
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934**

Date of Report (Date of earliest event reported): October 30, 2007

Merrill Lynch & Co., Inc.

(Exact Name of Registrant as Specified in its Charter)

Delaware	1-7182	13-2740599
(State or Other Jurisdiction of Incorporation)	(Commission File Number)	(I.R.S. Employer Identification No.)
4 World Financial Center, New York, New York		10080
(Address of Principal Executive Offices)		(Zip Code)
Registrant's telephone number, including area code:		(212) 449-1000

(Former Name or Former Address, if Changed Since Last Report.)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- ☐ Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- ☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- ☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- ☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

(b) On October 30, 2007, Merrill Lynch & Co., Inc. ("Merrill Lynch") announced that E. Stanley O'Neal, its chairman and chief executive officer, has retired from Merrill Lynch effective immediately. The board of directors has elected Alberto Cribiore as interim non-executive chairman. Mr. Cribiore, who has been a member of the Merrill Lynch board since 2003, will chair a search committee that will identify and evaluate chief executive candidates from within and outside of the company. Mr. Cribiore founded and has served as managing principal of Brera Capital Partners LLC, a private equity investment firm, since 1997 and was co-President of Clayton, Dubilier & Rice, Inc., an equity investment firm, from 1985 to 1997.

Ahmass Fakahany and Gregory Fleming will continue as Merrill Lynch co-presidents and chief operating officers, reporting to the board of directors, and will assume the powers, duties and responsibilities of the chief executive officer until a chief executive officer of the company is elected by the board. Mr. Fleming, 44, and Mr. Fakahany, 49, have served as co-presidents and co-COOs since May 16, 2007. Prior to that time, Mr. Fleming served as the executive vice president and co-president of the company's Global Markets and Investment Banking group and Mr. Fakahany served as the company's vice chairman and chief administrative officer.

The Company's related press release is filed as Exhibit 99.1 to this Form 8-K and is incorporated by reference herein.

The Company has not entered into any material plans, contracts or arrangements or amended any existing plans, contracts or arrangements with Messrs. Cribiore, Fleming or Fakahany.

(e) On October 30, 2007, Merrill Lynch entered into an agreement with Mr. O'Neal to cover the terms of his termination (the "Agreement"). The Agreement provides that the Company will pay no bonus compensation to Mr. O'Neal for the 2007 fiscal year. It also provides that the Company will waive the 6 month notice requirement for termination contained in Mr. O'Neal's existing covenant agreement (filed as Exhibit 10 to the company's Current Report on Form 8-K dated September 17, 2004) and amends the non-competition covenant in that agreement to provide for an 18 month period of non-competition with specified competitors. All other covenants contained in the covenant agreement remain in place.

Under the Agreement, Merrill Lynch confirms and agrees that Mr. O'Neal's resignation will be treated as a retirement for all purposes (including outstanding unvested grants of stock-based compensation and under the executive annuity agreement with Mr. O'Neal (which is described in our 2007 proxy statement and filed as Exhibit 10(xxxii) to the Annual Report on Form 10-K for the fiscal year ended December 28, 2001)). This treatment is consistent with the definitions of retirement in all relevant grants, plans and agreements based upon Mr. O'Neal's age and length of service.

The Agreement is filed as Exhibit 10.1 to this Form 8-K and is incorporated by reference herein.

As of the close of business on October 29, 2007, the total value of Mr. O'Neal's retained stock awards and benefits was approximately \$161.5 million, broken down as follows: \$131.4 million, consisting of the value of unvested restricted stock and restricted stock units and the in-the-money value of unexercised stock options; \$24.7 million consisting of the actuarial present value of future payments under the executive annuity agreement and his balances under the company's broad-based 401(k) Savings and Investment Plan, Employee Stock Ownership Plan and Retirement Accumulation Plan; and \$5.4 million consisting of the current value of deferred compensation balances. The unvested restricted stock and restricted stock units will continue to vest in accordance with their original schedules, and the in-the-money unexercised stock options will continue to be outstanding after retirement, subject to compliance with covenants. The Agreement also provides that the Company will provide Mr. O'Neal with an office and an executive assistant for up to three years.

Item 5.03. Amendments to Articles of Incorporation or Bylaws; Change in Fiscal Year.

Effective October 30, 2007, the Board of Directors of Merrill Lynch adopted Restated By-Laws containing amendments to Articles III, V and VI of Merrill Lynch's By-Laws. The amendments principally provide for the election of a chairman of the board who does not also serve as chief executive officer.

The Restated By-Laws are filed as Exhibit 3.1 to this Form 8-K.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits

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|------|--|
| 3.1 | Restated By-Laws, dated as of October 30, 2007, of Merrill Lynch & Co., Inc. |
| 10.1 | Form of Agreement Dated October 30, 2007 with E. Stanley O'Neal |
| 99.1 | Press release of Merrill Lynch & Co., Inc. dated October 30, 2007 |

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

MERRILL LYNCH & CO., INC.

(Registrant)

By: _____ /s/ Judith A. Witterschein

Judith A. Witterschein
Corporate Secretary

Date: October 30, 2007

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Date: October 30, 2007

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Exhibit No.	Description
3.1	Restated By-Laws, dated as of October 30, 2007, of Merrill Lynch & Co., Inc.
10.1	Form of Agreement Dated October 30, 2007 with E. Stanley O'Neal
99.1	Press release of Merrill Lynch & Co., Inc. dated October 30, 2007

RESTATED BY-LAWS

OF

MERRILL LYNCH & CO., INC.

Effective: October 30, 2007

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RESTATED BY-LAWS

OF

MERRILL LYNCH & CO., INC.

ARTICLE I. OFFICES

Merrill Lynch & Co., Inc. (hereinafter called the "Corporation") may establish or discontinue, from time to time, such offices and places of business within or without the State of Delaware as the Board of Directors may deem proper for the conduct of the Corporation's business.

ARTICLE II. MEETINGS OF STOCKHOLDERS

Section 1. Annual Meeting.

The annual meeting of the holders of shares of such classes or series of stock as are entitled to notice of and to vote at such Annual Meeting pursuant to the provisions of the Certificate of Incorporation (hereinafter called the "Annual Meeting of Stockholders") for the purpose of electing Directors and transacting such other business as may properly be brought before the meeting shall be held in each year at such time, on such day and at such place, within or without the State of Delaware, as shall be designated by the Board of Directors.

Section 2. Special Meetings.

In addition to such meetings as are provided for by law or by the Certificate of Incorporation, special meetings of the holders of any class or series or of all classes or series of the Corporation's stock may be called at any time by the Board of Directors pursuant to a resolution adopted by the affirmative vote of a majority of the Whole Board and may be held at such time, on such day and at such place, within or without the State of Delaware, as shall be designated by the Board of Directors. For purposes of these By-Laws, the term "Whole Board" shall mean the total number of authorized Directors whether or not there exist any vacancies in previously authorized directorships.

Section 3. Notice of, and Business at, Meetings.

a. Notice.

Except as otherwise provided by law, notice of each meeting of stockholders shall be given either by delivering personally, by electronic transmission or by mailing a written notice to each stockholder of record entitled to vote at the meeting or by providing notice in such other form and by such other method as may be permitted by Delaware law. If mailed, the notice shall be directed to the stockholder in a postage-prepaid envelope at his or her address as it appears on the stock books of the Corporation unless, prior to the time of mailing, he or she shall have filed with the Secretary a written request that notices intended for him or her be mailed to another address, in which case it shall be mailed to the address designated in such request. Except as otherwise provided herein or required by law, notice of each meeting of stockholders shall be in such form as is approved by the Board of Directors, shall state

the purpose or purposes for which the meeting is called, the date, time and location of the meeting, and shall be delivered personally, by electronic communication, or mailed not more than sixty (60) days and not less than ten (10) days, before the day of the meeting. Except as otherwise provided by law, the business which may be transacted at any special meeting shall consist of, and be limited to the purpose or purposes so stated in such notice. An affidavit stating that notice has been given shall be filed with the minutes of such meeting.

b. Business.

(1) General.

No business may be transacted at an Annual Meeting, other than business that is either (1) specified in the notice of meeting given by or at the direction of the Board of Directors (or any duly authorized committee thereof), (2) otherwise properly brought before the Annual Meeting by or at the direction of the Board of Directors (or any duly authorized committee thereof) or (3) otherwise properly brought before the Annual Meeting by any stockholder of the Corporation who (i) is a stockholder of record on the date of the giving of the notice provided for in this Section 3(b) and on the record date for the determination of stockholders entitled to vote at such Annual Meeting and (ii) complies with the notice procedures set forth in this Section 3(b). No business shall be conducted at the Annual Meeting except business brought before the Annual Meeting in accordance with the procedures set forth in this Section 3(b), or in the Certificate of Incorporation provided, however, that, once business has been properly brought before the Annual Meeting in accordance with such procedures, nothing in this Section 3(b) shall be deemed to preclude discussion by any stockholder of any such business. If the Chairman of an Annual Meeting determines that business was not properly brought before the Annual Meeting in accordance with these procedures, the Chairman shall declare to the meeting that the business was not properly brought before the meeting and such business shall not be transacted.

(2) Timing Requirements.

In addition to any other applicable requirements, for business to be properly brought before an Annual Meeting by a stockholder (including the nomination of a person for election as a Director), such stockholder must have given timely notice thereof in writing to the Secretary of the Corporation. To be timely, a stockholder's notice to the Secretary must be received by the Secretary of the Corporation not less than fifty (50) days nor more than seventy five (75) days prior to the date of the Annual Meeting; provided, that in the event that less than sixty (60) days' notice or prior public disclosure of the date of the meeting is given or made to stockholders, notice by the stockholder in order to be timely must be so received not later than the close of business on the tenth (10th) day following the day on which such notice of the date of the Annual Meeting was mailed or such public disclosure of the date of the Annual Meeting was made, whichever occurs first.

(3) Written Form.

To be in proper written form, a stockholder's notice to the Secretary (other than notice relating to the nomination of a person for election as a Director) must set forth as

to each matter such stockholder proposes to bring before the Annual Meeting (i) a brief description of the business desired to be brought before the Annual Meeting and the reasons for conducting such business at the Annual Meeting, (ii) the name and record address of such stockholder, (iii) the class or series and number of shares of capital stock of the Corporation which are owned beneficially or of record by such stockholder, (iv) a description of all arrangements or understandings between such stockholder and any other person or persons (including their names) in connection with the proposal of such business by such stockholder and any material interest of such stockholder in such business and (v) a representation that such stockholder intends to appear in person or by proxy at the Annual Meeting to bring such business before the meeting.

(4) Director Nominations.

Subject to the rights of holders of any series of Preferred Stock or any other class of capital stock of the Corporation (other than the Common Stock) then outstanding, nominations for the election of directors may be made by the affirmative vote of a majority of the entire Board of Directors or by any stockholder of record entitled to vote generally in the election of directors. However, any stockholder of record entitled to vote generally in the election of directors may nominate one or more persons for election as directors at a meeting only if written notice has been provided in accordance with Section 3b(1) of these By-Laws. Each such notice to the Secretary shall set forth: (i) the name and address of record of the stockholder who intends to make the nomination; (ii) a representation that the stockholder is a holder of record of shares of the Corporation's capital stock entitled to vote at such meeting and intends to appear in person or by proxy at the meeting to nominate the person or persons specified in the notice; (iii) the name, age, business and residence addresses, and principal occupation or employment of each proposed nominee; (iv) a description of all arrangements or understandings between the stockholder and each proposed nominee and any other person or persons (naming such person or persons) pursuant to which the nomination or nominations are to be made by the stockholder; (v) such other information regarding each proposed nominee as would be required to be included in a proxy statement filed pursuant to the proxy rules of the Securities and Exchange Commission; and (vi) the written consent of each proposed nominee to serve as a director of the Corporation if so elected. The Corporation may require any proposed nominee to furnish such other information as may reasonably be required by the Corporation to determine the eligibility of such proposed nominee to serve as a director of the Corporation. The Chairman of the meeting of stockholders may, if the facts warrant, determine that a nomination was not made in accordance with the foregoing procedure, and if he should so determine, he shall so declare to the meeting and the defective nomination shall be disregarded.

Section 4. Organization.

The Chairman of the Board shall act as chairman at all meetings of stockholders at which he or she is present, and in that capacity he or she shall call such meetings of stockholders to order. If the Chairman of the Board shall be absent from any meeting of stockholders, the duties otherwise provided in this Section 4 to be performed by him or her at such meeting shall be performed at such meeting by the Lead Independent Director, if any. If the Lead Independent Director is not present, or none has been elected, one of the Directors present shall be chosen by the majority of the members of the Board of Directors present to preside at such meeting. The Secretary of the Corporation shall act as secretary at all

meetings of the stockholders, but in his or her absence the chairman of the meeting may appoint any person present to act as secretary of the meeting.

Section 5. Inspectors of Election.

The Corporation shall, in advance of any meeting of stockholders, appoint one or more inspectors of election to act at the meeting and make a written report of such meeting. The Corporation may designate one or more persons as alternate inspectors to replace any inspector who fails to act. If no inspector or alternate is able to act at a meeting of stockholders, the person presiding at the meeting shall appoint one or more inspectors to act at the meeting. Each inspector, before entering upon the discharge of his or her duties, shall take and sign an oath faithfully to execute the duties of inspector with strict impartiality and according to the best of his or her ability.

The inspector(s) shall: (1) ascertain the number of shares outstanding and the voting power of each; (2) determine the shares represented at a meeting and the validity of proxies and ballots; (3) count all votes and ballots; (4) determine and retain for a reasonable period a record of the disposition of any challenges made to any determination by the inspector(s); and (5) certify their determination of the number of shares represented at the meeting, and their count of all votes and ballots. The inspector(s) may appoint or retain other persons or entities to assist the inspector(s) in the performance of their duties. No person who is a candidate for office at an election or has been appointed a proxy by the Corporation may serve as an inspector at such election.

Section 6. Stockholders Entitled to Vote.

The Board of Directors may, except as otherwise required by law, fix a date not more than sixty (60) days nor less than ten (10) days prior to the date of any meeting of stockholders, as a record date for the determination of the stockholders entitled to notice of and to vote at such meeting and any adjournment thereof. In such case, such stockholders and only such stockholders as shall be stockholders of record on the date so fixed, shall be entitled to notice of, and to vote at, such meeting and any adjournment thereof, notwithstanding any transfer of any stock on the books of the Corporation after any such record date is fixed. No record date shall precede the date on which the Board of Directors establishes such record date. The Secretary shall prepare and make or cause to be prepared and made, at least ten (10) days before every meeting of stockholders, a complete list of the stockholders entitled to vote at such meeting, arranged in alphabetical order and showing the address of each stockholder and the number of shares registered in the name of each stockholder. Such list shall be open to the examination of any stockholder, for any purpose germane to the meeting, for a period of at least ten (10) days prior to the meeting, either on a reasonable accessible electronic network, provided that the information required to gain access to such list is provided with the notice of the meeting, or during ordinary business hours, at the principal place of business of the Corporation. In the event that the Corporation determines to make the list available on an electronic network, the Corporation may take reasonable steps to ensure that such information is available only to stockholders of the Corporation. If the meeting is to be held at a place, then the list shall be produced and kept at the time and place of the meeting during the whole time thereof, and may be inspected by any stockholder who is present. If the meeting is to be held solely by means of remote communication, then the list shall also be open to examination of any stockholder during the whole time of the meeting on a reasonably accessible electronic

network, and the information required to access such list shall be provided with the notice of the meeting.

Section 7. Quorum and Adjournment.

Except as otherwise provided by law or by the Certificate of Incorporation, the holders of a majority of the shares of stock entitled to vote at the meeting present in person or by proxy without regard to class or series shall constitute a quorum at all meetings of the stockholders. Where a separate vote by class or series is required, a majority of the voting power of the shares of such class or series present in person or represented by proxy shall constitute a quorum entitled to take action with respect to that vote on that matter. In the absence of a quorum, the Chairman of the meeting may adjourn any meeting until a quorum shall be present. At any such adjourned meeting at which a quorum may be present, any business may be transacted which might have been transacted at the meeting as originally called. No notice of any adjourned meeting need be given other than by announcement at the meeting that is being adjourned, provided, that if the adjournment is for more than thirty (30) days, or if after the adjournment a new record date is fixed for the adjourned meeting, then a notice of the adjourned meeting shall be given to each stockholder of record entitled to vote at the meeting.

Section 8. Conduct of Meetings.

The order of business at all meetings of stockholders shall be as determined by the Chairman of the meeting. The date and time of the opening and closing of the polls for each matter upon which the stockholders will vote at a meeting shall be announced at such meeting by the Chairman of the meeting. The Chairman of the meeting shall have the right and authority to prescribe such rules, regulations and procedures and to do all acts as, in the judgment of him or her are appropriate for the proper conduct of the meeting.

Section 9. Vote of Stockholders.

Except as otherwise required by law or by the Certificate of Incorporation or by these By-Laws, all action by stockholders shall be taken at a stockholders' meeting. Every stockholder of record, as determined pursuant to Section 6 of this Article II, and who is entitled to vote, shall, except as otherwise expressly provided in the Certificate of Incorporation with respect to any class or series of the Corporation's capital stock, be entitled at every meeting of the stockholders to one vote for every share of stock standing in his or her name on the books of the Corporation. Every stockholder entitled to vote may authorize another person or persons to act for him or her by proxy duly appointed by an instrument in writing, or by a transmission permitted by law filed in accordance with the procedure established for the meeting, but no such proxy shall be voted or acted upon after three (3) years from its date, unless the proxy provides for a longer period. A stockholder may revoke any proxy by attending the meeting and voting in person or by filing a subsequent duly executed proxy with the Secretary of the Corporation. Election of Directors shall be by written ballot but, unless otherwise provided by law, no vote on any question upon which a vote of the stockholders may be taken need be by ballot unless the Chairman of the meeting shall determine that it shall be by ballot or the holders of a majority of the shares of stock present in person or by proxy and entitled to participate in such vote shall so demand. In a vote by ballot, each ballot shall state the number of shares voted and the name of the stockholder or proxy voting. No ballot, proxies or votes, nor any revocations thereof or changes thereto shall be accepted after the time set for the closing of the polls. Except as otherwise provided in Sections 14 and 15 of Article III or by the Certificate of

Incorporation, Directors shall be elected by a plurality of the votes of the shares present in person or represented by proxy at the meeting and entitled to vote on the election of Directors. Except as otherwise provided by law or by the Certificate of Incorporation, the affirmative vote of a majority of shares present in person or represented by proxy at the meeting and entitled to vote on the subject shall be the act of the stockholders.

Section 10. Shares Entitled to More or Less than One Vote .

If any class or series of the Corporation's capital stock shall be entitled to more or less than one vote for any share, on any matter, every reference in these By-Laws to a majority or other proportion of stock shall refer to such majority or other proportion of the votes of such stock.

ARTICLE III. BOARD OF DIRECTORS

Section 1. Election and Term.

Except as otherwise provided by law or by the Certificate of Incorporation, and subject to the provisions of Sections 13, 14 and 15 of this Article III, Directors shall be elected at the Annual Meeting to serve until the Annual Meeting in the third year following their election and until their successors are elected and qualify or until their earlier resignation or removal.

Section 2. Qualification.

No one shall be a Director who is not the owner of shares of Common Stock of the Corporation. Acceptance of the office of Director may be expressed orally or in writing.

For the purposes of this Section 2: (1) stock units or other equity-linked instruments tied to the value of the Corporation's Common Stock shall be deemed to be shares of Common Stock of the Corporation; and (2) an initial grant of Common Stock, stock units or other equity-linked instruments tied to the value of the Corporation's Common Stock under any of the Corporation's plans for its non-employee Directors, even if made after the date of the election of a Director, shall be sufficient to comply with this provision.

Section 3. Number.

The number of Directors may be fixed from time to time by resolution of the Board of Directors but shall not be less than three (3) nor more than thirty (30).

Section 4. General Powers.

The business, properties and affairs of the Corporation shall be managed by, or under the direction of, the Board of Directors, which, without limiting the generality of the foregoing, shall have power to elect and appoint officers of the Corporation, to appoint and direct agents, to grant general or limited authority to officers, employees and agents of the Corporation, to make, execute and deliver contracts and other instruments and documents in the name and on behalf of the Corporation and over its seal, without specific authority in each case, and, by resolution adopted by a majority of the Whole Board, to appoint committees of the Board of Directors in addition to those appointed pursuant to Article IV hereof, the membership of which may consist of one or more Directors, and which may advise the Board of Directors with respect

to any matters relating to the conduct of the Corporation's business. The Board of Directors may designate one or more Directors as alternate members of any committee, including those appointed pursuant to Article IV, who may replace any absent or disqualified member at any meeting of the committee. In addition, the Board of Directors may exercise all the powers of the Corporation and do all lawful acts and things which are not reserved to the stockholders by law or by the Certificate of Incorporation.

Section 5. Place of Meetings.

Meetings of the Board of Directors may be held at any place, within or without the State of Delaware, from time to time designated by the Board of Directors.

Section 6. Organizational Meeting.

A newly elected Board of Directors may meet and organize, and also may transact any other business which might be transacted at a regular meeting on the day of the Annual Meeting, at the place at which such meeting of stockholders took place, without notice of such meeting, provided a majority of the Whole Board is present. Such organization meeting may otherwise be held at any other time or place which may be specified in a notice given in the manner provided in Section 8 of this Article III for special meetings of the Board of Directors, or in a waiver of notice of such organization meeting.

Section 7. Regular Meetings.

Regular meetings of the Board of Directors shall be held at such times as may be determined by resolution of the Board of Directors and no notice shall be required for any regular meeting. Except as otherwise provided by law, any business may be transacted at any regular meeting of the Board of Directors.

Section 8. Special Meetings; Notice and Waiver of Notice.

Special meetings of the Board of Directors shall be called by the Secretary on the request of the Chairman of the Board, the Chief Executive Officer, the President or a Co-President or a Vice Chairman of the Board, or on the request in writing or by electronic transmission of any three other Directors stating the purpose or purposes of such meeting. Notice of any special meeting shall be in form approved by the Chairman of the Board, the Chief Executive Officer, the President or a Co-President or a Vice Chairman of the Board, as the case may be. Notices of special meetings shall be mailed to each Director, addressed to him or her at his or her residence or usual place of business, not later than two (2) days before the day on which the meeting is to be held, or shall be sent to him or her at such place by electronic communication or be delivered personally or by telephone, not later than the day before such day of meeting. Notice of any meeting of the Board of Directors need not be given to any Director if he or she shall sign a written waiver thereof either before or after the time stated therein, or if he or she shall attend a meeting, except when he or she attends such meeting for the express purpose of objecting, at the beginning of the meeting, to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any special meeting of the Board of Directors need be specified in any notice or written waiver of notice unless so required by the Certificate of Incorporation or by these By-Laws. Unless limited by law, by the Certificate of Incorporation or by these By-Laws, any and all business may be transacted at any special meeting.

Section 9. Organization of Meetings.

The Chairman of the Board shall preside at all meetings of the Board of Directors at which he or she is present. If the Chairman of the Board shall be absent from any meeting of the Board of Directors, the duties otherwise provided in this Section 9 to be performed by him or her at such meeting shall be performed at such meeting by the individual elected by the Board of Directors to act as Lead Independent Director, if any. If no Lead Independent Director has been elected or if the Lead Independent Director is not present at the meeting, one of the Directors present shall be chosen by the majority of the members of the Board of Directors present to preside at such meeting. The Secretary of the Corporation shall act as the secretary at all meetings of the Board of Directors, and in his or her absence a secretary of the meeting shall be appointed by the Chairman of the meeting.

Section 10. Quorum and Manner of Acting.

Except as otherwise provided by Section 6 of this Article III, at every meeting of the Board of Directors one-third (1/3) of the total number of Directors constituting the Whole Board shall constitute a quorum but in no event shall a quorum be constituted by less than two (2) Directors. Except as otherwise provided by law or by the Certificate of Incorporation, the act of a majority of the Directors present at any such meeting, at which a quorum is present, shall be the act of the Board of Directors. In the absence of a quorum, a majority of the Directors present may adjourn any meeting, from time to time, until a quorum is present. No notice of any adjourned meeting need be given other than by announcement at the meeting that is being adjourned. Members of the Board of Directors or any committee thereof may participate in a meeting of the Board of Directors or of such committee by means of conference telephone or other communications equipment by means of which all persons participating in the meeting can hear each other, and participation by a member of the Board of Directors in a meeting pursuant to this Section 10 shall constitute his or her presence in person at such meeting.

Section 11. Voting.

On any question on which the Board of Directors shall vote, the names of those voting and their votes shall be entered in the minutes of the meeting if any member of the Board of Directors so requests at the time.

Section 12. Action without a Meeting.

Except as otherwise provided by law or by the Certificate of Incorporation, any action required or permitted to be taken at any meeting of the Board of Directors or of any committee thereof may be taken without a meeting, if prior to such action all members of the Board of Directors or of such committee, as the case may be, consent thereto in writing or by electronic transmission, and the writing(s) or electronic transmission(s) are filed with the minutes of proceedings of the Board of Directors or the committee. Such filing shall be in paper form if the minutes are maintained in paper form and shall be in electronic form if the minutes are maintained in electronic form.

Section 13. *Resignations.*

Any Director may resign at any time upon written notice of resignation to the Corporation in writing or by electronic transmission. Any resignation shall be effective immediately unless a date certain is specified for it to take effect, in which event it shall be effective upon such date, and acceptance of any resignation shall not be necessary to make it effective, irrespective of whether the resignation is tendered subject to such acceptance.

Section 14. *Removal of Directors.*

Subject to the rights of the holders of any series of Preferred Stock or any other class of capital stock of the Corporation (other than the Common Stock) then outstanding, (i) any Director, or the entire Board of Directors, may be removed from office at any time, but only for cause, by the affirmative vote of the holders of record of outstanding shares representing at least 80% of the voting power of all the shares of capital stock of the Corporation then entitled to vote generally in the election of Directors, voting together as a single class.

Section 15. *Vacancies.*

Subject to the rights of the holders of any series of Preferred Stock or any other class of capital stock of the Corporation (other than the Common Stock) then outstanding, any vacancies in the Board of Directors for any reason, including by reason of any increase in the number of Directors, shall, if occurring prior to the expiration of the term of office of the class in which such vacancy occurs, be filled only by the Board of Directors, acting by the affirmative vote of a majority of the remaining Directors then in office, although less than a quorum, and any Directors so elected shall hold office until the next election of the class for which such Directors have been elected and until their successors are elected and qualify.

Section 16. *Directors' Compensation.*

Any and all Directors may receive such reasonable compensation for their services as such, whether in the form of salary or a fixed fee for attendance at meetings, with expenses, if any, as the Board of Directors may from time to time determine. Nothing contained in these By-Laws shall be construed to preclude any Director from serving the Corporation in any other capacity and receiving compensation for such service.

ARTICLE IV. COMMITTEES

Section 1. *Constitution and Powers.*

The Board of Directors may, by resolution adopted by affirmative vote of a majority of the Whole Board, appoint one or more committees of the Board of Directors, which committees shall have such powers and duties as the Board of Directors shall properly determine. Unless otherwise provided by the Board of Directors, no such other committee of the Board of Directors shall be composed of fewer than two (2) Directors.

Section 2. Place of Meetings.

Meetings of any committee of the Board of Directors may be held at any place, within or without the State of Delaware, from time to time designated by the Board of Directors or such committee.

Section 3. Meetings; Notice and Waiver of Notice.

Regular meetings of any committee of the Board of Directors shall be held at such times as may be determined by resolution either of the Board of Directors or of such committee and no notice shall be required for any regular meeting. Special meetings of any committee shall be called upon request of the Chair of each committee or any two (2) members thereof. Notices of special meetings shall be mailed to each member, addressed to him or her at his or her residence or usual place of business, not later than two (2) days before the day on which the meeting is to be held, or shall be sent to him or her at such place by electronic transmission, or be delivered personally or by telephone, not later than the day before such day of meeting. Neither the business to be transacted at, nor the purpose of, any special meeting of any committee, need be specified in any notice or written waiver of notice unless so required by the Certificate of Incorporation or the By-Laws. Notices of any such meeting need not be given to any member of any committee, however, if waived by him or her as provided in Section 8 of Article III, and the provisions of such Section 8 with respect to waiver of notice of meetings of the Board of Directors shall apply to meetings of any committee as well.

Section 4. Organization of Meetings.

The Chair of the committee, if any, shall preside at all meetings of such committee and if the Chair is not present one of the Directors present shall be chosen by a majority of the members of the Board of Directors present to preside at such meeting. The Secretary of the Corporation, except as otherwise expressly provided by the Board of Directors, shall act as secretary at all meetings of any committee at which he or she is present and in his or her absence a secretary of the meeting shall be appointed by the chairman of the meeting.

Section 5. Quorum and Manner of Acting.

One-third (1/3) of the members of any committee then in office shall constitute a quorum for the transaction of business, and the act of a majority of those present at any meeting at which a quorum is present, shall be the act of such committee. In the absence of a quorum, a majority of the members of any committee present, or, if two (2) or fewer members shall be present, any member of the committee present or the Secretary, may adjourn any meeting, from time to time, until a quorum is present. No notice of any adjourned meeting need be given other than by announcement at the meeting that is being adjourned. The provisions of Section 10 of Article III with respect to participation in a meeting of the Board of Directors and the provisions of Section 12 of Article III with respect to action taken by the Board of Directors without a meeting shall apply to participation in meetings of and action taken by any committee.

Section 6. Voting.

On any question on which any committee shall vote, the names of those voting and their votes shall be entered in the minutes of the meeting if any member of such committee so requests.

Section 7. *Records.*

All committees shall keep minutes of their acts and proceedings, which shall be submitted at the next regular meeting of the Board of Directors unless sooner submitted at an organization or special meeting of the Board of Directors, and any action taken by the Board of Directors with respect thereto shall be entered in the minutes of the Board of Directors.

Section 8. *Vacancies.*

Any vacancy among the appointed members or alternate members of any committee of the Board of Directors may be filled by affirmative vote of a majority of the Whole Board.

Section 9. *Members' Compensation.*

Members of all committees may receive such reasonable compensation for their services as such, whether in the form of salary or a fixed fee for attendance at meetings, with expenses, if any, as the Board of Directors may from time to time determine. Nothing herein contained shall be construed to preclude any member of any committee from serving the Corporation in any other capacity and receiving compensation for such service.

Section 10. *Emergency Management Committee.*

In the event that a quorum of the Board of Directors cannot readily be convened as a result of emergency conditions following a catastrophe or disaster, then all the powers and duties vested in the Board of Directors shall vest automatically in an Emergency Management Committee which shall consist of all readily available members of the Board of Directors and which committee shall have and may exercise all of the powers of the Board of Directors in the management of the business and affairs of the Corporation. Two (2) members shall constitute a quorum. Other provisions of these By-Laws notwithstanding, the Emergency Management Committee shall call a meeting of the Board of Directors as soon as circumstances permit, for the purpose of filling vacancies on the Board of Directors and its committees and to take such other action as may be appropriate; and if the Emergency Management Committee determines that less than a majority of the members of the Board of Directors are available for service, the Emergency Management Committee shall, as soon as practicable, issue a call for a special meeting of stockholders for the election of Directors. The powers of the Emergency Management Committee shall terminate upon the convening of the meeting of the Board of Directors above prescribed at which a majority of the members thereof shall be present, or upon the convening of the above prescribed meeting of stockholders, whichever first shall occur.

ARTICLE V. OFFICERS

Section 1. *Qualifications.*

The elected officers of the Corporation shall be a Chairman of the Board, a Chief Executive Officer, a Secretary and a Treasurer and may also include one or more Vice Chairmen of the Board, a President or Co-Presidents, one or more Executive Vice Presidents, one or more Senior Vice Presidents and one or more Vice Presidents. Assistant Secretaries, Assistant Treasurers and such other officers as may be deemed necessary or appropriate may

be appointed by the Board of Directors or may be appointed pursuant to Section 6 and 7 of this Article V. The elected officers shall be elected by the Board of Directors.

Section 2. Term of Office; Vacancies.

So far as is practicable, all elected officers shall be elected at the organization meeting of the Board of Directors in each year, and subject to the provisions of Sections 3, 4 and 6, of this Article V, shall hold office until the organization meeting of the Board of Directors in the next subsequent year and until their respective successors are elected and qualify or until their earlier resignation or removal. If any vacancy shall occur in any office, the Board of Directors may elect or appoint a successor to fill such vacancy for the remainder of the term or may delegate the powers, duties and responsibilities of such officer to any other officer or officers of the Corporation.

Section 3. Removal of Elected Officers.

Any elected officer may be removed at any time, either for or without cause, by affirmative vote of a majority of the Whole Board, at any regular meeting or at any special meeting called for the purpose and, in the case of any officer not more senior than a Senior Vice President, by affirmative vote of a majority of the whole committee of the Board of Directors so empowered at any regular meeting or at any special meeting called for the purpose.

Section 4. Resignations.

Any officer may resign at any time, upon written notice of resignation to the Corporation. Any resignation shall be effective immediately unless a date certain is specified for it to take effect, in which event it shall be effective upon such date, and acceptance of any resignation shall not be necessary to make it effective, irrespective of whether the resignation is tendered subject to such acceptance.

Section 5. Officers Holding More Than One Office.

Any officer may hold two (2) or more offices the duties of which can be consistently performed by the same person.

Section 6. The Chairman of the Board.

The Chairman of the Board shall have general executive powers, as well as the specific powers conferred by these By-Laws. Except as otherwise provided in these By-Laws, he or she shall preside at all meetings of the stockholders and at all meetings of the Board of Directors.

Section 7. The Chief Executive Officer.

The Chief Executive Officer shall direct, coordinate and control the Corporation's business and activities and its operating expenses and capital expenditures, and shall have general authority to exercise all the powers necessary for the chief executive officer of the Corporation, all in accordance with basic policies established by and subject to the control of the Board of Directors. He or she shall be responsible for the employment or appointment of employees, agents and officers (except officers to be elected by the Board of Directors pursuant to Section 1 of this Article V) as may be required for the conduct of the business and

the attainment of the objectives of the Corporation. He or she shall have authority to suspend or to remove any employee, agent or appointed officer of the Corporation and to suspend for cause any officer elected by the Board of Directors and, in the case of a suspension for cause of any such elected officer, to recommend to the Board of Directors what further action should be taken. He or she shall have general authority to execute bonds, deeds and contracts in the name and on behalf of the Corporation. In the absence of the Chief Executive Officer, his or her duties shall be performed and his or her authority may be exercised by the President or a Co-President. In the absence of the Chief Executive Officer and the President or Co-Presidents, such duties shall be performed and such authority may be exercised by a person designated by the Board of Directors or a person selected pursuant to procedures determined by the Board of Directors.

Section 8. *The President.*

The President, if any, shall be the chief operating officer of the Corporation. Two or more persons may be elected Co-Presidents, in which case such persons shall each serve as co-chief operating officers of the Corporation. The President or Co-Presidents shall implement the general directives, plans and policies formulated by the Board of Directors or the Chief Executive Officer pursuant to the By-Laws, in general shall have authority to exercise all the powers delegated to such officer(s) by the Board of Directors or the Chief Executive Officer and shall establish operating and administrative plans and policies and direct and coordinate the Corporation's organizational components, within the scope of the authority delegated to him or her by the Board of Directors or the Chief Executive Officer. The President or Co-Presidents shall have general authority to execute bonds, deeds and contracts in the name and on behalf of the Corporation and responsibility for the employment or appointment of such employees, agents and officers (except officers to be elected by the Board of Directors pursuant to Section 1 of this Article V) as may be required to carry on the operations of the business. The President or a Co-President shall have authority to suspend or to remove any employee or agent of the Corporation (other than officers). As provided in Section 6 of this Article V, in the absence of the President or Co-Presidents, such officer(s)' duties shall be performed and authority may be exercised by the Chief Executive Officer. In the absence of the President or Co-Presidents and the Chief Executive Officer, such duties shall be performed and such authority may be exercised by a person designated by the Board of Directors or a person selected pursuant to procedures determined by the Board of Directors.

Section 9. *The Vice Chairmen of the Board.*

The several Vice Chairmen of the Board, if any, shall perform such duties and may exercise such authority as may from time to time be conferred upon them by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or a Co-President.

Section 10. *The Executive Vice Presidents.*

The several Executive Vice Presidents, if any, shall perform such duties and may exercise such authority as may from time to time be conferred upon them by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or a Co-President.

Section 11. *The Senior Vice Presidents.*

The several Senior Vice Presidents, if any, shall perform such duties and may exercise such authority as may from time to time be conferred upon them by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or a Co-President, any Vice Chairman of the Board or any Executive Vice President.

Section 12. *The Vice Presidents.*

The several Vice Presidents, if any, shall perform such duties and may exercise such authority as may from time to time be conferred upon them by the Board of Directors, the Chairman of the Board, the Chief Executive Officer, the President or a Co-President, any Vice Chairman of the Board or any Executive Vice President.

Section 13. *The Secretary.*

The Secretary shall attend to the giving of notice of all meetings of stockholders and of the Board of Directors and committees thereof, and, as provided in Section 4 of Article II and Section 9 of Article III, shall keep minutes of all proceedings at meetings of the stockholders and of the Board of Directors at which the Secretary is present, as well as of all proceedings at all meetings of committees of the Board of Directors at which the Secretary has served as secretary, and where some other person has served as secretary thereto, the Secretary shall maintain custody of the minutes of such proceedings. As provided in Section 2 of Article VII, the Secretary shall have charge of the corporate seal and shall have authority to attest any and all instruments or writings to which the same may be affixed. The Secretary shall keep and account for all books, documents, papers and records of the Corporation, except those for which another officer or agent is properly accountable. The Secretary shall generally perform all the duties usually appertaining to the office of secretary of a corporation. In the absence of the Secretary, such person as shall be designated by the Chief Executive Officer, the President or a Co-President shall perform such duties. An Assistant Secretary has all the duties that may be exercised by the Secretary.

Section 13. *The Treasurer.*

The Treasurer shall have the care and custody of all the funds of the Corporation and shall deposit the same in such banks or other depositories as the Board of Directors or any officer or officers, or any officer and agent jointly, duly authorized by the Board of Directors, shall, from time to time, direct or approve. Except as otherwise provided by the Board of Directors, the Treasurer shall keep a full and accurate account of all moneys received and paid on account of the Corporation, shall render a statement of accounts whenever the Board of Directors shall require, shall perform all other necessary acts and duties in connection with the administration of the financial affairs of the Corporation and shall generally perform all the duties usually appertaining to the office of the treasurer of a corporation. Whenever required by the Board of Directors, the Treasurer shall give bonds for the faithful discharge of the duties of that office in such sums and with such sureties as the Board of Directors shall approve. In the absence of the Treasurer, such person as shall be designated by the Chief Executive Officer, the President or a Co-President shall perform such duties. An Assistant Treasurer has all the duties that may be exercised by the Treasurer.

Section 15. *Additional Duties and Authority.*

In addition to the foregoing specifically enumerated duties and authority, the several officers of the Corporation shall perform such other duties and may exercise such further authority as the Board of Directors may, from time to time, determine, or as may be assigned to them by any superior officer.

ARTICLE VI. STOCK AND TRANSFERS OF STOCK

Section 1. *Stock Certificates.*

The capital stock of the Corporation shall be represented by certificates provided that the Board of Directors may provide by resolution or resolutions that some or all or any or all classes or series of its stock shall be uncertificated shares. Any such resolution shall not apply to shares represented by a certificate until such certificate is surrendered to the Corporation. Within a reasonable time after the issuance or transfer of uncertificated stock, the Corporation shall send to the registered owner thereof a written notice containing the information required by law to be set forth or stated on certificates representing shares of such class or series or a statement that the Corporation will furnish without charge to each stockholder who so requests the powers, designations, preferences and rights of such class or series and the qualifications, limitations or restrictions of such preferences and/or rights. Except as otherwise provided by law, the rights and obligations of the holders of uncertificated shares and the rights and obligations of the holders of certificates representing shares of stock of the same class and series shall be identical.

Every holder of stock represented by certificate shall be entitled to have a certificate signed by, or in the name of the Corporation by, the Chairman of the Board, the Chief Executive Officer, the President or a Co-President or a Vice Chairman of the Board, and by the Secretary or an Assistant Secretary or by the Treasurer or an Assistant Treasurer. Any or all signatures on the certificate may be a facsimile. In case any such officer, Transfer Agent or Registrar who has signed or whose facsimile signature has been placed upon a certificate shall have ceased to be such officer, Transfer Agent or Registrar before such certificate is issued by the Corporation, it may nevertheless be issued by the Corporation with the same effect as if such officer, Transfer Agent or Registrar had not ceased to be such at the date of its issue.

Section 2. *Transfers of Stock.*

Transfers of stock shall be made only upon on the books of the Corporation taxes kept at an office of the Corporation or by transfer agents designated to transfer shares of the stock of the Corporation.

Section 3. *Lost Certificates.*

In case any certificate of stock shall be lost, stolen or destroyed, the Board of Directors, in its discretion, or any officer or officers thereunto duly authorized by the Board of Directors, may authorize the issue of a substitute certificate in place of the certificate so lost, stolen or destroyed; provided, however, that, in each such case, the applicant for a substitute certificate shall furnish evidence to the Corporation, which it determines in its discretion is satisfactory, of the loss, theft or destruction of such certificate and of the ownership thereof, and also such security or indemnity as may be required by it.

Section 4. *Determination of Holders of Record for Certain Purposes.*

In order to determine the stockholders or other holders of securities entitled to receive payment of any dividend or other distribution or allotment of any rights, or entitled to exercise any rights in respect of any change, conversion or exchange of capital stock or other securities or for the purpose of any other lawful action, the Board of Directors may fix, in advance, a record date, not more than sixty (60) days prior to the date of payment of such dividend or other distribution or allotment of such rights or the date when any such rights in respect of any change, conversion or exchange of stock or securities may be exercised, and in such case only holders of record on the date so fixed shall be entitled to receive payment of such dividend or other distribution or to receive such allotment of rights, or to exercise such rights, notwithstanding any transfer of any stock or other securities on the books of the Corporation after any such record date fixed as aforesaid. No record date shall precede the date on which the Board of Directors establishes such record date.

ARTICLE VII. CORPORATE SEAL

Section 1. *Seal.*

The seal of the Corporation shall be in the form of a circle and shall bear the name of the Corporation and in the center of the circle the words "Corporate Seal, Delaware" and the figures "1973".

Section 2. *Affixing and Attesting.*

The seal of the Corporation shall be in the custody of the Secretary, who shall have power to affix it to the proper corporate instruments and documents, and who shall attest it. In his or her absence, it may be affixed and attested by an Assistant Secretary, or by the Treasurer or an Assistant Treasurer or by any other person or persons as may be designated by the Board of Directors.

ARTICLE VIII. MISCELLANEOUS

Section 1. *Fiscal Year.*

The fiscal year of the Corporation shall end on the last Friday of December in each year and the succeeding fiscal year shall begin on the day next succeeding the last day of the preceding fiscal year.

Section 2. *Signatures on Negotiable Instruments.*

All bills, notes, checks or other instruments for the payment of money shall be signed or countersigned by such officers or agents and in such manner as, from time to time, may be prescribed by resolution (whether general or special) of the Board of Directors, or may be prescribed by any officer or officers, or any officer and agent jointly, thereunto duly authorized by the Board of Directors.

Section 3. *References to Article and Section Numbers and to the By-Laws and the Certificate of Incorporation.*

Whenever in these By-Laws reference is made to an Article or Section number, such reference is to the number of an Article or Section of the By-Laws. Whenever in the By-Laws reference is made to the By-Laws, such reference is to these By-Laws of the Corporation, as amended, and whenever reference is made to the Certificate of Incorporation, such reference is to the Certificate of Incorporation of the Corporation, as amended, including all documents deemed by the General Corporation Law of the State of Delaware to constitute a part thereof.

ARTICLE IX. AMENDMENTS

The By-Laws may be altered, amended or repealed at any Annual Meeting, or at any special meeting of holders of shares of stock entitled to vote thereon, provided, that in the case of a special meeting notice of such proposed alteration, amendment or repeal be included in the notice of meeting, by a vote of the holders of a majority of the shares of stock present in person or by proxy at the meeting and entitled to vote thereon, or by the Board of Directors at any valid meeting by affirmative vote of a majority of the Whole Board.

The undersigned, duly qualified Secretary of Merrill Lynch & Co., Inc., a Delaware corporation, hereby certifies the foregoing to be a true and complete copy of the By-Laws of Merrill Lynch & Co., Inc. in effect on this date.

Dated: October 30, 2007

/s/ Judith A. Witterschein
Secretary

AGREEMENT

THIS AGREEMENT, dated as of October 30, 2007 (the “**Retirement Date**”) (together with the exhibit hereto, this “**Agreement**”), by and between Merrill Lynch & Co., Inc., a Delaware corporation (the “**Company**”), and E. Stanley O’Neal (the “**Executive**”).

WHEREAS, the Company and the Executive have agreed that as of the Retirement Date the Executive shall, among other things, retire and resign as Chairman and Chief Executive Officer; and

WHEREAS, the parties intend that this Agreement shall set forth the terms regarding the Executive’s retirement from service and retirement;

NOW, THEREFORE, in consideration of the covenants and agreements hereinafter set forth in this Agreement, the parties agree as follows:

1. Retirement.

1.1 Effective as of the Retirement Date, the Executive’s service as a director, officer, employee or otherwise to the Company and all its subsidiaries and affiliates (collectively, the “**Company Group**”), and his service as a director of BlackRock, Inc., shall terminate. Following the Retirement Date, the Executive shall execute and deliver to the Company (or any subsidiary or affiliate thereof as the Company may direct) any documentation or written evidence of such resignation and termination as may be reasonably requested by the Company.

1.2 The Company hereby confirms and agrees that (i) for purposes of all Equity Plans (as hereinafter defined), all Benefit Plans (as hereinafter defined), including the Executive’s Executive Annuity Agreement dated January 28, 2002 (the “**Annuity Agreement**”), any other agreements entered into by the Executive in favor of the Company or any member of the Company Group, and any other document, arrangement, policy or rule of the Company or of a member of the Company Group, the Executive has, prior to the Retirement Date, satisfied all age, years of service and other requirements for retirement from the Company, (ii) for all such purposes, his termination of employment hereunder shall constitute a termination of employment with the Company by reason of “Retirement,” “Career Retirement” or whatever descriptive terminology is used in a particular plan, agreement or arrangement to describe a termination qualifying as a retirement under such plan, agreement or arrangement, and (iii) the Board of Directors of the Company has taken all necessary and appropriate action under all of the foregoing Plans, agreements and arrangements to provide that the Executive so qualifies and will be deemed to have so retired. The Company hereby waives any notice requirement and/or notice period in respect of the Executive’s termination of employment by retirement on the Retirement Date.

2. Effect of Retirement.

2.1 Treatment of Equity-Based Compensation. In accordance with the terms and conditions of the equity-based compensation plans of the Company and the grant and other agreements and documents used in connection therewith in which the Executive participates or has participated, including, without limitation, the Long-Term Incentive Compensation Plan, the Long-Term Incentive Compensation Plan for Managers and Producers and the Managing Partners Incentive Program (together with the individual grant and other agreements and documents, the “**Equity Plans**”), the Company hereby confirms and agrees that the Executive, as of the Retirement Date, satisfied all age, years of service and other requirements to qualify for “Retirement” as defined in the Equity Plans, and the Executive shall be entitled to all the rights and benefits arising from such qualification. As soon as practicable after the date hereof, the Company shall deliver to the Executive a list of all Equity Plans and all equity awards to the Executive thereunder, and the respective vesting dates, restricted periods, and, in the case of stock options, expiration dates and exercise prices, in respect thereof.

2.2 Other Benefits. As soon as practicable after the date hereof, the Company shall deliver to the Executive a list of each of the Company benefit plans in which he is a participant as of the Retirement Date (collectively with the Annuity Agreement, the “**Benefit Plans**”). Except as otherwise provided in this Agreement, this Agreement shall not change the terms of the Benefit Plans or the payments or benefits earned by or due to the Executive and/or his eligible dependents thereunder for services rendered to the Company through the Retirement Date. Without limiting the generality of the foregoing, the Executive, his spouse and/or his other eligible dependents shall receive any and all available post-termination and post-retirement welfare benefits for which he may be eligible as of the Retirement Date and on the same basis as other retired executive officers and in accordance with the terms and conditions of the applicable Benefit Plans as in effect from time to time. The benefits earned by or due to the Executive, his spouse and/or his other eligible dependents in accordance with the terms of the Benefit Plans shall be paid or provided by the Company or the respective Benefit Plan (as the case may be) when due (whether such due date is on, before or after the Retirement Date) in accordance with their respective terms (including any terms involving forfeiture or similar provisions (except as modified hereby)). Furthermore, following the Retirement Date and except as otherwise permitted by this Agreement, the Executive shall not be eligible to participate as an active employee in any perquisite or employee welfare benefit plan, program, policy or arrangement of the Company or any member of the Company Group. Anything to the contrary contained herein notwithstanding, the Company hereby confirms and agrees that, following the Retirement Date, the Executive, his spouse and his other eligible dependents shall be covered by the Merrill Lynch Medical Plan through COBRA and following the COBRA period the Executive, his spouse and his other eligible dependents shall be covered by the Merrill Lynch Retiree Medical Plan as in effect from time to time and on the same basis as other retired executive officers.

2.3 Reimbursement for Expenses: Legal Fees. The Company shall promptly reimburse the Executive for any reasonable business expenses incurred by him through the Retirement Date, upon submission of appropriate documentation in accordance with the Company’s policies in effect from time to time. The Company shall also promptly reimburse the Executive for all reasonable legal fees and related expenses

incurred by him in connection with the preparation and negotiation of this Agreement. Notwithstanding any other provision in this Agreement to the contrary, all expenses eligible for reimbursement under any provision of this Agreement shall be paid to the Executive promptly in accordance with the Company's customary practices (if any) applicable to the reimbursement of expenses of such type, but in any event by no later than December 31 of the calendar year after the calendar year in which such expenses are incurred. The expenses incurred by the Executive in any calendar year that are eligible for reimbursement under this Agreement shall not affect the expenses incurred by the Executive in any other calendar year that are eligible for reimbursement hereunder. The Executive's right to receive any reimbursement hereunder shall not be subject to liquidation or exchange for any other benefit.

2.4 Office and Executive Assistant. The Company shall make available to the Executive reasonable office space in New York City, NY for his personal use (other than at the Company's corporate headquarters) and the full-time services of an executive assistant. The Company's obligation to make such office space and assistant available shall expire on the earlier of (i) the third anniversary of the Retirement Date and (ii) the first day after the Retirement Date on which the Executive becomes employed, retained or engaged by or in, or otherwise commences providing services to or for, any business or other organization, excluding any activities that relate solely to (x) the Executive's management of his personal finances, (y) the Executive's services for charitable organizations and (z) the Executive's service as a director of any publicly-traded company that is not in competition with the Company or the Company Group (as determined by the Board in its discretion). The amount of services provided to the Executive under this Section 2.4 shall not affect the amounts made available in any other calendar year. The Executive's rights under this Section 2.4 shall not be subject to liquidation or exchange for any other benefit.

2.5 Exclusive Payments and Benefits. Except as otherwise provided in (and subject to the terms of) this Agreement and the Equity Plans and Benefit Plans, the Executive agrees that he shall not be entitled to receive any other payment, compensation or benefits from the Company or any other member of the Company Group in connection with his employment or service, the termination of such employment or service or otherwise. Notwithstanding anything herein or in any Equity Plan or Benefit Plan to the contrary, the Executive shall not be entitled to receive any bonus or incentive based compensation with respect to the 2007 calendar, fiscal or performance year. Except as otherwise provided in this Agreement, following the Retirement Date, the Executive further agrees that he is not entitled to any severance, change-in control-related or similar payments or benefits under any agreement, guidelines, plan, program, policy or arrangement, whether formal or informal, written or unwritten, of the Company or any member of the Company Group, including, without limitation, the Letter Agreement between the Company and the Executive dated February 12, 1996 (relating to change in control severance) which shall expire on the Retirement Date, or the Company's severance guidelines.

3. Non-Competition. The Company and the Executive agree that, for a period of eighteen (18) months commencing with the Retirement Date (the "**Non-Competition Period**"), the Executive shall not provide services in any capacity for any entity listed on

Exhibit A or any of its subsidiaries or affiliates. The engagement by the Executive in any activities for any other entity shall not be a violation of this Section 3. If the Executive starts his own business at any time, such business will not be deemed to be a competitor of the Company or any other member of the Company Group for any purpose, provided that such business is not a subsidiary or affiliate of any entity listed on Exhibit A. The provisions of this Section 3 shall supersede and replace any and all obligations of the Executive in respect of non-competition arising pursuant to any and all other non-competition covenants of all types (collectively, the “**Existing Non-Compete Obligations**”) contained in the Equity Plans, the Benefit Plans, any other agreement entered into by the Executive in favor of the Company or any member of the Company Group, or any other document, arrangement, policy or rule of the Company or any member of the Company Group (the “**Covered Arrangements**”). In connection with the foregoing, (i) all such Existing Non-Compete Obligations, wherever contained, shall be, and they hereby are, null and void and terminated without additional or continuing obligation or liability of the Executive and shall be replaced in their entirety with the non-compete covenants contained in this Section 3, (ii) any breach by the Executive of his non-compete obligations under this Section 3 shall have the same effect under each Covered Arrangement as a breach by the Executive of the applicable Existing Non-Compete Obligation would have had without giving effect to this Agreement, and the Company or the applicable member of the Company Group shall have the benefit of all remedies for such breach of the non-compete obligations of this Section 3 that are provided in such Covered Arrangement (including, without limitation, but only to the extent explicitly provided in such Covered Agreement, the forfeiture of awards under Equity Plans, forfeiture of retirement benefits under the Annuity Agreement, money damages and injunctive relief, as applicable) and (iii) this Section 3 shall have no effect on any other restrictive covenant to which the Executive is subject as of the Retirement Date, including any covenants as to (A) the solicitation or hiring of employees, (B) the making of disparaging statements, (C) the protection of the Company Group’s confidential information and trade secrets and (D) the Executive’s cooperation with legal matters affecting the Company Group, in each case, whether under the Equity Plans, Benefit Plans, the Agreement between the Company and the Executive dated September 27, 2004 (relating to restrictive covenants) or otherwise.

4. Indemnification/D&O Liability Insurance. The Executive shall continue to be indemnified for acts and omissions occurring on or prior to the Retirement Date to the fullest extent permitted under applicable law and pursuant to the corporate governance documents of the Company and of any other member of the Company Group in accordance with their terms as in effect from time to time. The Company agrees that for purposes of this Section 4 it (or any member of the Company Group, as the case may be) shall interpret and/or apply any provision of applicable law or any corporate governance document relating to indemnification (including advancement of expenses) with respect to the Executive in a manner consistent with how such provisions are interpreted and applied by the Company (or the relevant member of the Company Group) to then active executive officers of the Company or of the relevant member of the Company Group. The Executive shall be covered under the Company’s directors’ and officers’ liability insurance policies in effect from time to time on the same basis that other former directors and officers are covered.

5. Legal Matters.

5.1 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without giving effect to the conflicts of laws principles thereof.

5.2 Arbitration. Any controversy, dispute or claim arising out of or relating to this Agreement, any other agreement or arrangement between the Executive and the Company, the Executive's employment with the Company, or the termination thereof (collectively, "**Covered Claims**") shall be resolved by binding arbitration, to be held in the Borough of Manhattan in New York City, in accordance with the Commercial Arbitration Rules of the American Arbitration Association and this Section 5.2. Judgment upon the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof.

5.3 Notice of Claims. The Executive agrees to promptly notify the Company of any claims made against him in his capacity as a former director or officer/employee of the Company or any other member of the Company Group, provided that, if the Company or a member of the Company Group is, along with the Executive, also a named party to any such claim, the Executive shall have no liability to the Company for a delay or failure in providing notice of such claim.

6. Miscellaneous.

6.1 Successors. Except as otherwise expressly provided herein, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, heirs (in the case of the Executive) or assigns. The Company shall require any successor (whether direct or indirect, by purchase, merger, consolidation or otherwise) to all or substantially all of the business and/or assets of the Company to assume and agree to perform this Agreement in the same manner and to the same extent that the Company would be required to perform it if no such succession had taken place. As used in this Agreement, "**Company**" shall mean the Company as defined above and any successor to its business and/or assets which by reason hereof assumes and agrees to perform this Agreement by operation of law or otherwise; *provided, however*, that, for purposes of Section 2.4, if following a merger, consolidation or similar transaction in which the Company is not the surviving entity, the surviving entity thereof or its subsidiaries or affiliates conducts businesses ("**Other Businesses**") that were not conducted by the Company and its subsidiaries and affiliates immediately prior to such merger, consolidation or other transaction, references to the "Company" or the "Company Group" shall not include such Other Businesses carried on by such successor entity nor shall any reference to a director, officer or employee of the Company or the Company Group include a reference to a director, officer or employee of the successor entity unless such director, officer or employee also served in such capacity for the Company or the Company Group prior to such merger, consolidation or other transaction. In the event of the Executive's death or a judicial determination of his incompetence, with respect to any payments, entitlements or benefits payable or due hereunder, references in this Agreement to the Executive shall be deemed to refer, where appropriate, to his legal representatives or his beneficiary or beneficiaries.

6.2 No Mitigation. In no event shall the Executive be obligated to seek other employment or take any other action by way of mitigation of the amounts payable under this Agreement. There shall be no offset by the Company or any other member of the Company Group against the Executive's entitlements under this Agreement for any compensation or other amounts that the Executive earns from subsequent employment or engagement of his services nor on account of any claim that the Company or any other member of the Company Group (including any Merrill Representative) may have against the Executive. In no event shall the Company or any other member of the Company Group have a right of offset against any account that the Executive maintains with the Company or any member of the Company Group, including, without limitation, the Executive's CMA account or any brokerage account, on account of any claims arising under this Agreement; *provided, however*, that nothing in this Agreement shall preclude the Company from enforcing any award obtained in its favor in accordance with Section 5.2 hereof against any account or other assets of the Executive maintained with or held by the Company or any other member of the Company Group, including, without limitation, the Executive's CMA Account or any brokerage account.

6.3 Notices. For the purpose of this Agreement, notices, demands and all other communications provided for in this Agreement shall be in writing and shall be sent by messenger, overnight courier (provided in each case confirmation of receipt is obtained), certified or registered mail, postage prepaid and return receipt requested or by facsimile transmission to the parties at their respective addresses and fax numbers set forth below or to such other address or fax number as to which notice is given.

If to the Executive: to his home address as indicated on the Company's records

with a copy to: Joseph E. Bachelder, Esq.
780 Third Avenue, 29th Floor
New York, NY 10017
Fax: (212) 319-3070

If to the Company: Merrill Lynch & Co., Inc.
4 World Financial Center
New York, NY 10080
Attention: Corporate Secretary
Fax: (212) 449-7461

with a copy to: Robert D. Joffe, Esq.
Cravath Swaine & Moore LLP
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Fax: (212) 474-3700

Notices, demands and other communications shall be deemed given on delivery thereof.

6.4 Entire Agreement. Any document produced in the course of negotiating the terms of this Agreement shall not be deemed to constitute a part of this Agreement and shall not be used to interpret the terms of this Agreement or the intent of the parties hereto. Neither party is relying upon any representation, understanding, undertaking or agreement not set forth in this Agreement, and each party expressly disclaims any reliance on any such representation, understanding, undertaking or agreement. In the event there is a conflict between any provision of this Agreement and any provision of any Equity Plan, Benefit Plan or other agreement, plan, policy or program of the Company or any other member of the Company Group, the provisions of this Agreement shall control.

6.5 Representations of the Company. The Company represents and warrants to the Executive that (i) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby have been duly and validly authorized and approved on behalf of the Company by its Board of Directors (including by the affirmative vote of a majority of the whole Board of Directors specifically directing that the Executive's termination of employment be treated as a retirement for all purposes) and that all corporate action required to be taken by the Company for the execution, delivery and performance of this Agreement has been duly and effectively taken; (ii) the officer signing this Agreement on behalf of the Company is duly authorized to do so; (iii) the execution, delivery and performance of this Agreement by the Company does not violate any applicable law, regulation, order, judgment or decree or any agreement, plan or corporate governance document to which the Company is a party or by which it is bound; and (iv) upon execution and delivery of this Agreement by the parties, it shall be a valid and binding obligation of the Company enforceable against it in accordance with its terms, except to the extent that enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

6.6 Amendment; Waiver. This Agreement may not be amended except by mutual written agreement of the Executive and an authorized officer of the Company. No waiver by any party to this Agreement at any time of any breach by the other party of, or compliance with, any condition or provision of this Agreement to be performed by such other party shall be deemed a waiver of similar or dissimilar provisions or conditions at the same or at any prior or subsequent time. Any waiver to be effective must be in writing and signed by the party against whom it is being enforced.

6.7 Tax Matters.

6.7.1 The payment of any amount pursuant to this Agreement shall be subject to all applicable withholding and payroll taxes and other applicable deductions consistent with past practice, including, without limitation, deductions for payments or benefits provided prior to the Retirement Date and deductions required under the Company's employee benefit plans, if any.

6.7.2 Notwithstanding any provision to the contrary in this Agreement or in any of the Equity Plans or Benefit Plans referred to in Section 2.1 and 2.2 hereof (each, a

“**Plan**”), any payment otherwise required to be made to the Executive under any Plan on account of the Executive’s “separation from service”, within the meaning of the Section 409A Rules (as defined below), to the extent such payment (after taking into account all exclusions applicable to such payment under the Section 409A Rules) is properly treated as deferred compensation subject to the Section 409A Rules, shall not be made until the first business day after (i) the expiration of six (6) months from the date of the Executive’s separation from service, or (ii) if earlier, the date of the Executive’s death (the “**Delayed Payment Date**”). On the Delayed Payment Date, there shall be paid to the Executive or, if the Executive has died, the Executive’s estate, in a single cash lump sum, an amount equal to aggregate amount of the payments delayed pursuant to the preceding sentence. In the case of each Plan under which the Executive is entitled to receive amounts treated as deferred compensation subject to the Section 409A Rules and which provides for payment of such amounts in the form of “a series of installment payments”, as defined in Treas. Reg. §1.409A-2(b)(iii), (A) the Executive’s right to receive such payments shall be treated as a right to receive a series of separate payments under Treas. Reg. §1.409A-2(b)(iii), and (B) to the extent such Plan does not already so provide, it is hereby amended to so provide, with respect to amounts payable to the Executive thereunder. For purposes of this Section 6.7.2, the “Section 409A Rules” shall mean Section 409A of the Code, the regulations issued thereunder, and all notices, rulings and other guidance issued by the Internal Revenue Service interpreting same. Notwithstanding the foregoing, the Executive shall be solely responsible, and the Company and Company Group shall have no liability, for any taxes, acceleration of taxes, interest or penalties arising under the Section 409A Rules.

6.8 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

6.9 Construction. The Executive and the Company have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Executive and the Company, and no presumption or burden of proof shall arise favoring or disfavoring either of them by virtue of the authorship of any of the provisions of this Agreement.

6.10 Counterparts. This Agreement may be executed in one or more counterparts, including by fax or PDF, each of which shall be deemed to be an original but all of which together shall constitute one and the same instrument.

6.11 Certain Defined Terms. For purposes of this Agreement, except as may otherwise be explicitly provided herein, the following definitions shall apply: (i) a “**subsidiary**” of an entity means any entity 50% or more of the equity or voting power of which is owned by such other entity; and (ii) an “**affiliate**” of an entity means an entity, other than a subsidiary of such other entity, that, directly or indirectly, controls, is controlled by, or is under common control with, such other entity.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year indicated below.

MERRILL LYNCH & CO., INC.

By: /s/ Peter R. Stingi

Name: Peter R. Stingi

Title: Vice President

Signed on October 30, 2007

EXECUTIVE

/s/ E. Stanley O'Neal

Signed on October 30, 2007



News

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Release date: October 30, 2007

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STAN O'NEAL RETIRES FROM MERRILL LYNCH ALBERTO CRIBIORE TO SERVE AS INTERIM NON-EXECUTIVE CHAIRMAN AND CHAIR SEARCH COMMITTEE

NEW YORK, Oct. 30, 2007 — Stan O'Neal, chairman and chief executive officer of Merrill Lynch & Co., Inc. (NYSE: **MER**) has decided to retire from the company effective immediately, the company announced today. Mr. O'Neal has been chief executive officer of the company since December 2002 and joined the company 21 years ago. The company said the board of directors has elected Alberto Cribiore as interim non-executive chairman.

Merrill Lynch said Mr. Cribiore, who has been a member of the Merrill Lynch board since 2003, also will chair a search committee that will identify and evaluate chief executive candidates from within and outside of the company. Mr. Cribiore is managing partner and founder of Brera Capital, a global private equity firm, and former president of private equity firm Clayton Dubilier & Rice.

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The company said Mr. O'Neal and the board of directors both agreed that a change in leadership would best enable Merrill Lynch to move forward and focus on maintaining the strong operating performance of its businesses, which the company last week reported were performing well, apart from sub-prime mortgages and CDOs.

"We would like to thank Stan for the contribution he has made leading a major transformation of Merrill Lynch into a global and diversified company with enormous potential ahead of it," said Mr. Cribiore. "His commitment to the company, its clients, shareholders and employees has never wavered and the company will reap tremendous benefits in the future from his work."

Mr. Cribiore said that Ahmass Fakahany and Gregory Fleming will continue as Merrill Lynch co-presidents and chief operating officers. He further noted that Mr. Fakahany will lead the company's global support, finance and human resources functions and that Mr. Fleming will lead the integrated businesses of Merrill Lynch & Co., including risk management.

"I have been very fortunate to spend the past 21 years at Merrill Lynch," said Mr. O'Neal. "The company has provided me with opportunities that I never could have imagined growing up, culminating with my leadership of the company over the past five years. I've especially enjoyed working with a group of people whose collective efforts have enabled us to make Merrill Lynch a much more competitive and international company capable of realizing the full potential of a brand that is synonymous with excellence and client service. I'd like to thank all of my colleagues for their contributions and support of our mission and wish them the successful future they deserve."

Merrill Lynch is one of the world's leading wealth management, capital markets and advisory companies with offices in 38 countries and territories and total client assets of approximately \$1.8 trillion. As an investment bank, it is a leading global trader and underwriter of securities and derivatives across a broad range of asset classes and serves as a strategic advisor to corporations, governments, institutions and individuals worldwide. Merrill Lynch owns approximately half of BlackRock, one of the world's largest publicly traded investment management companies, with more than \$1 trillion in assets under management. For more information on Merrill Lynch, please visit www.ml.com.

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