

Kucinich Exhibits

**Joint Hearing of the
Oversight and Government Reform Committee and
Domestic Policy Subcommittee**

**“Bank of America and Merrill Lynch: How Did a Private Deal Turn into a Federal Bailout?”
(Part IV)**

November 17, 2009

Merrill Lynch & Co.
4Q'08 Forecast

| | 4Q07 | | | 3Q08 | | | 4Q08 FORECAST | | | 4Q08F P/W | | |
|-------------------------------|----------------------|---------------------|----------|----------------------|---------------------|----------|---------------|-----------|------------|------------|------------|------------|
| | Oct Act (25 days) | Nov MTD (7 days) | Estimate | Oct Act (25 days) | Nov MTD (7 days) | Estimate | BTG | 4Q08F | Bi(W) 3Q08 | Bi(W) 4Q07 | Bi(W) 3Q08 | Bi(W) 4Q07 |
| Revenue ex Marks/FVA/One-Time | | | | | | | | | | | | |
| FICC | 854 | 628 | | 854 | 628 | | 249 | (880) | (256.0%) | (214.8%) | (214.8%) | |
| Equity | 1,653 | 1,368 | | 1,653 | 1,368 | | 555 | 1,650 | (0.2%) | (0.2%) | (0.2%) | |
| IBK | 1,080 | 571 | | 1,080 | 571 | | 509 | 652 | 14.1% | 14.1% | (39.6%) | |
| GPID | 298 | (315) | | 298 | (315) | | (184) | (600) | (90.5%) | (301.5%) | (301.5%) | |
| GMI Other | (180) | 136 | | (180) | 136 | | (118) | (60) | (144.1%) | (56.7%) | (56.7%) | |
| GMI | 3,704 | 2,389 | | 3,704 | 2,389 | | 1,011 | 662 | (72.3%) | (82.1%) | (82.1%) | |
| GPC | 3,414 | 2,933 | | 3,414 | 2,933 | | 1,574 | 2,599 | (2.2%) | (12.2%) | (12.2%) | |
| GIM | 151 | 88 | | 151 | 88 | | (49) | 46 | (47.5%) | (69.4%) | (69.4%) | |
| GWM | 3,564 | 3,021 | | 3,564 | 3,021 | | 1,622 | 3,043 | 0.7% | (14.5%) | (14.5%) | |
| Corporate | (72) | 287 | | (72) | 287 | | (644) | (125) | (143.5%) | (73.3%) | (73.3%) | |
| ML&Co ex Marks/FVA/One-Time | 7,196 | 5,697 | | 7,196 | 5,697 | | 1,989 | 3,580 | (37.2%) | (50.3%) | (50.3%) | |
| Significant Items (Non-Marks) | | | | | | | | | | | | |
| Total Marks | (16,718) | 2,133 | | (16,718) | 2,133 | | (2,619) | (2,619) | (2.720) | (2.720) | (2.720) | |
| FVAs | 1,331 | 2,842 | | 1,331 | 2,842 | | (1,085) | (1,085) | (6.424) | (6.424) | (6.424) | |
| Total Marks/Significant Items | (15,387) | (5,681) | | (15,387) | (5,681) | | (6,424) | (6,424) | | | | |
| Total Revenue | (8,192) | 16 | | (8,192) | 16 | | 453 | (2,844) | | | | |
| Comp | 3,021 | 2,725 | | 3,021 | 2,725 | | 1,772 | 2,823 | (3.6%) | (3.6%) | (3.6%) | |
| Non Comp | 2,335 | 1,819 | | 2,335 | 1,819 | | 860 | 2,211 | (21.6%) | (21.6%) | (21.6%) | |
| VICP | 1,318 | 758 | | 1,318 | 758 | | 477 | 972 | (38.2%) | (38.2%) | (38.2%) | |
| Total Expenses ex One-Time | 6,675 | 5,302 | | 6,675 | 5,302 | | 3,848 | 6,006 | (13.3%) | (10.0%) | (10.0%) | |
| Restructuring | | | | | | | | | | | | |
| Temasok | | 40 | | | 40 | | (1) | | | | | |
| PTE | (14,920) | (8,251) | | (14,920) | (8,251) | | (7,763) | (1,859) | (8.4%) | (8.4%) | (8.4%) | |
| Taxes | (4,623) | (3,132) | | (4,623) | (3,132) | | (559) | (3,539) | 13.7% | 13.7% | (23.0%) | |
| ML Operating ATE | (10,297) | (5,119) | | (10,297) | (5,119) | | (1,300) | (5,383) | (5.2%) | (5.2%) | (47.7%) | |
| All In Results: | | | | | | | | | | | | |
| EPS | (12.57) | (5.55) | | (12.57) | (5.55) | | | (3.46) | | 2.10 | 9.11 | |
| Pre-Tax Margin | NM | NM | | NM | NM | | | NM | | NM | NM | |
| Tax Rate | 31.0% | 38.0% | | 31.0% | 38.0% | | | | | (1.8) pts | (8.8) pts | |
| Ex Marks/FVA/One-Time Results | | | | | | | | | | | | |
| Revenue | 7,196 | 5,697 | | 7,196 | 5,697 | | 1,989 | 3,580 | -37% | -37% | -50% | |
| PTE | 521 | 395 | | 521 | 395 | | (1,859) | (2,426) | -714% | -714% | -566% | |
| ATE | 362 | 274 | | 362 | 274 | | (1,290) | (1,684) | -714% | -714% | -566% | |
| EPS | \$ 0.28 | \$ 0.15 | | \$ 0.28 | \$ 0.15 | | \$ (1.97) | \$ (2.12) | (2.12) | (2.12) | (2.26) | |
| Average Common Equity | 31,541 | 27,683 | | 31,541 | 27,683 | | | | | | | |
| Common Equity | 27,549 | 29,750 | | 27,549 | 29,750 | | | | | | | |
| Preferred Stock | 4,383 | 8,605 | | 4,383 | 8,605 | | | | | | | |
| Trust Preferred Securities | 4,725 | 4,773 | | 4,725 | 4,773 | | | | | | | |
| Equity Capital | 36,657 | 43,128 | | 36,657 | 43,128 | | | | | | | |
| Total Assets | 1,020,050 | 875,780 | est | 1,020,050 | 875,780 | est | 864,199 | est | | | | |
| Adjusted Assets | 647,343 | 572,395 | est | 647,343 | 572,395 | est | 561,143 | est | | | | |

October's one month actual loss is nearly as large as loss for entire Third Quarter and is half Fourth Quarter 2007

Merrill Lynch omitted projection for November and December losses in CDOs and illiquid assets

4Q Forecast for CDOs and other exotic investments only reflects actual October losses, assuming a zero value for omitted projection for two-thirds of the Quarter: All of November and December

4Q Projected Company Loss omits any projection of CDO losses in November and December

Adjustment made by Bank of America adds \$2 Billion in projected losses to the omitted projection in Merrill document. Fully half of the adjustment is based solely on the "gut" feeling of BofA's CAO, rather than any actual analysis of Merrill holdings

Bank of America top management and attorneys used this number in making shareholder disclosure decision.

(10,942)

- 675 All-A from OCI to P&L
- 1000 neil gut
- 300 structured note fva (oct reversed 900 m)

*SB loss
w/ 4B continuing*

| Revenue or Mark/FVA/One-Time | 4Q'07 | | 3Q'08 | | Oct Act (25 days) | | Nov MTD (7 days) | | QTD Estimate | | 4Q'08F | | 4Q'08E | | E/(W) 3Q'08 | | E/(W) 4Q'07 | |
|-------------------------------|------------|-----------|---------|---------|-------------------|---------|------------------|---------|--------------|--|--------|--|--------|--|-------------|--|-------------|--|
| | | | | | | | | | | | | | | | | | | |
| FICC | 854 | 628 | 1,300 | 1,300 | 160 | (1,230) | 249 | (900) | | | | | | | | | | |
| Equity | 1,653 | 1,360 | 1,037 | 1,037 | 50 | 1,037 | 555 | 1,650 | | | | | | | | | | |
| IBK | 1,080 | 571 | 102 | 143 | 41 | 143 | 509 | 652 | | | | | | | | | | |
| CPID | 288 | (315) | (256) | (416) | (120) | (416) | (104) | (600) | | | | | | | | | | |
| GMI/Other | (1,000) | 333 | 61 | 55 | (8) | 55 | (119) | (90) | | | | | | | | | | |
| GMH | 3,704 | 2,300 | (479) | (349) | 130 | (349) | 1,011 | 562 | | | | | | | | | | |
| GPC | 3,414 | 2,933 | 1,094 | 1,423 | 329 | 1,423 | 1,574 | 2,097 | | | | | | | | | | |
| GHM | 151 | 89 | (113) | (9) | 15 | (9) | 49 | 20 | | | | | | | | | | |
| GWA | 3,624 | 3,021 | 1,076 | 1,421 | 344 | 1,421 | 1,622 | 3,043 | | | | | | | | | | |
| Corporate | (72) | 287 | 532 | 510 | (13) | 510 | (644) | (125) | | | | | | | | | | |
| ML&G or Mer/A/One-Time | 7,195 | 6,687 | 1,150 | 1,600 | 401 | 1,600 | 1,989 | 3,500 | | | | | | | | | | |
| Significant Items (Non-Mark) | 2,133 | (2,619) | (2,619) | (2,619) | | (2,619) | | (2,619) | | | | | | | | | | |
| Total Mark | 116,718 | 116,656 | 116,656 | 116,656 | | 116,656 | | 116,656 | | | | | | | | | | |
| FVAs | 1,333 | 2,043 | (1,076) | (1,076) | (8) | (1,076) | | (1,076) | | | | | | | | | | |
| Total Mark/Significant Items | (15,307) | (5,001) | (6,417) | (6,417) | (6) | (6,417) | | (6,417) | | | | | | | | | | |
| Total Revenue | (8,192) | 16 | (6,207) | (6,207) | 453 | (6,207) | 1,009 | (2,044) | | | | | | | | | | |
| Comp | 3,021 | 2,725 | 1,051 | 1,351 | 310 | 1,351 | 1,772 | 2,823 | | | | | | | | | | |
| Non Comp | 2,335 | 1,919 | 612 | 860 | 240 | 860 | 1,599 | 2,211 | | | | | | | | | | |
| VICP | 1,318 | 759 | 295 | 312 | 122 | 312 | 477 | 972 | | | | | | | | | | |
| Total Expenses or One-Time | 6,075 | 5,302 | 2,163 | 2,036 | 600 | 2,036 | 3,040 | 6,005 | | | | | | | | | | |
| FFVARS | 54 | 425 | 92 | 72 | | 72 | | 92 | | | | | | | | | | |
| Restructuring | - | 40 | - | (1) | | (1) | | | | | | | | | | | | |
| Tomassak | - | 2,500 | - | | | | | | | | | | | | | | | |
| PTE | (14,920) | (8,261) | (7,636) | (7,636) | (227) | (7,636) | (1,059) | (9,942) | | | | | | | | | | |
| Taxes | (4,523) | (3,134) | (3,000) | (3,000) | (50) | (3,000) | (659) | (3,500) | | | | | | | | | | |
| ML Operating ATE | (10,257) | (5,110) | (4,536) | (4,536) | (137) | (4,536) | (1,300) | (6,303) | | | | | | | | | | |
| All In Results: | | | | | | | | | | | | | | | | | | |
| EPS | \$ (12.57) | \$ (5.55) | 1,130 | 1,130 | | 1,130 | 1,503 | 3,300 | | | | | | | | | | |
| Pro-Tax Margin | NM | NM | (1,020) | (1,020) | | (1,020) | (1,659) | (2,426) | | | | | | | | | | |
| Tax Rate | 31.0% | 38.0% | (714) | (714) | | (714) | (1,236) | (1,604) | | | | | | | | | | |
| Ex Mark/FVA/One-Time Results: | | | | | | | | | | | | | | | | | | |
| Revenue | 7,195 | 6,687 | 1,130 | 1,130 | | 1,130 | 1,503 | 3,300 | | | | | | | | | | |
| PTE | 521 | 396 | (1,020) | (1,020) | | (1,020) | (1,659) | (2,426) | | | | | | | | | | |
| ATE | 382 | 274 | (714) | (714) | | (714) | (1,236) | (1,604) | | | | | | | | | | |
| EPS | \$ 0.28 | \$ 0.15 | | | | | | | | | | | | | | | | |
| Average Common Equity | 31,541 | 27,653 | | | | | | | | | | | | | | | | |
| Common Equity | 27,549 | 29,759 | | | | | | | | | | | | | | | | |
| Preferred Stock | 4,303 | 6,006 | | | | | | | | | | | | | | | | |
| Trust Preferred Securities | 4,725 | 4,773 | | | | | | | | | | | | | | | | |
| Equity Capital | 36,657 | 45,120 | | | | | | | | | | | | | | | | |
| Total Assets | 1,020,050 | 875,700 | 862,100 | 862,100 | 862,100 | 862,100 | 862,100 | 862,100 | | | | | | | | | | |
| Adjusted Assets | 647,343 | 572,392 | 574,560 | 574,560 | 574,560 | 574,560 | 574,560 | 574,560 | | | | | | | | | | |

(10,942)
-075
-1000
-300

All-A
net gut
structured note (w/ acct reversed 900m)

from OCI to P&L

November
 we had a terrible October
 Mr. [unclear] so far, is flat
 ML lost \$7 B in October
 do we have to get the # out?
 ML lost \$7 B in October
 do we have to get the # out?
 11/12/08

November, so far, is flat
 ML lost \$7 B in October
 do we have to get the # out?

Q. more -
by A M/C of DE show notes.
submitted per if very
major work of for
con to the show
1 B lot = Dr. Spaul's

8/98 - market trading -
LTCM collapse

11/13/08
Mutterhart - BSA
spoke in stock market
noted
product of many different sources
7/98
for date in take place
9/24/98

11/13/08

~~Stem~~ Stem

Tim Mayopoulos in -
same for better - worry about not done?

Q1 - 2 B km
Q2 - 4.6 B km
Q3 - 5.19 km
Q4 - 6.8 km

Tim Mayopoulos--
assume November
better -- worry about not
disclosing?

Herlihy, Demmo, Shapiro, Wachsman

11/13/08

Tim Mayopoulos, Theresa Brenner and Wachtell Lipton attorneys,
November 13, 2008

Tim - more info
concerns ML = .06
part. to beg. in the
if part of the order -
given ML's # - nec. bal. so report well on on before

Tim -- if ML breaks even
for Nov. -- \$7 B loss for 2
months

our results not follow

CL - # weeks trend did?

What would we know about APR?

Tim - have you model detail?

CL - not model - like 10th

Tim - if we had early Mar. - \$75 bn for 2 wks

ML - after the part of losses - + my that delayed!

TB - the not speak @ given comp.

apart it to be no better Dec - might be worse

Tim - all agree must be the drink.

CL - get that kind

Tim - not the way you want

November 12 Forecast cover sheet with Joe Price's notes from November 20, 2008 meeting with attorneys on shareholder disclosure question

"--Concluded [per] Tim [Mayopoulos] and Ed [Herlihy] that no pre meeting disclosures necessary"

-- Car losses not a hedge case yr - that yr vol - amount has gone down in volume since by some on had go on Bull/Bear - Adjust the loss. Underpinned losses - covers A into \$ amount. Forecast benefit in American days not gain. I want to spot - so long to 4/15 (it is in \$ - so. No covered losses. (budget as average)

- 700 '07 (less risk)
- 1000 '08 (Δ back to work (value)

Merrill Lynch & Co

2008 4Q & FY Forecast

November 12, 2008

Concluded in Tim + Ed that no pre meeting disclosures necessary

-- DTA haircut -> Q3 worse 6.9 to 9.1 haircut
-> EYBY increment # of DTA gets haircut
->