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The Crystal Report on Executive Compensation



Bank of America's Lewis: Bad But Not That Bad

by Graef Crystal

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In an October 3rd column by *The New York Times*' Joe Nocera, Nell Minow was quoted as saying of Ken Lewis: "He has been hideously overpaid for hideously bad performance."

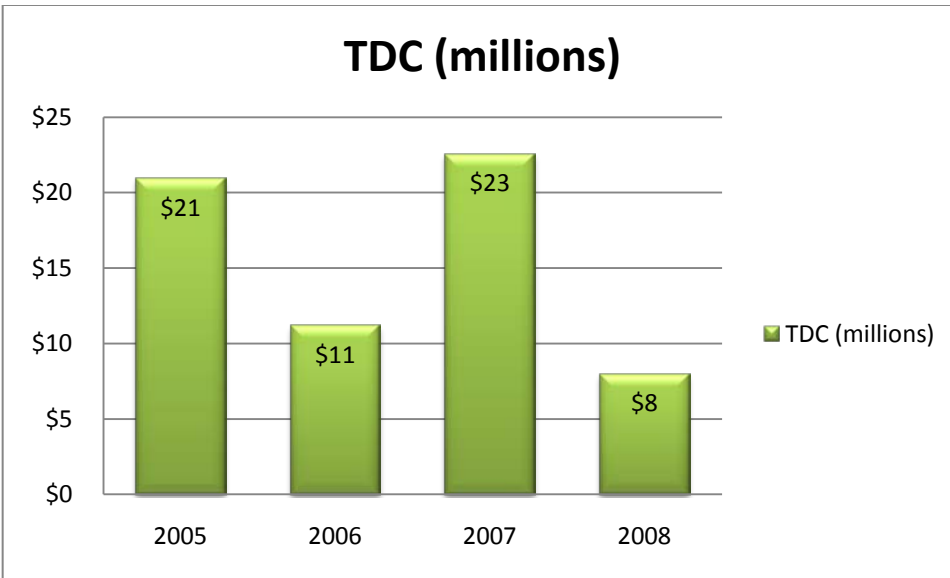
I have considerable respect for the major contributions Ms. Minow has made to the world of corporate governance. But in this case, I cannot agree with her.

As the title of this article says, Mr. Lewis, the about-to-be ex-CEO of Bank of America (BAC), is bad, but not that bad.

Was Ken Lewis "Hideously Overpaid"?

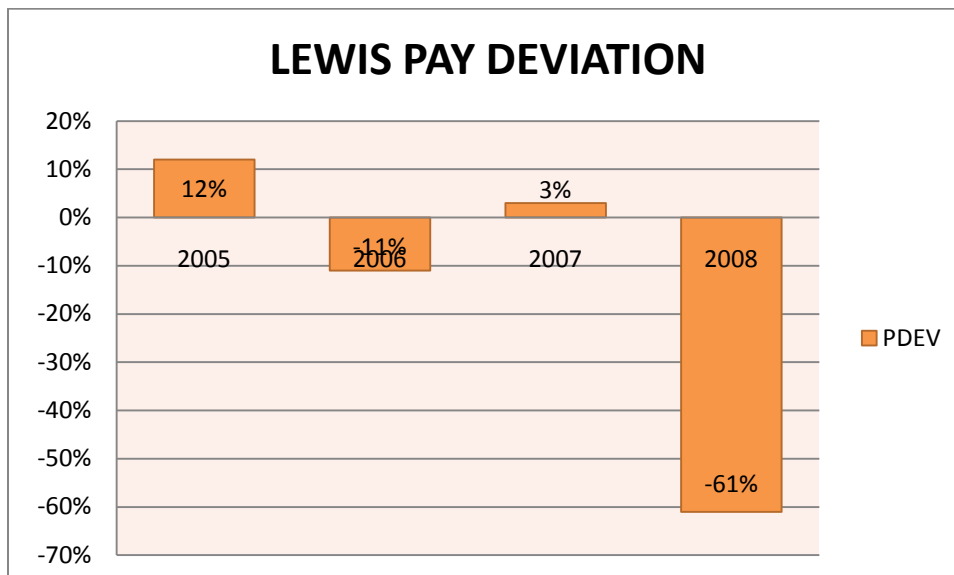
The first part of Ms. Minow's charge relates to Mr. Lewis' pay.

The following chart shows Mr. Lewis' total pay for the four years, 2005 through 2008. (Total pay includes base salary, bonus, my estimate of the grant date fair value of options granted during the particular year, the value at grant of free shares granted during the year, the target value of other long-term performance plan awards made during the year, pension accruals, deferred compensation and miscellaneous compensation.)



What do those pay figures mean? To provide an answer, I conducted a multiple regression analysis in each of the four years, comparing Mr. Lewis' pay to that of more than 300 major-company CEOs in each year, after controlling for differences in company size and the risk in the pay package. (Pay risk is measured by the ratio of option present value to total pay, options generally being the most risky form of executive pay).

Here is how Mr. Lewis stacked up against his peers in both the banking and other industries:



I don't want to make a big deal of that negative 61 percent figure, because by the end of 2008, Bank of America was under TARP regulations. But the 2005, 2006 and 2007 figures provide no evidence that Mr. Lewis was "hideously overpaid".

I also noted that if BAC is compared to four other major banks (i.e., J.P. Morgan Chase, Citigroup, U.S. Bancorp and Wells Fargo), Mr. Lewis' negative 61 percent standing for 2008 in my broad-based database was a more negative figure than all but one of the four just-mentioned banks.

Did Ken Lewis Exhibit "Hideously Bad" Performance?

Now, we come to the other part of Ms. Minow's charge.

Ken Lewis became CEO of Bank of America in April 2001.

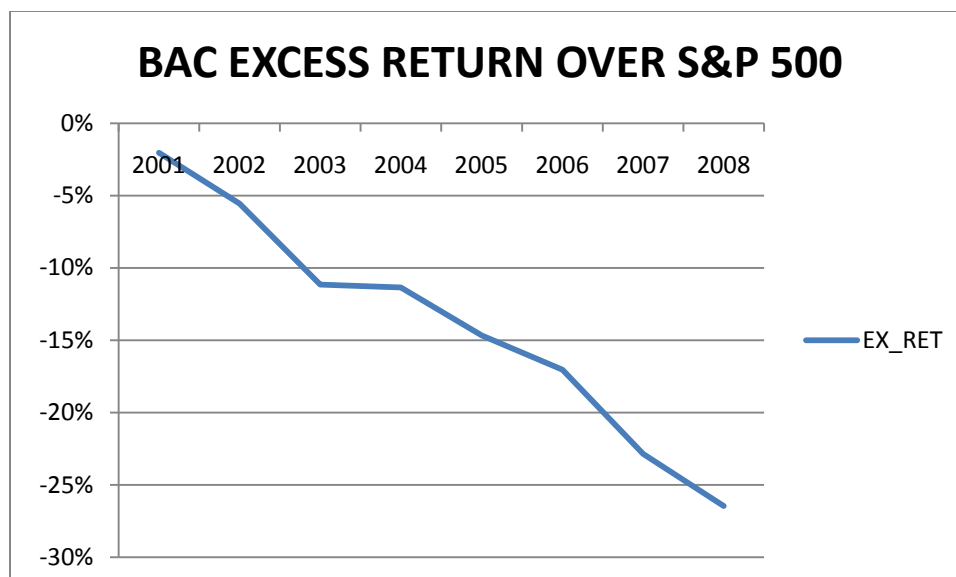
In examining performance, I prefer total return to other measures, because it is based on impersonal market forces and not subject to executive manipulation.

I also like to look at total return in multiple time windows. In effect, I pretend that various investors bought at various different dates and held until the current date. That approach eliminates the problems associated with measuring total return between two fixed dates.

I measured Mr. Lewis' performance in eight different time windows. The first began on March 31, 2001. Thereafter each further time window started one year later than the immediately preceding time window, i.e., March 31, 2002, March 31, 2003, etc. The last time window began on March 31, 2008. All eight time windows ended on Oct. 9, 2009, when the analysis for this article began.

I also measured the return on the Standard & Poor's 500 Index in the same eight time windows. Then the S&P 500 return was subtracted from the BAC return to produce an "excess return" series.

The following chart shows the results:



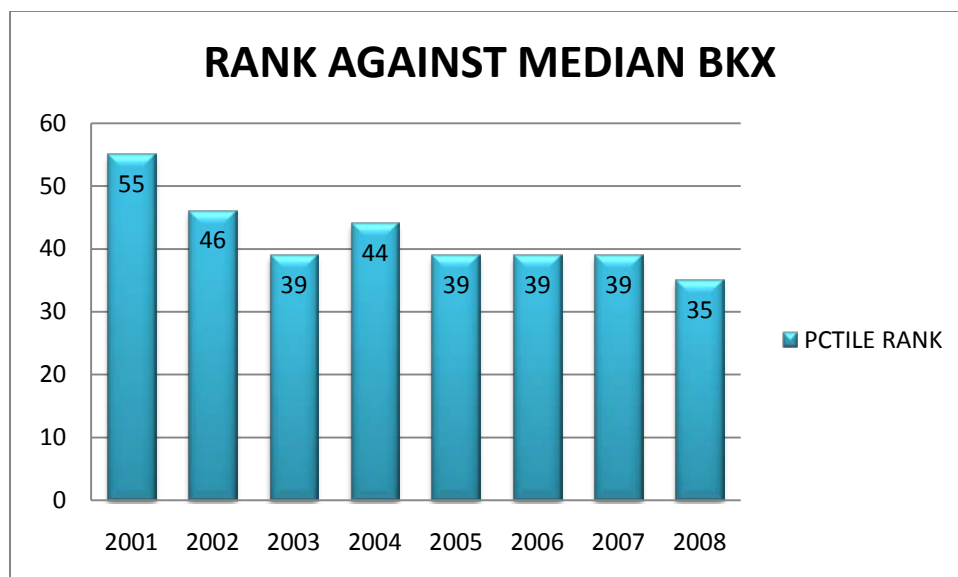
Not a pleasing sight, wouldn't you say?

Drilling down a bit further, I determined the percentile rank of BAC against all the current companies in the S&P 500 Index in two different time periods:

- For the period that began March 31, 2001 and ended Oct. 9, 2009, BAC ranked at the 24th percentile, meaning that 76 percent of the S&P 500 companies exceeded BAC's performance. But that's the widest time window for Mr. Lewis, and he cannot, in my opinion, be said to have performed "hideously".
- For the period that began March 31, 2008 and ended Oct. 9, 2009, BAC ranked at the 6th percentile. "Hideously" is such a strong word, but one would have trouble carping over its use in this one particular time window.

Finally, I compared BAC to the 23 other large financial institutions comprising the KBW Bank Index. I looked at all of the eight aforementioned time windows and calculated BAC's percentile rank in each window against the members of this index.

The results are as follows:



You can see here that though Mr. Lewis' performance was terribly poor in some time windows compared to the members of the S&P 500 Index, it was nowhere near being considered terribly poor in any time window compared to the other large banks.

Ms. Minow used the adverb "hideously" in connection with Mr. Lewis' pay and his performance. According to the Oxford English dictionary, hideously "ranges from horribly, dreadfully, fearfully to revoltingly".

My analysis of Mr. Lewis' pay suggests that adverb was simply wrong. I can find no evidence of his being "hideously" overpaid.

As to his performance, there's some room for argument here. If the S&P 500 is the guide and the time window is narrow, Mr. Lewis' performance, if not hideous, is not far from it, either.

But when the comparison is to other major banks, he comes out substantially below par but nowhere near "hideously".

Some fifteen months ago, I stopped writing columns (except occasionally) for Bloomberg News to start my own newsletter. The principal reason for the switch was to enable me to present a fuller exposition of my criticism – including multiple charts – where before I was limited to 850 words and no charts.

In my belief, if you're going to charge a CEO with being a pay porker with lousy performance, or as being "hideously overpaid with hideous performance", you need to present a rich pattern of facts to justify your opinion. More important, if there is something favorable to say about that CEO ("exculpatory" in the word of the lawyers), you have an ethical obligation to say it.

The compensation data used in this article were obtained from Equilar Inc., a leading provider of executive compensation information. Please click here to go to Equilar:

<http://www.equilar.com>

2009 marks Graef Crystal's 50th anniversary in the executive compensation field. He has been a director of compensation for General Dynamics and Pfizer, worked as a consultant for Booz, Allen & Hamilton, served as worldwide practice director at Towers Perrin for 18 years, was a professor at the University of California at Berkeley's Haas School of Business for 10 years and a syndicated columnist for Bloomberg News for almost nine years. He has written six books and more than 1,600 articles on executive pay.