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Jennifer J. Johnson, Secretary
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, D.C. 20551
Attention: Comments
regs.comments@federalreserve.gov

Re: Comments to Proposed Rule Docket No. 1438 and RIN 7100-AD-86

Ladies and Gentlemen,

On behalf of SunTrust Banks, Inc. ("SunTrust") and many of its employees who have contributed to this analysis, I would like to take this opportunity to provide comments to the Board of Governors of the Federal Reserve System (the "Board") notice of proposed rulemaking that would impose certain prudential standard requirements pursuant to the mandate of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), which proposed rule was published in the Federal Register on January 5, 2012 (the "NPR"). We note that SunTrust is a bank holding company with total consolidated assets greater than $50,000,000,000 and would be subject to the proposed NPR absent any changes to the contrary in the final rule.

The NPR lists several requests for comments from the industry. In this letter, SunTrust intends to respond to the following comment requests:

- Liquidity Requirements
    - Roles and Responsibilities of Directors in the Proposed Rules;
    - Requirement of Monthly Liquidity Stress-Testing;
    - Requirements for Contingency Funding Plans; and
    - Request for Clarification of Certain Aspects of the Proposed Rule.

- Single Counterparty Exposure Limits
    - Impossibility of Implementation by Deadline
    - Implementation of Rule to Fannie and Freddie Securities May Cause Market Disruptions
    - Attribution Rule is Too Complex to Implement
    - Controlling Interest for Purpose of Application of Limits
    - Alternative Recommendation to Make Proposal More Reasonable

- Risk Management and Risk Committee Requirements
    - Rule Requires Board Members to Take on Management Responsibility

- Requirement that Chief Risk Officer Report to the Risk Committee
- Adequate "Risk Management Expertise" for Risk Committee Members

- Stress Test Requirements
  - Publication of Results
  - Opacity of Models Used in Stress Test
  - Self Publication of Stress Test Results
  - Effort to Comply with Stress Test Section of NPR
  - Timing of Compliance with Stress Tests
  - Technical Clarifications

- Early Remediation
  - Liquidity ration triggers; and
  - Market indicator triggers.

Liquidity Requirement

Roles and Responsibilities of Directors in the Proposed Rules

Pursuant to proposed §252.52(a), a company's full board of directors or risk committee would not only approve liquidity risk policies and procedures, but also strategies and tactics developed to implement the director's guidance on liquidity risk policies and procedures. In addition, pursuant to §252.52(b)(4)(iii), the risk committee of the board of directors must establish procedures governing the content of senior management's reports on the liquidity risk profile. We note that, although there is a general analysis of the economic impact of this rule with respect to smaller institutions with assets of less than $175 million, there is no analysis of the economic impact of this rule with respect to economic cost and burden of the additional risk committee meetings required to meet the exigencies of the rule set forth for companies affected.

Reviewing the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Dodd-Frank Act"), the proposed rule stems from §165(b)(1)(A)(ii)'s requirements that the Board adopt prudential standards and §165(h)(3)(A)'s requirement that the Board adopt regulations making risk committees responsible for the oversight of the enterprise wide risk management practices. It is our view, however, that the particular requirements proposed in the NPR go beyond what is necessary to accomplish this goal, will ultimately frustrate these goals and the benefits fail to justify the costs of the proposed rule.

Under state laws, corporations are permitted to set forth the roles and obligations of the directors and officers of a corporation in such corporation's governing documents, subject to certain duties that may not be eliminated.[1] Both scholars and judges have long understood the role of directors is to oversee the management of the company, monitor senior officers and either approve or make significant business decisions for the firm.[2] Committees are often appointed with fewer than all

1 See, e.g., 8 Del.C §141; O.C.G.A. §14-2-202
2 See "Beyond the Board of Directors," 46 Wake Forest L. Rev. 783, Fall 2011; "Addressing Gaps in the Dodd-Frank Act: Directors' Risk Management Oversight Obligations." 45 U. Mich. J.L. Reform. 55. Fall 2011; In re Caremark Intern. Inc. Derivative Litig., 698 A2d 959 (Del.Ch.1996); 18B Am. Jur. 2d Corporations §1289.

the members of the board of directors to permit more frequent meetings and board members with more specialized knowledge to oversee particular matters more closely in order that the board may fulfill its supervisory obligations with reports from such a committee. Notwithstanding a committee's more frequent meetings and members with more specialized knowledge, requiring a board committee to oversee liquidity risk management strategies goes beyond the traditional role of directors of a corporation to monitor management's implementation of its policies; it imposes an explicit management role on the committee regarding execution of the board's mandates. We do not take issue with a risk committee reviewing and approving policies and procedures because such a role is consistent with a director's obligation to direct management of the company and develop methods to monitor management's execution of the board's direction. However, the domain of the overseeing of strategy and implementation of the directors of the board is best entrusted to management that by custom are entrusted to act to implement the directives of the board.

The seminal case of In Re Caremark International Inc. Derivative Litigation, 698 A.2d 959 (1996), although specifically addressing Delaware corporate law,[3] is widely appreciated for setting forth, among other things, a director's duty of care to monitor corporate operations. The court in that case, speaking about the duties of directors, states:

> "Legally, the board itself will be required only to authorize the most significant corporate acts of transactions: mergers, changes in capital structure, fundamental changes in business, appointment and compensation of the CEO, etc. As the facts of this case graphically demonstrate, ordinary business decisions that are made by officers and employees deeper in the interior of the organization can, however, vitally affect the welfare of the corporation and its ability to achieve its various strategic and financial goals."[4]

This understanding of an oversight role for directors is perhaps informed by the citation in the Caremark case[5] to Barnes v. Andrews, 298 F.614, 618 (S.D.N.Y. 1924) in which Judge Hand states that:

> "Directors are not specialists like lawyers or doctors...They are general advisors of the business and if they faithfully give such ability as they have to their charge, it would not be lawful to hold them liable [for deficiencies in their judgments]."

Consequently, in analyzing a director's obligations under Delaware law, the Caremark court concludes that a director's obligation includes a duty to attempt in good faith to assure that a corporate information and reporting system, which the board concludes is adequate, exists; however, the level of detail that is appropriate for such an information system is a question of business judgment.[6]

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3 We note that SunTrust Banks, Inc. is a Georgia corporation and governed by Georgia law; however, under Georgia law directors have a statutory duty of care similar to that of Delaware and a business judgment rule which is also similar to that of Delaware.

4 Caremark, 968.

5 Id.

6 Id. 970.

The proposed rule attempts to superimpose an obligation on a committee's directors that is in in conflict with well-established state law and which blurs the traditional role of director and officer; it threatens the established checks and balances of a typical corporation. In Joy v. North, 692 F.2d 880 (C.A. Conn., 1982), the court sets forth three policy reasons courts respect the business judgment rule: (i) shareholders to a very real degree voluntarily undertake the risk of bad business judgment, (ii) courts recognize that after-the-fact litigation is a most imperfect device to evaluate corporate business decisions, and (iii) because potential profit corresponds to the potential risk, it is very much in the interest of shareholders that the law not create incentives for overly cautious corporate decisions.[7] While recognizing the Board's role is to safeguard the company and thereby banking system, it cannot achieve this goal totally nor would it be good public policy to do so. As the Joy opinion makes clear, this would paralyze the banking industry from making decisions and taking risks for fear of being second-guessed which, by consequence, would make the banking system less secure and viable. Therefore, the Board should always thoughtfully consider whether replacing bank management's judgment with its own will advance its goal of safeguarding the company or the industry or, in fact, weaken the company and the industry by making decision-makers less effective. This is precisely the problem with the proposed rule which directs the risk committee of the board of directors to micromanage or shadow manage the decisions of management rather than engage in their traditional role of oversight. Notwithstanding that board members have particular expertise in one field or another, officers of a corporation generally have specific expertise both in the field they work and, as employees of the company, with respect to particulars of the company in which they work. There is a balance and efficiency gained in permitting the specialized expertise of officers who are dedicated to the enterprise to develop and implement strategy that is lost when the responsibility for both setting policy and overseeing strategy are placed with the same person or persons. If the risk committee of the board of directors must be engaged in implementation and management of policy, then there is a serious concern with respect to who can provide independent governance and oversight. Someone engaged in the implementation of a strategy can hardly provide impartial oversight as to the appropriateness or effectiveness of that strategy, which is why the role of oversight of management and management are typically separated in American corporations.

Although the rule acknowledges that it imposes several specific duties on the board of directors and that the board of directors (or the risk committee) would need to conduct more frequent reviews and approvals as markets and idiosyncratic conditions warrant, the rule does not quantify or acknowledge the significant burden this places on the board of directors or subcommittees of the board. Moreover, the proposed rule would require that the risk committee be comprised of an "appropriate" number of independent directors. We note that the risk committee is a small subset of the entire board of directors; therefore imposing this responsibility on those independent directors that make up the risk committee disproportionally burdens a small number of people.[8] A consequence of this requirement may be to greatly reduce the pool of directors to those who can devote significantly more time than what is typically expected of a director. In the past, SunTrust's risk committee met between seven (7) and eight (8) times a year from 2005 to 2008; however, since 2009 the risk committee meets between eleven (11) and thirteen (13) times a year with longer meeting times. There is a cost to the company and to its directors for each of these meetings. The proposed rule makes it clear that it is imposing additional obligations and responsibilities on the risk committee that will

7 Joy, 885-886.
8 "Government Governance and the Need to Reconcile Government Regulation with Board Fiduciary Duties." 95 Minn. L. Rev. 1692. 1712.

require additional meetings going forward, but contains no acknowledgment or analysis of the cost and burden these requirements impose other than to note that §165(h) of the Dodd-Frank Act requires that risk committees be established and be responsible for the oversight of enterprise-wide risk management practices of the company.

The benefit of this aspect of proposed rule articulated in the NPR is that the requirements set forth for the risk committee "should help address the risk management failures observed during the crisis and their potential contribution to the failure or instability of financial companies" without strong data to explain why and not accounting for the serious concerns that we raise above. The Board cites reports from the Senior Supervisors Group ("SSG"); however, in the SSG report entitled "Risk Management Lessons from the Global Banking Crisis of 2008" (October 2009), the authors note that it is not clear how efforts to increase board engagement over risk management contribute to stronger governance, citing scant supporting evidence that greater engagement will provided stronger risk management. In addition, concerns are noted regarding the expectations placed upon directors and the overlap of director responsibility with that of management when directors are engaged in implementation of strategy.[9] Conversely, the report demonstrates strong links between strengthening the chief risk officer position and stronger risk management practices.[10] It is SunTrust's view that a stronger conclusion by the SSG was not reached because the benefit is illusory. SunTrust believes that a board of directors, and in particular the risk committee of the board, is most effective when providing appropriate oversight and governance guidance versus involvement in execution activities. The NPR fails to consider that when a body whose responsibility is overall oversight must deal with each aspect of execution, the responsibilities become fractured and the value of general oversight diminished. While we appreciate that gauging the strength of risk management practices is not an exact science, the benefit of the specific and additional responsibilities the NPR places on boards of directors and risk committees is far less clearly understood than the benefit other measures recommended by the SSG, including stronger chief risk officers and better information.

For the reasons stated above, it is our belief that the Board's goals of enhancing management oversight might be better met within the context of the traditional role of directors, i.e. receiving timely and thorough risk management reports from management. Given that the most material risks to a company will change from time to time in ways that are not always predictable, we believe permitting risk committees to determine which reports and the requisite level of detail provides risk committees the flexibility to meet evolving risks to both the financial holding company and the industry. We believe the Board's focus should be in requiring that the risk committee perform robust oversight of management, not replacing or executing the duties of management. Specifically, with respect to the additional responsibilities the NPR seeks to impose on boards of directors, we would note that:

- Requiring the risk committee to establish a risk limitation by industry and collateral types on an annual basis with quarterly updates on performance is a reasonable oversight activity; setting specific limits on product lines or lines of business is an infringement upon management's function of implementing guidance established by the risk committee.
- Reviewing compliance with risk tolerance and limit guidelines is an appropriate oversight function; however, review of detailed exceptions to potentially hundreds or thousands of

9 "Risk Management Lessons from the Global Banking Crisis of 2008," Senior Supervisors Group, October 21, 2009, 22-23.

10 Id, 23.

policies and procedures dilutes the oversight role of the board committee; it could also interfere in active bank management of issues that arise in this regard.

- Review of the liquidity implications of all new and existing products and lines of business annually without regard to materiality is far too granular to provide appreciable benefit; review by a committee of the board of directors should be limited to lines of business with a material impact or aggregated data.
- Review of contingency funding plan is appropriate for a board risk committee; however, the level of granularity dictated by the NPR without regard to materiality expands responsibility beyond the traditional oversight role of the board risk committee, adding significant burden with no appreciable benefit.
- Annual review of stress tests and key assumptions is appropriate for the board risk committee; however, specific approval of detailed practices, methodologies and assumption goes beyond the role of a board risk committee, adding significant burden with little benefit.

Requirement of Monthly Liquidity Stress-Testing

The requirement for liquidity stress-testing is fair; however, the requirement to conduct monthly testing is extremely onerous without providing much incremental benefit. None of the sources cited in the NPR for the premise that liquidity stress testing is both desirable and beneficial suggest monthly stress testing in addition to "ad hoc" stress testing is warranted or helpful. While we believe liquidity stress testing is, in general, a useful tool to help identify emerging risks or consider the impact of sudden events, by its very nature liquidity stress testing is concerned with low frequency, high impact events. Stress testing, including liquidity stress testing, when done correctly, is both a time and labor intensive process that requires subject matter experts to review a host of assumptions inherent in each scenario as well as imagine new events that may adversely impact liquidity. To require monthly testing of multiple scenarios over multiple timeframes in addition to "ad hoc" liquidity stress tests throughout the year would severely tax risk management resources. Moreover, the most important drivers of scenario results for most deposit funded banks are assumptions related to the behavior of deposits and a few large on and off balance sheet contingent exposures, variations on which are fairly limited. As a practical matter, these risks do not change frequently enough to warrant monthly testing plus "ad hoc" testing. Positions generally do not move wildly over the course of the month except under extraordinary circumstances, which, by their nature of being extraordinary, would require that such extraordinary movements be reported and explained. No quantifiably empirical benefit of monthly reporting is cited in the NPR because we believe none can be sustained; however, there is an extraordinary cost and burden to such monthly reporting in the form of man hours spent reviewing such reports and time wasted by the risk committee of the board reviewing such reports and the distraction from the risk committee's mission that it causes. Therefore, we request that the Board reconsider a requirement for such frequent liquidity testing towards a more reasonable requirement that reflects both the relative frequency in changes in risks and the thoroughness, commensurate with the anticipated and articulated benefit, with which the Board expects such liquidity stress tests to be conducted.

Requirements for Contingency Funding Plans

The requirement that financial institutions maintain contingency funding plans and update these funding plans periodically is a good idea; however, the requirement that contingency funding plans incorporate the quantitative results of liquidity stress tests and update them annually is a terrible idea. A contingency funding plan is appropriately described at §252.58 as a plan that sets out the covered company's strategies for addressing liquidity needs during liquidity stress tests, and a contingency funding plan should accomplish just that. Liquidity stress tests should help inform the appropriate qualitative strategies that the contingency funding plan contains to address particular problems and issues that may arise, as well as general crises. To tie specific quantitative results of scenario-based stress tests to a strategy document is overly prescriptive and diminishes the utility of the contingency funding plan. Actual scenarios seldom play out exactly the way hypothetical stress tests envision; therefore the utility of the contingency funding plan is as a guidebook to address different scenarios.[11] Worse, if a contingency funding plan is so prescriptive to incorporate specific stress test hypothetical data, then financial institutions may be reticent to employ appropriate deviations from the contingency funding plan to address differences between actuality and hypothesis for fear of regulatory criticism for not following the contingency funding plan assiduously. In this example, the usefulness of a contingent funding plan as a resource to address a crisis is diminished unless the crisis remains within the function of a specific scenario. Contingency funding plans are helpful, but management must be able to retain discretion as to how often, when and which sources it is prudent to test because testing some sources may involve inherent negative signaling effects or excessive costs. In brief, the Board must consider leaving some discretion to management to have a contingency funding plan that outlines qualitative strategies to address a variety of scenarios that may be generically implemented in the face of an actual crisis and not requirement management to mechanically update every aspect of the contingency funding plan at set intervals, particularly when testing some aspects may be imprudent and detrimental to the financial institution overall.

11 We note that the Senior Supervisors Group, *Observations on Risk Management Practices During the Recent Market Turbulence* (March 2008), states on page 4 "[s]ome found that their stress tests or scenario analyses generally matched the movements in market prices, but others found that the actual shocks to credit spreads tended to be wider and longer lasting than their prior analyses had suggested. Many firms plan to refine their stress tests to alter, for example, their estimates about the economic benefits of diversification in stressed markets. While *it should be emphasized that the goal of stress testing cannot be to anticipate the scale of every future shock, which would be an unachievable expectation*, some firms found it challenging before the recent turmoil to persuade senior management and business line management to help develop and pay sufficient attention to the results of forward-looking stress scenarios that assumed large price movements" [*emphasis added*]. We believe that the contingency fund plan rules set forth in the NPR are too prescriptive and tying specific quantitative results to scenario-based stress tests violates the principal that "the goal of stress testing cannot be to anticipate the scale of every future shock." Unlike the situation observed by the Senior Supervisors Group above, general regulatory requirements for and oversight of contingency plan mitigate against the issue of senior management or business line management not paying sufficient attention to the results of forward-looking stress scenarios that assume large price movements.

Requests for Clarification of Certain Aspects of the Proposed Rule

Certain portions of this part of the NPR were not clear and we request that the Board elaborate on the following items:

- §252.52(b)(2)(i) states that the risk committee or a designated subcommittee thereof must review and approve the liquidity costs, benefits and risks of each new business line and each significant new product before the covered company implements the business line or offers the product. We would reiterate here the arguments made above about the unreasonableness of the expectation that independent directors could dedicate enough time to review every new product or business line contemplated by the institution and maintain their status as independent, we also would like to Board to clarify how it understands "significant." If this requirement is more like a director's obligation to make significant decisions for the enterprise (i.e. approve big mergers, spin-offs of significant subsidiaries, etc.), this would fall more in-line with the traditional understanding of a director's role; however, it appears something far more micromanaging is intended because the context is business lines and new products. If the Board could discuss how the corporation should differentiate between significant versus non-significant, particularly in light of the concerns expressed above, it would be helpful.

- §252.55(a) requires that covered companies update "short-term cash flow projections daily and must update long-tem cash flow projections at least monthly," however it doesn't define "short-term cash flow" versus "long-term cash flow." §252.52(b)(4)(i)(A) states that the risk committee must review the cash flow projections produced under section 252.55 of this subpart that use time periods in excess of 30-days...". Is the inference that "long-term cash flow" is meant to refer to cash flow projections in excess of 30-days or is this a bad assumption?

- §252.56(b)(4)(iii) states that if an asset is used as a cash flow source to offset projected funding needs, the fair market value of the asset must be discounted to reflect any credit risk and market volatility of the asset. Similarly, §252.57(c) states that in computing the amount of an asset included in the liquidity buffer, the covered company must discount the fair market value of the asset to reflect any credit risk and market volatility of the asset. Could you please provide more detail about how a covered company should compute these discounts or how they should be weighted? Will the Board be using specific reference points to determine appropriateness or how will discounts be evaluated to determine reasonability by the Board?

Single Counterparty Exposure Limits

Impossibility of Implementation by Deadline

The Board's estimate of burden of the proposed information collections does not include any entry for the development of systems, processes and procedures necessary to implement, but the regulation does include a proposed implementation deadline to comply with the requirements of the single counterparty exposure limits section of daily computations and monthly reporting under §252.96 by October 1, 2013. Given the breadth and depth of data required to be reported, we do not believe that an October 1, 2013 date is reasonable. Although we have all the data required to report, in order to comply with daily and monthly reporting we need to be able to (i) access the instrument data required, (ii) address the inability to link same and related counterparties across the enterprise and (iii) coordinate the frequency of updates to the data across lines and systems. This sort of project cannot be reasonable accomplished over the span of a year and half and we are asking for additional time in light of the burden the requirement creates.

In addition, SunTrust seeks the Board's confirmation or examination of how this requirement would not cause SunTrust to inadvertently violate any laws and regulations protecting the sharing of client information with third parties. While SunTrust appreciates that the information being shared would be with government agencies, it is unclear whether that would exempt all of the data being requested under the myriad of customer privacy laws applicable to covered companies and some confirmation or assurance that this issue has been examined by the Board and found inapplicable would be appreciated.

Implementation of Rule to Fannie and Freddie Securities May Cause Market Disruptions

Under the proposed rule, certain credit exposures of a covered company to the U.S. government are exempt from credit exposure limits, including claims that are directly and fully guaranteed as to principal and interest by the Federal National Mortgage Association ("Fannie Mae") and the Federal Home Loan Mortgage Corporation ("Freddie Mac") only while operating under the conservatorship or receivership of the Federal Housing Finance Agency. If and when Fannie Mae and Freddie Mac cease to operate under the conservatorship or receivership of the Federal Housing Finance Agency, the Board should comment on whether it would consider some delay in implementation of the rule with respect to Fannie Mae and Freddie Mac securities. Our concern is that immediate application of the rule would likely cause market disruptions because banks would need to dump a sufficient amount of claims to comply with the regulation on a daily basis. Since it is unknown if and when Fannie Mae or Freddie Mac would leave conservatorship, even upon the final rule banks may begin dumping claims. It would be appreciated if the Board would comment on what measures, if any, the Board intends to undertake to avoid disorderly markets upon the effectiveness of the final rule or release of Fannie Mae and Freddie Mac from conservatorship.

Attribution Rule is Too Complex to Implement

The proposed rule in the NPR that a covered company must treat a transaction with any person as a credit exposure to a counterparty to the extent the proceeds of the transaction are used for the benefit of, or transferred to, that counterparty, represents an enormous and, SunTrust believes, impossible burden to meet. The NPR concedes that it would create a "daunting tracking exercise;" however, we argue it creates an unrealistic and impossible mandate for companies to implement. Even if the Board limits the scope of application of the attribution rule to preventing evasion of the single-counterparty credit limit, unless limited to intentional evasion of the single-counterparty credit limit, an enterprise will have little if any insight into where funds flow after they leave. Money is, essentially, fungible and tracking where funds flow, except in scenarios where clients explicitly set forth a use of funds, is sophistry. In the Regulation W context (12 CFR Part 223), the attribution rule is more reasonable because the funds to be attributed would inevitably need to flow to another part of the enterprise, of which the institution would have at least constructive knowledge. In the Regulation O context (12 CFR Part 215), the attribution is reasonable because directors and officers have some fiduciary obligations to the enterprise to disclose to the enterprise where funds have flowed if they impact Regulation O compliance. In the context of a lending limit, the funds would not necessarily flow to an enterprise affiliate and clients have no fiduciary obligations to the enterprise. A client won't know who the customers of the enterprise are and the enterprise certainly cannot make an informed decision ahead of time about who could lend the funds necessary to accomplish the client's projects because clients generally are not concerned about each lending institutions lending limits. Even assuming the client is willing to divulge its projects for funds notwithstanding privacy and competitive issues, whether the client makes a complete and accurate disclosure, intentional or not, the rule does not, on its face, excuse the enterprise for exceeding its limits. Absent a willful intent to evade the single-counterparty credit limit by an enterprise, the attribution rule in this context is unworkable.

Controlling Interest for Purpose of Application of Limits

The NPR states that "control," for purposes of calculating exposure to a company and any of its subsidiaries, would exist when a covered company directly or indirectly owns or controls 25% or more of a class of a company's voting securities or 25% or more of a company's total equity or consolidates the company for financial reporting purposes. While this definition is clear, it is at odds with how the industry typically understands control for purposes of accounting and would require changes to data, systems, processes and controls currently available to meet this new standard. Compounding issues would be application of this definition of "control" in the context of the attribution rule. In light of all the other burdens imposed by the single counterparty exposure rules, SunTrust requests that the Board consider using the Financial Accounting Standards Board's ("FASB's") definition of "controlling interest" for purpose of simplifying compliance with the single counterparty requirements. While this would practically change the control definition to when a covered company consolidates a subsidiary for financial reporting purposes, we believe the rationale underlying the FASB determination is sound and does no violence to Board's intent of capturing consolidated exposure. Alternatively, permitting use of "control" as defined by FASB and delaying the proposed definition of control until sometime after affected companies have time to implement systems to account for the attribution rule would impose a smaller burden on adjusting the control definition than requiring everything change at the same time. Primarily for reasons of practical implementation of a very burdensome rule, we encourage the Board to leverage already existing resources that are commonly understood in the industry and consider alternatives to the proposed definition of "control."

Alternative Recommendation to Make Proposal More Reasonable

A significant problem with the rule as proposed is, in part, the scale of the costs and burdens upon enterprises with respect to data capture because there are no limits on the data required notwithstanding the very marginal benefit to quantifying infinitesimally small risks to institutions from certain counterparties. One alternative that SunTrust proposes the Board consider which would address the Board's desire to quantify and capture significant counterparty risk to enterprises while imposing a significant burden on affected companies, though significantly less burdensome than the rule as proposed, would be to establish a level of exposure outstanding over which the data would need to be captured and monitored, but under which it would not. The single counterparty rule is meant to map and control the interconnectivity among financial companies that pose risk to financial stability; however, with no threshold the vast majority of the cost and effort behind the data mapping of counterparty exposure will be spent on mapping relatively small loans to a diverse pool of retail clients by numbers. Choosing a threshold would be consistent with the Bank of International Settlements ("BIS") Basel II recommendation that that a threshold of $1 million be set for the aggregate exposure to any person before capturing the exposure to such a person became required.[12] While this level may be too high for the smallest covered companies or too low for some of the largest covered companies, for SunTrust and many of the enterprises covered by the NPR, this level is very adequate and would substantially accomplish the Board's articulated goal of limiting the risks that a failure of any individual company could pose to a covered company.

Risk Management and Risk Committee Requirements

Rule Requires Board Members to Take on Management Responsibility

As discussed above under the "Liquidity" section, the NPR places far too much responsibility on the risk committee of the board of directors (the "Risk Committee") and blurs the line between management and directors in harmful ways. While the section above under "Liquidity" focused primarily on inherent limitations of imposing such obligations on independent directors of a company, this section will focus more on specific sections of the NPR that require the Risk Committee to take on responsibilities typically shouldered by management these changes can increase risk by threatening the traditional checks and balances..

For instance, we currently routinely report compliance with risk tolerance and limit guidelines to the Risk Committee; however, Part 252.126(c)(4) would require that deviations from policies and procedures, regardless of materiality be reported to the Risk Committee as well. Exceptions are typically mitigated by other factors and are reviewed and managed by management. In many respects, compliance or deviations from policies and procedures are often, but not always, reflected in changes in the risk tolerance and limit guidelines. While our Risk Committee periodically reviews compliance with risk tolerance and limit guidelines, as well as some material exceptions to policies and procedures, requiring that the Risk Committee review all exceptions to policies and procedures threatens to bog the Risk Committee down with matters that are better addressed by management.

Another example is the requirement under Part 252.126(c)(1) that the Risk Committee set risk limitations appropriate to each business line of the company, which in many respects fails to account for the realities of current banking practices and makes the Risk Committee far less effective. Setting limits by line of business makes sense when a line of business works with a single product and collateral type (i.e. consumer mortgages secured by real estate); however, this approach makes less sense in context of a line of business offering many products (i.e. wholesale banking or commercial investment banking) and collateral types (ranging from treasury bills, notes and bonds to small business private equity or leaseholds). Not only does the mandate make it difficult to apply universally without delving into specific limits on each product type within an LOB, having the Risk Committee become mired in such detail makes them less effective at developing general policies and direction. In many respects the value of an independent director is that such a director brings a general perspective and can set a course with guidelines unaffected by the politics and details of

12 "*International Convergence of Capital Measurement and Capital Standards: A Revised Framework.*" Basel Committee on Banking Supervision. (Updated November 2005).

implementing such directive. The requirements of Part 252.126(c)(1) refutes this concept; it requires detailed involvement in management activities that will threaten director independence. It also presumes that directors have incremental time to devote to the proposed material increase in responsibility. Furthermore, this requirement, and the requirements discussed below, implies that Risk Committee members be quantitative experts to fully understand the data, models and mechanics underlying the information presented, thereby limiting the pool of qualified candidates to be on a board of directors. Sacrificing the "big picture" perspective of an independent director for a director that spends more time overseeing the details of operations is viewed as detrimental.

Three more examples draw from requirements in Part 252.52(b)(2)(i) and (ii) and Part 252.58(b)(5) in which the Risk Committee would be given responsibility for approving and reviewing the liquidity costs, benefits and risks of each significant new business line, with subsequent annual reviews of existing business lines and products and review details regarding cash flow projections under contingency plans. While it is not clear how "significant" would be interpreted, not every business line or product that could be constructed as "significant" poses particularly disconcerting liquidity costs or risks. Liquidity risk may be a material issue when there are dramatic industry changes and, under current practice, such a risk is currently reported to the Risk Committee. However, the proposed rule is written not for significant liquidity risk, but every significant product and line of business. Requiring approval of liquidity risks by the Risk Committee before acting could hamstring a financial institution's ability to act in a timely and prudent manner. In brief, these rules collectively usurp the traditional roles management has played in executing the guidance and directives of directors. This sort of shift in responsibility (i) demands a tremendous amount of time from directors who, by virtue of not being full time employees, are not likely to be sufficiently available to fulfill the obligations and (ii) renders management in, many respects, superfluous.

Requirement that Chief Risk Officer Report to the Risk Committee

In the context of the requirements of other rules giving management authority to the Risk Committee, as in The Sarbanes-Oxley Act of 2002 (15 USC §7201 et seq., the "Sarbanes-Oxley Act"), indicates that an expert senior officer in a field report directly to the board committee governing that field; however, its applicability to the senior risk officer of a bank and the Risk Committee is unclear. The Sarbanes-Oxley Act requires that the head of the internal audit department of a corporation report directly to the audit committee for the very practical reason that the audit functions are, by their nature, meant to be independent of company management; in addition, the audit committee of the board must certify certain reports submitted under securities laws and, therefore, must directly rely upon the independent function to provide unbiased insight into company operations. The chief risk officer, on the other hand, is a member of management that participates in the development of risk strategy and acts as a second line of defense; he or she provides governance and oversight based on the guidance provided by the risk committee of the board and the chief executive officer. Having the chief risk officer report directly to the board would dilute the accountability of bank management for risk management. The Senior Supervisors Group ("SSG") findings regarding risk management deficiencies indicate that a root cause of problems was that business line and senior risk management did not jointly act to address a company's risk on an enterprise basis; in this light, removing the chief risk officer from the ranks of management would inhibit, not promote, joint action. We note that the SSG's findings included that the active involvement of senior managers was critical in creating incentives and controls to induce employees to abide by risk preference was equally determinative of success as the active involvement of the board of directors in determining risk tolerances. Since the risk committee relies on the expertise of the chief risk officer in much the way the chief executive officer currently relies on the chief risk officer for advice, it would appear that there is no need to change reporting lines. By disassociating the chief risk officer from the chief executive, we believe that this requirement would reduce accountability and place the committee in a management versus an oversight role.

Adequate "Risk Management Expertise" for Risk Committee Members

One question posed in the NPR is whether the Board should consider specifying minimum qualifications for risk management expertise; however, it would be more helpful if the Board issued guidance on how such risk management expertise may be demonstrated. This portion of the NPR seems to borrow heavily from the Sarbanes-Oxley Act and it seems only appropriate that guidance similar to that issued under 17 CFR Part 401 instructions be issued. For instance, can a director obtain risk management expertise by virtue of serving on the Risk Committee for a number of years? Does such expertise necessarily require a background in banking? It seems with respect to the last question that financial institutions may greatly benefit if risk management expertise was not limited to banking; general governance and risk management experience derived from a variety of industries and backgrounds may inhibit the occurrence of "groupthink" and provide more effective challenges to conventional thinking. To this end, SunTrust believes there is great benefit to be derived from the perspectives of those who have served in a variety of risk management capacities, e.g., in other highly regulated industries, such as public utilities. Similarly, risk management from other industries could offer fresh ideas with respect to how analogous concepts may apply in the financial industry. SunTrust recommends that the Board consider the value of a cross-pollination of risk and corporate management experiences in making financial institutions stronger and not overly limit the scope of potential candidates in setting forth such guidance. In any event, more guidance should be proffered to promote compliance with regulatory expectations.

Stress Test Requirements

Publication of Results

SunTrust would like to express its agreement and support of the arguments and proposals set forth in the letter submitted for comment by the joint trade groups (The Clearing House, the Financial Roundtable and the American Bankers Association, the "Joint Trades Letter") around the proposed publication of results. Among the proposed stress test rules, as proposed, we esteem this provision as the one that could have the most devastating affects to an orderly market and the industry. Our primary concern is related to how investors and the public would understand and interpret these results and our fear is that investors and the public will not understand these results. While well understood by regulators and insiders, we do not believe it is a fair expectation that the general public or the investing community are able to meaningfully distinguish between the technicalities of a "10% or worse event" and a "4% or worse event." Moreover, with respect to the company-run stress test, it's not clear how investors and the general public are meant to distinguish or understand the results, which would vary widely due to the particular scenarios chosen by each company. We note that Section 165(i)(1)(B)(v) requires a summary of the results of the tests be published and we think Congress' goals would be achieved by the publication of a contextualized, high-level summary of these results rather than the publication of quarter-by-quarter (i) estimated losses, including overall losses by subportfolio, (ii) estimated pre-provision net revenue, (iii) estimated allowance for loan losses or (iv) estimated pro forma regulatory or other capital ratios. We echo the trade groups concerns that such data could be used by investors and competitors to develop expectations around planned capital actions and key strategic initiatives, like M&A and business developments, producing a disincentive to innovate or grow. Moreover how such detailed disclosure is consistent with the Board's traditional concern about avoiding runs on banks when disclosure of poor stress tests results may foment runs on banks in unclear. It's equally unclear what would happen if the Board had to delay publication of results for one institution or another for various reasons and circumstances, including a very poor result on the stress test or something less damaging to the institution (for instance, a technical failure in the Board's data systems in the processing of results), but one can imagine investors reacting badly and the public concerned about its funds even if the Board were to address the issue and try to excuse it. SunTrust would also reject any argument that bank runs are not possible in this day and age in light of the experiences of IndyMac Bank and Washington Mutual in 2008 and the particular susceptibility of banks to this phenomenon requires caution in over-sharing information. Transparency is a laudable goal; however, in this instance, too much transparency in certain circumstances, including this particular instance, would not serve to clarify so much as it may confuse the public and stifle innovation. No other industry in the United States is subject to such specific forward disclosure, with good reason, and experimenting with the financial system in this area is a particularly bad idea given the inherent sensitivities of financial institutions to bank runs and the desire for financial institutions to innovate and support advances in our economy. Consequently, a high-level summary of results, as required by the statute and previously used by the Board in past stress tests, is, we argue, what the final rule should contemplate.

To illustrate the dangers of a non-contextualized disclosure of results and poor messaging of results, we need only look at the recent publication of results of the 2012 Comprehensive Capital Analysis and Review ("CCAR") to understand how poorly the media and general public understood the results based on the presentation made by the Board. Attached at Exhibit A are some news articles that are representative of the general press that day and it is notable that most of the articles come from respected business journals or the business sections of major newspapers. More remarkable is that everyone has a headline mentioning our bank and that SunTrust failed. Apparently, the pains the Board went through to make clear that CCAR was not intended to be a "pass/fail" examination (perhaps like the more familiar Supervisory Capital Assessment Program, "SCAP") were completely ignored by the media and the commonly understood explanation was that SunTrust did not have enough capital to survive another serious downturn, which would also be untrue under the CCAR results. In light of recent history of bank failures, particularly in SunTrust's home state of Georgia where hundreds of banks have failed recently, the headlines would have likely produced the same effect of shouting "fire" in a crowded theater had SunTrust not quickly reacted by taking the unusual action of indicating to investors our likely earnings in advance of the quarter end via the attached 8-K at Exhibit B. Part of this scrambling is also attributable to the Board's prior direction that it would release results of the CCAR to the public on March 15th to give companies time to prepare for public reaction to the results and the sudden change on the part of the Board to then release the results on March 13th, as noted in the articles at Exhibit A. The effect of all of this sudden news and its portrayal in the news media, including infamously for us at SunTrust a large SunTrust logo stamped with the words "FAIL" on CNN, were a few shareholders calling the company and asking if SunTrust was filing bankruptcy or failing and, prior to filing the 8-K at Exhibit B, after-market punishment of

SunTrust's stock on March 13th. Notwithstanding the Board's lengthy paper which contained the results and attempted to explain the results, it was a paper that few people read cover-to-cover and fewer understood. This points to the need of the Board to carefully consider the message it delivers and how it frames the data it discloses because the only table from the lengthy paper that was published was the one showing SunTrust and others had less than 5% Tier 1 capital at the end of the last quarter. It also points to flaws in how institutions are evaluated under the CCAR and, presumably, would be evaluated under the stress test. One editorial in American Banker[13] described the winners and losers of CCAR as playing a sophisticated game of "The Price is Right"[14] by attempting to ask for permission for some capital measures without "overbidding" and asking for too much, and thereby running the risk of having numbers come out of the unknown machinations and rendering the bank "Failed." Of course, the idea that the widely publicized results, which the media understood as evidencing SunTrust's failure in another downturn, related to Tier 1 capital in the final quarter assuming extremely strenuous economic conditions was completely lost on the general public. From the changing schedule of disclosure due to leaks and media maelstrom based on incomplete and inaccurate facts, the Board's disclosure of the CCAR results appears to have been as feckless as it was reckless and if the Board does not take precautions to explain what the data means to the media, but rather leaving the media to its own devises, it is almost inevitable that the publication of the stress test results will eventually lead to a run on a bank in the future.

Opacity of Models Used in Stress Test

Part of the public confusion around the publication of stress test results may be related to the Board's failure to articulate and substantiate what adequate capital for financial institutions should be and how such capital is stressed. Although 12 CFR Part 225.2(r) sets forth a definition of a "well-capitalized" bank holding company, in practice it is widely understood that something greater than what is required under law is in fact the measure of "well-capitalized;" however, what that appropriate level is not articulated in statute or regulation. There is recent guidance given by the BIS on capital adequacy, but this hasn't been formally adopted into law nor has the Board explained the theoretical, empirical, philosophical or any other basis as to the purpose and intent of capital requirements or how these capital requirements balance what is safe and sufficient for the financial industry and what is desirable for the economy any better than any other capital requirements. Instead, SunTrust is concerned that there is an unmoored and unbounded requirement for capital that will increase for reasons that are unclear and for purposes that may be good or bad as a policy matter. If the stress test is to serve as an instrument to determine what levels qualify as "well-capitalized" on an annual basis, then as a policy matter SunTrust recommends a great deal more disclosure about the methodology being used and the reasons behind the assumptions chosen and the Board's understanding of the appropriate balance between capital held at banks and the needs of the economy. Institutions need to understand, from a planning and strategy perspective, what the goals of the stress test are, what

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13 Rehm, Barbara A., "*Fed Stress Tests are More Mess than Early Warning*." American Banker, March 22, 2012, Vol. 177, No. 45.

14 In the popular American game show "The Price is Right", contestants bid on products, doing so in the manner of an auction except that contestants try to bid closest to the product's actual price without going over that price. A contestant that bids closest to the correct value of a product without going over wins the price. The analogy references how a contestant that may have been closer in absolute terms to the actual value of the product but overbid the price of the product was automatically disqualified. Similarly, asking for capital actions that would make the capital of a bank dip below the target mark after running numbers through the Board's model would render such a bank a failure in the eyes of the pubic, similar to overbidding for a product in "The Price is Right."

behaviors and penalized and what behaviors are rewarded, or else the stress test will be a very ineffective tool for creating a safer financial system because financial institutions will not know or understand what strategies and goals should be pursued over any other strategies and goals. While SunTrust appreciates Governor Tarullo's comments that it is important stress test "not turn capital planning into a mechanical compliance exercise,"[15] SunTrust also notes that the United States is country premised on the rule of law which is understandable to its people and a secret and poorly understood stress test that picks winners and losers runs against this grain. At some levels, the process begins to resemble the former English court of law known as the "Star Chamber" in which evidence was submitting in writing and court sessions were held in secret with no indictments, no right of appeal, no juries and no witnesses.[16] The Star Chamber court was abolished because the limitless and arbitrary power exercised by the court became odious to the public; as a policy matter, SunTrust believes that a lack of transparency around the elements of the stress test and unarticulated capital targets or explained reasoning behind the choice of such capital targets is odious to the industry and the general public as well.

Self Publication of Stress Test Results

The proposed rule Part 252.148 would require covered companies to publicly disclose the results of its self-imposed stress test under the NPR. Above and beyond the awkward nature of requiring a disclosure of forward-looking information, SunTrust has concerns about how this requirement will impact its obligations under securities laws and request the Board address how this requirement will not cause covered companies to violate securities laws or otherwise include in its estimate of burden of the rule an analysis of the additional cost and burden of self-publication of stress test results imposes on publicly traded companies with respect to securities law disclosures. The NPR also fails to make clear what the benefit of self-publication of the stress results versus Board publication of the results are.[17] It is not our contention here that the Board is limited by securities laws from publishing stress test results; however, it is our concern that SunTrust and other institutions may incur significant economic costs as a result of inconsistent obligations under securities laws with respect to forward-looking disclosure or run afoul of securities laws by self-publication of the results for an unclear and possibly non-existent benefit.

For example, securities laws generally make it unlawful to make a statement about future performance unless an issuer has a reasonable basis for the statement.[18] While SunTrust may have a reasonable basis for many of the inputs used in the stress test, the basis for inputs such as unemployment, gross domestic product ("GDP") or other stressed variables, particularly on a macro-economic scale, are hypothetical and may lack any basis in fact. The Board should take into

15 Governor Daniel Tarullo in remarks entitled "Developing Tools for Dynamic Capital Supervision" to the Federal Reserve Bank of Chicago Annual Risk Conference on April 10, 2012.
16 See. e.g. "*The Star Chamber and the Regulation of the Legal Profession 1570-1640*". Alford. Ryan Patrick. 51 AMJLH 639 (October 2011).
17 We note that Governor Daniel Tarullo in remarks entitled "Developing Tools for Dynamic Capital Supervision" to the Federal Reserve Bank of Chicago Annual Risk Conference on April 10, 2012 stated with respect to self-publication that "[t]his will be a valuable augmentation of the transparency around stress testing, providing markets and stakeholders with more information about the risk-management practices of bank holding companies and creating points of comparison with the Federal Reserve's stress testing;" however. it is unclear on what basis disclosure by financial institutions will or should diverge from the Board's disclosure and how exactly this would augment transparency.
18 See. e.g.. 17 CFR Part 229.10(b) (Regulation S-K, Item 10(b)).

consideration that investors in a publicly traded corporation are as likely to be defrauded by overly pessimistic disclosures as they are by overly optimistic disclosures. Clearly, assuming a rosy forecast of 20% GDP growth over the next nine (9) quarters would be misleading; however, putting forward a "more adverse" scenario that is equally divorced from reality may be prudent and conservative planning from a bank regulatory perspective, but misleading from a securities law perspective. SunTrust's concern is that investors may interpret a company's own publication of the required "forecast" to be a prediction of future performance for securities law purposes rather than a statement of what SunTrust considers to be an unlikely and "worst-case" scenario. Because the NPR is requiring the SunTrust publish these results and do so on an annual basis, SunTrust believes it is more likely that market participants could view such publication of results as a predictive statement of future performance. If existing holders of SunTrust securities sold their securities based on SunTrust's publication of stress test results and those holders lost future profits because the macro-economic inputs used in the stress test were not accurate, SunTrust may face lawsuits from such holds under state and federal securities laws.

Worse, SunTrust believes that once a forward-looking statement is made, SunTrust may have a duty to update these statements,[19] imposing additional future obligations the NPR fails to take into account. If it were determined that such a duty existed, we could be required to update the stress test results every time (a) SunTrust files a quarterly or annual report, (b) SunTrust files a registration statement, (c) SunTrust buys or sells its own securities, and (d) any insider buys or sells SunTrust securities. Given the effort involved in producing the stress test results in general, this exacerbation of the burden and cost we believe is unsustainable by comparison to an unclear benefit in requiring that SunTrust publish its own stress test results. Securities laws generally would require an issuer to disclose (update) or abstain (i.e. not issue securities); either requirement to disclose or abstain could be burdensome and this cost is not captured in the cost-benefit analysis of the NPR. Moreover, the impact of such a determination on the cost and benefit of issuing new debt or equity or repurchasing debt or equity to SunTrust or the impairment of the value of securities to insiders because of restrictions on the ability to resell securities should also be considered by the Board.

Another consideration is what securities laws would require in the event SunTrust or any other financial institution's stress results differed materially from the results of the Board and what, under federal banking laws, SunTrust would be permitted to say about these differences to explain them to investors or what SunTrust could say about its stress results generally. 12 CFR Part 261.2(c)(1) defines confidential supervisory information to include information gathered by the Board in the course of investigations or reports of examination, inspection and visitation, confidential operating and condition reports and any information derived from, related to or contains in such reports. 12 CFR Part 261.20(g) gives the Board property rights over all confidential supervisory information and prohibits disclosure of such information absent the prior written consent of the Board. The NPR contemplates that a covered company participating in a company run stress test would first submit the results of that company-run stress test to the Board prior to publication of the results and, pursuant to

19 This proposition is unclear, with some case law, such as Stransky v. Cummins Engine Co. Inc., 51 F.3d 1329 (7th Cir. 1995) holding that there is no duty to update forward looking statements, other cases, such as In re HealthCare Compare Corp., 75 F.3d 276 (7th Cir. 1996), have applied a duty to correct an incorrect prior forward-looking statement with a hindsight bias that makes it difficult to distinguish between when a duty to update forward-looking statements exists or does not. See, e.g., "The Muddled Duty to Disclose Under Rule 10B-5", Langevoort and Gulati, 57 VNLR 1639 (Vanderbilt Law Review, October 2004).

part 252.134(c) of the NPR, the information submitted to the Board would be confidential supervisory information. The NPR does not make clear whether the results required to be published by the company would be the company's with no input or direction from the Board or whether the Board would dictate to the company what results may be published in light of the stress test information being property of the Board pursuant to 12 CFR Part 261.20(g). It is not understood what should be done if the Board and the company have a dispute over the results of the company run stress test and what the company is or isn't permitted to say about any such dispute. Furthermore, how such a dispute, securities laws obligations of the company and disclosure limitations upon the company by virtue of having submitted confidential supervisory information to the Board interact is not addressed in the NPR, particularly if the company has an obligation under securities laws to disclose that its projections materially differ from that of the Board's projections. SunTrust specifically seeks guidance on how (a) the Board envisions securities laws, confidential supervisory information obligations and self-publication issues to be resolved, (b) the cost and burden associated with permitted and required disclosures under the NPR and securities laws, and (c) the benefit of self-publication of stress test results in light of these complications.

Therefore, we request that the Board reconsider whether requiring covered companies to publish their own results, as opposed to the Board publishing all stress test results, is the best alternative and, if the Board does believe there is a significant benefit derived from covered companies publishing their own results, we request that the Board comment on how publicly traded companies could comply with their obligations under securities laws and the NPR. The NPR does not explicitly describe the benefit of having covered company's disclose stress test results except to mention that such a requirement is "[c]onsistent with the requirements of the [Dodd-Frank] Act." The Dodd-Frank Act, section 165(i)(2)(C)(iv) does state that the Board will require companies subject to this paragraph to publish a summary of the results of the required stress test, but there is no indication in either the Dodd-Frank Act or the NPR as to what the benefit of self-publication is, making the NPR appear arbitrary. In light of the securities laws compliance costs associated with this requirement of the NPR, a better understanding of the quantitative costs and burdens, as well as the empirical benefits of this requirement, is warranted.

Effort to Comply with Stress Test Section of NPR

We note that the paperwork reduction act analysis of the estimated burden for compliance with this section of the NPR reserved for a later date. The subsequent proposed rule on data collection published in the Federal Register on February 22, 2012 ("Data Collection NPR") sets forth some very large numbers for estimated burdens and yet we would anticipate the burdens per institution to be larger still. Considering the burden for each of the past two (2) annual stress tests, we believe the burden for testing alone, not including data capture, could be estimated at close to 10,400 hours for our capital plan and FRY 14-A submissions. This burden, combined with others, is unreasonable and we ask that the Board consider ways by which it could capture the information it needs using less oppressive means.

It is not certain we can estimate the burden that the NPR places on providing data on the wholesale portfolio because of the requirements to provide not only internal risk ratings and other booking system data, but also to provide risk drivers, such as specific income statement and balance sheet data from the underlying borrowers. Ratings systems across lines of business use different metrics and platforms tailored to the particular industry in which they are engaged. Under the current Comprehensive Capital Analysis and Review ("CCAR") process, providing the requested data from wholesale loans will be somewhat of a manual effort with only some data in an electronically retrievable format. Systems may be available to input required data into a readily-retrievable database across lines of business, but the cost of acquiring such systems and inputting the data should roughly mirror the manual burden for the foreseeable future. Currently it takes approximately 400 man hours quarterly to capture the data requirements for commercial real estate in excess of the 4,000 man hours required every time a modification to the collection criteria is put forth. Based on the requirements set forth in the NPR for commercial and industrial loans, the burden would likely rise to approximately 660 man hours per quarter and 6,700 man hours for the original creation and each time the criteria are modified for a total of 8,600 man hours for the first year of commercial and industrial loan data capture alone.

Compounding issues is that our experience with both SCAP and CCAR is that instructions and data requests have been at times both erroneous and frequently modified during the process. We note there has not been any "60 day" window of time for instruction or field modification in the past. Moreover, as part of the Supervisory Capital Assessment Program ("SCAP") and CCAR stress tests, the Board has required the institutions create models, validate and back test these models as well as thoroughly document the models. Consequently, the companies must use a standard set of economic variables in order to adhere to the created models. The idea that a company can add or remove a key variable within the 40-day window after the end of each quarter is not reasonable given the aforementioned expectations of a fully validated model.

In the final analysis, the data burden would be overwhelming and in many respects unhelpful in analyzing risk and we are asking the Board to critically analyze what is necessary to meet its requirements and whether other, less burdensome means are available to obtain answers, even if less precise, to the questions the stress test is trying to resolve. We also ask the Board to be cognizant that this burden is one among many being placed on financial institutions, particularly large financial institutions, as a result of Dodd-Frank. Congressman Randy Neugebauer stated recently on CNBC[20] that although only 185 rules out of the 400 rules expected to be promulgated by the regulators pursuant to the Dodd-Frank Act have been adopted and those rules have resulted in approximately 24 million man hours of additional compliance for financial institutions and this analysis does not include the phenomenal amount of burden that would be required by this aspect of the NPR alone. Ironically, Dodd-Frank was conceived as a way to end financial institutions that were "too big to fail;" however, the litany of reporting and other regulatory requirements assures that only financial institutions with sufficient scale and size to employ an army of people dedicated to tasks like gathering data for stress tests for regulatory reporting are likely to prosper. In addition, the idea that it is possible to consistently and meaningfully provide risk drivers for thousands of obligors in a consistent form across thirty or more institutions in geographically diverse footprints is neither practical nor rational. For these reasons, we ask that the Board consider some alternatives that would serve their needs for stress testing while reducing the significant burden placed on financial institutions. For example, institutions have been required to create internally developed models, validation processes and documentation. The Board should consider reviewing these results and, if there are concerns about correct use of risk drivers or assumptions, audit these models further. Another suggestion is that the Board could designate a core set of variables for economic scenarios from which it would not deviate

20 Television interview 4/17/2012, Squawk Box.

without at least one (1) year's notice in order to permit companies to alter, validate and back test the requisite changes to the models. These and other alternatives are further explored in the Joint Trades Letter, which SunTrust endorses and commends to the Board for consideration. In conclusion, the burden of this part of the NPR is exorbitant, but it need not be so for the Board to capture the essence of the risk it is attempting to understand and we encourage the Board to reflect on ways it can achieve its ends with a more reasonable approach.

Timing of Compliance with Stress Testing

The calendar year timing for the annual company-run stress test for all covered companies is problematic and diverts required resources from other required regulatory reporting. Under the NPR, the annual company-run stress test would begin with scenarios provided by the Board to companies no later than mid-November. Our experience with CCAR is that the Board has, in the past, sent the scenarios to companies a few days before the Thanksgiving Day holiday. Under the annual company-run stress test, results are also due back by January 5th, also traditionally known as the eleventh (11th) day of Christmas or, in years New Year's Day falls on a Saturday, two days after the New Years Day holiday as observed. During this time period, we have typically begun planning and preparation for the 10-K in October of the prior year by rolling prior information during November and December. Simultaneously combining the regulatory burdens of SEC reporting and stress tests does not make sense. Moreover, using nine (9) months of data, as opposed to year-end data, would likely generate an incomplete picture of risk.

We would propose that the Board send out scenarios to run the company-run stress tests in the middle of February at which point the vast majority of affected companies will have announced their earnings, filed their 10-K's and substantially met their securities reporting requirements for the year-end. This has the advantage of working with year-end data and reduced the burden on those departments that will be primarily responsible for gathering data with respect to both obligations. Similarly, the mid-year stress test would then be pushed forward so that it would be conducted using mid-year data. We believe this approach, moving the stress test forward so the Board uses end-of-year and mid-year data for stress tests, rather than end of third quarter and first quarter data, both (i) provides a more complete data set for the Board to run a stress test against and (ii) reduces the data burden on departments within affected institutions primarily responsible for gathering data.

Technical Clarifications

In Dole v. United Steelworkers of America, 494 U.S. 26, 32-33, 110 S.Ct. 929, 108 L.Ed.2d 23 (1990), the Supreme Court stated that:

> "[t]he [Paperwork Reduction] Act prohibits any federal agency from adopting regulations which impose paperwork requirements on the public unless the information is not available to the agency from another source within the Federal Government, and the agency must formulate a plan for tabulating the information in a useful manner. Agencies are also required to minimize the burden on the public to the extent practicable."[21]

Although in some respects the stress test outlined in the NPR requests information in addition

21 See also U.S. v. Iona Management S.A., 498 F.Supp.2d 447, D.Conn. (2007).

to what is requested under CCAR, set forth at 12 CFR Part 225.8, and the semi-annual self-conducted stress test set forth in the NPR is not required under CCAR, in many respects the annual request for information under the NPR and CCAR appears to be identical, exacerbating the burden on bank holding companies to provide the same capital information to the Board twice. We would ask that the Board clarify if the CCAR stress test will continue side-by-side with the proposed stress test under the NPR or whether the stress tests, to the extent they have similar data requirements and objectives, will result in one effective stress tests with results interpreted in two (2) ways by the Board. It is not clear how CCAR will interact with the annual stress tests in the NPR and some guidance would be helpful.

The NPR stress tests rules fail to address the interaction between the stress tests and the requirements under the Comprehensive Capital Analysis and Review ("CCAR"). For example, CCAR requires that CCAR submissions to which the Board objects must be resubmitted; however, the process for resubmission is not explained or detailed in the CCAR rules. Moreover, the interaction between a resubmission under CCAR and the timelines for stress testing under the NPR are unclear and appear to overlap. For example, one question we have is whether a resubmission under CCAR would be testing the same period of data as that anticipated under the NPR stress tests. If so, we would like the Board to comment on whether a resubmission under CCAR could also function as both a resubmission and the next stress test.

Early Remediation

Although Early Remediation is clearly an important element of the Orderly Liquidation Authority, SunTrust feels the proposed rule can improved. The proposed rule outlines five early remediation triggers:

- Risk-Based Capital/Leverage,
- Stress Tests,
- Enhanced Risk Management and Committee Standards,
- Enhanced Liquidity Risk Management Standards, and
- Market Indicators

Generally, consistent with comments above, we support the first three triggers, Risk-Based Capital/Leverage, Stress Tests, and Enhanced Risk Management and Committee Standards; however, we feel that that additional work must be done on the final two, Enhanced Liquidity Risk Management Standards, and Market Indicators.

Liquidity Triggers

With regard to the Liquidity Triggers, the proposed rule is vague and clearly requires that the Basel III Liquidity framework is completed. SunTrust cannot endorse the Proposed Rule where the Level 1, 2, and 3 triggers are, respectively:

- "Covered company has manifested signs of weakness in meeting the enhanced liquidity standards for covered companies,"
- "Covered company has demonstrated multiple deficiencies in meeting the enhanced liquidity standards for covered companies," and
- "Covered company is in substantial noncompliance with the enhanced liquidity standards for covered companies."

Question 78 solicits feedback for specific quantitative recommendations for liquidity triggers. As mentioned above, however, this is difficult without a final Basel III Liquidity Rule since any liquidity trigger must be harmonized to the Basel III rules. This would be similar to how the Risk-Based Capital/Leverage and Stress Test Triggers have been harmonized to the existing rules. We encourage the Board to structure the Liquidity Triggers similarly.

Market Indicators

The Proposed Rule outlines three equity-based indicators and two debt-based indicators for consideration as market triggers, specifically:

- Moody's KMV RiskCalc expected default frequency (EDF),
- Marginal expected equity shortfall (MES),
- Option-implied volatility (as reported by Bloomberg),
- Credit default swaps (CDS) for senior unsecured bonds with a 5 year maturity, and
- Subordinated debt (bond) spreads

Although SunTrust agrees that the use of any Market Indicators should not be used for Level 2, 3, or 4 early remediation, the Bank has four primary concerns listed below.

First, it is impossible for SunTrust, or for that matter any bank, to comment on the proposed trigger design, as requested, without have the full series of data on all 25 – 30 financial companies used over the historical time-periods with the results of the proposed triggers. Although banks can recreate this data, since the Board has already done this we strongly encourage the Board to provide the entire data set to banks so that all banks can respond in an informed and intelligent manner. This would allow the banks to truly focus on analyzing and providing constructive feedback to the Board, as opposed to trying to ensure that the calculations were performed consistent with the articulation in the NPR. The recommendation would also have the benefit of reducing the likelihood of interpretational errors from banks when responding to the request for comments.

Second, it is important to note, that unlike the other four categories of remediation triggers, a bank has no ability to control its "Market Indicators," as such term is defined in the NPR. Contrast Market Indicators with the Risk-Based Capital/Leverage standards, Stress Tests standards, Enhanced

Risk Management and Risk Committee Standards, and Enhanced Liquidity Risk Management Standards where the Board is encouraging bank management to conform to various prudent standards. The banks, however, have no direct ability to manage any of the Market Indicators. In times of prolonged systemic stress it may be possible that a large percentage of banks fail one or more of the Market Indicators and therefore have a large percentage of the industry fail the Level 1 Triggers, which we feel would not necessarily be helpful to the Board, any bank, or the financial system. This concern is, in part, why we also encourage the Board to provide the full data set used in its analysis as requested in the paragraph above.

Additionally, Question 87 asks for comments regarding the impact of liquidity of an underlying security for the choosing indicators. Although liquidity of securities is always a concern on the valuation of many securities during market dislocations, it is difficult to quantify the absolute impact of the lack of liquidity. Specifically with regard to the five proposed indicators, however, SunTrust is specifically concerned with regard to the impact that lack of liquidity would have on CDS pricing, since the CDS market is the most immature and thinly traded. As the Board fully appreciates, lack of liquidity will exacerbate valuations during market dislocations and diminish the usefulness specifically for the CDS trigger potentially causing false positive triggers for this Market Indicator.

Finally, SunTrust is submitting a technical concern about the use of the proposed EDF calculation for the "Expected Default Frequency Market Indicator." Specifically, the use of Moody's KMV RiskCalc is inconsistent with the Board's desire to use direct market indicators to flag Level 1 triggers. The Board should know that RiskCalc does not directly use market information to calculate the EDF; rather, RiskCalc was designed to generate EDFs for private companies using an inference from publically traded companies. If the Board wants to use direct market information for an EDF trigger, Moody's KMV Credit Monitor would be a more appropriate tool to generate EDFs for publically traded companies.

Conclusion

We note that the NPR only provides burden estimates for portions of the NPR and does not address the full burden of all the rules being proposed. While the policy concerns are legitimate and many of the rules suggested could be beneficial, what is lacking generally is quantification of the economic cost and burden of all of the rules proposed and a balancing of those costs against the benefit to be derived. As previously stated in this comment letter, SunTrust has a legitimate concern that the net impact of these rules is to undermine the goal of ending "too big to fail" financial institutions by requiring financial institutions reach a sufficient scale and efficiency of operation to support an enormously costly and burdensome compliance system. How much more enormously costly and burdensome this compliance system will be as a result of this NPR is unclear, though doubtless it will be substantial. Therefore, SunTrust requests that the Board reconsider the NPR in light of our comments above and critically think about how it could achieve its legitimate and important policy ends in efficient and less burdensome ways. SunTrust believes that making regulations and laws that are oppressively burdensome is not a prerequisite to a safer and more sound financial system and alternatives exist, as we have suggested above, that arrive at the same destination as the arc of the rules in the NPR without creating strains on the financial system and permitting more of the capital of the financial system to be deployed towards investment and financial activities as opposed to compliance. Please do not hesitate to contact me directly with any questions or comments you may have about this letter.

Regards,

McHenry Kane

Cc: Ray Fortin
Jim Sproull

Exhibit A

(*attached*)

Print this page Close

SunTrust, 3 others fail Fed stress test

By Associated Press
For the AJC

8:37 p.m. Tuesday, March 13, 2012

Four major U.S. banks failed to show they have enough capital to survive another serious downturn, the Federal Reserve said Tuesday. The list included Citigroup, the nation's third-largest bank, and Atlanta's largest, SunTrust Banks.

The Fed said 15 of the19 major banks tested passed. The Fed noted that all 19 banks are in a much stronger position than immediately after the 2008 financial crisis.

Still, SunTrust, Ally Financial and MetLife joined Citi in failing to meet the test's minimum capital requirements.

The Fed reviewed the bank balance sheets to determine whether they could withstand a crisis that sends unemployment to 13 percent, causes stock prices to be cut in half and lowers home prices 21 percent from today's levels.

For those banks that failed, the Fed can stop them from paying stock dividends or buying back their own stock. The Fed can also force them to raise money by selling additional stock or issuing debt.

Last year, the Fed allowed some banks — including JPMorgan Chase and Wells Fargo — to raise their dividends because they were deemed healthier.

The Fed has conducted the stress tests each year since 2009. This was the first time since then that the results have been made public.

The Fed released the results two days earlier than planned after JPMorgan sent out a press release saying it had passed the test.

As a result of the stress test, SunTrust will not increase its quarterly stock dividend, which is currently at 5 cents per share, the bank said in a news release late Tuesday.

The report issued Tuesday found Atlanta-based SunTrust could suffer cumulative pre-tax losses of $5.7 billion under a hypothetical severe, two-year economic downturn.

SunTrust's Tier 1 common ratio would fall to a minimum of 4.8 percent, below the Federal Reserve's minimum of 5 percent, under capital plans the bank submitted as part of the testing.

The report found SunTrust would have a minimum Tier 1 common ratio of 5.5 percent, a higher rate, assuming it did not go forward with proposed capital plans.

SunTrust could suffer $8 billion in loan losses over two years under conditions simulated by the test, including $1.8 billion in first mortgages and $2.3 billion in traditional commercial and industrial loans.

SunTrust is the largest bank by deposits in metro Atlanta. Wells Fargo and Bank of America, the second-and third-largest banks by deposits in metro Atlanta, both passed the test, but each would also suffer heavy loan losses under the most adverse conditions.

The Fed found Wells Fargo could lose $19.6 billion before taxes, while Bank of America could lose $51.3 billion over two years.

After the first round of tests, in 2009, the Fed ordered 10 banks to raise a total of $75 billion. Bank of America alone was told to raise $34 billion.

This year's test is more rigorous than earlier tests because the Fed wanted to be assured that the industry is prepared to meet more stringent international banking rules that go into effect in 2013.

It is also looking more closely at projected loan losses from credit cards and mortgages in an economic downturn because the Fed is worried about how another crisis would affect Americans.

The Fed wants banks to show they could not only withstand the crisis but keep lending to Americans and businesses. Restricting lending during a crisis, as the banks did in 2008, makes the economic toll worse.

Staff writer J. Scott Trubey contributed to this article.

TheLedger.com

SunTrust, Other Key Banks Fail 'Stress Test'

FROM LEDGER WIRE SERVICES
Published: Tuesday, March 13, 2012 at 10:30 p.m.

WASHINGTON | SunTrust Banks Inc., Ally Financial Inc. and Citigroup Inc. all failed a key test in a new round of stress tests to see if the nation's 19 largest banks could withstand a severe economic downturn, the Federal Reserve said Tuesday.

And MetLife, the largest life insurer in the United States, failed the stress tests on the basis of its risk-based capital ratio.

The Fed tested the banks to see if they had enough reserves to handle an economic shock in which unemployment would increase to 13 percent, the Dow Jones industrial average would lose half its value and housing prices would fall an additional 21 percent.

Under such a scenario, losses at the 19 largest banks would total $534 billion over the 27-month duration of the Fed's stress test scenario. Despite the severity of the downturn, the Fed said the results showed the largest banks are in a stronger financial position than they were after the first round of stress tests in 2009 in the months after the financial crisis.

The amount of one key measure of bank capital increased to $759 billion in the fourth quarter of 2011 from $420 billion in the first quarter of 2009, the Fed said.

The majority of the largest banks passed the Federal Reserve's annual stress test, the central bank said on Tuesday, while also allowing JPMorgan Chase & Co, Wells Fargo, U.S. Bancorp and others to raise dividends or buy back their stock.

The Fed said 15 of the 19 largest U.S. banks would have satisfactory capital buffers, even if they suffered a financial shock that would see unemployment hit 13 percent and housing prices drop 21 percent.

The regulator said Citigroup, Ally Financial and SunTrust fared worst under that hypothetical financial shock, with Tier 1 common capital ratios of 4.9 percent, 4.4 percent, and 4.8 percent respectively.

MetLife, the largest life insurer in the United States, failed the stress tests on the basis of its risk-based capital ratio. At a 6 percent minimum, it was lower than any of the other banks examined.

The bank holding companies that came out top were Bank of New York Mellon with a Tier 1 common capital ratio of 13.1 percent under the hypothetical financial shock, State Street Corp. with 12.5 percent and American Express with 10.8 percent.

The Fed is using the stress tests to give the markets a window into the health of the U.S. bank industry. It also uses the results of the exams to determine whether banks can withstand great financial turmoil and still have enough of a capital cushion.

Based on that determination, the Fed gives a thumbs up or thumbs down on dividends and stock repurchases.

"The test wasn't designed to create failures but to promote confidence in the system and to help the stronger guys to return capital," said Anton Schutz, financial services mutual fund manager for Mendon Capital in Rochester, New York.

Print

Tuesday, March 13, 2012 5:07 PM EDT

Fed Stress Test Results: Citi, SunTrust Fail, JP Morgan Passes

By Brett LoGiurato

Citigroup Inc., the third-largest U.S. bank, and SunTrust Banks Inc. failed the Federal Reserve's latest stress test because they lack enough capital to endure a hypothetical shock to the U.S. economy, the central bank said Tuesday.

JPMorgan Chase, the nation's largest bank by assets, passed the test; it said it plans to raise its dividend to 30 cents and signed off on a $15 billion stock repurchasing. The bank has plenty of cash for the stock buyback; at the end of 2011 it had $59.6 billion in cash. Bank of America also passed.

Along with Citigroup and SunTrust, MetLife Inc. and Ally Financial Inc. all failed some measures of the annual test. The other 15 banks emerged unscathed from the Fed's stress test, which is designed to give an idea of what would happen to big banks if the stock market fell 50 percent, home prices dropped 21 percent or the unemployment rate jumped to 13 percent.

Citi is down more than 3 percent in after-hours trading. SunTrust is down almost 4 percent.

The Fed released the results of this year's Comprehensive Capital Analysis and Review of 19 banks at 4:30 p.m. EDT on Tuesday, two days ahead of schedule.

The Fed moved up the announcements after JPMorgan Chase & Co. broke the news Tuesday that it had passed the stress test and announced the dividend and buyback moves. At the end of 2011, JPMorgan Chase had $59.6 billion in cash, according to its fourth-quarter report.

"We are pleased to be in a position to increase our dividend and to establish a new equity repurchase program," Jamie Dimon, JPMorgan CEO, said in a statement announcing the company's good news. "We expect to generate significant capital and deploy that capital to the benefit of our shareholders."

The Fed said Citi's capital plan in the wake of the hypothetical slumping economic conditions did not meet its requirements because it would make the bank's common capital ratio fall to 4.9 percent, which does not meet the Fed's minimum of 5 percent. SunTrust would plunge to 4.8 percent, and Ally's would drop to 2.5 percent.

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Stocks To Watch Today

News and commentary about the stocks you need to know about today

MARCH 13, 2012, 5:05 P.M. ET

Bank Stress Tests Reveal Citi, MetLife, SunTrust Failed

By Dimitra DeFotis

Federal Reserve number crunchers revealed late Tuesday that two big U.S. banks, Citigroup and SunTrust Banks, are among those that would still be quite strained in a dire test of their financial strength.

Shares of **Citigroup** (C), up 6.3% Tuesday, were down nearly 4% after hours. **SunTrust Banks** (STI) stock lost the day's 3.2% gain after hours. The Fed also said insurer **MetLife** (MET), and auto and mortgage lender **Ally Financial**, didn't pass muster. Shares of MetLife, which rallied 4.7% Tuesday, were off after hours by nearly 4%, or $1.60, to $37.86.

In a surprise announcement that followed the steep market rally, the **Federal Reserve** revealed that many other big American financial institutions are quite sound. So much so that some of them have the cash to boost dividends. The info was supposed to come late Thursday.

In a bold move that one might expect of CEO **Jamie Dimon**, **JPMorgan Chase** (JPM) was first out of the gate Tuesday afternoon with an announcement that it would raise its dividend by 5 cents to 30 cents, and would buy back stock. Shares of JPMorgan rose 7% Tuesday, and after hours shares sank nearly 1%, or about 39 cents, to $43.

The Federal Reserve's lengthy report is here.

As we said in an earlier post, many of the stress-tested banks are expected to raise dividends, including **Bank of America** (BAC). But it is leaving its penny-per-quarter dividend where it is.

Some analysts are still forecasting a dividend increase for Citigroup, which said in this release late Tuesday that it

> "will submit a revised capital plan to the Federal Reserve later this year" and that the Fed "has no objection to our continuing the existing dividend levels on our preferred stock and our common stock" … and " has no objection to Citi redeeming certain series of outstanding trust preferred securities, as Citi proposed in its Capital Plan."

BAC was shown to have a 5.7% Tier 1 capital ratio, on the low side compared to the 6.3% aggregate of the 19 bank holding companies subject to the tests — though not as low as Ally's 2.5% Tier 1 ratio. **Regions Financial** (RF) had a Tier 1 ratio of 5.7% and SunTrust came in at 5.5%. **Morgan Stanley** (MS) and MetLife each had a ratio of 5.4%, according to the *Wall Street Journal* story on the stress tests.

Most companies have issued press releases in response to the Fed test. Ally's is here, and it says the Fed's analysis

<u>Exhibit B</u>

(*attached*)

EX-99.1 2 suntrusttakeslivesolid.htm NEWS RELEASE

News Release

Contact: *Investors* *Media*
Kris Dickson Mike McCoy
(404) 827-6714 (404) 588-7230

For Immediate Release
March 13, 2012

SunTrust Announces Stress Test Results and Provides Earnings Update

ATLANTA -- SunTrust Banks, Inc. (NYSE: STI) announced that the Federal Reserve completed its annual review of SunTrust's capital plan, submitted in January in connection with the Comprehensive Capital Analysis and Review (CCAR).

The Federal Reserve review showed that SunTrust's capital exceeded requirements throughout the Supervisory Stress Test time horizon without any capital actions. As a result of this review, SunTrust will not be increasing its return of capital to shareholders at this time; however, SunTrust expects to:

- Maintain its current quarterly common stock dividend of $0.05 per share.
- Redeem certain trust preferred securities at such time as their governing documents permit, including when these securities are no longer expected to qualify as Tier 1 capital.

"SunTrust has strong Tier 1 common capital of 9.2 percent and improved earnings momentum," said SunTrust Chairman and Chief Executive Officer William H. Rogers, Jr. "Our client-centric strategy has resulted in high levels of client loyalty and strong market share growth. In addition, the composition and risk profile of SunTrust's loan portfolio have improved significantly over the past several years, leading to markedly lower levels of loan losses."

Mr. Rogers also noted that the company has increased its Tier 1 common capital over multiple consecutive quarters.

Regarding the Federal Reserve's Supervisory Stress Test for SunTrust, Chief Financial Officer Aleem Gillani said, "The Federal Reserve noted that their estimates were for a 'hypothetical, severely adverse' scenario that employed 'conservative' and 'simplifying' assumptions. Using our own modeling techniques -- which have shown to have a high level of predictability -- SunTrust's estimates for loan losses and pre-provision net revenue in the Supervisory Stress scenario are significantly more favorable than those made by the Federal Reserve."

Mr. Gillani added that SunTrust's improved earnings momentum has continued in the first quarter of 2012 and is expected to result in earnings per share that exceed the first quarter First Call mean estimate.

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Important Cautionary Statement About Forward-Looking Statements

The foregoing statement is based on our interim financial results as of February 29, 2012, and the first quarter First Call mean earnings per share estimate at March 13, 2012.

Our expectations for first quarter financial results relative to the first quarter First Call mean earnings per share estimate at March 13, 2012 is a forward-looking statement and is based upon the current beliefs and expectations of management and on information currently available to management. Our statement speaks as of the date hereof, and we do not assume any obligation to update this statement or to update the reasons why actual results could differ from those contained in such statement in light of new information or future events.

Forward-looking statements are subject to significant risks and uncertainties. Investors are cautioned against placing undue reliance on such statements. Actual results may differ materially from those set forth in the forward-looking statements. Factors that could cause actual results to differ materially from those described in the forward-looking statements can be found in Item 1A of Part I of our 10-K and in other periodic reports that we file with the SEC. Those factors include: as one of the largest lenders in the Southeast and Mid-Atlantic U.S. and a provider of financial products and services to consumers and businesses across the U.S., our financial results have been, and may continue to be, materially affected by general economic conditions, particularly unemployment levels and home prices in the U.S., and a deterioration of economic conditions or of the financial markets may materially adversely affect our lending and other businesses and our financial results and condition; legislation and regulation, including the Dodd-Frank Act, as well as future legislation and/or regulation, could require us to change certain of our business practices, reduce our revenue, impose additional costs on us or otherwise adversely affect our business operations and/or competitive position; we are subject to capital adequacy and liquidity guidelines and, if we fail to meet these guidelines, our financial condition would be adversely affected; loss of customer deposits and market illiquidity could increase our funding costs; we rely on the mortgage secondary market and GSEs for some of our liquidity; we are subject to credit risk; our ALLL may not be adequate to cover our eventual losses; we may have more credit risk and higher credit losses to the extent our loans are concentrated by loan type, industry segment, borrower type, or location of the borrower or collateral; we will realize future losses if the proceeds we receive upon liquidation of nonperforming assets are less than the carrying value of such assets; a downgrade in the U.S. government's sovereign credit rating, or in the credit ratings of instruments issued, insured or guaranteed by related institutions, agencies or instrumentalities, could result in risks to us and general economic conditions that we are not able to predict; the failure of the European Union to stabilize the fiscal condition and creditworthiness of its weaker member economies, such as Greece, Portugal, Spain, Hungary, Ireland, and Italy, could have international implications potentially impacting global financial institutions, the financial markets, and the economic recovery underway in the U.S.; weakness in the real estate market, including the secondary residential mortgage loan markets, has adversely affected us and may continue to adversely affect us; we are subject to certain risks related to originating and selling mortgages, and may be required to repurchase mortgage loans or indemnify mortgage loan purchasers as a result of breaches of representations and warranties, borrower fraud, or as a result of certain breaches of our servicing agreements, and this could harm our liquidity, results of operations, and financial condition; financial difficulties or credit downgrades of mortgage and bond

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insurers may adversely affect our servicing and investment portfolios; we may be terminated as a servicer or
master servicer, be required to repurchase a mortgage loan or reimburse investors for credit losses on a mortgage loan, or incur costs, liabilities, fines and other sanctions if we fail to satisfy our servicing obligations, including our obligations with respect to mortgage loan foreclosure actions; we are subject to risks related to delays in the foreclosure process; we may continue to suffer increased losses in our loan portfolio despite enhancement of our underwriting policies and practices; our mortgage production and servicing revenue can be volatile; as a financial services company, adverse changes in general business or economic conditions could have a material adverse effect on our financial condition and results of operations; changes in market interest rates or capital markets could adversely affect our revenue and expense, the value of assets and obligations, and the availability and cost of capital and liquidity; changes in interest rates could also reduce the value of our MSRs and mortgages held for sale, reducing our earnings; the fiscal and monetary policies of the federal government and its agencies could have a material adverse effect on our earnings; depressed market values for our stock may require us to write down goodwill; clients could pursue alternatives to bank deposits, causing us to lose a relatively inexpensive source of funding; consumers may decide not to use banks to complete their financial transactions, which could affect net income; we have businesses other than banking which subject us to a variety of risks; hurricanes and other disasters may adversely affect loan portfolios and operations and increase the cost of doing business; negative public opinion could damage our reputation and adversely impact business and revenues; a failure in or breach of our operational or security systems or infrastructure, or those of our third party vendors and other service providers, including as a result of cyber attacks, could disrupt our businesses, result in the disclosure or misuse of confidential or proprietary information, damage our reputation, increase our costs and cause losses; we rely on other companies to provide key components of our business infrastructure; the soundness of other financial institutions could adversely affect us; we depend on the accuracy and completeness of information about clients and counterparties; regulation by federal and state agencies could adversely affect the business, revenue, and profit margins; competition in the financial services industry is intense and could result in losing business or margin declines; maintaining or increasing market share depends on market acceptance and regulatory approval of new products and services; we might not pay dividends on your common stock; our ability to receive dividends from our subsidiaries could affect our liquidity and ability to pay dividends; disruptions in our ability to access global capital markets may adversely affect our capital resources and liquidity; any reduction in our credit rating could increase the cost of our funding from the capital markets; we have in the past and may in the future pursue acquisitions, which could affect costs and from which we may not be able to realize anticipated benefits; we are subject to certain litigation, and our expenses related to this litigation may adversely affect our results; we may incur fines, penalties and other negative consequences from regulatory violations, possibly even inadvertent or

unintentional violations; we depend on the expertise of key personnel, and if these individuals leave or change their roles without effective replacements, operations may suffer; we may not be able to hire or retain additional qualified personnel and recruiting and compensation costs may increase as a result of turnover, both of which may increase costs and reduce profitability and may adversely impact our ability to implement our business strategies; our accounting policies and processes are critical to how we report our financial condition and results of

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operations, and they require management to make estimates about matters that are uncertain; changes in our accounting policies or in accounting standards could materially affect how we report our financial results and condition; our stock price can be volatile; our framework for managing risks may not be effective in mitigating risk and loss to us; our disclosure controls and procedures may not prevent or detect all errors or acts of fraud; our financial instruments carried at fair value expose us to certain market risks; our revenues derived from our investment securities may be volatile and subject to a variety of risks; and we may enter into transactions with off-balance sheet affiliates or our subsidiaries.

SunTrust Banks, Inc., headquartered in Atlanta, is one of the nation's largest banking organizations, serving a broad range of consumer, commercial, corporate and institutional clients. As of December 31, 2011, SunTrust had total assets of $176.9 billion and total deposits of $127.9 billion. The Company operates an extensive branch and ATM network throughout the high-growth Southeast and Mid-Atlantic states and a full array of technology-based, 24-hour delivery channels. The Company also serves clients in selected markets nationally. Its primary businesses include deposit, credit, trust and investment services. Through various subsidiaries the Company provides mortgage banking, insurance, brokerage, investment management, equipment leasing and investment banking services. SunTrust's Internet address is suntrust.com.

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