

**HOUSE COMMITTEE ON
OVERSIGHT & GOVERNMENT REFORM**

**OPENING STATEMENT OF
CHAIRMAN EDOLPHUS TOWNS**

**Hearing: “Bank of America and Merrill Lynch: How Did
a Private Deal Turn Into a Federal Bailout?”**

June 11, 2009

Good Morning. Thank you all for being here today.

On September 15, 2008, when the financial crisis was at its height, Bank of America announced that it was purchasing Merrill Lynch, creating one of the nation’s largest financial institutions. At the time, Bank of America’s CEO, Ken Lewis, called the merger “a great opportunity for [Bank of America] shareholders.”

When it was announced on September 15th, this merger was a marriage negotiated between two willing parties. It was designed for the exclusive benefit of private shareholders, and it was to be paid for exclusively with private money.

Four months later, on January 16, 2009, after the merger was consummated and the quarterly earnings were announced, the world woke up to a different kind of marriage.

The American people discovered that Merrill Lynch had experienced a \$15 billion fourth quarter loss. Most importantly, we found out that the merger had taken place

only after the Federal government had committed to give Bank of America billions in taxpayer money.

What happened in the interim?

When Bank of America urged its shareholders to approve the acquisition of Merrill Lynch on December 5, 2008, there was no public disclosure of any problems with the transaction.

However, in a deposition taken by New York Attorney General Cuomo, Mr. Lewis testified that just nine days after the shareholder vote he discovered a \$12 billion loss at Merrill Lynch. Mr. Lewis said he told then-Treasury Secretary Hank Paulson that he was “strongly considering” backing out of the deal. According to Lewis, Paulson ultimately told him that if he didn’t go through with the acquisition, he and the Board would be fired.

However, internal emails we have obtained from the Fed indicate officials there were very skeptical about Mr. Lewis’ motives in threatening to back out of the Merrill deal. Fed Chairman Ben Bernanke thought Lewis was using the Merrill losses as a “bargaining chip” to obtain Federal funds.

Other emails reveal that Fed analysts found it “suspect” that Mr. Lewis claimed to be surprised by the rapid growth of Merrill losses “given the clear signs in the data.” They noted that “as a minimum it calls into question the due diligence process Bank of America has been doing in preparation for the takeover.”

In short, the Treasury Department had provided a \$20 billion dowry for a shotgun wedding. But the question may be, “Who was holding the shotgun?”

At today's hearing we hope to better understand what happened in the four months between September 15, 2008, when the merger was announced, and January 16, 2009, when the public learned that Bank of America had received \$20 billion in taxpayer money.

We will be looking for answers to some puzzling questions:

Why did a private business deal, announced in September, and approved by shareholders in December, with no mention of government assistance, end up costing taxpayers \$20 billion in January?

Did Paulson and Bernanke abuse their authority by ordering Mr. Lewis to go through with the Merrill acquisition, or did Mr. Lewis threaten to back out in order to squeeze more money out of the Federal government?

Did the Federal government tell Mr. Lewis to keep quiet about the escalating Merrill losses and the government's commitment to provide billions in Federal funding?

I'm sure there will be other questions, as well.

To get to the bottom of these issues, we also intend to invite Mr. Paulson and Mr. Bernanke to testify at a future date. The Committee's willingness to issue subpoenas should clarify our expectation of full cooperation by prospective witnesses.

I want to thank Mr. Lewis for being here and I look forward to his testimony.