



Bank of America Says Merrill Brokers Can Quit Without Penalty

By Josh Fineman

Nov. 6 (Bloomberg) -- **Bank of America Corp.** offered a concession to the 15,500 brokers it will inherit from Merrill Lynch & Co., saying it will adopt an industry practice that allows them to quit without facing legal action.

The move, disclosed in a memo to employees yesterday, is Bank of America's second attempt in two weeks to stem defections from a unit that Chief Executive Officer **Kenneth Lewis** has called Merrill's "crown jewel." Lewis on Oct. 24 said brokers who stayed will qualify for a bonus of as much as 100 percent of their annual **revenue**.

Lewis, 61, is trying to prevent attrition after agreeing to buy Merrill in September in an all-stock deal valued at the time at \$50 billion. Yesterday's announcement will bolster confidence among Merrill brokers, who outperformed their investment-banking and trading colleagues this year, said **Thomas B. Lewis**, a lawyer who focuses on employee litigation.

"This memo was circulated to abate the concerns of Merrill brokers," said Lewis, a lawyer at Stark & Stark in Princeton, New Jersey, who is advising Merrill brokers and isn't related to the CEO. "Merrill Lynch needed to do something quick. It raised a lot of concerns and questions for senior brokers with books of business and the transportability of their business."

Merrill brokers have until Nov. 14 to decide whether to accept the retention packages.

Brokers Have 'Power'

The bonus program applies to Merrill's U.S. brokers, about half of whom are likely to qualify for some award, the people familiar with the incentives said last month. Bank of America has more than 1,900 brokers of its own. The agreement will also apply to them.

Merrill is a **member** of the so-called protocol on broker recruiting and was one of its founders in 2004. Bank of America isn't a member.

The brokers "are the ones with the power because they have the power to move at any moment," Lewis said. "The brokers are in control of their destiny right now."

Brokers who generate at least \$1 million of fees and commissions are eligible to receive the full amount over seven years. Charlotte, **North Carolina**-based Bank of America is offering smaller bonuses to Merrill brokers who produce at least \$500,000 and is rolling out a separate retention program for its own brokerage force.

"Today's announcement is one example of how we're moving quickly to bring together Bank of America and Merrill Lynch," **Keith Banks**, president of Bank of America's Global Wealth & Investment Management division, said in the memo. "This work will help ensure we maximize the benefits of this combination to better serve our clients."

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