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Bank of America to Get Billions in U.S. Aid

Sides Finalizing Terms for Fresh Bailout Cash; Lender Told Treasury That Without Funds, It Couldn't Close Deal for Ailing Merrill

By DAN FITZPATRICK, DAMIAN PALETTA and SUSANNE CRAIG

WASHINGTON -- The U.S. government is close to finalizing a deal that would give billions in additional aid to [Bank of America Corp.](#) to help it close its acquisition of [Merrill Lynch & Co.](#), according to people familiar with the situation.

Discussions over these funds began in mid-December when Bank of America approached the Treasury Department. The bank, already the recipient of \$25 billion in committed federal rescue funds, said that it was unlikely to complete its Jan. 1 purchase of the ailing Wall Street securities firm because of Merrill's larger-than-expected losses in the fourth quarter, according to a person familiar with the talks.

Treasury, concerned the deal's failure could affect the stability of U.S. financial markets, agreed to work with the Charlotte, N.C., lender on the "formulation of a plan" that includes new capital from the \$700 billion Troubled Asset Relief Program, according to the person familiar with the talks. The amount and terms are still being finalized, this person said. Details are expected to be announced with Bank of America's fourth-quarter earnings, due out Tuesday.

Any possible arrangement might protect Bank of America from losses on Merrill's bad assets. There would be a cap on the amount of losses the bank would have to absorb, with the federal government being on the hook for the remainder, said one person familiar with the matter.

Both the Federal Reserve and the Federal Deposit Insurance Corp., alongside the Treasury, are involved in the negotiations, say people familiar with them. That suggests that the aid could take a similar form to the hand extended to Citigroup Inc. late last year.

The commitment of funds is further evidence of the banking system's delicate condition and its hunger for more capital, despite billions of dollars already invested in financial institutions by the government. So far, the U.S. has already

injected \$25 billion into Bank of America, which includes \$10 billion that Merrill Lynch would have received if the sale to Bank of America had not closed.

The talks with Bank of America were driven by Treasury Secretary Henry Paulson, people familiar with the matter said, because he was concerned that without help the deal wouldn't close, leaving Merrill adrift. When the merger closed at the beginning of this year, it was with the understanding the two sides would hammer out a plan afterwards, said a person familiar with the talks.

The Treasury has committed the entire first half of its TARP funds, although some of it remains unspent. Earlier this week, President George W. Bush formally notified Congress that he was seeking access to the second half of the funds on behalf of President-elect Barack Obama. Congress has yet to release the money.

One person familiar with the matter said Bank of America would receive TARP funds, making use of the difference between the money committed and spent. In essence, as it did with aid to Detroit, the Bush administration is spending funds not yet approved by Congress that would otherwise go to an Obama Treasury.

Lawmakers, who are widely unhappy with how the TARP program has been run, have spent the week discussing what kinds of new conditions they would like to impose on recipients of funds in the second tranche. They would like to see more spending on aid for homeowners. Obama officials have expressed their desire to gain access to the additional funds quickly. A key vote in the Senate could come Thursday or Friday.

Federal Reserve Board Chairman Ben Bernanke said Tuesday that he'd like to see much of the second half spent to support the financial system, where continuing weakness is causing alarm among policymakers.

In the end, investors and financial institutions could face as much as \$2 trillion of losses from bad U.S. loans and bonds, far more than anybody thought even a few months ago. A sustained recovery for markets and the economy is unlikely until the hole is filled. Bank stocks are falling sharply as investors come to grips with the worsening outlook for loan losses.

Analysts at Goldman Sachs were the latest to raise estimates of potential U.S. loan losses. In a report released late Tuesday night, Goldman economists estimated that losses from delinquent U.S. residential mortgages alone would hit \$1.1 trillion as home prices sink, up from an earlier estimate of \$780 billion.

Add in losses from commercial real estate, credit cards, auto debt and business debt, and Goldman's loan-loss estimate hits \$2.1 trillion. Only half of those losses have yet been recognized. Many will be borne by investors and banks overseas.

The estimate doesn't count losses that U.S. institutions will take on bad overseas loans that they hold.

Bank of America is expected by some analysts to report a loss for the fourth quarter, or at least a smaller profit than expected. It is not known exactly how much Merrill lost in the same time period. Merrill's problems largely stem from the deterioration of assets on its books and trading losses, said a person familiar with the matter.

Bank of America's heft and diversity helped buffer it through the early stages of this financial crisis. But the U.S. bank is now broadly exposed to the nation's economic ills. With its recent acquisitions of troubled California mortgage lender Countrywide Financial Corp. and Merrill, the bank is now a major player in every corner of the battered U.S. financial system. It has its hand in credit cards, home mortgages, underwriting, merger advice and wealth management, all areas that are under stress during one of the deepest recessions since World War II.

The deal between Bank of America and Merrill was forged during the hectic weekend last September that saw Lehman Brothers Holdings Inc. collapse and giant insurer American International Group Inc. start to unravel. Merrill Chief Executive John Thain, worried his firm would be next, pressed for a quick deal.

In the aftermath of Bank of America's acquisition of Merrill -- valued at \$50 billion when it was announced and worth \$19.36 billion when it closed -- its chief executive, Kenneth D. Lewis, was viewed as a savior of the financial-services industry, having rescued both Merrill and Countrywide without government assistance. Mr. Lewis had also argued that Bank of America didn't need the first round of federal rescue funds that the Treasury offered last fall.

"These were funds we did not need and did not seek," Mr. Lewis told employees late in 2008.

The request for additional funds may feed criticism that Mr. Lewis overreached during a time of crisis to expand his operation. Mr. Lewis "has hit a stumbling block here -- the economy," said Nancy Bush, a banking analyst with NAB Research LLC in Annandale, N.J. "I think he will have to stop doing deals."

Analysts, worried about rising unemployment and a pullback by U.S. consumers, have been slashing Bank of America's estimates for the fourth quarter. Some are predicting a loss and arguing that Bank of America will be forced to cut its dividend once again as a way of shoring up capital.

Jeffrey Harte of Sandler O'Neill & Partners revised his fourth-quarter forecast this week to a loss, citing capital-markets losses and rising credit costs. He predicted \$2.3 billion in write-downs associated with collateralized debt

obligations and subprime-mortgage-backed securities. Citigroup Inc. analyst Keith Horowitz said the bank might record a \$3.6 billion fourth-quarter loss.

Bank of America is also reeling from two high-level Merrill departures within a week and concerns about cultural tensions between the two firms.

Mr. Lewis has already recommended his board not award top executives bonuses for 2008, warning that performance would be below expectations. Having received billions in federal aid, he faces pressure to show the bank is grappling with its problems -- beyond the 30,000 to 35,000 job cuts it has already announced -- and is making significant contributions to a U.S. recovery.

To that end, the bank intends to break out new loan originations made during the fourth quarter, a first-time disclosure it hopes will mitigate concerns about new lending.

—Jon Hilsenrath and Deborah Solomon contributed to this article.

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