Testimony of Kenneth D. Lewis
Chief Executive Officer
Bank of America

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Chairman Towns, Ranking Member Issa, Subcommittee Chairman Kucinich and Ranking Member Jordan, my name is Ken Lewis, and I am the Chief Executive Officer of Bank of America. I appreciate the opportunity to appear before you today to discuss Bank of America's acquisition of Merrill Lynch, the Bank's subsequent performance, and my thoughts regarding additional steps policymakers and business could take to help our financial markets remain the most vibrant in the world.

Before I turn to these issues, I want to note that I am also providing my testimony today to the Chairs and Ranking Members of the House Financial Services Committee and the Senate Banking, Housing, and Urban Affairs Committee. I appreciate the leadership of those Members on a wide range of issues relating to our financial markets and protection for consumers, particularly in these challenging economic times.

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Let me tell you a little bit about Bank of America. I joined the bank in 1969 as a 22-year-old credit analyst, and I have never left. Today, the bank I lead consists of 300,000 dedicated associates serving customers in 36 states, and in scores of countries around the world. Our business lines include deposits, wealth and investment management, corporate and investment banking, credit cards, and mortgages. We continue to lead the industry in making new loans and serving our customers with a wide range of innovative products. We also have a deep commitment to serving all the communities in which we operate: we have committed to lend and invest $1.5 trillion in low and moderate income communities over the next ten years. And we provide $200 million every year in charitable giving to support non-profit organizations that help to assure the vibrancy of our nation's communities.

As everyone here is aware, the financial services industry underwent considerable turmoil in 2008. Bank of America was affected by that turmoil but nonetheless earned a profit of $4.2 billion for the year. We also made two significant acquisitions: Countrywide and Merrill Lynch.

There does not appear to be any debate that these acquisitions were in the best interest of the financial system, the economy, and the country. The failure of Countrywide would have caused a massive loss to the deposit insurance fund and potentially destabilized an already crippled mortgage market. The failure of Merrill Lynch, particularly on the heels of Lehman's failure, could have caused systemic havoc or necessitated an AIG-style government bailout. In both cases, I am proud that Bank of America had the strength to step forward.

A question that has been raised, though, is whether the Merrill Lynch acquisition was in the best interest of Bank of America and its shareholders. Certainly, the acquisition of Merrill came with risks, and some of those risks materialized in the fourth quarter of 2008, when Merrill began recognizing significant losses. The Merrill acquisition, however, also came with the promise of significant long-term rewards – rewards Bank of America and its shareholders are already beginning to reap.

Through the acquisition of Merrill Lynch, we have put together what looks to be the preeminent investment bank and brokerage firm in the world – an organization that is already producing substantial profits, not losses, for our company. Understanding that fact is absolutely crucial to understanding why we made the decision to acquire Merrill in September 2008 and then to consummate the transaction in January 2009.

So, let me tell you about Bank of America Merrill Lynch.

Bank of America Merrill Lynch

When we bought Merrill Lynch, we really bought two businesses. The first is the world's most productive brokerage force – currently, 16,000 Merrill Lynch financial advisors. These financial advisors will be able to offer their securities brokerage customers a full range of banking services from Bank of America. At the same time, consumer bankers at Bank of America now can refer customers who are looking for a financial advisor to Merrill Lynch, and Bank of America's commercial lenders can refer customers seeking to tap the capital markets.

We recognize that the core of this business is the people. Financial advisors understand that this is the best place from which to serve their clients, and as a result, we have retained over 95 percent of Merrill Lynch's top advisors. Our financial advisors continue to exceed their peers in industry rankings: Merrill Lynch had more financial advisors listed in *Barron's* Top 100, Top 1,000, and Top 100 Women Financial Advisors than any other firm.

The continued integration of the Merrill Lynch and Bank of America businesses is already yielding significant benefits. On the retail side, we have put some 700 bankers into Merrill Lynch brokerage offices; these bankers help our financial advisors understand and access Bank of America's leading consumer banking products and services for our clients. Viewed along with U.S. Trust, our private bank, Bank of America now has industry-leading wealth management capabilities across all client segments.

We are seeing the same synergies between Merrill Lynch financial advisors and Bank of America's commercial lenders. Together, we can serve Main Street businesses in ways neither company could have done alone. We already have identified hundreds of opportunities to provide a wider range of services to mid- to large-sized businesses than we would ever be able to provide as separate businesses.

The second major business of Merrill Lynch was investment banking and serving institutional investors. The results here are remarkable. Merrill's global reach and longstanding leadership in M&A advisory and equity underwriting – areas where Bank of America was not as strong – have matched well with Bank of America's traditional leadership in raising debt capital for companies. We are better able to serve our clients with a full spectrum market-leading advisory, capital raising, sales, trading and research capabilities. As of the end of the first quarter of 2009, Bank of America Merrill Lynch was:

- *1st* in U.S. equity and equity-related underwriting (Bank of America had been fifth prior to the Merrill acquisition);
- *1st* in underwriting high-yield debt (second prior to Merrill);
- *2nd* in underwriting investment-grade corporate debt (third prior to Merrill);
- *3rd* in global equity and equity-related underwriting (seventh prior to Merrill); and
- *5th* in both global M&A and U.S. M&A (13th and 8th, respectively, prior to Merrill).

During just one recent week ending May 15th, we led twelve high-grade bond deals, thirteen equity deals, five high-yield bond deals, and seven municipal finance deals.

In addition to advising corporate clients, investment banks also provide critical assistance to state and local governments in meeting their financing needs. Prior to our merger, Bank of America ranked seventh in public finance capital raising. For the first quarter of 2009, our combined team was 1st -- responsible for more than 18 percent of the money raised by state and local governments.

While not the subject of this hearing, I feel compelled to say a few words about our Countrywide acquisition. Bank of America stopped making subprime mortgage loans in 2001 – seven years before the bubble burst. We acquired Countrywide in 2008 and quickly converted it to a prime lender. Since our acquisition of Countrywide, now renamed Bank of America Home Loans, we have established new management, developed a new risk culture, and created a new suite of products that are simpler and more transparent to customers. We have also managed to retain many very talented folks who were working there already.

Today, Bank of America Home Loans employs more than 47,000 people nationwide. Since we acquired Countrywide in July 2008, we have modified more than 311,000 loans, and expect that we will ultimately help more than 650,000 home owners with loan modifications. And Bank of America now has 7,200 associates dedicated to

Home Retention, working with distressed homeowners to help them retain their homes – the largest dedicated team in the industry.

Bank of America

In the first quarter of 2009, Bank of America earned net income of $4.2 billion. Merrill Lynch contributed $3.7 billion, or 75 percent of that first quarter profit. While analysts and some investors understand that point, it seems that much of the public is under the mistaken impression that Merrill Lynch has been costing us money; that just is not so.

As we reported last quarter, and as reflected in the recent stress test results from the Federal Reserve, Bank of America is suffering large losses on its consumer lending portfolio, particularly credit card, home equity and small business loans. More than any other bank, the fortunes of Bank of America's consumer business are inextricably linked to the fortunes of the American consumer: when unemployment rises, so do our credit losses; when consumer spending and borrowing slow, so do our revenues. That's largely because we lend more than any other bank. Under the stress test results made public by the Federal Reserve, our loss rates were consistent with our major competitors; however, those loss rates were applied to a much larger base.

Of course, this is precisely why the ability of Bank of America Merrill Lynch to earn investment banking, trading and brokerage income is so important to us. And the ability of Bank of America Home Loans to fund the refinancing wave has also been a major benefit. These businesses have made us more resilient in the face of a deep and prolonged recession.

I am also pleased to report that in the past four weeks we already have met the additional capital buffer required under the Federal Reserve's stress test. Moreover, we were able to raise equity at only a slight discount to our closing price prior to the announcement of the stress test results, even given the dilutive effects of the issuances. On the debt side, we have recently issued a total of $7.6 billion in long-term debt not guaranteed by the government, demonstrating our ability to fund ourselves in the capital markets. We believe that the stress test provided necessary and credible transparency to the markets, and gave investors confidence that Bank of America and other banks could manage even the adverse case specified in the test. We believe that the stress test results provided the markets both transparency and an independent and trusted third party opinion about the condition of the banking sector, and were a major factor in reopening the capital markets to bank holding companies.

We are now continuing to go about the business of lending – doing more than any other bank to fund an economic recovery. In the first quarter of 2009, Bank of America issued more than $183 billion in credit, including $85 billion in first mortgages, $82 billion in commercial loans, $3.9 billion in new credit to small businesses, and $31 million in Community Development Financial Institution lending and investments – bolstering the country's most underserved people and businesses. We have also paid

$1.1 billion in dividends to the Treasury (and ultimately the taxpayer) on the TARP preferred stock.

I should also note that while Bank of America earned $4.2 billion in 2008, that performance did not meet our expectations. As a result, neither I nor my senior team received any bonus. For the next level down, the bonus pool was cut by 80 percent from the previous year, and the level below that by 70-75 percent.

The Decision to Acquire Merrill

With this background established, let me now walk you through the decision to purchase Merrill Lynch. We made that decision in September 2008. We did so because we saw the potential benefits I have just described, and we did so without any promise or expectation of governmental support. Our shareholders approved that transaction on December 5, 2008.

In mid-December, after the shareholder vote, I became aware of significant, accelerating losses at Merrill Lynch, and we contacted officials at the Treasury and Federal Reserve to inform them that we had concerns about closing the transaction. At that time, we considered declaring a "material adverse change," which as a matter of contract law can, if upheld, allow an acquirer to avoid consummating a deal. Treasury and Federal Reserve representatives asked us to delay any such action, and expressed significant concerns about the systemic consequences and risk to Bank of America of pursuing such a course. We commenced discussions to determine whether governmental support could limit the risk of proceeding with the transaction. Both the government and Bank of America were aware that the global financial system was in fragile condition, and that a collapse of Merrill Lynch could hasten a crisis.

Officials of the company, the Treasury Department, and the Federal Reserve discussed a plan to close the transaction, with the government providing assistance. For its part, Bank of America concluded that there were serious risks to declaring a material adverse change, and that proceeding with the transaction, with governmental support, was the better course. This course made sense for Bank of America and its shareholders, and made sense for the stability of markets. We viewed those two interests as consistent.

I believe that committed people of good intentions, in both the private sector and the government, worked desperately hard in late 2008 to prevent a collapse of the global financial system that would have resonated throughout the global economy. Even six months later, it is easy to forget just how close to the brink our system came. I will never forget, and I believe those efforts will be well remembered long after any current controversy is forgotten.

With that, I will conclude my prepared remarks, and await your questions.