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Opening Statement of Ranking Member Darrell Issa
Joint Full Committee and Domestic Policy Subcommittee hearing on "Bank of America and Merrill Lynch: How Did a Private Deal Turn Into a Federal Bailout? Part III."
July 16, 2009

Mr. Chairman, thank you for calling today's hearing.

I appreciate Mr. Paulson's appearance before the Committee today at our third hearing on the role of the federal government in the Bank of America – Merrill Lynch transaction.

Through the Committee's investigation, we have learned that the federal government, led by Mr. Bernanke and Mr. Paulson, threatened to fire Ken Lewis and Bank of America's Board of Directors if they exercised their legal right to attempt to back out of their agreement to acquire Merrill Lynch. It is clear from Mr. Lewis's testimony before the Committee that he felt he was threatened, and this sentiment is confirmed by the minutes of Bank of America's board meetings.

In his written testimony, Mr. Paulson confirms Mr. Lewis's accounts of their conversations. While Mr. Paulson says that Chairman Bernanke never explicitly directed him to convey the threat, Mr. Paulson points to a consensus between Treasury and Federal Reserve officials that the government would simply not allow Bank of America to attempt to back out of the agreement. Mr. Paulson specifically cites an email from Jeffrey Lacker, President of the Richmond Fed, which shows that Mr. Bernanke intended to convey the threat to Mr. Lewis, as evidence of the Federal Reserve's agreement with Paulson's approach.

It is incredible that while Mr. Paulson cites this e-mail as indicative of the government's consensus, when Mr. Bernanke was asked about it before this Committee he claimed, "I don't recall what exactly was said," and "I don't know if I did or not."

The inappropriate behavior of government officials did not start or end with the threat to fire Ken Lewis and Bank of America's board of directors.

We have also learned that, subsequent to the transaction, the federal government refused to provide a written statement committing to provide Bank of America taxpayer money, despite private assurances that taxpayer dollars were coming. As Mr. Paulson told Mr. Lewis, a written pledge "would be a disclosable event and we do not want a disclosable event." The government's attempt to manipulate disclosure did not stop there. Government officials tried to "steer" the timing of Merrill Lynch's disclosure as well. These efforts were all in an attempt to hide information about the financial condition of both banks from the public.

Internal e-mails and documents obtained by the Committee also indicate that Treasury and the Federal Reserve deliberately kept other regulators, including the SEC and the OCC, in the dark regarding Treasury and Fed negotiations with Bank of America over the MAC and additional taxpayer assistance. In addition, Mr. Paulson and Mr. Bernanke failed to raise these issues at two consecutive meetings of the Financial Stability Oversight Board, which Congress established to bring oversight to TARP. It is telling that despite Mr. Paulson's claim that failing to force the merger would have had a catastrophic effect on *financial stability*, he decided it wasn't worth revealing to the *Financial Stability* Oversight Board.

Mr. Paulson claims that an attempt by Bank of America to back out of the deal would have "threatened the stability of our entire financial system." Similar talking points for the government's discussions with Bank of America at the time of the discussions were dismissed by one New York Fed official as "a little over the top."

Mr. Bernanke also attempted to justify his actions with the convenient but unsupported assertion that forcing the deal to go through averted financial Armageddon. In fact, internal Federal Reserve documents show that the government had a backup plan to bail out Merrill Lynch directly in the event that the deal fell through. Instead, by forcing the deal to go through, Treasury and the Federal Reserve spread any systemic risk to Bank of America, its shareholders, and its depositors, which required a taxpayer bailout later anyway.

The Obama Administration has also used the excuse of a financial crisis to wholeheartedly endorse and accelerate the Bush Administration's economic interventions. President Obama has fully nationalized GM and Chrysler, secured a $787 billion "stimulus" bill based on outdated and discredited Keynesian economic theory, doubled taxpayers' exposure to Fannie and Freddie to $400 billion, and proposed a $3.6 trillion federal budget including a nationalized health care system and a national energy tax on carbon emissions. The slope of the Bush Administration's abandonment of free market principles has proven to be slippery indeed.

Mr. Chairman, these hearings are not only important to ascertain the facts, hold government officials accountable, and understand if Congress has been told the truth about what has transpired, but also because we must understand the limits of government's power in the next crisis. As the Congress examines the Obama Administration's plans and proposals to expand government regulatory power and bureaucracy across the financial sector, it is important that the debate is informed by the lessons we are learning about the federal government's abuses of power in response to the current crisis.

It is a threat to the foundations of our free society when government officials, acting in the midst of a crisis, use dire predictions of imminent disaster to justify their encroachment on our individual liberty and the rule of law. It is essential, therefore, for the American people and the Congress to take the long view and ask, what are the limits a free people demand on their government in a time of crisis?

Thank you again, Mr. Chairman, for calling this hearing.