Governor Lael Brainard
Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, NW
Washington, DC 20551

Dear Governor Brainard:

We are writing to draw your attention to a comment that we have recently filed with the Federal Deposit Insurance Corporation (FDIC) regarding the merger between Branch Banking and Trust Company (BB&T) and SunTrust Bank. This comment raises several concerns about this merger's substantive effects and the circumstances by which it may be approved. In light of these issues, we ask that you oppose the proposed merger for the sake of the financial system's stability and public trust in our government's regulatory institutions.

First, the comment highlights why this merger is of particular concern:

> By all accounts, the wounds of the financial crisis are not yet healed.[1] There is, therefore, an understandable weariness regarding the current wave of bank consolidations.[2] As they consider the largest bank merger since the crisis, it is essential that regulators demonstrate to the public that they take seriously potential threats to the financial system's stability and the potential for lax regulation to create widespread harm for millions of Americans.
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> While this merger will create the nation's sixth largest bank, its implications for market domination in regional markets are even more severe. The combined bank will be a dominant force throughout the Southeast and mid-Atlantic, most notably becoming the largest bank in three states (Georgia, West Virginia, and Virginia) and the second largest in two others (Maryland and North Carolina).[3] The FDIC must consider the elevated risk to these regions should this combined institution fail.
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> It is also important to recognize that, aside from its implications for the stability of financial markets, this merger will have a negative impact on thousands of workers and consumers. There are 740 SunTrust branches located within two

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[1] Ben Casselman, "Why Some Scars From the Recession May Never Vanish," The New York Times, October 5, 2017, https://www.nytimes.com/2017/10/05/business/economy/recession-recovery.html; Dan Kopf, "Half of American households are still poorer than they were before the Great Recession." Quartz, August 6, 2018, https://qz.com/1348882/us-household-wealth-for-the-bottom-50-is-half-of-what-it-was-in-2007/

[2] Lalita Clozel, "Bank Mergers Get Faster Under Trump," The Wall Street Journal, February 13, 2019 https://www.wsj.com/articles/bank-mergers-get-faster-under-trump-11550059200

[3] Richard Craver, "BB&T merger means bigger market share," Winston Salem Journal, https://www.journalnow.com/business/bb-t-merger-means-bigger-market-share/article_a11ec4a8-2fa2-5f0c-a25c-1ba1cfa4e62c.html

> miles of a BB&T branch.[4] Many of these branches are likely to face closure, leading to the loss of thousands of jobs. The majority of those laid off are likely to be lower-income employees who already face greater precarity. The shock of job loss could destabilize many households and lead to foreclosures, which could, in turn, hurt local housing markets; the loss of jobs will likely have broader ripple effects throughout these communities. Moreover, consolidation is likely to decrease the propensity of the merged entity to strive to comply with Community Reinvestment Act standards.

The threat that this merger poses to financial stability is of particular relevance to the Federal Reserve's mandate. The combined BB&T-SunTrust bank will undoubtedly be "too big to fail" in its region of dominance (the mid-Atlantic and the Southeast).[5] It is unlikely that our financial system would stand by in the face of the collapse of such an important regional market, so the combined entity would practically be "too big to fail" even as it would be under a less stringent regulatory regime than the country's largest banks. Recognizing this fact, markets are likely to price in an implicit guarantee. Thus, the merged entity would have a corresponding incentive to take undue risks that could be dangerous for the economy as a whole.

Second, the comment drew attention to concerns about the integrity of the FDIC's review process:

> We note that the FDIC currently lacks a minority party commissioner. Although the Senate Minority Leader proposed a candidate for the vacancy last year, the President has yet to act on the recommendation and make a formal nomination.[6] Such lengthy delays are highly unusual and represent an unacceptable manipulation of statutorily independent bodies. That the President is engaging in this variety of politically-motivated obstructionism to exert influence over the nature and direction of the FDIC's decisions necessarily undermines confidence in the integrity of its decision-making. This reality makes it even more imperative that the FDIC to prove that its sitting commissioners will be impartial arbiters.

Finally, the comment draws attention to concerns surrounding FDIC Chairwoman Jelena McWilliams' ability to assess this merger impartially:

> As entities with deep expertise in identifying soft corruption (i.e., legal but wrong behavior), the Revolving Door Project and the Demand Progress Education Fund

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[4] Zach Fox, Zain Tariq, and Liz Thomas, "BB&T-SunTrust branch closures likely concentrated in Washington, Atlanta, Miami," S&P Global, Market Intelligence, February 12, 2019, https://www.spglobal.com/marketintelligence/en/news-insights/trending/8hrx9dl8ez1ivj4gvdxtqw2

[5] Rachel Louise Ensign and Allison Prang, "BB&T to Buy SunTrust in Largest Bank Deal Since the Financial Crisis," The Wall Street Journal, February 7, 2019, https://www.wsj.com/articles/suntrust-bb-t-to-combine-in-all-stock-merger-11549537817

[6] Zach Carter, "Senate Democrats Are Still Figuring Out This Whole Resistance Thing," Huffpost, February 13, 2019, https://www.huffpost.com/entry/congress-federal-agency-staffing-impasse_n_5c632fa0e4b08da0ec7fb62a

offer the following warning to the FDIC. We believe that FDIC Chairwoman Jelena McWilliams' involvement in the effort to pass legislation that facilitated mergers such as this one and her ties through her previous employment to a lobbyist working for SunTrust cast doubt on her impartiality. In order to protect the integrity of the FDIC board's decision, we ask that Chairwoman McWilliams assuage these doubts by releasing all of her ethics forms and waivers for public appraisal and publicly addressing doubts about her ability to act as an impartial adjudicator in this matter.

Although Chairwoman McWilliams had left the Senate Banking, Housing, and Urban Affairs committee's employ by the time the Economic Growth, Regulatory Relief and Consumer Protection Act (S. 2155), a major rollback of Dodd-Frank regulations, was passed, as a General Counsel for the committee she was involved in developing the blueprint from which S. 2155 would draw heavily.[7] That law facilitated the merger in question by loosening regulatory standards, which reduced compliance costs and freed up funds for mergers and acquisitions.[8]

This demonstrable commitment to the effort to make mergers like this one more feasible raises questions about the Chairwoman's ability to remain objective in this case.

That these general matters already call into question the integrity of the FDIC's decision makes it all the more essential that Chairwoman McWilliams works to prove that her longstanding ties to a key player in this merger do not represent an insurmountable conflict of interest. While Chairwoman McWilliams worked on the Senate Banking Committee one of her colleagues for a period of time was Mark Oesterle, who went on to become a lobbyist for SunTrust Bank.[9] In that capacity, Oesterle lobbied the Senate Banking Committee on several bills, including the deregulatory bill for small- and mid-sized banks that preceded S.

[7] Kelsey Ramirez, "President Trump signs Dodd-Frank rollback into law," HousingWire, May 24, 2018, https://www.housingwire.com/articles/43464-president-trump-signs-dodd-frank-rollback-into-law; Christina Rexrode and Ryan Tracy, "From Belgrade to the Pinnacle of Washington's Banking World," The Wall Street Journal, December 8, 2017, https://www.wsj.com/articles/from-belgrade-to-the-pinnacle-of-washingtons-banking-world-1512732600; David Dayen, "Revenge of the Stadium Banks," The Intercept, March 2, 2018. https://theintercept.com/2018/03/02/crapo-instead-of-taking-on-gun-control-democrats-are-teaming-with-republicans-for-a-stealth-attack-on-wall-street-reform/; Howard Koplowitz, "Regions Bank a big winner of Dodd-Frank rollback law," AL.com, May 24, 2018, https://www.al.com/news/2018/05/regions_bank_a_big_winner_of_d.html

[8] David Dayen, "Elizabeth Warren was Right: New Law is Already Making Banks Bigger," The Intercept, https://theintercept.com/2019/02/08/elizabeth-warren-was-right-new-law-is-already-making-banks-bigger/

[9] "Oesterle, Mark," OpenSecrets.org, Center for Responsive Politics, https://www.opensecrets.org/revolving/rev_summary.php?id=77441; "Board of Directors - Jelena McWilliams, "Federal Deposit Insurance Corporation, https://www.fdic.gov/about/learn/board/mcwilliams/

2155, on which McWilliams would have been working as the committee's General Counsel.[10]

In addition to these direct links between McWilliams and Oesterle, they also share a common former Senate Banking committee colleague, Andrew Olmem, who now serves as the White House's Special Assistant for Financial Policy. Olmem served as General Counsel for the committee between Oesterle and McWilliams.[11] Like McWilliams, he would also have encountered Oesterle in his capacity as a lobbyist.[12] In his role in the White House, Olmem "plays a key role in personnel decisions for financial positions in the Trump administration."[13] Olmem has helped to install a roster of regulators who are intent on rolling back financial regulations, many of whom, like McWilliams, are also alumni of the Senate Banking Committee.[14] These connections make it reasonable for the public to wonder whether Oesterle lobbied Olmem for McWilliams' appointment, recognizing that she would be an ally on the FDIC board. The air of impropriety resulting from this web of relationships demands clarification.

In light of these myriad concerns we believe that this merger cannot be approved as is. We ask that you consider seriously the threat that this merger will likely pose to the stability of financial markets generally, in addition to the acute effects in certain regional communities. It is possible that that threat alone represents grounds for rejecting the merger. We ask, however, that you at least oppose this merger until such time as the Federal Reserve Board of Governors and the FDIC have full boards and until Chairwoman Jelena McWilliams has adequately addressed her potential conflicts of interest in this matter. Pushing this merger through under these circumstances will threaten public confidence in the approval process' integrity. We ask that you use your position and your vote to work to restore that confidence.

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[10] "SunTrust Banks," OpenSecrets.org, Center for Responsive Politics, https://www.opensecrets.org/lobby/clientbills.php?id=D000022269&year=2015; "S.1484 - Financial Regulatory Improvement Act of 2015," congress.gov, https://www.congress.gov/bill/114th-congress/senate-bill/1484; Rexrode and Tracy, "From Belgrade to the Pinnacle of Washington's Banking World."

[11] "Olmem, Andrew," OpenSecrets.org, Center for Responsive Politics, https://www.opensecrets.org/revolving/rev_summary.php?id=78014

[12] "Oesterle, Mark," OpenSecrets.org, Center for Responsive Politics

[13] Andrew Ackerman, "'Shelby Mafia' Is Helping Trump Deregulate Wall Street," The Wall Street Journal, December 12, 2017, https://www.wsj.com/articles/shelby-mafia-is-helping-trump-deregulate-wall-street-1513110749

[14] Ackerman, "'Shelby Mafia' Is Helping Trump Deregulate Wall Street"

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