

813294

Florida Department of State

Division of Corporations

Public Access System

Electronic Filing Cover Sheet

Note: Please print this page and use it as a cover sheet. Type the fax audit number (shown below) on the top and bottom of all pages of the document.

(((H09000225927 3)))



H090002259273ABC3

Note: DO NOT hit the REFRESH/RELOAD button on your browser from this page. Doing so will generate another cover sheet.

To:

Division of Corporations
Fax Number : (850) 617-6380

From:

Account Name : C T CORPORATION SYSTEM
Account Number : FCA000000023
Phone : (850) 222-1092
Fax Number : (850) 878-5368

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

09 OCT 22 PM 1:37

FILED

MERGER OR SHARE EXCHANGE

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED

Certificate of Status	0
Certified Copy	0
Page Count	10
Estimated Charge	\$70.00

RECEIVED

09 OCT 22 AM 8:00

SECRETARY OF STATE
TALLAHASSEE, FLORIDA

Electronic Filing Menu

Corporate Filing Menu

Help

Morgan
10/23/09
h

FILED
09 OCT 22 PM 1:37
SECRETARY OF STATE
TALLAHASSEE, FLORIDA

STATE OF FLORIDA
ARTICLES OF MERGER

BANC OF AMERICA INVESTMENT SERVICES, INC.
a Florida corporation

Into

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
a Delaware corporation

The following articles of merger are submitted in accordance with the Florida Business Corporation Act, pursuant to section 607.1105, F.S.

FIRST: The name and jurisdiction of the surviving corporation is Merrill Lynch, Pierce, Fenner & Smith Incorporated, a Delaware corporation, document number 813294.

SECOND: The name and jurisdiction of the merging corporation is Banc of America Investment Services, Inc., a Florida corporation, document number H07987.

THIRD: The "Agreement and Plan of Merger" is attached as Exhibit A hereto.

FOURTH: The merger shall become effective on October 23, 2009 at 10:00 PM EST.


FIFTH: The Agreement and Plan of Merger was adopted by Merrill Lynch & Co., Inc. as the sole shareholder of Banc of America Investment Services, Inc. on October 13, 2009.

SIXTH: The Agreement and Plan of Merger was adopted by Merrill Lynch & Co., Inc., as the sole shareholder of Merrill Lynch, Pierce, Fenner & Smith Incorporated on October 13, 2009.

Signature page follows

IN WITNESS WHEREOF, these Articles of Merger have been executed on behalf of the parties hereto as of October 13, 2009.

BANC OF AMERICA INVESTMENT SERVICES, INC.
A Florida corporation

By: 
Mark Benson, President

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
A Delaware corporation

By: _____
Sallie L. Krawcheck
Co-Chief Executive Officer
and Executive Vice President

IN WITNESS WHEREOF, these Articles of Merger have been executed on behalf of the parties hereto as of October 13, 2009.

BANC OF AMERICA INVESTMENT SERVICES, INC.
A Florida corporation

By: Mark Benson, President

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
A Delaware corporation

By: Sallie L. Krawcheck
Co-Chief Executive Officer
and Executive Vice President

AGREEMENT AND PLAN OF MERGER

BETWEEN

BANC OF AMERICA INVESTMENT SERVICES, INC.
A Florida Corporation

AND

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
A Delaware Corporation

THIS AGREEMENT AND PLAN OF MERGER is made and entered into on the 13th day of October, 2009, by and between Banc of America Investment Services, Inc., a Florida corporation ("Absorbed"), and Merrill Lynch, Pierce, Fenner & Smith Incorporated, a Delaware corporation, ("Survivor") (together, the "Constituent Corporations").

WITNESSETH THAT:

WHEREAS, Absorbed, which was formed under the name "Pan American Brokerage Service Inc.", is a corporation organized and existing under the laws of the State of Florida, its Articles of Incorporation having been filed in the Office of the Secretary of State of the State of Florida on June 14, 1984; and

WHEREAS, Survivor, which was formed under the name Merrill Lynch, Pierce, Fenner & Smith Incorporated, is a corporation organized and existing under the laws of the State of Delaware, its Certificate of Incorporation having been filed in the Office of the Secretary of State of the State of Delaware on November 10, 1958; and

WHEREAS, the authorized stock of Absorbed is 1,000 shares of common stock, par value \$20.00 per share; and

WHEREAS, the aggregate number of shares which Survivor has authority to issue is 2,200 shares, of which 1,200 shares are common stock and 1,000 shares are preferred stock; and

WHEREAS, the Board of Directors of each of the Constituent Corporations deems it advisable that Absorbed be merged into Survivor on the terms and conditions hereinafter set forth, in accordance with the applicable provisions of the statutes of the State of Florida and State of Delaware, respectively, which permit such merger;

NOW, THEREFORE, in consideration of the premises and of the mutual agreements, covenants and provisions hereinafter contained, Absorbed and Survivor, by their respective Boards of Directors, have agreed and do hereby agree, each with the other as follows:

ARTICLE I

Absorbed and Survivor shall be merged into a single corporation in accordance with the applicable provisions and laws of the State of Florida and the State of Delaware, by Absorbed merging into Survivor, which shall be the surviving corporation. The separate existence of Absorbed shall cease and the existence of Survivor shall continue unaffected and unimpaired by the merger with all rights, privileges, immunities and powers, and subject to all duties and liabilities of a corporation organized under the laws of the State of Delaware.

ARTICLE II

The Certificate of Incorporation of Survivor shall continue to be its Certificate of Incorporation following the Effective Date (as defined below) of the merger, until the same shall be altered or amended.

The Bylaws of Survivor shall be and remain the Bylaws of Survivor until altered, amended or repealed.

The Directors and Officers of Survivor in office on the Effective Date shall continue in office and shall constitute the Directors and Officers of Survivor for their elected terms until their respective successors shall be elected or appointed and qualified.

ARTICLE III

The manner and basis of converting the outstanding ownership interests and/or shares of the capital stock of the Constituent Corporations is as follows:

1. Each transferable share of the capital of Absorbed issued and outstanding at the Effective Date shall be cancelled and no consideration shall be issued or paid with respect thereto.

2. Each share of common stock of Survivor issued and outstanding immediately prior to the Effective Time (as defined below) of the merger shall remain issued and outstanding and shall be unaffected by the merger.

ARTICLE IV

The consummation of the merger is conditioned upon the following:

- a) Approval of this Agreement and Plan of Merger by the boards of directors and shareholders of the Constituent Corporations;

- b) Receipt of required regulatory approvals, if any;
- c) Absence of governmental action prohibiting consummation;
- d) Receipt of all required permits and authorizations under state securities laws, if any; and
- e) Performance of all required obligations by the respective parties and receipt by the parties of appropriate documents to such effect.

ARTICLE V

Survivor shall possess all the rights, privileges, immunities, powers and franchises of a public as well as of a private nature, and shall be subject to all of the restrictions, disabilities and duties of each of the Constituent Corporations; and all property, real, personal and mixed, including all patents, applications for patents, trademarks, trademark registrations and applications for registration of trademarks, together with the goodwill of the business in connection with which said patents and trademarks are used, and all debts due on whatever account, including subscriptions to shares of capital stock, and all other choses in action and all and every other interest of or belonging to or due to each of the Constituent Corporations shall be deemed to be transferred to and vested in Survivor without further act or deed, and the title to any real estate, or any interest therein, vested in either of the Constituent Corporations shall not revert or be in any way impaired by reason of the merger.

Survivor shall be responsible and liable for all the liabilities and obligations of each of the Constituent Corporations. Any claim existing or action or proceeding pending by or against either of the Constituent Corporations may be prosecuted to judgment as if the merger had not taken place, or Survivor may be substituted in the place of Absorbed and neither the rights of creditors nor any liens upon the property of either of the Constituent Corporations shall be impaired by the merger. Survivor shall execute and deliver any and all documents that may be required for it to assume or otherwise comply with outstanding obligations of Absorbed.

ARTICLE VI

Survivor shall pay all expenses of accomplishing the merger.

If at any time Survivor shall consider or be advised that any further assignment or assurances in law are necessary or desirable to vest or to perfect or confirm of record in Survivor the title to any property or rights of Absorbed, or to otherwise carry out the provisions hereof, the Directors of Absorbed as of the Effective Date shall, upon notice from Survivor, execute and deliver any and all proper deeds, assignments and assurances in law, and do all things necessary or proper to vest, perfect or confirm title to such property or rights of Survivor.

Each of the Constituent Corporations shall take, or cause to be taken, all actions or do or cause to be done, all things necessary, proper or advisable under the laws of the State of Delaware and the State of Florida, as applicable, to consummate and make effective the merger, subject, however, to the appropriate vote or consent of the shareholders of each of the

Constituent Corporations in accordance with the requirements of the applicable provisions of the laws of the State of Delaware and the State of Florida.

The Merger shall become effective upon the occurrence of the filing of the Certificate of Merger with the Secretary of State of Delaware and the filing of the Articles of Merger with the Secretary of State of Florida, or at such later date and time as may be set forth therein (the date and time that the Merger becomes effective, the "Effective Date" and "Effective Time," respectively).

ARTICLE VII

Anything herein or elsewhere to the contrary notwithstanding, this Agreement and Plan of Merger may be abandoned by actions of the Board of Directors of either of the Constituent Corporations, without further shareholder action, at any time prior to the Effective Date.

This Agreement and Plan of Merger may be executed in any number of counterparts, each of which shall be an original document and which, when taken together, shall constitute one and the same document.

This Agreement and Plan of Merger shall be governed by and construed in accordance with the laws of the State of Delaware without giving effect to any choice of law or conflict of law provision or rule (whether of the State of Delaware or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of Delaware.

This Agreement and Plan of Merger sets forth the entire agreement between the parties with respect to the subject matter hereof and supercedes any and all prior agreements, understandings or representations, whether written or oral, by or between the parties to the extent that they relate in any way to the subject matter hereof.

If any provision of this Agreement and Plan of Merger shall be held to be invalid, illegal or enforceable, such provision shall be construed by limiting it so as to be valid, legal and enforceable, and the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

This Agreement and Plan of Merger shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns. This Agreement and Plan of Merger may not be assigned by any party without the express prior written consent of the other party, and any attempted assignment without such consent shall be null and void.

No change or modification of this Agreement and Plan of Merger shall be of any force unless such change or modification is made pursuant to a written agreement executed and delivered by each of the parties hereto.

Signature page follows

IN WITNESS WHEREOF, the Constituent Corporations, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors have caused this Agreement and Plan of Merger to be executed by an authorized officer of each party thereto.

BANC OF AMERICA INVESTMENT SERVICES, INC.
A Florida Corporation

By: Mark A. Benson
Mark Benson, President

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
A Delaware Corporation

By: _____
Sallie L. Krawcheck
Co-Chief Executive Officer
and Executive Vice President

IN WITNESS WHEREOF, the Constituent Corporations, pursuant to the approval and authority duly given by resolutions adopted by their respective Boards of Directors have caused this Agreement and Plan of Merger to be executed by an authorized officer of each party thereto.

BANC OF AMERICA INVESTMENT SERVICES, INC.
A Florida Corporation

By: _____
Mark Benson, President

MERRILL LYNCH, PIERCE, FENNER & SMITH INCORPORATED
A Delaware Corporation

By: _____
Sallie L. Krawcheck
Co-Chief Executive Officer
and Executive Vice President