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**Comptroller of the Currency  
Administrators of National Banks**

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Washington, D.C. 20219

**Corporate Decision #97-03  
January 1997**

**DECISION OF THE OFFICE OF THE COMPTROLLER OF THE CURRENCY  
ON THE APPLICATIONS OF  
SUNTRUST BANK, SOUTH GEORGIA, N.A., ALBANY, GEORGIA**

**December 16, 1996**

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**I. INTRODUCTION**

On October 24, 1996, SunTrust Bank, South Georgia, N.A., Albany, Georgia ("SunTrust"), filed an application with the Office of the Comptroller of the Currency ("OCC") for approval to change the location of its main office from 410 West Broad Avenue, Albany, Dougherty County, Georgia, to 1559 U.S. Highway 19 South, Leesburg, Lee County, Georgia, under 12 U.S.C. § 30 ("the Relocation Application"). The proposed location in Leesburg is approximately 6 miles from Albany. After the relocation of its main office, SunTrust will continue to operate its existing branches in Dougherty, Terrell, Thomas, Mitchell, Worth, Tift, and Coffee Counties. On October 24, 1996, SunTrust also applied for approval to establish a branch at the former location of its main office at 410 West Broad Avenue, Albany, Dougherty County, Georgia, under 12 U.S.C. § 36(c) ("the Branch Application").

As of June 30, 1996, SunTrust had approximately \$605 million in assets and \$497 million in deposits. SunTrust is a wholly-owned subsidiary of SunTrust Banks of Georgia, Inc, which is 100% owned by SunTrust Banks, Inc. SunTrust Banks, Inc. is a multi-state bank holding company with its headquarters in Atlanta, Georgia. It owns both state and national banks in Georgia, Florida, Alabama, and Tennessee. After the proposed transactions, SunTrust would operate fourteen offices -- *i.e.*, the new main office in Leesburg, Lee County and the following branches: four branches in Albany, Dougherty County, including a branch at the site of the former main office; three branches in Douglas, Coffee County; two branches in Thomasville, Thomas County; and one branch in each of Dawson, Terrell County; Pelham, Mitchell County; Sylvester, Worth County; and Tifton, Tift County. SunTrust believes that relocation of the main office will enable it to move to a new market area, but one which is a natural extension of its existing Dougherty County market area. The relocation also will provide greater services to its existing customers in Lee County. Moreover, since SunTrust will operate a full service branch

at the former location of its main office in Albany, there will be no reduction in banking services there.

## II. LEGAL AUTHORITY

### A. SunTrust May Relocate its Main Office into Lee County and Continue to Operate its Branches in Dougherty County and the Other Counties under 12 U.S.C. § 30.

In the Relocation Application, SunTrust has applied to move its main office from Albany, Dougherty County, to Leesburg, Lee County, while retaining its existing branches in Dougherty County and the other counties, under 12 U.S.C. § 30. After the relocation, SunTrust will have its main office in Lee County, and branches in Dougherty, Terrell, Thomas, Mitchell, Worth, Tift, and Coffee Counties. This Relocation Application is similar to several prior cross-county relocations previously approved in Georgia. See Decision on the Applications of Embry National Bank, Atlanta, Georgia (OCC Corporate Decision No. 95-35, August 4, 1995) ("OCC Embry Decision"); Decision on the Applications of the First National Bank and Trust Company, Louisville, Georgia (OCC Corporate Decision No. 95-61, November 30, 1995) ("OCC Louisville Decision"); Decision on the Applications of SunTrust Bank Augusta, N.A., Augusta, Georgia (OCC Corporate Decision No. 96-05, January 19, 1996).

Such relocation applications involve the meaning of section 30 and its relationship to section 36, particularly with respect to the authority of a national bank to retain its existing lawfully established branches when it moves its main office to a new location. The OCC has considered these issues in the context of both intrastate and interstate main office relocations in a number of prior applications. Before the passage of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub.L.No. 103-328, 108 Stat. 2338 (enacted September 29, 1994) ("Riegle-Neal Act"), the OCC considered the relationship between sections 30 and 36 with respect to retaining existing branches in an intrastate main office relocation<sup>1</sup> and in interstate main

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<sup>1</sup> In 1991 the OCC approved a cross-county main office relocation and the retention of existing branches in the original county under section 30, where the existing branches could not be re-established anew under the McFadden Act by a national bank with its main office at the new location. See Decision on the Applications of Kentucky National Bank of Marion County and Kentucky National Bank of Pendleton County (July 2, 1991) ("OCC Kentucky National Decision"). Under Kentucky law at that time, banks could have branches only within the county of their main office, except that branches in another county can be acquired by merger with another bank. In these applications, each bank proposed to relocate its main office to the adjoining county while retaining existing branches in its original county. The OCC Kentucky National Decision was challenged. While the case was pending, the banks were acquired by another holding company that already had offices in all the counties and so had no need to continue the relocations. The applications were withdrawn, and the case was dismissed as moot. See Hatchett v. Clarke, No. C-91-0618-L(A) (W.D. Ky. 1991). Earlier, in a 1981 interpretive letter, OCC staff had taken the same position that existing branches were retained under section 30 and were not to be reevaluated under section 36. See OCC Letter from Peter Liebesman, Assistant Director, to Martha R. Seger, Commissioner, Michigan Financial Institutions Bureau (May 22, 1981) ("1981 OCC Letter").

office relocations.<sup>2</sup> Since passage of the Riegle-Neal Act, the OCC has approved additional applications. In those applications we considered the impact of the new interstate branching legislation on national banks' existing authority under sections 30 and 36.<sup>3</sup>

Although SunTrust's Relocation Application does not involve an interstate transaction, the issues arising under sections 30 and 36 are the same. In previous decisions, the OCC determined that section 30 operates independently of section 36. A national bank may move its main office under section 30 to a location whether or not it could establish a branch at that location under section 36(c). Prior caselaw had addressed and confirmed the OCC's interpretation with respect to this half of the transaction. Later, applying the same principles to the other half of the transaction, the OCC also concluded the relocating national bank may continue to operate its existing branches even when those locations could not have been re-established as new branches under section 36(c) from the bank's new main office location. Congressional action in the Riegle-Neal Act clearly confirmed the OCC's interpretation of sections 30 and 36, while changing certain aspects of the power to retain existing branches in the state of the former main office in an interstate relocation after June 1, 1997. Congress did not change the statutes with respect to other circumstances, such as an intrastate relocation. Thus, this Application does not raise new legal issues. The legal analysis and authorities are set forth in the prior decisions, and only a summary will be presented here. The earlier decisions should be consulted for the full analysis.

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<sup>2</sup> See Decision on the Applications of American Security Bank, N.A., and Maryland National Bank (OCC Corporate Decision No. 94-05, February 4, 1994), reprinted in [1993-1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 89,695 ("OCC NationsBank/Maryland National Decision"); Decision on the Applications of First Fidelity Bank, N.A., Pennsylvania and First Fidelity Bank, N.A., New Jersey (OCC Corporate Decision No. 94-04, January 10, 1994), reprinted in [1993-1994 Transfer Binder] Fed. Banking L. Rep. (CCH) ¶ 89,644 ("OCC First Fidelity/New Jersey Decision").

<sup>3</sup> In particular, in several decisions state bank commissioners objected to the transactions. Because of the issues raised by the commissioners, we revisited our analysis of existing law and thoroughly considered the impact of the Riegle-Neal Act on existing authority and the applicability of state law. See Decision on the Applications of Bank Midwest of Kansas, N.A., and Bank Midwest, N.A. (OCC Corporate Decision No. 95-05, February 16, 1995) ("OCC Bank Midwest Decision"); Decision on the Applications of Commercial National Bank of Texarkana (OCC Corporate Decision No. 95-11, March 8, 1995) ("OCC Texarkana Decision"); Decision on the Applications of Fleet National Bank, Providence, Rhode Island, et al. (OCC Corporate Decision No. 96-17, March 27, 1996) ("OCC Fleet Decision"); Decision on the Applications of KeyBank, N.A., and Society National Bank (OCC Corporate Decision No. 96-32, June 14, 1996) ("OCC KeyBank Decision"); Decision on the Applications of Sun World, N.A. (OCC Corporate Decision No. 96-40, August 2, 1996) ("OCC Sun World Decision"); Decision on the Applications of Union Planters Bank, N.A., and Union Planters National Bank (OCC Corporate Decision No. 96-48, August 28, 1996) ("OCC Union Planters Decision"). Some of these decisions are in litigation. See note 6 below. There have been many other interstate relocation decisions after the Riegle-Neal Act that were not protested and litigated. In addition, there have been in-state relocation decisions after the Riegle-Neal Act, such as the Georgia decisions cited in the text above and similar decisions in Kentucky. See, e.g., Decision on the Applications of the Farmers Bank, Butler, Kentucky (OCC Corporate Decision No. 95-39, August 10, 1995).

## **1. The Relocation of SunTrust's Main Office is Authorized.**

The relocation of SunTrust's main office from 410 West Broad Avenue, Albany, Dougherty County, to Leesburg, Lee County, is legally authorized under 12 U.S.C. § 30. Section 30 authorizes a national bank to change the location of its main office to any location within 30 miles of the limits of the city in which its main office is located. SunTrust's proposed move is approximately 6 miles. Such a relocation is authorized by the plain language of the statute, and nothing in the legislative history gives any reason not to adhere to the plain meaning. Section 30 operates independently of section 36, and the authority to relocate a main office is not limited by the McFadden Act. It is well-established that a bank may move its main office to a new location within 30 miles, even if that location is not a location where the bank could have established a branch under section 36(c). See Ramapo Bank v. Camp, 425 F.2d 333, 344 (3d Cir.), cert. denied, 400 U.S. 828 (1970) (in-state relocation); Traverse City State Bank v. Empire National Bank, 228 F.Supp. 984, 992 (W.D. Mich. 1964) (in-state relocation); McEnteer v. Clarke, 644 F.Supp. 290, 292-94 (E.D. Pa. 1986) (interstate relocation); Bank of Western Oklahoma v. First National Bank of Sayre, No. CIV-95-1930-A (W.D. Okla. July 29, 1996) (in-state relocation). But see Marion National Bank of Marion v. Van Buren Bank, 418 F.2d 121, 124 (7th Cir. 1969) (using section 36 to limit section 30 in the in-state relocation of a main office). In these cases, those opposing the transaction argued that section 30 should not be interpreted so as to allow a bank to obtain, through main office relocation, a configuration of offices that it could not establish as branches under section 36(c). In this interpretation, section 30 would not be given full literal effect, but would be understood as impliedly limited by section 36(c). The OCC and the courts rejected this view, holding that section 30 is independent of section 36 and it alone governs main office relocations.

Similarly, section 30 is independent of the Bank Holding Company Act, and the Bank Holding Company Act does not apply to main office relocations. See Synovus Financial Corporation v. Board of Governors of the Federal Reserve System, 952 F.2d 426, 434-37 (D.C. Cir. 1991); McEnteer v. Clarke, 644 F. Supp. 290, 292-93 (E.D. Pa. 1986). See also State of Idaho Department of Finance v. Clarke, 994 F.2d 1441, 1447-49 (9th Cir. 1993). Finally, section 30 preempts state laws that conflict with the authority it confers on national banks. See, e.g., Ramapo Bank, 425 F.2d at 344; McEnteer, 644 F. Supp. at 292-93; Traverse City State Bank, 228 F. Supp. at 992.

Thus, national banks are authorized to move their main office to any location within thirty miles, even across county or state lines. Accordingly, SunTrust may relocate its main office from Dougherty County to Lee County under section 30.

## **2. Suntrust's Continued Operation of its Existing Branches is Authorized.**

When it relocates its main office to Leesburg, Lee County, SunTrust will continue to operate its existing branches in Dougherty, Terrell, Thomas, Mitchell, Worth, Tift, and Coffee Counties. In a number of the OCC's earlier decisions involving the relocation of a national bank's main office across a state line and the continuation of existing branches in the original state, we extensively analyzed the legal authority for the continued operation of existing branches and

concluded that continued operation of such existing branches is legally authorized. This authority to keep existing branches under section 30, without regard to section 36, applies equally to in-state branches.

In these relocation applications, the central legal issue is a national bank's power to retain its existing branches when it moves its main office to a new location. In 1994, Congress expressly addressed this very issue and confirmed the OCC's prior interpretation of the statutes. In two decisions in early 1994, the OCC determined that the bank could continue to operate its existing branches in its original state when it relocated its main office to another state under section 30, without regard to section 36 or state law. We based this statutory conclusion on consideration of many factors, including an extensive review of the statutes, legislative history, caselaw, the development of the statutes, and the impact of branch retention vel non on the exercise of the primary statutory right to move the main office. We found nothing that required existing branches to be divested in a main office relocation, and concluded a congressional intent to require such divestiture could not be inferred from silence. Before the Riegle-Neal Act, the statutory language of sections 30 and 36 did not expressly address this area. The OCC concluded it was Congress' intent that existing branches were retained by examining the overall statutory framework and its historical development. Congress enacted section 30, allowing the main office to relocate, without requiring the divestiture, re-examination, or re-authorization of existing branches. Congress subsequently amended sections 30 and 36 numerous times without indicating any intent to subject the existing branches of a relocating bank to a new re-establishment under section 36. During this development, OCC and court decisions -- such as Ramapo Bank and Traverse City State Bank -- had opined that sections 30 and 36 operated independently and that use of section 30 could result in a configuration of offices that would not be directly permissible under section 36. In the absence of express congressional action requiring that existing lawfully established branches be re-subjected to a de novo analysis under section 36 and divested if they could not be re-established as new branches under section 36(c), we concluded that the intention of the statutory scheme, considered as a whole, was that existing branches were continued. See OCC Bank Midwest Decision (Part II-A-2); OCC NationsBank/Maryland National Decision (Part II-B-1); OCC First Fidelity/New Jersey Decision (Part II-B-1). See also OCC Sun World Decision (Part II-A-2-a, pages 14-16); OCC KeyBank Decision (Part II-A-2-a, pages 14-16).

In the Riegle-Neal Act, Congress made this understanding explicit in its amendments to sections 30 and 36. Congress added a new subsection 30(c) to section 30 that, *for the first time*, expressly limited the authority of a national bank relocating its main office to retain its existing branches by reference to a new standard added in a new provision in section 36(e)(2). The new limitation applies only with respect to certain branches (namely, in an interstate relocation, those branches in the state from which the main office was relocating), and the limitation applies only in transactions occurring after May 31, 1997.<sup>4</sup> In placing a limitation on the authority under

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<sup>4</sup> In the Riegle-Neal Act, Congress added a new subsection (c) to section 30:

Coordination with Revised Statutes. -- In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State from which the bank relocated such office only to the extent

section 30, Congress recognized that authority and confirmed that it continues for branches not covered by the limitation. And, until June 1, 1997, even branches in the state of the former main office may be retained in an interstate relocation under section 30, without regard to the new limitation. Placing a limit on the retention of existing branches in a main office relocation, of course, presupposes the power to retain the branches. If the antecedent power was not present in existing law, there would be no need to impose the limitation. See NationsBank of North Carolina, N.A. v. Variable Annuity Life Insurance Co., 130 L. Ed. 2d 740, 748 (1995) (interpreting 12 U.S.C. § 24(Seventh): "Congress' insertion of the limitation decades after the Act's initial adoption makes sense only if banks already had authority [under the Act]"). Moreover, if Congress did not believe such authority existed, it would hardly have imposed a limitation to begin on June 1, 1997, rather than immediately. Instead, it would have added language to clearly repudiate the OCC's prior interpretation of the statute. In addition, the limitation is imposed only on the ability to keep certain branches: those in the state of the former main office. In other situations, such as an in-state relocation or branches in other states, Congress did not change the branch retention authority of section 30.

The legislative history of these changes is especially illuminating. The Conference Report expressly shows that Congress was aware of existing authority and of OCC analyses and approvals under that authority (such as the OCC NationsBank/Maryland National Decision, the OCC First Fidelity/New Jersey Decision) and expected it to continue until June 1, 1997:

The Comptroller of the Currency (OCC) has used the 30 mile relocation provision of the National Bank Act (section 2 of the Act of May 1, 1886,

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authorized in section 5155(e)(2) of the Revised Statutes [12 U.S.C. § 36(e)(2)].

Riegle-Neal Act § 102(b)(2) (adding subsection (c) to section 30). Congress also added the corresponding new subsection to the Revised Statutes:

(2) Retention of Branches. -- In the case of a national bank which relocates the main office of such bank from 1 State to another State after May 31, 1997, the bank may retain and operate branches within the State which was the bank's home State (as defined in subsection (g)(3)(B) [*i.e.*, the State of its former main office]) before the relocation of such office only to the extent the bank would be authorized, under this section or any other provision of law referred to in paragraph (1), to acquire, establish, or commence to operate a branch in such State if --

(A) the bank had no branches in such State; or

(B) the branch resulted from --

(i) an interstate merger transaction approved pursuant to section 44 of the Federal Deposit Insurance Act; or

(ii) a transaction after May 31, 1997, pursuant to which the bank received assistance from the Federal Deposit Insurance Corporation under section 13(c) of such Act.

Riegle-Neal Act § 102(b)(1)(B) (adding subsection (e)(2) to section 36).

These provisions are intended to place a new limitation on a relocating national bank's authority to keep branches in the state of its former main office. After June 1, 1997, a relocating national bank will be able to keep such branches only in accordance with the branching rules in new section 36(e)(2).

12 U.S.C. 30), to approve several transactions which have permitted national banks to move their main offices to other States but to retain branches in the States left by the main offices. Section 102(b)(2) amends the provision so that after June 1, 1997, a national bank relocating its main office to another state may maintain its branches in the first state only if those branches could have been established by a bank with its home State in the new State. However, along with the OCC's approval for the relocation, the bank would be required to obtain the Comptroller's approval under section 5155 of the Revised Statutes [12 U.S.C. § 36] to continue to operate any remaining branch offices located in State other than the State of its new main office. Thus, the bank would be required to file a consolidated application with the OCC covering both aspects of the transaction; the OCC would be authorized to act on the remaining out-of-State branch aspect of the transaction only pursuant to section 5155. State banks are treated in a similar manner.

The Conferees are aware of the OCC procedures in permitting relocation across state lines. The Conferees concur with those procedures, including the application of appropriate State law and authority. The Conferees expect the OCC to continue to follow those procedures until the provisions of Title I become fully applicable on June 1, 1997.

H.R. Conf. Rep. No. 651, 103d Cong., 2d Sess. 57 (August 2, 1994) (Report on H.R. 3841, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994).

Thus, from the amended statutory language and its legislative history, it is clear Congress understood: (1) that a national bank that relocates its main office keeps its existing branches under section 30, (2) that under existing law a national bank can move its main office across state lines while keeping branches in its former state, and (3) that this existing law is being changed and limited only by the express congressional action in the amendments. See OCC KeyBank Decision (Part II-A-2-b) (fuller, similar analysis of Riegle-Neal Act and section 30); OCC Sun World Decision (Part II-A-2-b & II-A-2-c) (same); OCC Union Planters Decision (Part II-A-2-b & II-A-2-c) (same); OCC Bank Midwest Decision (Parts II-A-2-e & II-D) (same).

In the Riegle-Neal Act, Congress has changed the power of a relocating national bank to retain branches in the state of its former main office. But it made no change to the power under section 30 to retain intrastate branches in an intrastate move of a main office. The OCC's administrative interpretation that section 30 governs main office relocations, including retaining existing branches, without regard to the McFadden Act, was well-known to Congress.<sup>5</sup> When Congress revisits a statute that has an established administrative or judicial interpretation without pertinent change, "congressional failure to revise or repeal the agency's interpretation is

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<sup>5</sup> The two interstate main office relocation decisions to which Congress alluded in the Conference Report (the OCC First Fidelity/New Jersey Decision and OCC NationsBank/Maryland National Decision) had compiled previous OCC and judicial positions on the subject, including OCC's positions on retaining branches in intrastate relocations in the OCC Kentucky National Decision and 1981 OCC Letter.

persuasive evidence that the interpretation is the one intended by Congress." Commodity Futures Trading Commission v. Schor, 478 U.S. 833, 846 (1986) (quoting NLRB v. Bell Aerospace Co., 416 U.S. 267, 274-75 (1974)). See also Cannon v. University of Chicago, 441 U.S. 677, 698-99 (1979) ("[O]ur evaluation of congressional action in 1972 must take into account its contemporary legal context."); Lorillard v. Pons, 434 U.S. 575, 580 (1978) ("Congress is presumed to be aware of an administrative or judicial interpretation of a statute and to adopt that interpretation when it re-enacts a statute without change, [citations omitted]."); Laufman v. Oakley Bldg. & Loan Co., 408 F. Supp. 489, 496 (S.D. Ohio 1976) ("[W]here prior agency interpretations have not been overturned during subsequent congressional reenactment or amendments, these interpretations take on added importance."). This doctrine has even greater force where, as here, Congress explicitly acknowledged the OCC's interpretation, stated it agreed with the OCC's interpretation, and then changed the statute only in one specific way (and even then only for transactions after May 31, 1997). It must be conclusively presumed that Congress intended the statutes to have the meaning as the OCC had interpreted them. Whatever uncertainty may have existed in the statutes on this point before, the Riegle-Neal Act has now clearly established that this was the law.

Accordingly, after the relocation of its main office to Lee County, SunTrust's continued operation of its existing branches in Dougherty, Terrell, Thomas, Mitchell, Worth, Tift, and Coffee Counties is legally authorized under 12 U.S.C. § 30.<sup>6</sup>

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<sup>6</sup> Several of the OCC's approvals of relocation applications are being litigated by state bank commissioners. In two cases, the district courts have ruled for the commissioners, finding that there is no authority to retain existing branches in a main office relocation under section 30, but that instead section 36 limits section 30 and those branches must be reviewed as new branches under section 36. See Ghiglieri v. Ludwig, No. 3:95-CV-2001-H, 1996 U.S. Dist. LEXIS 8321 (N.D. Tex. May 22, 1996), appeal docketed, No. 96-10818 (5th Cir. July 10, 1996) (reviewing OCC Texarkana Decision); Ghiglieri v. Sun World, N.A., No. EP-96-CA-324-DB, 1996 U.S. Dist. LEXIS 16230 (W.D. Tex. October 29, 1996), appeal docketed, No. 96-50847 (5th Cir. November 5, 1996) (reviewing OCC Sun World Decision). The OCC believes these decisions are clearly erroneous both with respect to sections 30 and 36 without regard to the Riegle-Neal Act, and especially in light of the Riegle-Neal Act, as explained in OCC KeyBank Decision; OCC Sun World Decision; and OCC Union Planters Decision. The decisions are under appeal. However, even if upheld, those district court opinions would not necessarily be applicable to SunTrust's Relocation Application here. First, they involved interstate relocations. Second, even if the position that sections 30 and 36 must be read together and section 30 limited by section 36 is extended to an in-state relocation, SunTrust's proposed transaction would still be permissible because SunTrust in fact could have established a branch at the new main office location in Leesburg under section 36(c), or from that new main office location could have established a branch in Dougherty County under section 36(c). See O.C.G.A. § 7-1-601(c)(1) (effective July 1, 1996). Similarly, retention of the branches in the other counties is permissible, even under a section 36(c) standard, because a similarly situated state bank would not be required to divest them. See O.C.G.A. § 7-1-510(a)(7) (in a state bank's change of county of location, only offices in the county from which it is moving are affected). In another interstate relocation and merger case, the district court also decided for the state bank commissioner, but on grounds that relate uniquely to the interstate merger aspect of the transaction. See Burke v. Ludwig, No. 3:96-CV-0579 (AVC) (D. Conn. September 11, 1996), appeal docketed, No. 96-6233 (2d Cir. September 26, 1996) (reviewing OCC Fleet Decision).

**B. After the Relocation, SunTrust may Establish a Branch at the Site of its Former Main Office in Dougherty County, Georgia, under 12 U.S.C. § 36(c).**

After the relocation, SunTrust will have its main office in Leesburg, Lee County, and branches in Dougherty, Terrell, Thomas, Mitchell, Worth, Tift, and Coffee Counties. In the Branch Application, SunTrust has applied to establish a branch at the site of its former main office in Albany, Dougherty County, under 12 U.S.C. § 36(c). The McFadden Act authorizes a national bank to establish new branches

at any point within the State in which said association is situated, if such establishment and operation are at the time authorized to State banks by the statute law of the State in question . . . .

12 U.S.C. § 36(c)(2). In the Branch Application, then, we must determine how section 36(c)(2) applies to a national bank in SunTrust's situation after the relocation. We find that the proposed branch is legally authorized under 12 U.S.C. § 36(c).

Under Georgia branching laws, state banks may establish branches in several ways. First and most basic, a bank may establish "bank offices" at any location "within the same county in which [the] parent bank or branch bank is situated." O.C.G.A. § 7-1-602(a). A "bank office" is a place which is authorized to provide complete banking services, see O.C.G.A. § 7-1-600(4), and thus it is a "branch" for McFadden Act purposes.<sup>7</sup> See 12 U.S.C. § 36(j). Second, "branch banks" (i.e., an additional principal place of business in another county) may be established de novo or by mergers with certain other banks. See O.C.G.A. §§ 7-1-601(c)(1) (new or additional branch banks de novo), 7-1-606(e) (certain affiliate mergers) & 7-1-601(c)(3) (mergers with failed institutions).

In order to apply the Georgia branching provisions under 12 U.S.C. § 36(c) to SunTrust's branch application, we must determine how the Georgia terminology would apply to a national

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<sup>7</sup> The definitions of "bank office," "branch bank," and "parent bank" are as follows:

(4) "Bank office" means any additional place of business of a parent bank or a branch bank located in the same county in which said parent bank or branch bank is situated and which has obtained a permit to operate a complete banking service in the manner and under the conditions provided in this part.

(5) "Branch bank" means any additional principal place of business of any parent bank located in a county other than in the county which is specified in the articles of the parent bank and wherein the parent bank is situated.

. . . . .

(8) "Parent bank" means the principal place of business where the general business of each bank shall be transacted in the particular city, town, or village specified in its articles.

O.C.G.A. § 7-1-600(4), (5) & (8). A "branch bank" or "parent bank" may also be branches for McFadden Act purposes under 12 U.S.C. § 36(j) since they are places at which deposits are received, or checks paid, or money lent.

bank; that is, what offices of a national bank correspond to the various offices set forth in the Georgia Code for a Georgia state bank. SunTrust's application relies on O.C.G.A. § 7-1-602(a) because, with its previously existing branches in Albany, Dougherty County at 1100 Gillionville Road, 2409 Dawson Road, and 300 S. Mock Road, the bank believes it may establish additional Dougherty County branches. Whether SunTrust may establish a branch at the former main office site depends on the status of the existing branches under Georgia branching law.

SunTrust has advised the OCC that when it relocates its main office to Leesburg, Lee County, it will designate the branch at 1100 Gillionville Road ("Gillionville") to be its parent bank, for purposes of Georgia branching law. In the OCC's recent decisions involving Georgia cross-county relocations under section 30, we determined that any office of a national bank may be designated its parent bank in accordance with Georgia law. See OCC Embry Decision; OCC Louisville Decision. These decisions provide a thorough review of Georgia law and the reasoning for our determination and should be consulted for the full analysis. In summary, we found no judicial precedent on the meaning of the term "parent bank" in the context of Georgia branching law. Thus, in applying the McFadden Act by interpreting and applying state law administratively, we determined that "parent bank" does not appear to denote a clearly specified, singular thing - it may refer to the banking institution itself, or it may refer to an office of the bank. It does not signify the only principal place of business of a bank; a branch bank also is a principal place of business but in a county other than the parent bank's. It also does not have to be the bank's "registered office," see O.C.G.A. § 7-1-132,<sup>8</sup> nor does it have to be in the same county as the county set forth in the bank's articles of association as the location of the bank. We also determined that the designation of the parent bank, as well as the registered office and the bank's location can be changed independently of each other. Based on our analysis of Georgia law, we determined that a national bank's main office most closely corresponds to a registered office. Because the "parent bank" office of a Georgia state bank legally does not have to be the same as its registered office, the "parent bank" office of a national bank does not have to be the same as its main office in applying Georgia branching law for section 36(c) purposes.

Since SunTrust has designated the Gillionville branch as its "parent bank" office for Georgia branching law purposes, it is clear that SunTrust may establish a branch at the former main office location. Georgia law permits state banks to establish additional banking offices in any county where the bank has a parent bank or a branch bank. See O.C.G.A. § 7-1-602(a). Banking offices operate a complete banking service, see O.C.G.A. § 7-1-600(4), and are considered branches under the McFadden Act, 12 U.S.C. § 36(c). For purposes of applying Georgia branching law through section 36(c), SunTrust has its parent bank in Dougherty County. A Georgia state-chartered bank with a parent bank in Dougherty County may establish a bank office in Dougherty County. Therefore, SunTrust may establish a branch at the former main office site in Albany, Dougherty County.

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<sup>8</sup> Our conclusion that state law does not require a state bank to have its "parent bank" in the same location as its registered office was confirmed by E.D. Dunn, Commissioner of the Georgia Department of Banking and Finance, in a letter dated July 31, 1995.

### **III. ADDITIONAL STATUTORY AND POLICY REVIEWS**

The Community Reinvestment Act (CRA) requires the OCC to take into account the applicant's record of helping to meet the credit needs of its entire community, including low- and moderate-income neighborhoods, when evaluating certain applications. See 12 U.S.C. § 2903. SunTrust has received a satisfactory rating from the OCC with respect to its CRA performance.

The Albany-Dougherty National Association for the Advancement for Colored People ("NAACP") protested the main office relocation application. Letter from William Wright, dated November 12, 1996. The NAACP primarily asserts that, if the Bank relocates its main office to the suburbs, the low- and moderate-income residents of Albany will be greatly disadvantaged due to a reduction in banking services. However, the main office relocation will not result in a reduction of banking services at the present downtown Albany location. In a letter to the NAACP dated November 21, 1996, SunTrust clarified that it has no intention of reducing the range of products or services, staffing levels, or hours of operation at its downtown location when that location becomes a branch.

The OCC also investigated and thoroughly considered the other comments submitted by the NAACP and found that they do not raise issues that would warrant a denial of these applications or cause the OCC to find that the record of SunTrust in helping to meet the credit needs of its market, including low- and moderate-income neighborhoods, has deteriorated since our last CRA examination. We conducted a targeted investigation of SunTrust's CRA performance. Our examiners reviewed Home Mortgage Disclosure Act ("HMDA") data for SunTrust for years 1994, 1995, and year to date 1996. Our analysis of HMDA loan data reflects a reasonable level of lending by SunTrust to low- and moderate-income individuals (LMI) and in LMI areas, based on the size of the bank and local competitive factors. We also discussed with SunTrust management the most recent HMDA data for the assessment area, branching and banking services in Dougherty County, and community development activities. An OCC Community Reinvestment and Development Specialist also contributed to our decision process by holding informal discussions with Albany government, banking, and community leaders on community needs. Further, we understand that the NAACP and the bank have met and discussed community needs such as minority business development. The OCC has addressed in detail the specific issues raised by the NAACP in separate correspondence, a copy of which is attached as Appendix A to this Decision.

### **IV. CONCLUSION AND APPROVAL**

For the reasons set forth above, the Relocation Application and the Branch Application are legally authorized. The transactions also meet the criteria for approval under other statutory factors. Accordingly, these applications are hereby approved.

