates from severe scenario.

III. Assessment of Bank of America's Financial Condition on a Stand-Alone Basis

Outlined below is our assessment of Bank of America's current financial condition, its financial condition under various stress scenarios, and the key drivers behind potential losses.

A. Current Financial Health

i. Capital Levels

Based on reported third quarter 2008 financial information, adjusted for the $10 billion in common equity raised and $15 billion in TARP funds received early in the fourth quarter, BAC had a tier one ratio of 9.42 percent and tangible common equity (TCE) ratio of 3.29 percent. BAC estimates an approximate $12 billion reduction in tangible common equity during the fourth quarter, resulting in a year-end TCE ratio of 2.59 percent.

The largest drivers of the tangible common equity reduction between quarters include a $1.4 billion net loss, dividend payments of $2.5 billion, and more negative other comprehensive income (OCI) of $9.1 billion. Much of the worsening in OCI is due to a decline in the value of an equity investment in China Construction Bank and the continued widening of MBS spreads. Although the company announced a 50 percent reduction in the common dividend from $0.64 to $0.32 a share (effective 4Q08), capital accretion via earnings retention will not occur during the fourth quarter given net realized losses.

Since 3Q07, aggregate common dividend declarations of $14.3 billion have exceeded net income available to common shareholders by $5.5 billion. Although BAC's common stock raise and the TARP funds have helped to improve the tier one ratio, multiple and significant risks to capital remain including asset quality deterioration, continued earnings difficulties, severe capital market disruptions/related losses, liquidity risk profile changes, increasing legal, operational, and reputation risk, burdensome dividend payouts, and recent and impending acquisitions. As such, we currently have capital rated as fair at the bank holding company.

TIER 1 CAPITAL AND TANGIBLE COMMON EQUITY[1]

($ MILLIONS)

	3Q08	3Q08* (A)	4Q08 EST. (B)	(B) – (A)
TIER 1				
CAPITAL	100,248	125,048	120,213	-4,835
RISK WEIGHTED ASSETS	1,328,084	1,328,084	1,312,428	-15,656
TIER 1 RATIO	**7.55%**	**9.42%**	**9.16%**	
TANGIBLE TOTAL				
CAPITAL	70,116	94,916	82,872	-12,044
ASSETS (NET OF G&I)	1,740,253	1,740,253	1,740,836	583
TANGIBLE TOTAL RATIO	**4.03%**	**5.45%**	**4.76%**	
TANGIBLE COMMON				
EQUITY	45,965	57,215	45,171	-12,044
ASSETS (NET OF G&I)	1,740,253	1,740,253	1,740,836	583
TANGIBLE COMMON RATIO	**2.64%**	**3.29%**	**2.59%**	

* Represents reported 3Q08 financial information adjusted for a $10 billion capital raise and $15 billion in TARP funds received in October 2008.

ii. Earnings

Third Quarter 2008. BAC's financial performance deteriorated during the third quarter. Significant downward pressure on earnings came via increases in the provision, continued write downs in illiquid credit positions and other market disruption-related expenses. For the quarter, BAC earned $1.18 billion or $0.15 per share ($0.19 excluding merger and restructuring charges). Provisions for credit losses weighed heavily on earnings performance. Provisions considerably exceeded estimates, as $6.5 billion was expensed during 3Q08 versus a forecasted $3 billion. Third quarter provisions exceeded net charge offs by $2.1 billion primarily due to deterioration in the consumer portfolio.

Fourth Quarter 2008. Earnings performance has continued to decline during the fourth quarter, with net losses realized every month. Monthly net losses have amounted to $110 million and $671 million in October and November, respectively, and are forecast to be $581 million for December. The primary drivers of the estimated $1.4 billion quarterly loss are heightened provision expenses, trading, and other losses. Fourth quarter provision expenses are targeted at $7.5 billion. Trading losses are forecast at $3.5 billion, and other losses are forecast at $2.4 billion (these are largely within GCIB). Realized provisions, trading, and other losses have repeatedly exceeded management's monthly estimates during the quarter. Not surprisingly then, we are skeptical of management's ability to meet its 2009 plan and to produce earnings that build capital in any significant way over the next year.

[1] BAC does not subtract MSRs from its tangible equity calculations.

iii. Liquidity

The current liquidity position for BAC is viewed as manageable though certain areas are being closely monitored by the supervisory team including rollover risk and pressures in the securitization market. Deposits continue to represent a good portion of consolidated funding and have increased in the current stressed environment. Parent company liquidity is projected to remain within BAC's internal Time to Required Funding[2] metric range resulting from the fourth quarter 2008 common stock issuance and TARP capital injection.

BAC, like other institutions, has suffered from a lack of access to the term unsecured market at an acceptable cost, pushing its term profile forward and increasing the use of government funding (i.e. TAF, CPFF, etc) to take advantage of market opportunities and take pressure off of the lack of a term issuance market. In recent weeks, however, management has begun taking advantage of issuing debt under the TLPG and lengthening out some of its funding (approximately $20B has been issued to date, although some of this has been issued out of the bank). The shortened term profile coupled with their deliberate use of cheap tri-party repo funding contributes to heightened rollover risk implications. While market access in general remains good for BAC, name confidence is very susceptible in the current marketplace. This would be greatly exacerbated in a situation such as the one that is contemplated where BAC management might walk away from a deal that is systemically significant. Contingent liquidity obligations appear manageable; however, concerns about the future accessibility of the credit card securitization market pose additional risk to the consolidated company as do any associated additional related credit draws.

iv. Asset Quality

Asset quality metrics have experienced deterioration over the past year, in some cases quite rapidly. A major driver of this deterioration is the fact that BAC is heavily exposed to the consumer, and any stresses that impact the consumer have a disproportionate impact upon BAC given the weighting of the overall loan portfolio. As there continues to be a high level of uncertainty related to when the economy will rebound and consumer confidence will improve, asset quality is expected to remain under stress for the foreseeable future. Because detailed credit metric information is discussed in the sections below, we are not including it here.

B. <u>Capital After Moderate and Severe Stresses</u>

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[2] The number of months that the parent company could operate off its existing cash reserves assuming no access to market-based funding and no dividends from operating subsidiaries. The measure assumes the Parent issues no additional debt or equity, all subsidiary dividend inflows are suspended, and the existing funding is allowed to mature without replacement. Projected liquidity demands are met by available liquidity until the liquidity is exhausted. The following liquidity demands are included: debt maturities, ongoing preferred dividend payments, parent operating deficit, committed non-bank subsidiary asset growth and common dividends already declared but not yet paid.

In this section, we describe BAC's financial condition based on its own projections as well as its condition under stress scenarios. The different stress scenarios used include the following:

- BAC's Global Recession scenario
- supervisory staff's moderate stress scenario
- moderate stress waterfall scenario
- severe stress waterfall scenario

The assumptions behind Bank of America's and the Federal Reserve's and OCC's supervisory staff's (supervisory staff) scenarios are described below. The assumptions used in the "waterfall" scenarios are described in the *Overview* section above and in Appendix A.

i. Assumptions Used in Bank of America's 2009 Plan

<u>2009 Plan</u>

BAC's 2009 plan was presented to the Board of Directors on December 9, 2009. It does not include Merrill Lynch. The 2009 Plan shows net income of $13.4 billion and includes a provision of $23.5 billion. In our view, the plan is overly optimistic and does not adequately reflect what is expected to be an extremely challenging operating environment. Examples of the assumptions that seem to err on the aggressive side include:

- A 2009 provision that is $2.3 billion lower than what is expected to be take in 2008
- A reserve build of approximately $600 million compared to $9.4 billion of reserve build in 2008
- Trading revenues that are higher than should reasonably be expected given recent performance and the anticipated continuing difficulty in the market
- As noted in the securitization section, the assumption that credit card trusts will not be on-boarded and that the firm will have $19.1 billion in securitization issuances.

<u>Global Recession</u>

- BAC's Global Recession Scenario is represented as a low probability, yet high-impact event.
- U.S. Real GDP will experience six consecutive quarters of contraction. Real GDP contracts 3.7 percent from peak (2Q08) to trough (4Q09). The economy finally reaches a healthy growth rate of 3.1 percent in 2010.
- The unemployment rate is projected to peak at 8.6 percent in the fourth quarter of 2009.
- Net credit losses are forecasted at $38 billion in fiscal year 2009, approximately 25 percent above loss estimates used in the bank's Mild Recession Scenario.

BAC's 2009 Plan is based on economic assumptions, including both macroeconomic variables and timing of return to positive trends, which are more optimistic than those underlying the supervisory team's assessment and the waterfall scenarios, resulting in a lower loss forecast. The table below provides a comparison of BAC's assumptions on GDP and unemployment rates used in its 2009 plan and its global recession scenario relative to those used in the waterfall stress scenarios.

MACRO-ECONOMIC ASSUMPTIONS USED IN SCENARIOS

VARIABLE	2009 PLAN	BAC GLOBAL RECESSION	MODERATE WATERFALL	SEVERE WATERFALL
GDP Growth	0% (avg.)	(3.7%)	(1.75%)	(4.5%)
Unemployment (peak)	7.5%	8.6%	8.2%	9.5%

ii. Assumptions Used in Federal Reserve's and OCC's Supervisory Staff's Stress Scenario

The supervisory staff's view represents on-site examiners' perspective of likely losses for 2009. This view was based on BAC's Global Recession scenario with the following two modifications:

- The loss rate on the domestic card portfolio was increased by 100 basis points to reflect changes in performance since the global recession scenario analysis was completed.

- Supervisors also reduced residential real estate losses by $2.8 billion to reflect credit protection, which was reflected in BAC's 2009 Plan but not in their recession scenario. As an aside, supervisory staff notes that the commercial loan loss rates included in this scenario are 20 – 30 percent greater than the peak large national bank loss rates since 1984 (and, therefore, represent severe stress).

Additionally, in the supervisory staff moderate stress scenario, the percentage of securitized cards on-boarded has been reduced from the 100 percent assumed in the severe waterfall scenario to 15 percent. This change is supported by the view that BAC will be unable to securitize new receivables but that receivables already securitized will remain off balance sheet.

iii. Overview of BAC's Position under Various Scenarios

The table below shows BAC's provisions, net income, and capital ratios under various scenarios.

RESULTS OF SCENARIO ANALYSES FOR FY2009
($ MILLIONS AND PERCENTS)

SCENARIO USED[3]	PROVISIONS	NET INCOME	TIER 1 RATIO	TCE RATIO
BAC 2009 Plan	23,549	13,421	9.70	3.04
Supervisory Staff Stress	41,091	(2,471)	8.26	2.22
[redacted]				

C. Main Drivers of Write-Downs and Losses in the Scenarios

i. Asset Quality Deterioration

Increasing deterioration in asset quality trends, primarily across the consumer portfolios, has been a significant driver of poor earnings performance for 2008 and will likewise be a significant driver of the firm's earnings performance in 2009.

We reviewed several asset quality scenarios. The supervisory staff's moderate stress scenario shows significant deterioration (net charges-offs of $30.8 billion and reserve build of $10 billion) relative to BAC's 2009 plan (net charge-offs of $22.9 billion and reserve build of $611 million) and BAC's Global Recession Scenario (net charge-offs of $29.6 billion and reserve build of $4.3 billion). These differences are the result of the following factors:

- BAC's Global Recession and the supervisory staff moderate stress scenario assume further economic deterioration throughout 2009 where as BAC's plan assumes that economic conditions improve during the year and credit losses level out or begin declining (particularly in the consumer portfolios).
- The supervisory staff moderate stress scenario results in losses that closely approximate those in BAC's Global Recession scenario, but results in additional provision expenses of $4.9 billion and an additional ALLL build of $6.5 billion.
- The supervisory staff moderate stress scenario assumes that consumer losses began to level out during 2009 where as commercial losses continue to increase.
- The supervisory staff moderate scenario results in significantly improved coverage of commercial loans.

[3] The BAC 2009 Plan includes payment of common stock dividends at the current quarterly rate of 32 cents a share. The supervisory staff and waterfall stress scenarios includes payment of common stock dividends at a quarterly rate of 1 cent a share.

COMPARISON OF SCENARIOS
($ MILLIONS)

	SUPERVISORY STAFF	BAC GLOBAL RECESSION	DIFFERENCE
Net Charge Offs	30,852	29,616	1,236
Reserve Build	10,814	4,301	6,513
Provision	38,866	33,917	4,949[4]

ALLL TO LOANS AND NET CHARGE OFFS

	ALLL\LOANS				ALLL\NCOs			
PRODUCT	BAC 4Q08 (F)	BAC 1Q09 (F)	BAC 2Q09 (F)	Supervisory Staff Scenario	BAC 4Q08 (F)	BAC 1Q09 (F)	BAC 2Q09 (F)	Supervisory Staff Scenario
Commercial Loans	0.97	1.05	1.12	3.2	1.66	1.65	1.63	1.95
CRE	2.27	2.36	2.37	4.2	2.33	2.56	2.18	1.40
1st Mortgage	0.61	0.72	0.83	0.7	0.53	0.79	0.81	0.84
Home Equity	3.86	3.85	4.01	6.1	2.67	3.18	4.09	1.04
Cards-domestic	6.07	6.60	7.31	10.1	0.84	0.83	0.87	1.0
Cards-international	4.42	3.71	3.80	5.5	1.14	0.98	0.95	1.0
Auto	1.79	1.92	1.90	2.3	0.70	0.86	1.26	1.0
Consumer Lending	11.87	11.91	12.07	15.7	1.15	0.89	0.91	1.1

The tables below show 2009 loss forecast rates and amounts under five different scenarios by loan type.

PORTFOLIO LOSS RATES BASED ON SCENARIOS

	YTD 2008	2009 BAC PLAN	BAC GLOBAL RECESSION	SUPERVISORY STAFF MODERATE	MODERATE WATER-FALL	SEVERE WATER-FALL
Commercial Loans	.51%	.51%	%	1.60%[5]	2.31%	3.16%
CRE	.75%	1.94%	2.89%	2.89%	1.82%	3.52%
1st Mortgage	0.47%	.83%	.84%	0.84%	2.70%	3.20%
Home Equity	2.60%	3.88%	5.52%	5.52%	8.60%	10.00%
Cards	7.24%	8.19%	8.55%	8.63%	9.15%	9.40%
Auto	2.31%	2.18%	2.32%	2.32%	3.50%	3.50%

[4] The resultant provision expense is reduced by $2.8 billion due to the credit protection covering the held residential mortgage portfolio.
[5] The C&I loss rate is 1.6 percent. The dollar-weighted loss rate on all commercial loans, excluding CRE, is 3.97 percent.

SIGNIFICANT PORTFOLIO DOLLAR LOSSES BASED ON SCENARIOS
($ MILLIONS)

	YTD 2008	2009 BAC PLAN	BAC GLOBAL RECESSION	SUPERVISORY STAFF MODERATE	WATER-FALL MODERATE	WATER-FALL SEVERE
Commercial Loans	356	1,311	6,783	7,226	8,388	13,224
CRE	546	1,200	1,800	1,800	1,150	2,225
1st Mortgage	791	1,910	2,129	2,129	4,376	5,322
Home Equity	2,717	5,715	7,425	7,425	12,480	14,385
Cards	5,913	5302	6,447	6,751	7,272	16,768
Auto	670	874	1,037	1,037	1,380	1,492
Total losses[6]	12,880	22,938	29,616	30,852	35,046	54,175

BAC Home Equity Portfolio – Net Credit Loss Analysis. One of the biggest differences between supervisory staff's moderate stress scenario and the severe stress waterfall scenario is the loss rate assumption for home equity loans. The severe stress waterfall analysis appears to consider a steep increase in the charge-off rate based on delinquency trends during 2Q08. The supervisory staff's view incorporates the significant deceleration in the rate of change in the NCL rate in recent quarters. Supervisory staff reduced the net charge off rate from 10 percent in the severe waterfall scenario to 5.52 percent.

There are three primary reasons for this adjustment, as follows:

- Net credit losses increased dramatically during the first half of 2008. During 2Q08, the net credit loss (NCL) rate at 3.09 percent was up 140 bps over the prior quarter. Since then, the rate of change in the NCL rate has decelerated at a rapid pace. The chart below depicts the quarter-over-quarter change in the NCL rate since 4Q07. See table below.
- The legacy BAC Bulk Purchase Home Equity Loan portfolio represents 3 percent of the home equity portfolio, but accounted for 16 percent of 3Q08 net credit losses. The Bulk portfolio also has an excessive delinquency rate. BAC discontinued such purchases during 2Q07 and the portfolio is currently in runoff mode.
- BAC initiated an aggressive HELOC Line Freeze/Reduction program during the latter part of 1Q08. The supervisory staff's credit loss assumptions incorporate the positive impact resulting from the Line Freeze/Reduction program.

[6] Numbers will not add as insignificant portfolios have been omitted.

HOME EQUITY NET CHARGE-OFFS TREND ANALYSIS
($ MILLIONS AND PERCENTS)

CHARGE-OFFS	4Q07	1Q08	2Q08	3Q09	MTD Oct '08
Charge-off Balance	$179	$496	$923	$966	$338
NCL Rate	0.71%	1.71%	3.09%	3.15%	3.24%
% Change in NCL Rate from the Prior Period		140.1%	80.7%	1.94%	2.86%

ii. Trading Portfolios

Outlined below is supervisory staff's assessment of Bank of America's Capital Markets and Advisory Services (CMAS) business line. As reflected in the table below, our estimate for BAC stand alone IB revenues is negative ($332 million) for 2009. This is significantly below management's internal projections of positive $8.4 billion.

While we accept the institution's revenue projections for vanilla trading businesses (liquid products and most equity products), BAC's projection of higher credit trading revenues seem overly optimistic in the current credit trading environment. Regulator projections don't anticipate significant improvement in the credit markets during 2009.

Our concerns are driven by numerous factors that currently exist in the markets. These include:

- dislocations between cash and synthetic basis in most asset classes,
- illiquidity in structure credit and other complex products,
- balance sheet constraints among dealers and investors,
- crowded trades across the dealer market,
- higher counterparty credit risk concerns across the market,
- increased defaults causing additional volatility and dislocations,
- and a large volume of refinancing needs in leveraged and municipal markets.

As a result, we estimate pre-write-down revenues of $7.26 billion compared to the institution's projected $8.91 billion.

2008 AND 2009 REVENUE FOR CAPITAL MARKETS AND ADVISORY SERVICES
($ MILLIONS)

	YTD 2008 (THRU 12-18)	2009 FIRM PRO FORMA	2009 REGULATOR PRO FORMA	WATERFALL WRITEDOWNS (MODERATE)	WATERFALL WRITEDOWNS (SEVERE)
REVENUE CORE RECURRING					
Liquid Products	3,901	2,941	2,941		
Credit Products	2,025	2,653	2,025		
Global Structured Products	1,107	1,180	1,107		
Global Equities	1,643	1,571	1,571		
Other	-384	561	-384		
Core Business Revenues (sub-total)	**8,292**	**8,906**	**7,260**		
MARKET DISRUPTION REVENUE WRITE-DOWNS					
Leverage Finance	-1,006	-	-1,800	-5,435	-6,532
CMBS	-377	-	-1,216	-2,791	-3,758
Structured Credit Trading	-994	-150	-994	-515	-1,673
CDOs	-4,920	-299	-299	-630	-1259
Auction Rate Securities	-746	-	-251	-1,192	-1902
All Other	-251	-57	-	-248	-269
Principal Finance Group	-1,390	*	-1,390	-117	-164
FVO	-442	*	-442		
CVA on Monoline Wraps on CDOs	-296	*	-1200	-1,671	-2,712
ABCP Stressed Charge Offs	-	-	-	-1,282	-1,945
Write Downs (sub-total)	**-10,422**	**-506**	**-7,592**	**-13,881**	**-20,214**
TOTAL IB TRADING REVENUE	**-2,130**	**8,400**	**-332**		

* breakout not provided.

The table below reflects our analysis of the high risk exposures in the institutions trading books, and our assumptions regarding losses that may occur in the books in 2009.

HIGH RISK EXPOSURES
($ BILLIONS)

POSITION	REGULATOR PROJECTED LOSS	MOST RECENT MARKET VALUE	REGULATOR LOSS RATIONALE
Hung Leverage Loans (in Trading Book)	-1.8	3.6	Regulator projection implies a mark at 50. Institution's mark is currently in the low 70s. Difficult to refinance and there is a high probability for additional defaults in the leverage loan market.
Structured Conduit Assets	-1.39	5.0	Market for these assets continues to be illiquid with deterioration in credit quality in underlying CLO assets. Our projection reflects loss similar to 2008. Conduit assets include CLOs, CMBS, CDOs, and municipal securities with a wide range of marks.
CMBS	-1.22	12.0	Market reflects continued deterioration in the credit quality of underlying CMBS assets. We project an additional 10% deterioration from current MTM levels. Institution's marks vary depending upon position the capital structure, ranging from 55 to 80.
CVA	-1.2	3.0	CDS spread widening has greatly affected the institutions counterparty credit exposure over the past 18-months, reflecting a higher default probability. Recent precedent set with monoline workouts suggest additional losses greater than $1 billion could occur given the size of the institutions monoline exposures, as well as other higher risk counterparties (e.g. hedge funds, insurance companies, pension funds, etc..).
CDPCs (SCT business)	-.99	3.6	We expect continued losses associated with CDPC exposures as these entities are highly sensitive to CDS spread widening. Our estimate assumes losses similar to 2008 levels.
FVO	-.44	NA	Sensitivity remains in the FVO revolver loans due to market conditions. Our estimate assumes losses similar to 2008 levels.
CDOs (super senior)	-.30	Total = 10.3 Sub-prime =$4.3	Marks on the sub-prime super senior positions average 37. As of the third quarter, mezzanine positions have been aggressively marked down to 18 and CDO squared positions to 28. Marks on high grade and mezzanine liquidity positions have not been as aggressive to-date at 66 and 93, respectively. However, in the fourth quarter additional marks were taken primarily in the high grade and mezzanine liquidity positions. We accepted the institution's estimate for 2009 losses in these positions.
Municipals	-.25	9.8	The institution has on-boarded and marked down ARS and other municipal exposures to reasonably conservative level in 2008. However, we continue to have concerns regarding student loan exposures. Our estimate assumes $251 million in losses related to these ARS.

iii. Mortgage Servicing Rights

The acquisition of Countrywide has increased BAC's mortgage servicing rights (MSR) risk. At November 30, 2008, the value of the MSR totaled $14.5 billion. The current market environment, including spread and correlation dislocations, has resulted in significant market volatility and market participant risk aversion, which makes MSR risk modeling and hedging activities more difficult. BAC actively manages MSR exposures, using a variety of hedge instruments; however, hedging is very difficult in the current environment, and the MSR book is significantly exposed to large fluctuations in mortgage spreads and volatility. If the government "loosens" the eligibility for mortgage refinancing, then BAC could face significant prepayments and losses exceeding hedge results.

iv. Securitization

BAC's 2009 plan assumes normal securitization issuance volumes of $19.1 billion. This seems highly unlikely given that the market for asset-backed securities has been frozen since spreads increased to historic highs. The table on the right reflects the impact of not securitizing the company's receivables as planned. The lack of issuance results in a projected decline in net income of approximately $911 million, or a negative 20bps impact on the tier one capital ratio due to increased provisions of $2.2 billion.

EFFECTS OF NOT SECURITIZING CREDIT CARD ASSETS
($ MILLIONS)

	2009 PLAN	IMPACT OF $19.1B NON-ISSUANCE
NET INTEREST INCOME	46,561	930
NONINTEREST INCOME	44,822	(84)
TOTAL REVENUE	91,382	845
PROVISION FOR CREDIT LOSS	23,549	2,225
NONINTEREST EXPENSE	45,936	-
INCOME BEFORE TAXES	21,897	(1,380)
NET INCOME	13,421	(911)

BAC's 2009 plan does not assume that its credit card trusts need to be brought on balance sheet. As noted in the credit section, the supervisory estimate of what might need to be onboarded is 15%, which closely matches the moderate scenario in the Waterfall Analysis. The assumption is that BAC will be unable to securitize new receivables but that receivables already securitized will remain off balance sheet.

D. Conclusions Based on Analysis

Despite significant asset quality challenges, particularly in the consumer space, that have translated into earnings and capital pressures, we think that Bank of America is currently a relatively healthy firm on a stand-alone basis. Identified vulnerabilities that pose risk to BAC over the next year; however, include further asset quality deterioration, further write-downs on less liquid exposures, a decision by management to use more short-term funding relative to peer, and capital ratios that are adequate from a regulatory capital perspective but concerning from a tangible common equity ratio perspective. Many of these vulnerabilities are captured in the Waterfall Analysis, which shows a 8.01% tier one ratio in the Moderate Scenario and a 5.61% tier one ratio in the Severe Scenario. Despite the acknowledged current relative health of the firm then and a tier one capital position that can weather significant stresses, we would want to ensure that management is taking all the steps necessary to prepare itself for an environment where BAC's financial condition could deteriorate very quickly. We have already begun communicating our concerns on this front to BAC management and expect to take further actions both formally and informally. The fact that BAC's 2009 plan is so overly optimistic indicates that management might not fully appreciate how difficult next year's operating environment will be. As a result, we expect to ask management to take actions related to its capital and liquidity positions and planning.

III. Merrill Lynch's condition on a stand-alone basis

In this section, we offer an overview of our assessment of Merrill Lynch's current condition and its potential vulnerabilities, the latter based mainly on the results of our moderate and severe stress test scenarios. As an appendix to this note, we have offered views where possible on the composition and quality of key portfolios in Merrill Lynch's legacy exposures that BAC management has previously called to our attention.

a. Current financial condition

1. Performance

Merrill's largest risk exposures consist of hedges purchased from monoline insurers and credit derivative product companies, its holdings of commercial and residential real estate, commodities and large credit arbitrage positions in its trading book. While the commodities business has done well, Merrill nevertheless maintains large positions in products that have suffered significant deterioration such as CRE, leverage finance and non-prime residential mortgages.

In the third quarter Merrill lost $8.3 billion pretax, of which $6 billion related to its Global Markets and Investment banking group, "GMI," which houses it trading business. In the current quarter Merrill posted a loss of $13.8 billion on a pre-tax basis as of December 12th [7] which was primarily driven by losses in credit exposures across both the trading and banking businesses. In its trading businesses Merrill's losses exceeded peer institutions[8]. As noted below, this October and November Merrill lost $5.0 billion while Bank of America lost $2.3 billion in their trading businesses. As of December 16th, both institutions had incurred additional losses of $650 million and $1.1 billion respectively. The poor performance is attributable to further deterioration of the credit markets that affected multiple businesses and positions, as Merrill continues to have sizable exposures in many of the illiquid credit markets. As an example, management recently noted that

[7] Reference December 17, 2008 Merrill's internal risk report - Weekly Business Review, actual earnings are as of December 12, 2008.

[8] Peer institutions include Bank of America, J.P.Morgan, Citigroup, UBS, Wachovia, and Barclays

the firm lost $810 million on a single illiquid credit index correlation trade, in addition to losses related to positions in high yield, credit arbitrage and other legacy proprietary positions.

Trading P&L for October and November

BAC	JPMC	Citi	WAC	UBS	CS	Barclays	Merrill
($2,319)[9]	$3,274	$822	($127)	($2,246)	($2,697)	$1,348	($4,993)

In millions USD

Beyond the trading losses, Merrill continues to post losses through additional charges such as increased CVA on its derivative counterparties and a decline in the value of commercial and residential real estate in its banking businesses. This quarter (through December 16), Merrill took a $2 billion CVA charge, a $730 million OTTI charge, and $80 million on Auction Rate Securities. Moreover, many of the better quality prime mortgages as well as municipal and corporate exposures, particularly leveraged loans have also been valued at lower levels.

Similar to Merrill both Goldman Sachs and Morgan Stanley also posted a 4th quarter loss primarily due to the broad based declines in asset values and reduced levels of asset liquidity[10]. Goldman Sachs posted a loss of $1.6 billion with $3.4 billion loss from its Fixed Income and Commodities business. Morgan Stanley posted a pre tax loss of $3.3 billion with $2.6 billion related to credit and mortgage exposure.

The overall risk levels generally were stable or slightly lower through the quarter, which mainly reflected declining values. Many of these traded credit positions are illiquid and sizable without ample opportunity or liquidity in the market to allow Merrill to exit easily.

2. Capital:

Based on management's fourth quarter projections and provisions, MER holds $28.8 billion in Tier 1 capital, resulting in a Tier 1 risk-based capital ratio of 7.02%. While that meets one of the requirements to be considered well-capitalized, after taking into account $12.5 billion in losses and removing intangibles of $5 billion, the firm holds just $11.6 billion in tangible common equity, which is equivalent to 3.0% of risk-weighted assets or 1.4% of total assets.

3. Liquidity: declining and dependent on central bank funding

- As of 12/18/08, the Excess Liquidity Pool is $57.4 billion and consists of
    - $46.8 billion in operating cash and liquid securities at MER&CO plus

[9] BofA Figure above includes some accrual/banking book losses.
[10] Quarter end for both firms was November 30th 2008 and include full three months.

- $10.6 billion cash at the London broker dealer.

- Largely because the firm has not replaced maturing medium and long term debt, the pool has been declining over the past two quarters.
  - from $92 billion as of 6/30/08 to
  - $71 billion as of 9/30/08.

- Instead, central bank facilities constitute a major portion of MER's liquidity.
  - Recent PDCF utilization has averaged $22 billion
  - TSLF utilization has averaged $22 billion
  - CPFF utilization is over $15 billion
  - MER's participation in the ECB program is also in the low $20 billion range.

- Presuming the merger takes place, known major outflows expected to take place prior to year-end of $15 billion include:
  - Removal of BlackRock shares from PDCF, $5 billion;
  - Removal of Munis and Whole Loans from PDCF, $4.2 billion;
  - Maturing LTD, $2 billion;
  - Repayment of BAC secured facility, $3.6 billion and
  - LTD and CP maturing over the next 12 months are $46.5 billion.

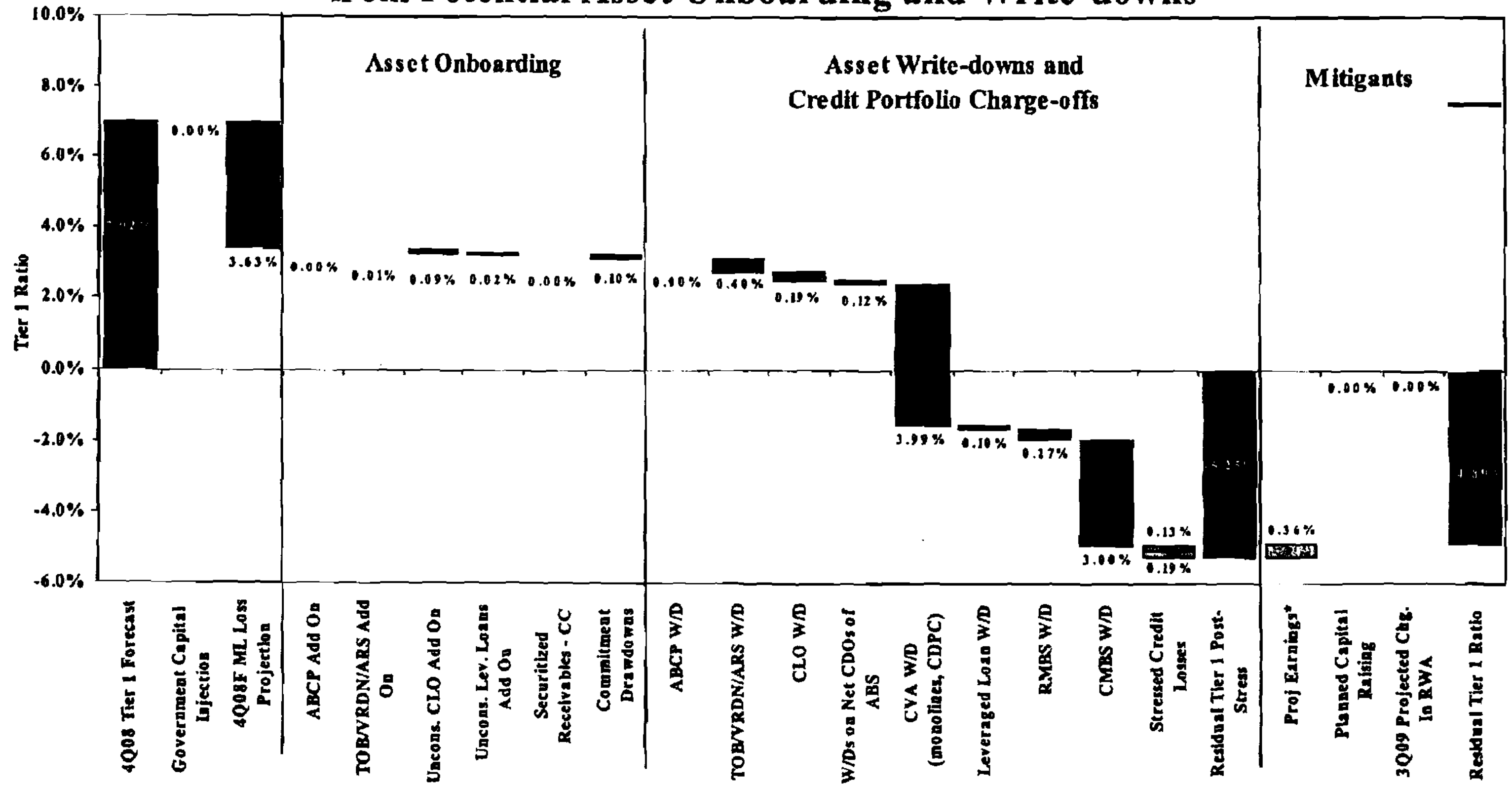
b. Vulnerabilities

Based on the results of the stand-alone waterfall analysis, the top four drivers of stress losses for MER under the moderate and severe scenarios are related to

(1) hedges purchased from monoline insurers and credit derivative product companies (moderate $9.3 billion and severe $16.4 billion);
(2) commercial mortgage-backed securities and commercial real estate (moderate $2.7 billion and severe $4.2 billion);
(3) auction rate securities moderate (moderate $0.9 billion and severe $1.5 billion); and
(4) residential real estate mortgage-backed securities (moderate $0.5B and severe $1.1B).

We have included on the following pages the waterfall stress-test results for MER under the moderate and severe potential stress scenarios as charts. Following those charts, we offer insight into the top four drivers of losses.

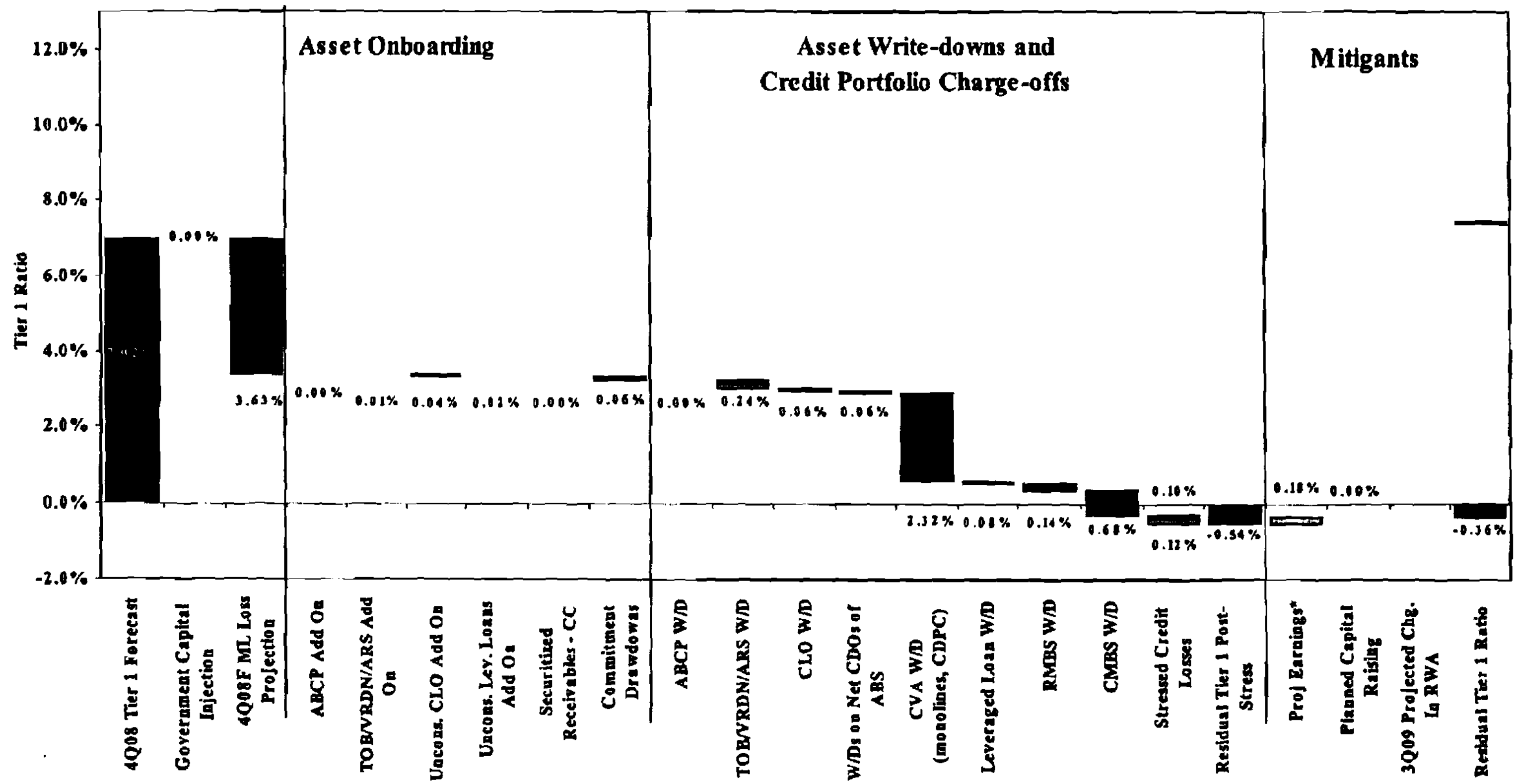
Merrill Lynch (Severe): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



**Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends*

Source: Internal and company reports

Merrill Lynch (Moderate): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



***Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends**

Source: Internal and company reports

Internal Target
Capital Level
Capital Increase
Capital Decrease
Consumer Loss
Corporate Loss

Review of top four drivers of stress losses for MER

1. Highly exposed to hedges purchased from monoline insurers and credit derivative product companies

    - Stress losses on credit valuation adjustments related to these hedges range from
        - o $9.4 billion (moderate) to
        - o $16.4 billion (severe)

[redacted]

[redacted]

[redacted]

2. Substantial exposures to collateralized mortgage-backed securities (CMBS) and Commercial Real Estate

- Stress losses on CMBS/CRE range from
  - o $2.7 billion (moderate) to
  - o $4.2 billion (severe)

[redacted]

3. Substantial exposures to Auction Rate Securities

- Stress losses on TOB/VRDN/ARS exposures as a whole are driven largely by losses to ARS as follows:
  - o $0.9 billion (moderate) and
  - o $1.5 billion (severe)

[redacted]

4. Material exposure to residential mortgage-backed securities
   - Stress losses on RMBS account are as follows:
     - o $0.5 billion (moderate), and
     - o $1.1 billion (severe)

[redacted]

IV. Combined Bank of America and Merrill Lynch

In this section, we offer an overview of our assessment of the combined Bank of America (BAC) and Merrill Lynch (MER) entity. The pro forma analysis includes a combination of firm-generated assumptions and regulator assumptions about loss rates and portfolio growth.

a. Capital ratios

The Tier 1 capital ratio for the combined ratio is projected to decline from 8.09% to 3.98% in the moderate scenario and 3.98% in the severe scenario driven by the expected losses related to writedowns and charge-offs.

Tier 1 Ratio					
	Initial	Moderate	Severe	Moderate (Delta)	Severe (Delta)
BAC	7.55%	8.01%	5.61%	0.46%	-1.94%
MER	7.02%	-0.18%	-2.96%	-7.19%	-9.98%
Combined	8.09%	6.34%	3.98%	-1.76%	-4.11%

Tier 1 capital levels fall from $137B to $111.7B in the moderate and $75.7B in the severe scenario.

Tier 1 Capital ($m)					
	Initial	Moderate	Severe	Moderate (Delta)	Severe (Delta)
BAC	100,248	109,943	84,643	9,695	(15,605)
MER	27,224	(692)	(11,820)	(27,916)	(39,044)
Combined	137,605	111,662	75,681	(25,943)	(61,924)

The change in Tier 1 capital in the moderate and severe scenarios reflect write-downs on securities and charge-offs on the accrual book, retained earnings, the $10B common equity BAC raise, and the TARP capital.

Note that Tier 1 capital for the combined entities reflects the $10B common equity raise by BAC, changes in the BAC loss estimates, and an after-tax adjustment for intangibles.

b. Earnings

BAC estimates that the combined entity will earn $7,517

Earnings ($m)					
	Initial	Moderate	Severe	Moderate (Delta)	Severe (Delta)
BAC	7,917	7,917	7,917	-	-
MER	(179)	(179)	(179)	-	-
Combined	7,517	7,517	7,517	-	-

c. Asset quality

We project write-downs on the securities portfolio of $28.7B in the moderate scenario and $45.4B in the severe scenario.

Write-Downs ($m)		
	Moderate	**Severe**
BAC	13,881	20,214
MER	14,390	25,136
Combined	**28,271**	**45,350**

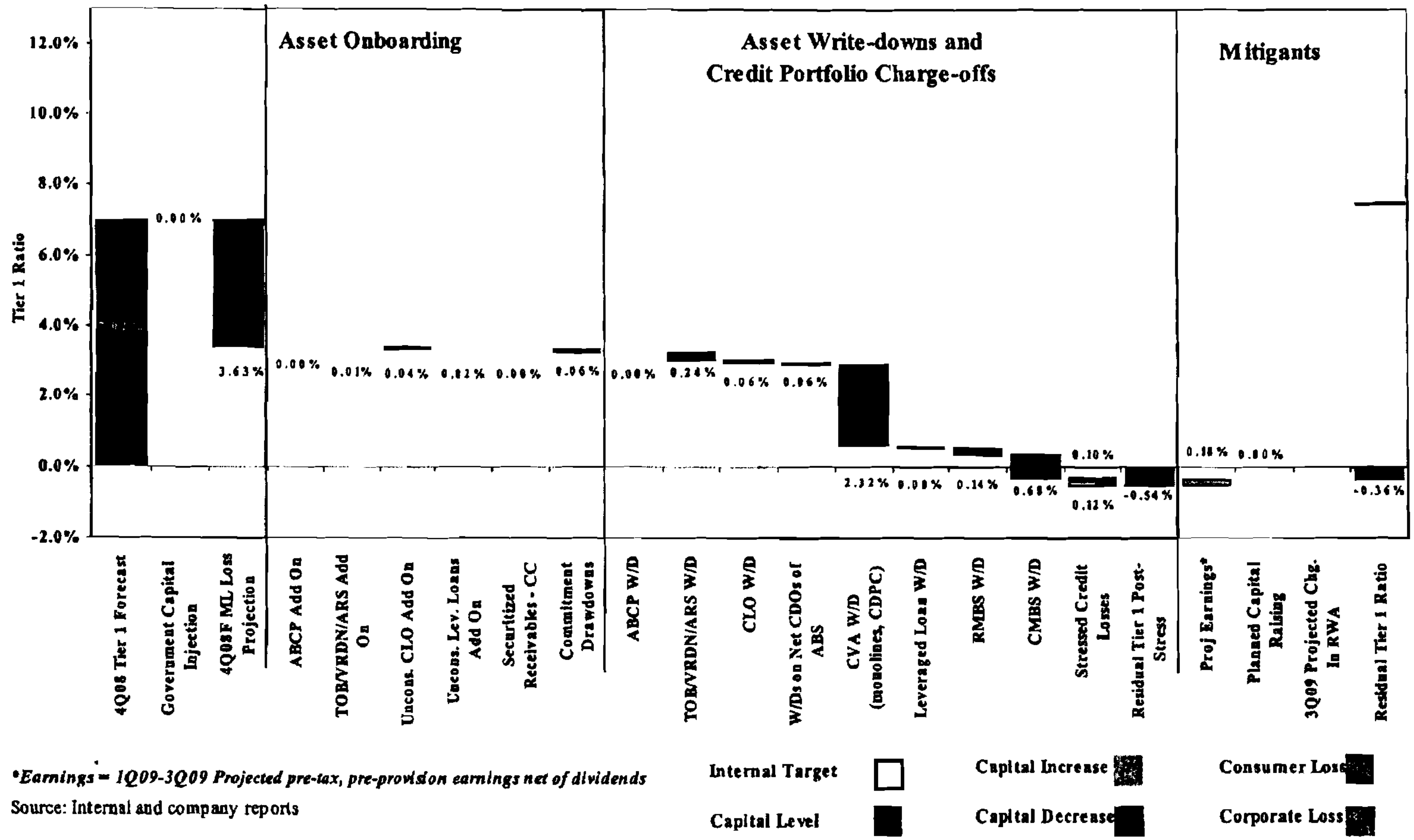
We project charge-offs on the accrual book of $36B in the moderate scenario and $55.4B in the severe scenario.

Charge-offs ($m)		
	Moderate	**Severe**
BAC	35,208	54,176
MER	862	1,243
Combined	**36,070**	**55,419**

Combined, we project total write-downs and charge-offs of $64.3B in the moderate case and $101B in the severe scenario.

Write-Downs and Charge-offs ($m)		
	Moderate	**Severe**
BAC	49,089	74,389
MER	15,251	26,379
Combined	**64,340**	**100,768**

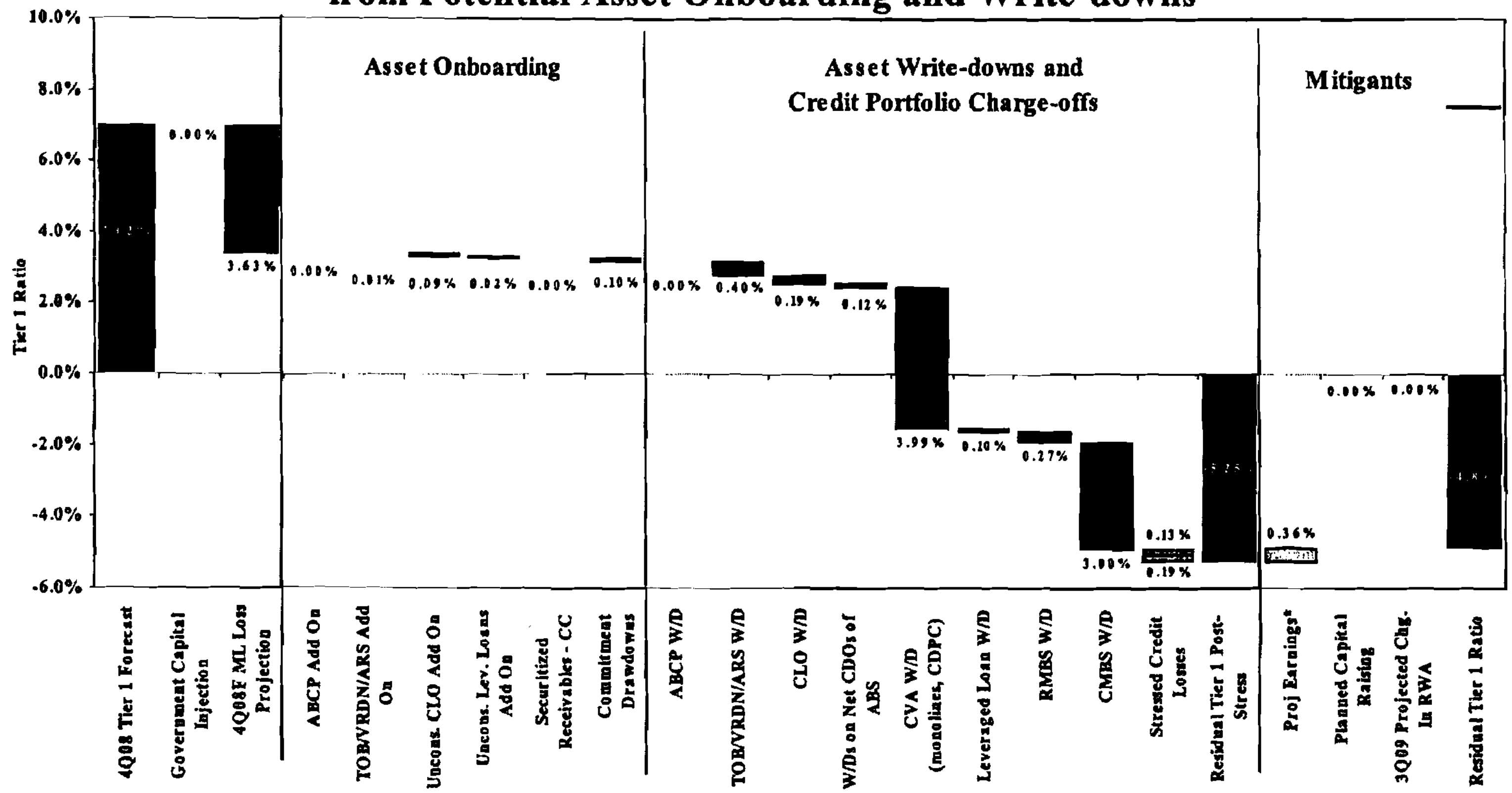
Merrill Lynch (Moderate): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



**Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends*

Source: Internal and company reports

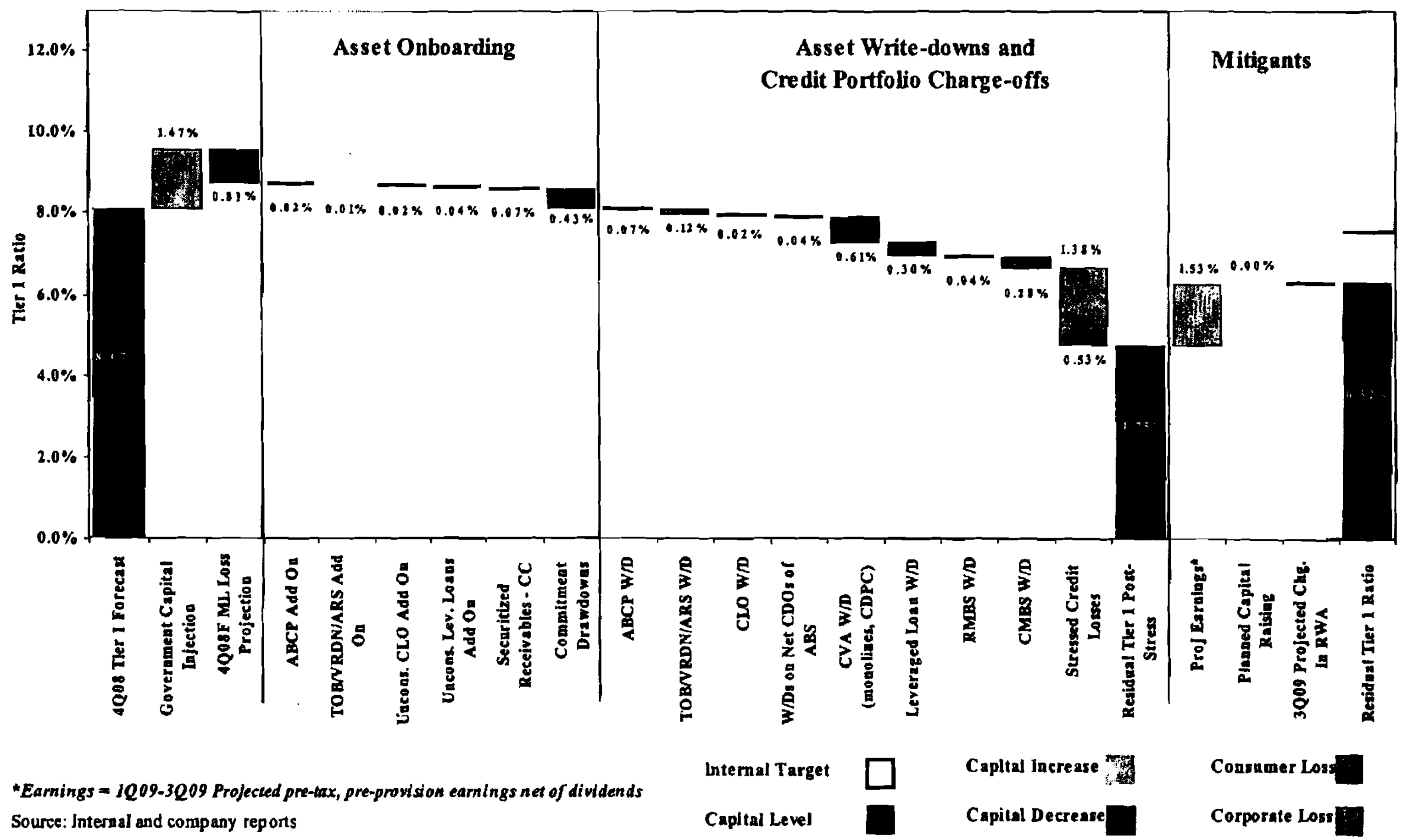
Merrill Lynch (Severe): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



**Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends*

Source: Internal and company reports

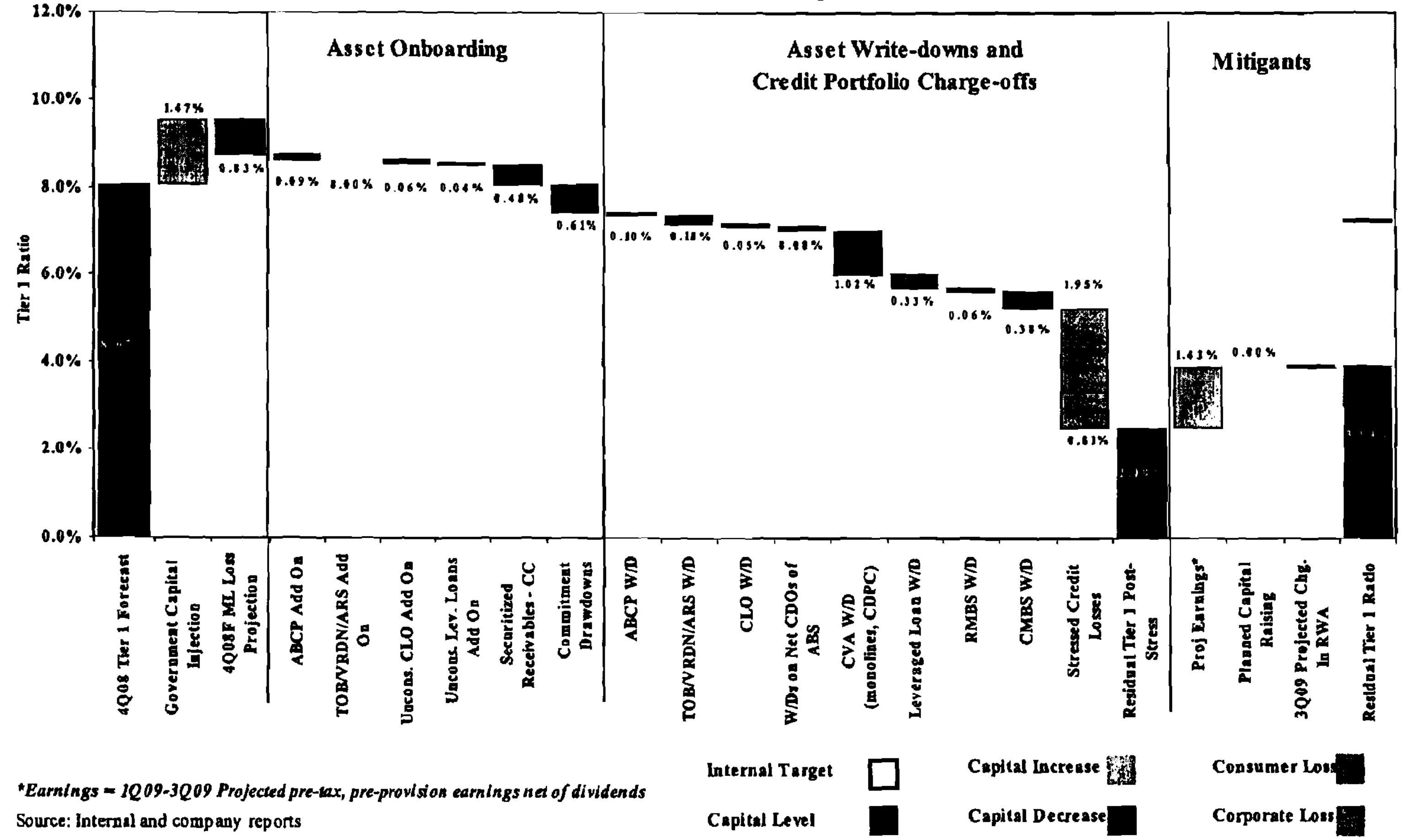
Merged Entity (Moderate): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



**Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends*

Source: Internal and company reports

Merged Entity (Severe): Projected Tier 1 Ratio Impact from Potential Asset Onboarding and Write-downs



**Earnings = 1Q09-3Q09 Projected pre-tax, pre-provision earnings net of dividends*

Source: Internal and company reports

Annex A: Background on the Capital Waterfalls Stress Scenarios

Models and Assumptions - Asset Onboarding

Asset Onboarding		
[illegible]	[illegible] Scenario [illegible]	[illegible]
ABCP Exposure	10% for multi-seller and 40% for single seller onboarding, 20% risk-weighting	100% for multi-seller and 100% for single seller onboarding, 20% risk-weighting
TOB/VRDN	20% onboarding and 20% risk-weighting	40% onboarding and 20% risk-weighting
ARS Exposure	80% onboarding for muni ARS and 85% on-boarding for student loan ARS, 20% risk-weighting	100% onboarding for muni ARS and 100% on-boarding for student loan ARS, 20% risk weighting
Unconsolidated CLOs	40% onboarding, 100% risk-weighting	100% onboarding, 100% risk-weighting
Unfunded Leveraged Loans	40% onboarding, 100% risk-weighting	100% onboarding, 100% risk-weighting
Commercial OBS commitments	15% further draw-down based on historical data during times of financial stress for several large LFIs, 100% risk-weighting	25% further draw-down based on historical data during times of financial stress for several large LFIs, 100% risk-weighting

Models and Assumptions – Asset Writedowns

Asset Write-downs		
[illegible]	[illegible]	[illegible]
ABCP Exposure	Stresses of between 2.2% and 10.0% of both on- and off-balance sheet ABCP exposure based on the dominant type of assets held in the conduits (unless internal firm estimates provided) and moderate stresses applied to similar securities in the waterfall model	Stresses of between 3.2% and 10.0% of both on- and off-balance sheet ABCP exposure based on the dominant type of assets held in the conduits (unless internal firm estimates provided) and severe stresses applied to similar securities in the waterfall model
TOB/VRDN	10% write-down of asset on-boarded based on write-downs associated with ARS	15% write-down of asset on-boarded based on write-downs associated with ARS
ARS Exposure	10% write-down of asset on-boarded based on public estimates of write-downs recognized on the securities	15% write-down of asset on-boarded based on public estimates of write-downs recognized on the securities
Unconsolidated CLOs		
Investment Grade	NCOs rate of 2.5% was derived using regressions based on GDP and historical speculative-grade default rates. GDP was assumed to be -1.75% over the period of the stress.	NCOs rate of 3.5% was derived using regressions based on GDP and historical speculative-grade default rates. GDP was assumed to be -4.5% over the period of the stress.
Non-Investment Grade	NCOs rate of 5.3% was based on the C&I default rates used in the corporate stress model. GDP was assumed to be -1.75% over the period of the stress.	NCOs rate of 7.4% was based on the C&I default rates used in the corporate stress model. GDP was assumed to be -4.5% over the period of the stress.
Commercial OBS commitments	Assumes NCO rates for OBS commitments that have been drawn down are equal to (1x) the stress applied to the C&I portfolios in the moderate scenario, or 2.31%	Assumes NCO rates for OBS commitments that have been drawn down are 2x the stress applied to the C&I portfolios in the severe scenario, or 3.16%

Model and Assumptions - CDOs

▪Moderate Stress - Citi, UBS, BARC, BAC
▪Average percentage change in the ABX index by tranche * current Bank portfolio vintage composition by tranche = ABX adjusted % change
▪ABX adjusted % change * current Bank exposures by tranche * percent of tranche exposure used = Forecasted Q3 08 writedown
▪The philosophy behind the moderate scenario was to use the average performance of the ABX index by tranche and vintage over the past 3 quarters. We took each comparable exposure type from the banks' portfolios and assumed that their performance would be the same as the average decline of the ABX. With Citi and BAC, due to their large positions in ABCP, which are considered higher quality than super senior CDOs, we assumed only 50% of the current exposure for our calculation and multiplied this by the adjusted ABX percent change.
▪Tranche Mapping:
< 2004 used 06 01 vintage
2005 used 06 02 vintage
>2005 used the 07 02 vintage

▪Moderate Stress - BAC, WB, JPMC, RBS, DB
▪Average percent change in the ABX AA tranche * current Bank exposure = Forecasted Q3 08 writedown
▪ABX adjusted % change * current Bank exposures by tranche * percent of tranche exposure used = Forecasted Q3 08 writedown
▪Where tranche and vintage information were not available, we derived the average ABX percent change based on the AA tranche of the 07 02 vintage over the past 3 quarters with the intent of using a more conservative estimate.

Consumer Loss Estimation Methodology

- For **mortgage** and **home equity** portfolios, our loss projections are based on:
  - Firm's 2007 to 3Q08 performance trends, analyzing the growth in seriously delinquent balances and the roll rates to charge-off.
  - The strong observed association between the Case-Schiller Home Price Index and portfolio deterioration.

- For the **credit card** portfolio, our loss projections are based on:
  - Firm's delinquency roll rate performance trends from 2006 to 3Q09. The strong observed association between the year over year change in the unemployment rate and the year over year change in roll rates.

- For the **auto** portfolio, our loss projections are based on:
  - Firm's 2007 to 3Q08 performance trends, analyzing the growth in seriously delinquent balances and the roll rates to charge-off.
  - The relationship between unemployment rate and loss rate during the 90-91 recession.

- For the **"other"** consumer portfolios, our loss projections are based on:
  - Measuring the gap between firms' internal base forecast for credit cards and FRBNY's loss estimates for credit cards under the moderate and severe scenarios. Applying this gap as a stress factor onto the firms' base forecast for the "other" consumer portfolio.

Economic Assumptions

Mortgage and Home Equity	S&P/Case-Shiller 10-City Index 2008: YoY change of -21% 2009: YoY change of -21% 2010: Flat	S&P/Case-Shiller 10-City Index 2008: YoY change of -25% 2009: YoY change of -25% 2010: Flat

Credit Cards and Auto	Unemployment Rate End 2008: 6.8% End 2009: 8.2% End 2010: 8.3%	Unemployment Rate End 2008: 7.0% End 2009: 9.5% End 2010: 9.6%

Appendix A: Analysis of Merrill Lynch Legacy Exposure

$ millions	Exposure at 11/30/08	Moderate Scenario Loss Rate	Moderate Scenario Loss $	Severe Scenario Loss Rate	Severe Scenario Loss $	Comments
Leveraged Finance (1)						Portfolio poses relatively modest incremental risk. Under the severe stress, incremental losses total c. $400 million (less than 5% of gross exposure). This loss derives exclusively from a loss due to portfolio concentration: a default of the top five non-investment grade names, which aggregate 18% of total exposure. Portfolio marks are generally at or lower than peers and concentration is lower than other LFIs.
Transitory	2,874					
Relationship	4,435					
Total	**7,309**	3.9%	339	4.7%	397	
Commercial Real Estate (2)						Portfolio is only a portion of the $20 billion total CRE portfolio. These are mostly floating rate loans in the REF and GPI units. The standard loss rate is 21% (moderate) and 32% (severe). We adjusted these loss rates for ML to account for the marks that are already taken, which reduces the loss rate to 13% and 20%. ML has an average price of 63% for loans and 65% for securities.
US	1,758					
EMEA	3,255					
Total	**5,013**	13.0%	652	20.0%	1,003	
ABS CDO (3)						ML dramatically reduced its CDO exposure. On a net basis the current market value is less than $1 billion. The market value of the gross exposure is $5.2 billion and is wrapped mostly by MBIA leaving a net exposure of $776 million.
U.S. Super Senior	776	32%	249	64%	498	
Residential Mortgage (4)						Consists of US and foreign RMBS in the non-investment book. We assumed that marks are same as the marks applied in the investment portfolio, which are in line with average LFI marks. We applied the incremental loss rate estimated for the other LFIs, adjusting for mark downs that ML has already taken.
US Subprime	310	18%	57	37%	114	
Alt-A	31	1%	0.4	3%	1	
Non-US	3,667	1%	45	2%	90	
Total	**4,008**	2.6%	102	5.1%	205	
Monolines and Non-FG Insurer (5)						ML long $50B credit protection from FGs. MTM value of the protection has increased and now tops $15B as securities that are hedged by these contracts continue to deteriorate. ML has reduced the value of the CDS by approx $4B. Current implied w/d via the CVA down significantly from Nov-end, although exposure has increased. No increase noted in the credit quality or market CDS spreads for the FGs.
MTM Receivable	16,285					
CVA	6,961		8,317		13,976	
CVA as % of MTM	43%		51%		86%	
Investment Portfolio (6)						Consists of RMBS, CMBS, Non-Resi ABS/CDO. ML's subprime and prime RMBS marks are in line with avg LFI mark. ML's Alt-A mark is lower than the average LFI mark since this portfolio is comprised of 41% Option ARM and 76% 2006/2007 vintage. We applied the incremental loss rate estimated for the other LFIs, adjusting for mark downs that ML has already taken.
Securities Portfolio (Gross Amt)	20,968					
OCI	9,086		776		1,409	
OTTI						
Global Correlation (7)						Portfolio includes many business areas; equities, credit trading, mortgage trading, prop trading. The most significant risk is counterparty risk, especially to monolines and derivative product companies, however, there is also basis risk and potential valuation issues. The risks in the portfolio are concentrated. Large trades include $10 billion long super senior cdx positions. It is difficult to stress the correlation book as a whole and there is not sufficient detail in the risk reports to determine the degree to which Merrill is insulated or exposed to further market drops.
DPC Notional Exposure	18,141					
DPC Exposure	3,732					
CVA on DPCs	230		1,053		2,464	
CVA % of MTM	6%		28%		66%	
CPI / PCG (8)						
Net Exposure	3,428		Not Avail		Not Avail	
Private Equity/Principal Investments (9)						Insufficient info to opine on this portfolio's quality. Based on BAC 12/09 BOD review, Principal Investments totaled $12.6 billion as of 8/29; however, reports submitted show a balance of $14.6 billion as of 11/30. Based on this report, portfolio is comprised of $5.4 billion in Private Equity with the remaining $9 billion in private direct investments in equity and/or debt in small privately held entities. Private Equity portfolio consists of ownership interests in companies that are listed as well as non-listed. Principal investment portfolio consists of small holdings of direct investments in small start up companies with debt and/or equity stakes in a wide array of businesses. These include but are not limited to such things as golf courses, commercial real estate and commodities businesses.
Net Exposure	10,784		Not Avail		Not Avail	
Asset Based Lending (10)						Insuffient info to opine on this portfolio.
Net Exposure	13,170		Not Avail		Not Avail	
TOTAL	[illegible]	[illegible]	11,490	[illegible]	19,952	[illegible]

END NOTES

(1) Stress loss is applied to the Non-IG portion of the Leveraged Finance book (roughly 70%). Driver of loss is on the top 5 names in the non-IG pool.
(2) CRE loss rates are for floating rate loans and are same as what was used in the capital waterfall..
(3) ABS CDO loss dollars are same as what was used in the capital waterfall.
(4) Residential Mtg loss rates are based on the overall loss dollar calculated for both the investment and non-investment portfolio expressed as % of market value.
(5) Stress loss are for monolines only.
(6) Incremental OCI losses are for Subprime, Alt-A, Prime RMBS and CMBS only. No incremental loss for non-resi ABS/CDO and other (13% of total market value as of 11/28).
(7) Incremental loss is on $4.3 billion market value versus the $3.7 billion stated above.
(8),(9),(10) No stress loss applied to this portfolio.

From: Cotty, Neil <neil.cotty@bankofamerica.com>
Sent: Monday, December 22, 2008 8:47 PM (GMT)
To: Hayward, Christopher (Finance Director) <christopher_hayward@ml.com>
Bcc: Hayward, Christopher (Finance Director) <chayward@ml.com>
Subject: Re: Fed

Tks

----- Original Message -----
From: Hayward, Christopher (Finance Director) <christopher_hayward@ml.com>
To: Cotty, Neil
Sent: Mon Dec 22 14:37:37 2008
Subject: FW: Fed

FYI. Can give you more color if needed.

-----Original Message-----
From: Chai, Nelson (CFO)
Sent: Monday, December 22, 2008 11:42 AM
To: Thain, John (Chairman and CEO)
Cc: Hayward, Christopher (Finance Director)
Subject: Fed

Had a call with art angelo at fed, had a quick discussion on where we are quarter to date. His hope is that there is no disclosure prior to BOA quarterly announcement. We told him this was the current plan. He asked this course changes and we planned on issuing an 8k on mer stand alone to alert him.

He is just planning the year end for him and his team.

Washington Notes - 17th

- Both + combined systemically important
- More damaging to system + individual - not good
- go through w/ deal & come back to fix
- Citi - was different - immed & amount des[illegible] of failure
- Pause our course and give them chance to evaluate
- Don't delay 1.1 as markets disruptive
- Gave Chairman Ber- copy of ML PNL package + preliminary view of assets or on-b/s ML assets that drove losses
- Next steps
  - supply FED all data I had on both ML + BAC Q4 - ML exposures

Hank P. 21-OCT-08

USI

→ Merch
→ Shelia
→ Lots
→ this Adm
→
→
→

- All committed [illegible]
- Fire BofA if you do it.
  irresp. for country.
- What we are
- Tim G. agrees
- Purpose - timing - FED
- BofA + 1

- Earnings - one announcement
- ML - issue we can do it.

[redacted]

11:45

B

21-Oct-08 FED 1500 B.

- Larry Summers + Tim agree
→ [illegible] Ben today

Jan 20th my stock price goes up

(1 emply)

· Flexible -
· CFC - Richmond. misunderstanding behind us
·

He did mention that if there were more efficient ways to get the same protection, the wrap model is somewhat inefficient from your standpoint as it chews up your liquidity capacity. Again, I think the message was try and be creative in reaching the objectives in the most efficient manner.

Lastly, we've heard it loud and clear that the agencies feel calling a MAC would be systemically unsafe and unsound to the system as well as Bank of America. In response to Ken's question on how we should respond to questions about the MAC, he said we could say our regulators and the Treasury strongly stated that to call a MAC would not be in our best interest.

I'll have my team continue to get our thoughts together but wanted to make sure we are consistent and see when you wanted to connect. I'll be in the office tomorrow morning (Tuesday). FYI, while not confirmed, I assume the Treasury contact will be Jeremiah.

I think you have it but my contact info is:

Joe.Price@bankofamerica.com
704.386.0303 – office
REDACTED – home – personal #
– home – work #

It's easiest to reach me by just sending me a blackberry message. Hope you are having as much fun as I am. Take care.

jlp

12-31-08

Bernake

He was expecting my call.
Said he wanted to reiterate what he had said previously that we had joint interests in having the market perceive the solution as a positive one and goal was to have our stock price go up and that we continued to be perceived as a strong company. They were committed and were working hard to find the right solution.

- Wanted the solution to be constructive and not punitive.
- Wanted this to be seen as helping out with Merrill and issuing a vote of confidence in BAC.
- Again said we are strongly committed to this being perceived as a positive for BAC. "We will not leave you in the lurch."
- Geithner, Sommers and Paulson up to date. Geithner would like to see what is done as a template for the industry. Bernake said clearly we are going to be dealing with systemic issues over the next few months.
- Said we view you as a strong company that has acted very appropriately throughout very difficult circumstances.
- Said you can assure your board that our interests are aligned.
- Wished me Happy New Year.

Jennifer Burns
12/04/2008 02:10 PM

To "Andrew Foster" Dianne Dobbeck/
cc Lisa A White/ Brian Peters Arthur Angulo/
bcc
Subject Re: BoA ML merger (Inquiry From UK FSA)

Hello Andrew -

Apologies on the delayed response to your earlier e-mail. We have had recent discussions with BAC and ML management who contend that they have the required shareholder support and are confident that the transaction will be approved with tomorrow vote. If approval is withheld, ML would continue to have access to the various facilities and programs currently in place in the US. Additionally, it is reasonable to expect that ML would be provided support necessary to preclude significant systemic disruption. Finally, FRBNY staff remain involved with ML and are positioned to ensure information flows necessary to support this.

I hope that this provides a satisfactory response to your inquiry. Please let us know if you have additional questions. Thank you.

Jennifer

Jennifer Burns
Federal Reserve Bank of Richmond
[redacted]

Mac Alfriend/

12/20/2008 06:29 PM

To: Jeffrey Lacker, Jennifer Burns, Sally Green, James McAfee/, Trish Nunley,

cc:

bcc:

Subject: BAC

Spoke with Joe and Amy finally about 30 minutes ago. They still feel comfortable that they would MAC lawsuit. Also feel they have good liquidity (300 billion at window). Also feel that while it will have very broad market implications that the equity markets will react positively to them (not sure I totally agree). They said they want the transaction to go through but have to protect their shareholders and that is why they contacted us (I did not get into the damage this will do to their relationship with regulators). I don't think they think the markets will pull away from them but realize that Merrill will not survive alone. Jeff in response to your question yes we will have to discuss our actions against the company with the board and I'm not sure we want to get into specifics on the call with them. Told them I am not sure when we will be back in touch but it will not be before tomorrow night at the earliest.

Mac Alfriend
Senior Vice President, Banking Supervision and Regulation
The Federal Reserve Bank of Richmond
Office 804 · 697 · 8411 · Cell 804 · 512 · 4186

www.richmondfed.org

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From:	Tim P Clark
To:	Adam Ashcraft
Cc:	Arthur Angulo; Brian Peters; Christopher Calabia; Daniel Sullivan; Dennis Herbst; Jane Majeski; Kevin Coffey; Kevin Stiroh; Morgan Bushey; William Rutledge
Subject:	Re: Revised Overview section for 1:00 discussion
Date:	12/21/2008 12:24 PM

My thoughts were more along the lines of possible market disruption when becomes public that they pull out and impact on bac funding and otherwise. But definitely get your point. Thanks

--Sent from my BlackBerry Wireless Handheld

▼ Adam Ashcraft

----- Original Message -----

From: Adam Ashcraft
Sent: 12/21/2008 12:21 PM EST
To: Tim Clark
Cc: Arthur Angulo; Brian Peters; Christopher Calabia; Daniel Sullivan; Dennis Herbst; Jane Majeski; Kevin Coffey; Kevin Stiroh; Morgan Bushey; William Rutledge
Subject: Re: Revised Overview section for 1:00 discussion

A collapse of the merger will have dire consequences for Merrill Lynch, and will likely have a severe adverse affect on Bank of America as well.

I would suggest the points here are a little over the top.

A collapse of the merger will have dire consequences for Merrill Lynch, and could have a severe adverse affect on Bank of America as well.

I think equally possible that the market looks at Merril's 2008 q4 number and sees BOA making a smart move by walking away from a Black Hole into which large amounts of time, effort, and money would have been going. In other words, it is not clear that the market reaction to BOA is so clearly negative. It might be, but a little more balance here might be worthwhile.

You might add the bullet

It is possible that the market looks at Merril's 2008 q4 earnings release and sees BOA making a smart move by walking away from a black hole into which large amounts of time, effort, and money would have been going, potentially overwhelming the firm and inviting further dilution through future capital injections

ABA

Adam B. Ashcraft
Financial Intermediation Function
Federal Reserve Bank of New York
[redacted]

From:	Arthur Angulo
To:	William Rutledge; Deborah P Bailey; Brian Peters; Tim P Clark; Coryann Stefansson
Bcc:	Arthur Angulo
Subject:	Liquidity Provision
Date:	12/21/2008 12:46 PM
Attachments:	Emergency Liquidity.doc

Attached (and reproduced below for BB reading) is a one-pager re emergency liquidity provision to MER should BAC walk away.

Emergency Liquidity.doc

Contingency Actions re MER Should BAC Refuse to Consummate Acquisition

In the event that BAC were to abruptly announce that it does not intend to consummate its acquisition of MER on January 1, 2009, MER would face an immediate run. Emergency liquidity provision actions that could be taken to provide some time for the sale/disposition of MER businesses and assets include the following:

Reverse decision to scale back MER's planned reduction of PDCF usage [e.g., removal of BlackRock shares ($5B) and munis/whole loans ($4.2B)].

Expand PDCF eligibility (e.g., swap receivables a la MS contingency)

Expand borrowing capacity under Federal Reserves Commercial Paper Funding Facility

Expand borrowing capacity under FDIC's Temporary Liquidity Guarantee Program

Emergency conversion to BHC (a la GS and MS), followed by:

Max Discount Window borrowing from MLBUSA (ILC) – need to determine available DW collateral.
Large 23A waiver to allow loan from MLBUSA to parent company

A 13(3) loan secured by otherwise encumbered assets…or subsidiaries (a la AIG)

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    b. Large 23A waiver to allow loan from MLBUSA to parent company

6) A 13(3) loan secured by otherwise encumbered assets...or subsidiaries (a la AIG)

▼ Arthur Angulo/

Arthur Angulo,

12/22/2008 07:00 AM

To Thomas Baxter, "Joyce Hansen"

cc William Rutledge , Brian Peters

Subject MER-BAC

Yesterday, Ken Lewis gave separate assurances to Sec Paulson and Chm. Bernanke that BAC will consummate the acquisition of MER as planned on 1/1/09. HMP and BSB will speak together with Lewis today, and they will express their commitment to work with BAC to come up with the "right response" to BAC's situation. The timeframe for doing so is before 1/20/09, which is when BAC is tentatively scheduled to publicly release its 4Q 2008 earnings.

I'll provide a more fulsome recap at today's 8:45 am briefing and/or in a separate e-mail, but I want to request legal support on one issue and give you a heads-up on another.

1) A critical issue is that, to the extent MER believes it needs to file an 8-K, it should do so as close as possible to BAC's 8-K filing as opposed to doing so in early January. An early January filing by MER that announces significantly higher losses than the market is expecting could put BAC under pressure in advance of its own filing and would

not allow sufficient time for the Federal Reserve, UST and FDIC to consider alternatives, reach agreement and design/implement a package of industry wide (preferably) or BAC-specific actions.

I plan to call MER's CFO this morning. I'll ask about:
MER's current estimate of 4Q loss v market expectations, and whether and when MER's intends to file an 8-K. If I get a sense that MER is leaning toward an early January filing, I'll try to steer him toward a later filing.
If I get a sense that MER is committed to an early January filing, I'll ask for a follow-up discussion with appropriate securities counsel at MER to gain a better sense as to the amount of flexibility MER has in this regard. This is where it would be helpful (and necessary!) to have one of our attorneys participate. I'll let you know if a second call is necessary...

2) On a principals call last night, various alternatives were discussed in broad terms. While no specific proposals were put forth or agreed on w.r.t. BAC, HMP gravitated toward a "Citi-type" guarantee arrangement over an aggregator bank concept espoused by Sheila Bair. With respect to BAC, he even threw out a figure of $200B-$300B of ring-fenced assets (so we're wondering what he has conveyed to Lewis). This is not a "today" issue, but we'll need to stay close to this to highlight the problems with using Citi as an exact template in other situations. The good news is that BSB isn't as enamored as HMP is with the Citi structure.

Jennifer Burns/
12/23/2008 06:06 PM

To Mac Alfriend , Jeffrey Lacker/
cc
bcc
Subject Re: Color from the Chairman

Yep - I don't think they were ever really trying to shake anyone down We paint a bad picture of them - they are really difficult and often unlikable - but I think they have seen what has happened with other firms that have made bad acquisitions and they are worried Me too!

Jennifer Burns
Federal Reserve Bank of Richmond
704-358-2550

Jeffrey Lacker
12/23/2008 05:34 PM

To Mac.Alfriend Jennifer.Burns
cc
Subject Color from the Chairman

Spoke with him and he confirmed KL's appeal for a letter committing to future support, which was denied. His sense is that KL is just generally anxious about the merger, not trying to shake anyone down.