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**United States Senate**  
COMMITTEE ON BANKING, HOUSING, AND  
URBAN AFFAIRS  
WASHINGTON, DC 20510-6075

April 23, 2019

Hon. Jelena McWilliams  
Chair  
Federal Deposit Insurance Corporation  
550 17<sup>th</sup> Street, N.W.  
Washington, D.C. 20429

Dear Chair McWilliams,

Branch Banking & Trust (BB&T) and SunTrust's application to merge into the sixth largest bank in the United States raises significant financial stability, anticompetitive, and public interest concerns that must be scrutinized carefully by the Board of Directors of the Federal Deposit Insurance Corporation (FDIC).<sup>1</sup> It is no coincidence that the largest merger since the 2007-2008 financial crisis comes less than a year after the passage of S. 2155, which loosened the rules for the large banks and which industry analysts predicted would accelerate big bank consolidation.<sup>2</sup> The federal banking agencies have gone even further by reducing capital, liquidity, and stress testing requirements for the largest institutions. Meanwhile, community banks are struggling to compete in an environment that increasingly favors Wall Street megabanks.

Legislative giveaways and regulatory rollbacks have already amplified the potential for the biggest banks to threaten our financial system. Further consolidation by large banks would make matters even worse. Federal Reserve staff research shows that the impact of financial stress on the real economy increases with the size of a bank.<sup>3</sup> Washington Mutual, the largest bank failure in the United States and a significant catalyst to the financial crisis, held just \$307 billion in total assets.<sup>4</sup> Countrywide Financial, another catalyst, had just \$200 billion in assets.<sup>5</sup> A combined BB&T-SunTrust would far surpass both of those institutions, with \$442 billion in total assets.<sup>6</sup>

A merger of this scale not only increases systemic risk and concentration, but it could also decrease competition.<sup>7</sup> BB&T and SunTrust operate in many of the same geographic areas;

<sup>1</sup> See 12 U.S.C. 1828(c)(5).

<sup>2</sup> French, David and Michelle Price, "U.S. banks set for M&A wave as Trump cuts red tape," Reuters, Feb. 23, 2018, <https://www.reuters.com/article/us-usa-m-a-banks-analysis/u-s-banks-set-for-ma-wave-as-trump-cuts-red-tape-idUSKCN1G71Z6>

<sup>3</sup> Lorenc, Amy G., and Jeffery Y. Zhang (2018). "The Differential Impact of Bank Size on Systemic Risk," Finance and Economics Discussion Series 2018-066. Washington: Board of Governors of the Federal Reserve System, <https://doi.org/10.17016/FEDS.2018.066>.

<sup>4</sup> Crisis and Response: An FDIC History, 2008-2013 at 200, <https://www.fdic.gov/bank/historical/crisis/crisis-complete.pdf>.

<sup>5</sup> FDIC, "A year in Bank Supervision: 2008 and a Few of its Lessons," Supervisory Insights (Summer 2009) at 7.

<sup>6</sup> BB&T and SunTrust to Combine in Merger of Equals to Create the Premier Financial Institution, Press Release, February 7, 2019, <http://investors.suntrust.com/news/news-details/2019/BBT-and-SunTrust-to-Combine-in-Merger-of-Equals-to-Create-the-Premier-Financial-Institution/default.aspx>

<sup>7</sup> See 12 U.S.C. § 1828(c)(5).

sharing 740 branches within a 2-mile radius.<sup>8</sup> According to their merger application, there are overlapping branch operations in 80 banking markets, some of which reflect increased levels of market concentration.<sup>9</sup>

I am concerned the proposed merger could harm Americans in several ways. Increased corporate profits for consolidated megabanks often come at the expense of consumers and employees through job losses, branch closures, and reduced credit availability.<sup>10</sup> BB&T and SunTrust have stated that they would save \$1.6 billion annually, but they have not explained how many jobs would be eliminated or which branches will be closed or consolidated.<sup>11</sup> While both banks have assured me that they will consider community credit needs, availability of banking services, and redlining or fair lending risk, among other factors, before closing a branch, they have a history of mortgage fraud and lending discrimination.<sup>12</sup>

There is reason for concern that these banks will not meet the needs of the communities that they currently serve. The decision to hold public meetings on April 25, 2019, in Charlotte, North Carolina, and May 3, 2019, in Atlanta, Georgia, is encouraging. It is troubling, however, that under the Trump Administration more bank mergers are being approved and at a faster rate.<sup>13</sup> Moreover, private conversations between regulators and the banks seeking merger approval are all too common.<sup>14</sup> This is not the way to increase transparency and invite public participation in a decision that will affect more than 10 million households in the United States.<sup>15</sup>

The FDIC must ensure that such a consequential merger proposal is decided by the FDIC Board, and not under delegated authority. BB&T and SunTrust's overlapping geographic footprints could have a significantly adverse effect on competition in those and other markets, which should trigger consideration by the full board.<sup>16</sup> Furthermore, the FDIC Board has established guidelines to consider the most consequential and precedential matters before the agency at the

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<sup>8</sup> Transformational Merger of Equals to Create The Premier Financial Institution at 22, Feb. 7, 2019, <https://bbt.investorroom.com/download/Transformational+Merger+of+Equals+to+Create+The+Premier+Financial+Institution+%28Presentation%29.pdf>.

<sup>9</sup> Application to the FDIC by BB&T for prior approval to acquire by merger SunTrust Bank at 32, [http://s2.q4cdn.com/438932305/files/doc\\_downloads/2019/03/4.0-BBT-SunTrust-FDIC-Application-Final\\_3379807\\_1.pdf](http://s2.q4cdn.com/438932305/files/doc_downloads/2019/03/4.0-BBT-SunTrust-FDIC-Application-Final_3379807_1.pdf).

<sup>10</sup> Ensign, Rachel Louise and Coulter Jones, "How Bank of America Ditched 1,597 Branches Across the U.S.," Wall Street Journal, Sept. 17, 2018, [https://www.wsj.com/articles/how-bank-of-america-ditched-1-597-branches-across-the-u-s-1505646000?mod=article\\_inline](https://www.wsj.com/articles/how-bank-of-america-ditched-1-597-branches-across-the-u-s-1505646000?mod=article_inline); Garber, Johnathan, "SunTrust and BB&T used a word that should terrify their employees," Markets Insider, Feb. 7, 2019, <https://markets.businessinsider.com/news/stocks/suntrust-banks-bbt-say-merger-will-have-synergies-2019-2-1027933698>; Carow, Kenneth A., Edward J. Kane, Rajesh Narayanan, How Have Borrowers Fared in Banking Mega-Mergers?, NBER Working Paper Series, June 2004, <https://www.nber.org/papers/w10623.pdf>.

<sup>11</sup> Transformational Merger of Equals to Create The Premier Financial Institution at 22, Feb. 7, 2019, <https://bbt.investorroom.com/download/Transformational+Merger+of+Equals+to+Create+The+Premier+Financial+Institution+%28Presentation%29.pdf>.

<sup>12</sup> See, e.g., Dept. of Justice, Press Release, Sept. 29, 2016, <https://www.justice.gov/opa/pr/branch-banking-trust-company-agrees-pay-83-million-resolve-alleged-false-claims-act-liability>; SIGTARP, Press Release, Jul. 3, 2014, [https://www.sigtar.gov/Press%20Releases/SunTrust\\_Nonprosecution\\_Agreement\\_Press\\_Release.pdf](https://www.sigtar.gov/Press%20Releases/SunTrust_Nonprosecution_Agreement_Press_Release.pdf); Dept. of Justice, Press Release, May 31, 2012, <https://www.justice.gov/opa/pr/justice-department-reaches-21-million-settlement-resolve-allegations-lending-discrimination>; BB&T Community Reinvestment Act Performance Evaluation, Jan. 22, 2008, [https://www5.fdic.gov/crapes/2008/09846\\_080122.PDF](https://www5.fdic.gov/crapes/2008/09846_080122.PDF).

<sup>13</sup> Clozel, Lalita, "Bank Mergers Get Faster Under Trump," Wall Street Journal, Feb. 13, 2019, <https://www.wsj.com/articles/bank-mergers-get-faster-under-trump-11550059200>.

<sup>14</sup> Kress, Jeremy, "Fed is a rubber stamp for bank mergers – it's a problem," American Banker, April 10, 2019, <https://www.americanbanker.com/opinion/fed-is-a-rubber-stamp-for-bank-mergers-its-a-problem>.

<sup>15</sup> BB&T and SunTrust to Combine in Merger of Equals to Create the Premier Financial Institution, Press Release, Feb. 7, 2019.

<sup>16</sup> See Delegations of Authority Relating to Filings and Enforcement Matters, Section D, FDIC Board Res. No. 071098 (December 2, 2002).

board level.<sup>17</sup> The proposed merger of BB&T and SunTrust clearly fits the bill – it is not only the largest merger since the financial crisis, signaling the beginning of a surge in megabank consolidation,<sup>18</sup> but would also result in the largest bank the FDIC has ever supervised as the primary federal regulator.

It is imperative that the FDIC consider this merger proposal thoroughly, with the utmost transparency and accountability. To explain how the FDIC will evaluate this merger, please respond to the following questions by May 6, 2019.

1. How many times has your agency met or communicated with BB&T, SunTrust, or their representatives regarding the proposed merger in the six months prior to the public announcement? Please provide the dates and participants of each meeting.
2. How are risk to financial stability, convenience and needs of the community, and public interest and benefits weighted in comparison to other factors considered under the Bank Merger Act and Community Reinvestment Act? Are the effects of the merger on the banks' workforce considered in any of these factors?
3. BB&T and SunTrust have not publicly identified the number of branches that would close or consolidate, including in rural and LMI areas. To what extent will the FDIC consider branch closures in its evaluation of the proposed merger? Please provide information the FDIC may have regarding the number and location of branches identified for potential closure or consolidation.
4. The FDIC's Statement of Policy on Bank Merger Transactions describes the process by which the agency will analyze the competitive effects of a proposed merger transaction. BB&T's merger application to the FDIC, however, focuses on the Federal Reserve's analysis of the competitive effects, which they "understand is consistent with the FDIC's analysis." Please explain the FDIC's analysis, and the extent to which it is the same or different from the Federal Reserve's. Please provide the FDIC's data and analysis of the transaction's competitive effects and the report on competitive factors from the Attorney General, as well as the specific rubric guiding such analysis.
5. Just last week, the Federal Reserve terminated an order against BB&T for weaknesses in the bank's BSA/AML compliance. The FDIC terminated its consent order in June 2018. Under the Bank Merger Act, the FDIC must consider the effectiveness of each bank in combatting money laundering activities. Please explain how BB&T has resolved the BSA/AML deficiencies cited in the December 2016 consent order. Is BB&T's BSA/AML compliance program mature enough to withstand a merger that will double the size of the institution?

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<sup>17</sup> FDIC Board Res. No. 074956 (June 19, 2007).

<sup>18</sup> Sutherland, Brooke, "BB&T Solves Jamie Dimon's 'Too Many Banks' Problem," Bloomberg, Feb. 7, 2019, <https://www.bloomberg.com/opinion/articles/2019-02-07/bb-t-suntrust-merger-may-start-wave-of-bank-consolidation>.

6. Will the decision to approve or deny the merger application be made by the full Board of the FDIC? If not, please explain why, to whom the decision will be delegated, and on what basis.

If approved, the combined bank would be significantly larger than any other insured depository institution for which the FDIC serves as primary regulator. Not only must this decision be made by the board, which is directly accountable to Congress, but also a decision of this magnitude deserves consideration by a full five-member FDIC Board. The merger cannot be approved until internal directors of the FDIC are nominated and confirmed.

Thank you for your attention to this important matter. I look forward to your response.

Sincerely,



Sherrod Brown  
Ranking Member