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BofA's Lewis ousted as board chairman, stays as CEO

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By Jonathan Stempel

CHARLOTTE, North Carolina (Reuters) - Bank of America Corp shareholders voted to oust embattled Chief Executive Kenneth Lewis as chairman of the board on Wednesday in what could be a precursor to his eventual replacement as CEO as well.

The bank's board "unanimously" expressed support for Lewis to stay in the CEO post despite the fact that shareholders "narrowly" approved a proposal to require an independent chairman.

Lewis, who will remain chief executive, will be replaced in the chairman post by Walter Massey, 71, a director of the bank's board since 1998 and also a director of McDonald's.

"We knew that it was going to be close, but this is an unambiguous vote of no confidence," said Campbell Harvey, professor of finance at Duke University.

"Whether he chooses to remain as CEO or not, the dominant influence that he had at Bank of America is now a thing of the past," he added.

Similar moves last year foreshadowed the ouster of the chief executives of two large, troubled banks -- Ken Thompson at Wachovia Corp and Kerry Killinger at Washington Mutual Inc. Wachovia was later bought by Wells Fargo, while Washington Mutual failed.

"It's kind of the first step toward the end for Lewis," said Ralph Cole, portfolio manager, at Ferguson Wellman Capital Management in Portland, Oregon. "It shows there's at least some constituency that's not happy with his performance. I just don't think he's going to last," he added.

Massey has also served on the boards of Delta Air Lines Inc, Motorola and BP. He is president emeritus at Morehouse College in Atlanta, where he served as president until 2007. The former director of the National Science Foundation becomes one of the few African Americans chairing a major U.S. company.

Some shareholders expressed consternation that Massey, as long-time board member, does not represent a big enough change in leadership for the board.

"We are disappointed that the board apparently did not consider looking outside the current directors for a truly independent chairman," said Jerry Finger, who in 1996 sold his Charter Bancshares Inc of Houston to a Bank of America predecessor, and his son Jonathan in an e-mailed statement. The Finger family campaigned against Lewis' re-election.

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All 18 directors were elected to the board by "comfortable margins," the bank said in a statement, although several major shareholder groups including The California State Teachers' Retirement System and the California Public Employees' Retirement System had said they would withhold their votes for the entire board. Spokesmen for both pension funds declined comment after the vote.

About 2,000 people attended the annual meeting, more than triple the year-earlier number. The 62-year-old Lewis listened to dozens of attacks from shareholders over his leadership, and in particular the bank's controversial purchase of Merrill Lynch & Co, but also got substantial praise.

He fielded many complaints over the bank's failure to quickly disclose huge losses that Merrill was amassing, as it was paying out billions of dollars of bonuses to employees. Bank of America's shares have fallen by about three-fourths since the merger was announced in September.

"You knew what was going on with Merrill Lynch, you kept it from us. You're still keeping it from us," said Judy Koenick, who said she lost $27,000 on the bank's stock. She wore a shirt saying "Fire them all!!! Kenneth Lewis, & the board of directors, make a clean sweep."

Lewis stood patiently behind a podium on a stage for much of the meeting, often twiddling his thumbs or biting his lip as shareholders vented their frustration.

Others were more supportive. A 92-year-old man who said he owned a half million shares, said that in buying Merrill and the troubled mortgage lender Countrywide Financial Corp, Lewis "believed he was doing something good for America." The man added: "If we don't have Ken, who do we have?"

LEWIS DEFENDS MERRILL PURCHASE

In a speech, Lewis defended buying Merrill for $29.1 billion of common and preferred stock, saying that it was "good value" and that abandoning the deal would have caused "serious harm" to Bank of America and other banks. He also said he saw no need for Bank of America to make further acquisitions.

Bank of America needed a $20 billion federal bailout to absorb Merrill. Lewis has indicated that regulators pushed him to keep quiet about Merrill's losses and not to back out of the merger. He told shareholders that "as a legal matter, there was no duty" to disclose the bank's talks with the government.

"They should have disclosed it," said Ed Morais, a financial adviser and shareholder from Charlotte attending his first annual meeting. "It seems like he chose to put Merrill Lynch shareholders ahead of Bank of America shareholders." He spoke before the meeting.

The Merrill deal and bonus payments are the subject of shareholder lawsuits and investigations by members of the U.S. Congress as well as regulators including the U.S. Securities and Exchange Commission and New York Attorney General Andrew Cuomo.

"Lewis may have a lot of litigation ahead of him," said Jeffrey Sonnenfeld, professor and head of Yale's Chief Executive Leadership Institute.

Bank of America has received a total of $45 billion in taxpayer funds and may need more after results of government "stress tests" are released, probably next week. The tests gauge banks' ability to weather a deep recession.

Lewis declined to discuss details of talks with regulators about the tests, including whether the bank might need to issue more common stock to bolster capital.

Shares of Bank of America rose 53 cents, or 6.5 percent to close at $8.68 on the New York Stock Exchange.

(Reporting by Jonathan Stempel; additional reporting by Elinor Comlay, Paritosh Bansal, Phil Wahba and Dan Wilchins; editing by John Wallace, Gerald E. McCormickand Bernard Orr)

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