

500614

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PROFESSIONAL ASSOCIATION

ATTORNEYS AT LAW

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June 9, 1999

*Via Federal Express*

Ms. Karon Beyer  
Florida Secretary of State  
Division of Corporations  
Bureau of Corporate Records  
409 East Gaines Street  
Tallahassee, FL 32399

500002900655--3  
-06/10/99--01059--002  
\*\*\*\*\*87.50 \*\*\*\*\*87.50

Re: South Florida Bank Holding Corporation/Fifth Third Bancorp

Dear Karon:

Enclosed are three manually signed copies of Articles of Merger relating to the merger of South Florida Bank Holding Corporation with and into Fifth Third Bancorp. Please note that no change in the Articles of Merger were made from those that were sent to you on May 26, 1999 for pre-clearance. Also enclosed is a check in the amount of \$87.50. I would appreciate it if you could have the enclosed Articles of Merger filed with the Florida Secretary of State on Friday, June 11, 1999. I also would appreciate it if you would call my office on that date to confirm that the Articles of Merger have been filed. After they have been filed, please send me two certified copies of the Articles of Merger (using the enclosed documents).

As always, I very much appreciate the assistance that you have provided. If you have any questions regarding the foregoing, please do not hesitate to call me at your convenience.

Very truly yours,

John P. Greeley

JPG:erw  
Enclosures  
Copy to:

William P. Valenti, President and Chief Executive Officer w/o enclosure via facsimile  
South Florida Bank Holding Corporation

Ann M. Blase, Esquire via facsimile  
Fifth Third Bancorp

FILED  
99 JUN 11 AM 9:15  
SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

merger

S. PAYNE JUN 11 1999

ARTICLES OF MERGER  
Merger Sheet

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MERGING:

SOUTH FLORIDA BANK HOLDING CORPORATION, a FL corp., S00614

INTO

**FIFTH THIRD BANCORP** an Ohio corporation not qualified in Florida

File date: June 11, 1999

Corporate Specialist: Susan Payne

FILED

99 JUN 11 AM 9:15

**ARTICLES OF MERGER  
OF  
SOUTH FLORIDA BANK HOLDING CORPORATION  
INTO  
FIFTH THIRD BANCORP**

SECRETARY OF STATE  
TALLAHASSEE, FLORIDA

Pursuant to the provisions of Section 607.1105 of the Florida Business Corporation Act (the "Act"), SOUTH FLORIDA BANK HOLDING CORPORATION, a Florida corporation, and FIFTH THIRD BANCORP, an Ohio corporation, do hereby adopt the following Articles of Merger:

**FIRST:** The names of the corporations which are parties to the merger (the "Merger") contemplated by these Articles of Merger are SOUTH FLORIDA BANK HOLDING CORPORATION and FIFTH THIRD BANCORP. The surviving corporation in the Merger is FIFTH THIRD BANCORP.

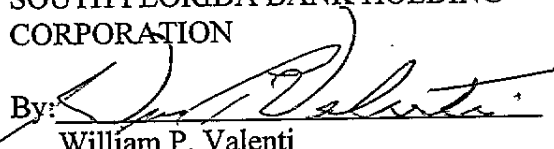
**SECOND:** The Affiliation Agreement entered into between SOUTH FLORIDA BANK HOLDING CORPORATION and FIFTH THIRD BANCORP which serves as the Plan of Merger related to the Merger is attached hereto as Exhibit A and made a part hereof by reference as if fully set forth herein.

**THIRD:** The Merger shall become effective as of the close of business on June 11, 1999.

**FOURTH:** The Agreement was adopted by the shareholders of SOUTH FLORIDA BANK HOLDING CORPORATION on May 12, 1999. The Agreement was adopted by the board of directors of FIFTH THIRD BANCORP on December 15, 1998. The shareholders of FIFTH THIRD BANCORP were not required to approve the Agreement.

IN WITNESS WHEREOF, the parties have caused these Articles of Merger to be executed effective as of June 11, 1999.

SOUTH FLORIDA BANK HOLDING  
CORPORATION

By:   
William P. Valenti  
Its: President and Chief Executive Officer

FIFTH THIRD BANCORP

By: 

Its: 

STATE OF FLORIDA  
COUNTY OF LEE

The foregoing instrument was acknowledged before me this 1<sup>st</sup> day of June, 1999, by William P. Valenti as President and Chief Executive Officer of South Florida Bank Holding Corporation, a Florida corporation.



Betty G. Kersten  
Printed Name: Betty G. Kersten  
Notary Public, State of Florida

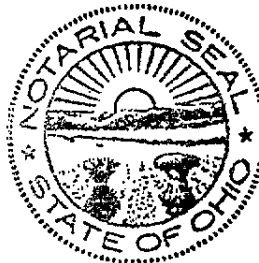
Personally Known ☒ or Produced Identification ☐  
Type of Identification Produced n/a

STATE OF OHIO  
COUNTY OF HAMILTON

The foregoing instrument was acknowledged before me this 2<sup>nd</sup> day of June, 1999, by Paul L. Reynolds as Assistant Vice President of Fifth Third Bancorp, an Ohio corporation.

Ann M. Blase  
Printed Name: ANN M. BLASE  
Notary Public, State of Ohio

Personally Known ☒ or Produced Identification ☐  
Type of Identification Produced N/A



ANN M. BLASE  
Notary Public, State of Ohio  
My Commission Expires Feb. 18, 2004

EXHIBIT A  
TO  
ARTICLES OF MERGER  
OF  
SOUTH FLORIDA BANK HOLDING CORPORATION  
INTO  
FIFTH THIRD BANCORP

## AFFILIATION AGREEMENT

This Affiliation Agreement ("Agreement") dated as of October 22, 1998 is entered into by and between **FIFTH THIRD BANCORP**, a corporation organized and existing under the corporation laws of the State of Ohio with its principal office located in Cincinnati, Hamilton County, Ohio ("Fifth Third"), and **SOUTH FLORIDA BANK HOLDING CORPORATION**, a corporation organized and existing under the corporation laws of the State of Florida, with its principal office located in Ft. Myers, Lee County, Florida ("South Florida Bank Holding").

### WITNESSETH:

WHEREAS, Fifth Third is a registered bank holding company under the Bank Holding Company Act of 1956, as amended, and South Florida Bank Holding is a registered bank holding company under the Bank Holding Company Act of 1956, as amended;

WHEREAS, Fifth Third and South Florida Bank Holding desire to effect a merger under the authority and provisions of the corporation laws of the State of Ohio and the State of Florida pursuant to which at the Effective Time (as herein defined in Article IX) South Florida Bank Holding will be merged into Fifth Third, with Fifth Third to be and become the surviving corporation (the "Merger");

WHEREAS, South Florida Bank Holding owns all of the outstanding stock of South Florida Bank, a Florida banking corporation ("Bank Subsidiary") which, at the Effective Time, will be merged with and into Fifth Third's wholly-owned subsidiary The Fifth Third Bank of Florida, a Florida banking corporation ("Fifth Third Bank") with Fifth Third Bank to become the surviving corporation (the "Subsidiary Merger");

WHEREAS, under the terms of this Agreement each of the issued and outstanding shares of the Common Stock, \$.01 par value per share, of South Florida Bank Holding which are issued and outstanding (excluding any treasury shares, any preferred shares and shares as to which dissenter's rights have been asserted in accordance with Florida General Corporate Law ("Dissenting Shares")) immediately prior to the Effective Time will, at the Effective Time, be canceled and extinguished and in substitution therefor such South Florida Bank Holding shares will, at the Effective Time, be converted into shares of the Common Stock, without par value, of Fifth Third ("Fifth Third Common Stock"), all as more fully provided in this Agreement;

WHEREAS, the parties to this Agreement intend that the Merger qualify as a "reorganization" within the meaning of Section 368(a)(1)(A) and related provisions of the Internal Revenue Code of 1986, as amended (the "Code");

NOW, THEREFORE, in consideration of the mutual covenants herein contained, Fifth Third and South Florida Bank Holding, agree together as follows:

#### **I. *Mode of Effectuating Conversion of Shares***

A. Upon the terms and conditions set forth in the Agreement, South Florida Bank Holding shall be merged into Fifth Third.

B. At the Effective Time (as defined in Article IX), all of the shares of Fifth Third Common Stock that are issued and outstanding or held by Fifth Third as treasury shares immediately prior to the Effective Time will remain unchanged and will remain outstanding or as treasury shares, as the case may be, of the Surviving Corporation. Any stock options, subscription rights, warrants or other securities outstanding immediately prior to the Effective Time, entitling the holders to subscribe for purchase of any shares of the capital stock of any class of Fifth Third, and any securities outstanding at such time that are convertible into shares of the capital stock of any class

of Fifth Third will remain unchanged and will remain outstanding, with the holders thereof entitled to subscribe for, purchase or convert their securities into the number of shares of the class of capital stock of Fifth Third to which they are entitled under the terms of the governing documents.

C. At the Effective Time, each of the shares of the Common Stock, \$.01 par value per share, of South Florida Bank Holding that is issued and outstanding immediately prior to the Effective Time ("South Florida Bank Holding Common Stock"), other than dissenting shares, will, when the Merger becomes effective, be converted by virtue of the Merger and without further action, into .34800 shares of Fifth Third Common Stock (the "Exchange Ratio"), subject to adjustment as provided in Article I, Section E below. All issued and outstanding shares of the Preferred Stock of South Florida Bank Holding, if any, shall be canceled at the Effective Time. At the Effective Time, all shares of South Florida Bank Holding Common Stock held in treasury will be canceled and terminated and will not be converted into shares of Fifth Third Common Stock.

D. At the Effective Time, all of the shares of South Florida Bank Holding Common Stock, whether issued or unissued (including treasury shares), will be canceled and extinguished and the holders of certificates for shares thereof shall cease to have any rights as shareholders of South Florida Bank Holding, except as aforesaid, their sole rights as shareholders shall pertain to the Fifth Third Common Stock and cash in lieu of fractional shares, if any (as described in the immediately succeeding paragraph), into which their South Florida Bank Holding Common Stock shall have been converted by virtue of the Merger.

E. After the Effective Time, each holder of a certificate or certificates for shares of South Florida Bank Holding Common Stock, upon surrender of the same duly transmitted to Fifth Third Trust Department, as Exchange Agent (or in lieu of surrendering such certificates in the case of lost, stolen, destroyed or mislaid certificates, upon execution of such documentation as may be reasonably required by Fifth Third), shall be entitled to receive in exchange therefor a certificate or certificates representing the number of whole shares of Fifth Third Common Stock into which such holder's shares of South Florida Bank Holding Common Stock shall have been converted by the Merger pursuant to the Exchange Ratio, plus a cash payment for any fraction of a share to which the holder is entitled, in lieu of such fraction of a share, calculated in accordance with the Exchange Ratio based upon a value of the shares at the Effective Time. Within seven (7) business days after the Effective Time, the Exchange Agent will send a notice and transmittal form to each South Florida Bank Holding shareholder of record at the Effective Time advising such shareholder of the effectiveness of the Merger and the procedures for surrendering to the Exchange Agent outstanding certificates formerly evidencing South Florida Bank Holding Common Stock in exchange for new certificates of Fifth Third Common Stock. Until so surrendered, each outstanding certificate that prior to the Effective Time represented shares of South Florida Bank Holding Common Stock shall be deemed for all corporate purposes to evidence ownership of the number of full shares of Fifth Third Common Stock into which the same shall have been converted; provided, however, that dividends or distributions otherwise payable with respect to shares of Fifth Third Common Stock into which South Florida Bank Holding Common Stock shall have been so converted shall be paid with respect to such shares only when the certificate or certificates evidencing shares of South Florida Bank Holding Common Stock (other than Dissenting Shares) shall have been so surrendered (or in lieu of surrendering such certificates in the case of lost, stolen, destroyed or mislaid certificates, upon execution of such documentation as may be reasonably required by Fifth Third) and thereupon any such dividends and distributions shall be paid, without interest, to the holder entitled thereto subject however to the operation of any applicable escheat or similar laws relating to unclaimed funds.

F. The Exchange Ratio referred to in Paragraph C of this Article I shall be adjusted so as to give the South Florida Bank Holding shareholders the economic benefit of any stock dividends, reclassifications, recapitalizations, split-ups, exchanges of shares, distributions or combinations or

subdivisions of Fifth Third Common Stock effected between the date of this Agreement and the Effective Time. In the event between the date of this Agreement and the Effective Time, Fifth Third has engaged in either the distribution of any of its assets (other than a cash dividend), or caused the distribution of capital stock in a company which holds any asset(s) previously held by Fifth Third or in any affiliate thereof, to Fifth Third shareholders, then the Exchange Ratio shall be increased in such amount so that the equivalent fair market value of such transaction shall also be distributed to the South Florida Bank Holding shareholders, as of the Effective Time.

G. When all necessary documents have been filed and recorded in accordance with the laws of the State of Ohio and State of Florida, and the Merger becomes effective, the separate existence of South Florida Bank Holding shall cease and South Florida Bank Holding shall be merged into Fifth Third (which will be the "Surviving Corporation"), and which shall continue its corporate existence under the laws of the State of Ohio under the name "Fifth Third Bancorp".

H. The Second Amended Articles of Incorporation, as amended, of Fifth Third of record with the Secretary of State of Ohio as of the Effective Time shall be the Articles of Incorporation of the Surviving Corporation, until further amended as provided by law.

I. The Directors of Fifth Third who are in office at the Effective Time shall be the directors of the Surviving Corporation, each of whom shall continue to serve as a Director for the term for which he was elected, subject to the Regulations of the Surviving Corporation and in accordance with law. The officers of Fifth Third who are in office at the time the Merger becomes effective shall be the officers of the Surviving Corporation, subject to the Regulations of the Surviving Corporation and in accordance with law.

J. The Regulations of Fifth Third at the Effective Time shall be the Regulations of the Surviving Corporation, until amended as provided therein and in accordance with law.

K. At the Effective Time, the effect of the Merger and the Subsidiary Merger shall be as provided by the applicable provisions of the laws of the State of Ohio and the State of Florida. Without limiting the generality of the foregoing, and subject thereto, at the Effective Time: the separate existence of South Florida Bank Holding shall cease; Fifth Third shall possess all assets and property of every description, and every interest therein, wherever located, and the rights, privileges, immunities, powers, franchises and authority, of a public as well as a private nature, of each of Fifth Third and South Florida Bank Holding, and all obligations owing by or due each of Fifth Third and South Florida Bank Holding shall be vested in, and become the obligations of, Fifth Third, without further act or deed, including, without limitation, any liability to Dissenting Shareholders under Florida law; and all rights of creditors of each of Fifth Third and South Florida Bank Holding shall be preserved unimpaired, and all liens upon the property of each of Fifth Third and South Florida Bank Holding shall be preserved unimpaired, on only the property affected by such liens immediately prior to the Effective Time.

L. From time to time as and when requested by the Surviving Corporation, or by its successors or assigns, the officers and Directors of South Florida Bank Holding in office at the Effective Time shall execute and deliver such instruments and shall take or causes to be taken such further or other action as shall be necessary in order to vest or perfect in the Surviving Corporation or to confirm of record or otherwise, title to, and possession of, all the assets, property, interests, rights, privileges, immunities, powers, franchises and authority of South Florida Bank Holding and otherwise to carry out the purposes of this Agreement.

M. This Agreement shall be filed (only if necessary) and recorded along with Articles or a Certificate of Merger in accordance with the requirements of the laws of the State of Ohio and the State of Florida. This Agreement and any Certificates of Merger shall not be filed with the



Secretary of the State of Ohio or the State of Florida until, but shall be filed promptly after, all of the conditions precedent to consummating the Merger as contained in Article VI of this Agreement shall have been fully met or effectively waived.

N. The Merger is reorganization within the meaning of Section 368(a) of the Code, and the Agreement is intended to be a "plan of reorganization" within the meaning of the regulations promulgated under the Code and for purposes of Section 354 and 361 of the Code.

## **II. *Representations and Warranties of South Florida Bank Holding.***

South Florida Bank Holding represents and warrants to Fifth Third that as of the date hereof or as of the indicated date, as appropriate, and except as otherwise disclosed in Schedule 1 hereto delivered by South Florida Bank Holding to Fifth Third in connection with the execution of this Agreement by Fifth Third:

A. South Florida Bank Holding (i) is duly incorporated, validly existing and in good standing as a corporation under the corporation laws of the State of Florida and is a registered bank holding company under the Bank Holding Company Act of 1956, as amended; (ii) is duly authorized to conduct the business in which it is engaged; (iii) has 10,000,000 shares, \$.01 par value per share, of South Florida Bank Holding Common Stock authorized pursuant to its Articles of Incorporation, which are the total number of shares South Florida Bank Holding is authorized to have outstanding; (iv) has no outstanding securities of any kind, nor any outstanding options, warrants or other rights entitling another person to acquire any securities of South Florida Bank Holding of any kind, other than (a) 1,265,350 shares of South Florida Bank Holding Common Stock, which presently are authorized, duly issued and outstanding and fully paid and non-assessable, and (b) options to purchase a total of 7,125 shares of South Florida Bank Holding Common Stock which were granted to and are currently held by the officers of South Florida Bank Holding and/or Bank Subsidiary; and (v) owns of record and beneficially free and clear of all liens and encumbrances, all of the 796,475 outstanding shares of the capital stock of the Bank Subsidiary, \$5.50 par value per share. South Florida Bank Holding has no direct or indirect subsidiaries other than Bank Subsidiary.

B. Bank Subsidiary is duly incorporated, validly existing and in good standing as a banking corporation under the laws of the State of Florida, and has all the requisite power and authority to conduct the banking business as now conducted by it; and Bank Subsidiary does not have any outstanding securities of any kind, nor any outstanding options, warrants or other rights entitling another person to acquire any securities of any of the Bank Subsidiary of any kind, other than 796,475 shares of the capital stock, \$5.50 par value per share, of all of the Bank Subsidiary owned of record and beneficially by South Florida Bank Holding.

C. South Florida Bank Holding has previously furnished to Fifth Third its audited, consolidated balance sheets, statements of operations, statements of stockholders' equity and cash flows as at December 31, 1997, and for the year then ended, together with the opinions of its independent certified public accountants associated therewith. South Florida Bank Holding also has previously furnished to Fifth Third audited, consolidated balance sheets, statements of operations, statements of stockholders' equity and cash flows as at December 31, 1994, 1995, 1996. South Florida Bank Holding also has furnished to Fifth Third its unaudited, consolidated financial statements as at March 31, 1998, for the three (3) months then ended, June 30, 1998, for the six (6) months then ended, and of the Bank Subsidiary for the quarters ending March 31, 1998 and June 30, 1998. Such audited consolidated financial statements of South Florida Bank Holding fairly present the consolidated financial condition of South Florida Bank Holding as of the date thereof, and for the years or periods covered thereby in conformity with generally accepted accounting principles, consistently applied ("GAAP"). There are no material liabilities, obligations or indebtedness of South Florida Bank Holding or the Bank Subsidiary required to be disclosed in the

financial statements so furnished other than the liabilities, obligations or indebtedness disclosed in such financial statements (including footnotes). South Florida Bank Holding shall furnish Fifth Third with unaudited, consolidated financial statements as at September 30, 1998 and as at March 31, 1999 and for the quarters then ended as soon as practicable, and shall continue to furnish such financial information for subsequent monthly and quarterly periods to Fifth Third as soon as practicable until the Closing Date. In the event that the Closing Date does not occur before March 31, 1999, South Florida Bank Holding shall furnish Fifth Third with its audited, consolidated financial statements as at December 31, 1998 for the quarter and year then ended and its unaudited, consolidated financial as soon as they are reasonably available.

D. South Florida Bank Holding and the Bank Subsidiary have good and marketable title to all of the material properties and assets reflected in its separate statement of financial condition as at June 30, 1998, and which are still owned by each and each has good and marketable title to all material properties and assets acquired by it after such date and still owned by it, subject to (i) any liens and encumbrances that do not materially adversely impair the use of the property, (ii) statutory liens for taxes not yet due and payable, and (iii) minor defects and irregularities in title that do not materially adversely impair the use of the property.

E. Except as disclosed in Schedule 1 and for events relating to the business environment in general: (i) since June 30, 1998, to the date hereof there have been no material adverse changes in the financial condition, operations, business or prospects of South Florida Bank Holding and the Bank Subsidiary on a consolidated or separate basis; (ii) South Florida Bank Holding is not aware of any events which have occurred since June 30, 1998 to the date hereof or which as of the date hereof are reasonably certain to occur in the future and which reasonably can be expected to result in any material adverse change in the financial condition, operations, business or prospects of South Florida Bank Holding and the Bank Subsidiary on a consolidated or separate basis, excluding in each instance matters (which shall include but not be limited to changes in general economic condition, changes in interest rates, changes in laws or regulations or changes in GAAP) of general application to the banking industry; and (iii) since June 30, 1998, to the date hereof there have been no material changes in the methods of business operations of South Florida Bank Holding and the Bank Subsidiary.

F. Except as disclosed in Schedule 1, there are no actions, suits, proceedings, investigations or assessments of any kind pending, or to the best knowledge of South Florida Bank Holding, threatened against South Florida Bank Holding or the Bank Subsidiary which reasonably can be expected to result in any material adverse change in the financial condition, operations, business or prospects of South Florida Bank Holding and the Bank Subsidiary on a consolidated or separate basis.

G. Except as disclosed in Schedule 1, since June 30, 1998, to the date hereof South Florida Bank Holding and the Bank Subsidiary each has been operated in the ordinary course of business, has not made any changes in its respective capital or corporate structures, nor any material changes in its methods of business operations and has not provided any increases in employee salaries or benefits other than in the ordinary course of business. Except as disclosed in Schedule 1, since June 30, 1998, to the date hereof South Florida Bank Holding has not declared or paid any dividends nor made any distributions of any other kind to its shareholders.

H. Except as disclosed in Schedule 1, South Florida Bank Holding and the Bank Subsidiary have timely filed all federal, state and local tax returns required to be filed (after giving effect to all extensions) by them, respectively, and have paid or provided for all tax liabilities shown to be due thereon or which have been assessed against them, respectively. All tax returns filed by South Florida Bank Holding or the Bank Subsidiary through the date hereof constitute complete and accurate representations of the tax liabilities of South Florida Bank Holding and the Bank

Subsidiary for such years and accurately set forth all items (to the extent required to be included or reflected in such returns) relevant to its future tax liabilities, including the tax basis of its properties and assets in all material respects.

I. Except as disclosed in Schedule 1, neither South Florida Bank Holding nor the Bank Subsidiary is a party to (i) any written employment contracts or written contracts of any other kind with any of its officers, Directors or employees or (ii) any material contract, lease or agreement of any other kind which is not assignable as a result of the merger provided for herein without the consent of another party, except for contracts, leases or agreements which do not have terms extending beyond six months from the date of this Agreement or contracts, leases or agreements (excluding contracts, leases and agreements pursuant to which credit has been extended by the Bank Subsidiary) which do not require the annual expenditure of more than \$15,000.00 thereunder.

J. Except as disclosed in Schedule 1, since June 30, 1998, to the date hereof the Bank Subsidiary has not incurred any unusual or extraordinary loan losses which are material to South Florida Bank Holding and the Bank Subsidiary on a consolidated basis; to the best knowledge of South Florida Bank Holding and in light of the Bank Subsidiary's historical loan loss experience and its management's analysis of the quality and performance of its loan portfolio, as of June 30, 1998, its reserve for loan losses was, in the opinion of South Florida Bank Holding, adequate to absorb all known and reasonably anticipated losses as of such date.

K. Except as disclosed in Schedule 1, neither South Florida Bank Holding nor the Bank Subsidiary has, directly or indirectly, dealt with any broker or finder in connection with this transaction and neither has incurred or will incur any obligation for any broker's or finder's fee or commission in connection with the transactions provided for in this Agreement.

L. 1. The Directors of South Florida Bank Holding, by resolution adopted by the unanimous vote of all Directors present at a meeting duly called and held in accordance with applicable law, have duly approved this Agreement, and have directed that this Agreement be submitted to a vote of South Florida Bank Holding's shareholders at the annual or a special meeting of the shareholders to be called for that purpose, all in accordance with and as required by law and in accordance with the Articles of Incorporation and Bylaws of South Florida Bank Holding.

2. South Florida Bank Holding has the corporate power and authority to enter into this Agreement and to carry out its obligations hereunder subject to certain required regulatory and shareholder approvals. The Agreement, when executed and delivered, will have been duly authorized and will constitute a valid and binding obligations of South Florida Bank Holding, enforceable in accordance with its terms, subject, however, to the receipt of requisite regulatory approvals and the approval of South Florida Bank Holding's shareholders.

3. Except as disclosed in Schedule 1, neither the execution of the Agreement, nor the consummation of the transactions contemplated hereby and thereby, (i) conflicts with, results in a breach of, violates or constitutes a default under, South Florida Bank Holding's Articles of Incorporation or Bylaws or, to the best knowledge of South Florida Bank Holding, any federal, state or local law, statute, ordinance, rule, regulation or court or administrative order, or any agreement, arrangement, or commitment, to which South Florida Bank Holding or the Bank Subsidiary is subject or bound; (ii) to the best knowledge of South Florida Bank Holding, results in the creation of or gives any person the right to create any material lien, charge, encumbrance, or security agreement or any other material rights of others or other material adverse interest upon any material right, property or asset belonging to South Florida Bank Holding or the Bank Subsidiary; (iii) except as disclosed in Schedule 1, conflicts with, results in a breach of, violates or constitutes a default under, terminates or gives any person the right to terminate, amend, abandon, or refuse to perform any material agreement, arrangement or commitment to which South Florida Bank

Holding or the Bank Subsidiary is a party or by which South Florida Bank Holding's or the Bank Subsidiary's rights, properties or assets are subject or bound; or (iv) to the best knowledge of South Florida Bank Holding, accelerates or modifies, or gives any party thereto the right to accelerate or modify, the time within which, or the terms according to which, South Florida Bank Holding or the Bank Subsidiary is to perform any duties or obligations or receive any rights or benefits under any material agreements, arrangements or commitments. For purposes of subparagraphs (iii) and (iv) immediately preceding, material agreements, arrangements or commitments exclude agreements, arrangements or commitments having a term expiring less than six months from the date of this Agreement or which do not require the expenditure of more than \$15,000 (but shall include all agreements, arrangements or commitments pursuant to which credit has been extended by the Bank Subsidiary).

M. Complete and accurate copies of the (i) Articles of Incorporation and Bylaws of South Florida Bank Holding, and (ii) the Articles of Incorporation and Bylaws of the Bank Subsidiary in force as of the date hereof have been delivered to Fifth Third.

N. Except as disclosed in Schedule 1, neither South Florida Bank Holding nor the Bank Subsidiary nor any employee, officer or Director of any of them has knowingly engaged in any activity or omitted to take any action which, in any material way, has resulted or could result in the violation of (i) any local, state or federal law (including without limitation the Bank Secrecy Act, the Community Reinvestment Act, applicable consumer protection and disclosure laws and regulations, including without limitation, Truth-in-Lending, Truth-in-Savings and similar disclosure laws and regulations, and equal employment and employment discrimination laws and regulations) or (ii) any regulation, order, injunction or decree of any court or governmental body, the violation of either of which could reasonably be expected to have a material adverse effect on the financial condition, operation, business or prospects of South Florida Bank Holding and the Bank Subsidiary, taken as whole. To the best knowledge of South Florida Bank Holding and except as disclosed in Schedule 1, the Bank Subsidiary possesses all licenses, franchises, permits and other governmental authorizations necessary for the continued conduct of its business without material interference or interruption.

O. Except as disclosed in Schedule 1, neither this Agreement nor the Agreement of Merger nor any report, statement, list, certificate or other information furnished by South Florida Bank Holding or the Bank Subsidiary to Fifth Third or its agents in connection with this Agreement or any of the transactions contemplated hereby (including, without limitation, any information which has been or shall be supplied with respect to their business operations and financial condition for inclusion in the proxy statement/prospectus and registration statement relating to the merger) contains or shall contain (or, in the case of information relating to the proxy statement/prospectus, at the time it is mailed, in the case of the registration statement, at the time it becomes effective and in the case of the proxy statement/prospectus and the registration statement, at the time the annual or special meeting of shareholders of South Florida Bank Holding is held to consider the adoption of this Agreement) an untrue statement of material fact or omits or shall omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

P. Except as disclosed in Schedule 1, there are no actions, proceedings or investigations pending before any environmental regulatory body, with respect to or threatened against or affecting South Florida Bank Holding or the Bank Subsidiary in respect to any "facility" owned, leased or operated by any of them (but excluding any "facility" as to which sole interest of South Florida Bank Holding or the Bank Subsidiary is that of a lienholder or mortgagee, but including any "facility" to which title has been taken pursuant to mortgage foreclosure or similar proceedings and including any "facility" in which South Florida Bank Holding or the Bank Subsidiary ever participated in the financial management of such facility to a degree sufficient to influence, or have

the ability to influence, the facility's treatment of hazardous waste) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended ("CERCLA"), or under any Federal, state, local or municipal statute, ordinance or regulation in respect thereof, in connection with any release of any toxic or "hazardous substance", pollutant or contaminant into the "environment" which, if adversely determined, (a) would require the payment by South Florida Bank Holding or the Bank Subsidiary and/or require South Florida Bank Holding or the Bank Subsidiary to incur expenses of more than \$15,000 (whether or not covered by insurance) or (b) would otherwise have a material adverse effect on the financial condition, operations or prospects of South Florida Bank Holding or the Bank Subsidiary, nor, to the best knowledge of South Florida Bank Holding after reasonable inquiry, is there any reasonable basis for the institution of any such actions or proceedings or investigations which is probable of assertion, nor are there any such actions or proceedings or investigations in which South Florida Bank Holding or the Bank Subsidiary is a plaintiff or complainant. Neither South Florida Bank Holding nor the Bank Subsidiary is liable in any material respect under any applicable law for any release by either of them or for any release by any other "person" of a hazardous substance caused by the spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of hazardous wastes or other chemical substances, pollutants or contaminants into the environment, nor is South Florida Bank Holding or the Bank Subsidiary liable for any material costs (as a result of the acts or omissions of South Florida Bank Holding or the Bank Subsidiary or, to the best knowledge of South Florida Bank Holding, as a result of the acts or omissions of any other "person") of any remedial action including, without limitation, costs arising out of security fencing, alternative water supplies, temporary evacuation and housing and other emergency assistance undertaken by any environmental regulatory body having jurisdiction over South Florida Bank Holding or the Bank Subsidiary to prevent or minimize any actual or threatened release by South Florida Bank Holding or the Bank Subsidiary of any hazardous wastes or other chemical substances, pollutants and contaminants into the environment which would endanger the public health or the environment. All terms contained in quotation marks in this paragraph and the paragraph immediately following shall have the meaning ascribed to such terms, and defined in, CERCLA.

Except as disclosed in Schedule 1, to the best knowledge of South Florida Bank Holding each "facility" owned, leased or operated by South Florida Bank Holding or the Bank Subsidiary (but excluding any "facility" as to which the sole interest of South Florida Bank Holding or the Bank Subsidiary is that of a lienholder or mortgagee, but including any "facility" to which title has been taken pursuant to mortgage foreclosure or similar proceedings and including any "facility" in which South Florida Bank Holding or the Bank Subsidiary ever participated in the financial management of such facility to a degree sufficient to influence, or have the ability to influence, the facility's treatment of hazardous waste) is, in all material respects, in compliance with all applicable Federal, state, local or municipal statutes, ordinances, laws and regulations and all orders, rulings or other decisions of any court, administrative agency or other governmental authority relating to the protection of the environment, except to the extent a failure to comply would not have a material adverse effect on the business, operations, financial condition and prospects of South Florida Bank Holding and the Bank Subsidiary taken as a whole.

Q. 1. *Benefit Plans.* Schedule 1 lists the name and a short description of each Benefit Plan (as herein defined), together with an indication of its funding status (e.g., trust, insured or general company assets). For purposes hereof, the term "Benefit Plan" shall mean any plan, program, arrangement or system of employee or director benefits maintained by South Florida Bank Holding or the Bank Subsidiary for the benefit of employees, former employees or Directors of South Florida Bank Holding or the Bank Subsidiary and shall include: (a) any qualified retirement plan such as a pension, profit sharing, stock bonus plan or employee stock ownership plan ("ESOP"), (b) any plan, program or arrangement providing deferred compensation, bonus deferral or incentive benefits, whether funded through trust or otherwise, and (c) any welfare plan,

program or policy providing vacation, severance, salary continuation, supplemental unemployment, disability, life, health coverage, retiree health, Voluntary Employees' Beneficiary Association, medical expense reimbursement or dependent care assistance benefits, in any such foregoing case without regard to whether the Benefit Plan constitutes an employee benefit plan under Section 3(3) of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), or the number of employees covered under such Benefit Plan.

2. *Plan Documents, Reports and Filings.* Except as disclosed on Schedule 1, South Florida Bank Holding or the Bank Subsidiary has provided true, complete and correct copies of all plan documents, if any, comprising each Benefit Plan, together with, when applicable, (a) the most recent summary plan description, (b) the most recent actuarial and financial reports and the most recent annual reports filed with any governmental agency, and (c) all Internal Revenue Service ("IRS") or other governmental agency rulings and determination letters or any open requests for IRS rulings or letters with respect to Benefit Plans.

3. *Qualified Retirement Plan Compliance.* With respect to each Benefit Plan which is an employee pension benefit plan (as defined in Section 3(2) of ERISA) other than any such plan that meets the "top-hat" exception under Section 201(1) of ERISA (a "Qualified Benefit Plan"), except as disclosed on Schedule 1: (a) the IRS has issued a determination letter which determined that such Qualified Benefit Plan (as amended by any and all amendments) satisfied the requirements of Section 401(a) of the Internal Revenue Code of 1986, as amended through the date hereof (the "Code"), as amended by all of the laws referred to in Section 1 of Revenue Procedure 93-39, such determination letter has not been revoked or threatened to be revoked by the IRS, and the scope of such determination letter is complete and does not exclude consideration of any of the requirements or matters referred to in Sections 4.02 through 4.04 of Revenue Procedure 93-39; (b) such Qualified Benefit Plan is in material compliance with all qualification requirements of Section 401(a) of the Code; (c) such Qualified Benefit Plan is in substantial compliance with all notice, reporting and disclosure requirements of ERISA and the Code; (d) any Qualified Benefit Plan which is an ESOP as defined in Section 4975(e)(7) of the Code (an "ESOP Qualified Benefit Plan") is in material compliance with the applicable qualification requirements of Section 409 of the Code; and (e) any previously terminated Qualified Benefit Plan was terminated in material compliance with the requirements of ERISA and the Code, has received a favorable determination letter therefor, and the liabilities of such Qualified Benefit Plan and the requirements of the Pension Benefit Guaranty Corporation ("PBGC") were fully satisfied, and (f) any and all amendments to the Qualified Benefit Plan not covered by an IRS determination letter do not adversely affect the qualified and tax exempt status of such plans.

4. *Welfare Plan Compliance.* With respect to each Benefit Plan which is an employee welfare benefit plan (as defined in Section 3(1) of ERISA) (a "Welfare Benefit Plan"), except as noted on Schedule 1: (a) such Welfare Benefit Plan, if it is intended to provide favorable tax benefits to plan participants, has been, to the best knowledge of South Florida Bank Holding, in compliance with applicable Code provisions; (b) such Welfare Benefit Plan has been, to the best knowledge of South Florida Bank Holding, operated in substantial compliance with all applicable notice, reporting and disclosure requirements of ERISA and the Code; and (c) such Welfare Benefit Plan, if a group health plan subject to the requirements of Section 4980B of the Code ("COBRA"), has been, to the best knowledge of South Florida Bank Holding, operated in substantial compliance with such COBRA requirements.

5. *Prohibited Transactions.* No prohibited transaction under Section 406 of ERISA and not exempt under Section 408 of ERISA has occurred with respect to any Benefit Plan which would result, with respect to any person, in (a) the imposition, directly or indirectly, of a material excise tax under Section 4975 of the Code or (b) material fiduciary liability under Section 409 of ERISA and no ESOP Plan Qualified Benefit Plan is leveraged.

6. *Lawsuits or Claims.* No material actions, suits or claims (other than routine claims of benefits) are pending or, to the best knowledge of South Florida Bank Holding, threatened against any Benefit Plan or against South Florida Bank Holding or the Bank Subsidiary with respect to any Benefit Plan.

7. *Disclosure of Unfunded Liabilities.* All material Unfunded Liabilities with respect to each Benefit Plan have been recorded and disclosed on the most recent financial statement of South Florida Bank Holding and the Bank Subsidiary or, if not, in Schedule 1. For purposes hereof, the term "Unfunded Liabilities" shall mean any amounts properly accrued to date under GAAP, or amounts not yet accrued for GAAP purposes but for which an obligation (which has legally accrued and cannot legally be eliminated and which is subject to reasonable estimate) exists for payment in the future which is attributable to any Benefit Plan, including but not limited to (a) severance pay benefits, (b) deferred compensation or unpaid bonuses, (c) any liabilities on account of the change in control which will result from this Agreement, including any potential 20% excise tax under Section 4999 of the Code relating to excess parachute payments under Section 280G of the Code, (d) any unpaid pension contributions for the current plan year or any accumulated funding deficiency under Section 412 of the Code and related penalties under Section 4971 of the Code, including unpaid pension contributions or funding deficiencies owed by members of a controlled group of corporations which includes South Florida Bank Holding or the Bank Subsidiary and for which South Florida Bank Holding or the Bank Subsidiary is liable under applicable law, (e) any authorized but unpaid profit sharing contributions or contributions under Section 401(k) and Section 401(m) of the Code, (f) retiree health benefit coverage and (g) unpaid premiums for contributions required under any group health plan to maintain such plan's coverage through the Effective Time.

8. *Defined Benefit Pension Plan Liabilities.* South Florida Bank Holding and the Bank Subsidiary (or any pension plan maintained by any of them) have not incurred any material liability to the PBGC or the IRS with respect to any Benefit Plan which is a defined benefit pension plan, except for the payment of PBGC premiums pursuant to Section 4007 of ERISA, all of which if due prior to the date of this Agreement have been fully paid, and no PBGC reportable event under Section 4043 of ERISA has occurred with respect to any such pension plan. Except as otherwise disclosed in Schedule 1, the benefit liabilities, as defined in Section 4001(a)(16) of ERISA, of each Benefit Plan subject to Title IV of ERISA, using the actuarial assumptions that would be used by the PBGC in the event of termination of such plan, do not exceed the fair market value of the assets of such plan. Neither South Florida Bank Holding, the Bank Subsidiary nor any controlled group member of South Florida Bank Holding or the Bank Subsidiary participates in, or has incurred any liability under Sections 4201, 4063 or 4064 of ERISA for a complete or partial withdrawal from a multiple employer plan or a multi-employer plan (as defined in Section 3(37) of ERISA).

9. *Independent Trustee.* South Florida Bank Holding and the Bank Subsidiaries (a) have not incurred any asserted or, to the best knowledge of South Florida Bank Holding, unasserted material liability for breach of duties assumed in connection with acting as an independent trustee of any employee pension plan (as defined in Section 3(2) of ERISA) which is intended to be qualified under Section 401(a) of the Code and which is maintained by an employer unrelated in ownership to South Florida Bank Holding or the Bank Subsidiary, (b) have not authorized nor knowingly participated in a material prohibited transaction under Section 406 of ERISA and not exempt under Section 408 of ERISA and (c) have not received notice of any material actions, suits or claims (other than routine claims for benefits) pending or threatened against the unrelated employer or against them.

10. *Retiree Benefits.* Except as listed on Schedule 1 and identified as "Retiree



Liability", South Florida Bank Holding and Bank Subsidiary have no obligation to provide medical benefits, or life insurance benefits to or with respect to retirees, former employees or any of their relatives.

11. *Right to Amend and Terminate.* Except as listed on Schedule 1, South Florida Bank Holding or Bank Subsidiary has all power and authority necessary to amend or terminate each Benefit Plan without incurring any penalty or liability provided that, in the case of an employee pension benefit plan (as defined in Section 3(2) of ERISA), benefits accrued as of the date of amendment or termination are not reduced.

12. *Material.* For purposes of this Paragraph Q as a whole, the term "material" in connection with a liability shall mean a liability or loss, taxes, penalties, interest and related legal fees in the total amount of \$15,000 or more, with such determination being made on the basis of the aggregate affected participants of a Benefit Plan and not with respect to any single participant.

R. The investment portfolios of South Florida Bank Holding and the Bank Subsidiary consist of securities in marketable form. Except as disclosed in Schedule 1, since June 30, 1998 to the date hereof neither South Florida Bank Holding nor the Bank Subsidiary has incurred any unusual or extraordinary losses in its investment portfolio, and, except for matters of general application to the bank or banking industry (including, but not limited to, changes in laws or regulations or GAAP) or for events relating to the business environment in general, including market fluctuations and changes in interest rates, South Florida Bank Holding is not aware of any events which are reasonably certain to occur in the future and which reasonably can be expected to result in any material adverse change in the quality or performance of South Florida Bank Holding's and the Bank Subsidiary's investment portfolio on a consolidated basis.

S. Except as disclosed in Schedule 1, there are no actions, suits, claims, proceedings, investigations or assessments of any kind pending, or to the best knowledge of South Florida Bank Holding, threatened against any of the Directors or officers of South Florida Bank Holding or the Bank Subsidiary in their capacities as such, and no Director or officer of South Florida Bank Holding or the Bank Subsidiary currently is being indemnified or seeking to be indemnified by either South Florida Bank Holding or the Bank Subsidiary pursuant to applicable law or South Florida Bank Holding's Articles of Incorporation or Bylaws or the Bank Subsidiary's Articles of Incorporation or Bylaws.

T. There is no "business combination," "moratorium," "control share," or other state anti-takeover statute or regulation or any agreement to which South Florida Bank Holding is a party which (i) prohibits or restricts South Florida Bank Holding's ability to perform its obligations under this Agreement, or its ability to consummate the transactions contemplated hereby, (ii) would have the effect of invalidating or voiding this Agreement, or any provisions hereof, or (iii) would subject Fifth Third to any impediment or condition in connection with the exercise of any of its rights under this Agreement.

U. All interest rate swaps, caps, floors and option agreements and other interest rate risk management arrangements, whether entered into for South Florida Bank Holding's own account, or for the account of one or more of its subsidiaries or their customers, were entered into (i) in accordance with prudent banking practices and all material applicable laws, rules, regulations and regulatory policies and (ii) with counter-parties reasonably believed to be financially responsible at the time; and each of them constitutes the valid and legally binding obligation of it or one of its subsidiaries, enforceable in accordance with its terms (except as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent transfer



and similar laws of general applicability relating to or affecting creditors' rights or by general equity principles), and are in full force and effect (except to the extent that they have been fully performed or terminated) in all respects material to South Florida Bank Holding. Neither South Florida Bank Holding nor its subsidiaries, nor to its knowledge any other party thereto is, in any respect material to South Florida Bank Holding on a consolidated basis, in breach of any of its obligations under any such agreement or arrangement.

### III. *Representations and Warranties of Fifth Third*

Fifth Third represents and warrants to South Florida Bank Holding that as of the date hereof or as of the indicated date, as appropriate:

A. Fifth Third is duly incorporated, validly existing and in good standing as a corporation under the corporation laws of the State of Ohio, is a registered bank holding company under the Bank Holding Company Act of 1956, as amended, and is duly authorized to conduct the business in which it is engaged, and Fifth Third Bank is duly incorporated, validly existing and in good standing as a banking corporation under the laws of the State of Florida and is duly authorized to conduct the business in which it is engaged.

B. Pursuant to Fifth Third's Second Amended Articles of Incorporation, as amended, the total number of shares of capital stock it is authorized to have outstanding is 300,500,000 of which 300,000,000 shares are classified as Common Stock without par value ("Fifth Third Common Stock") and 500,000 shares are classified as Preferred Stock without par value. As of the close of business on September 30, 1998, 266,724,258 shares of Fifth Third Common Stock were issued and outstanding and 1,116,365 shares were held in its treasury. As of the date of this Agreement, no shares of its Preferred Stock have been issued. Fifth Third does not have outstanding any stock options, subscription rights, warrants or other securities entitling the holders to subscribe for or purchase any shares of its capital stock other than options granted and to be granted to employees and Directors under its stock option plans. At July 31, 1998, 13,797,576 shares of Fifth Third Common Stock were reserved for issuance in connection with outstanding options granted under its stock option plans and 11,172,669 shares were reserved for issuance under options to be granted in the future.

C. All shares of Fifth Third Common Stock to be received by the shareholders of South Florida Bank Holding as a result of the merger pursuant to the terms of this Agreement shall be, upon transfer or issuance, validly issued, fully paid and non-assessable, and will not, upon such transfer or issuance, be subject to the preemptive rights of any shareholder of Fifth Third.

D. Fifth Third has furnished to South Florida Bank Holding its consolidated financial statements as at December 31, 1997, December 31, 1996 and December 31, 1995 and for the respective years then ended together with the opinions of its independent public accountants associated therewith. Such consolidated financial statements fairly present the consolidated financial condition of Fifth Third as of their respective dates and for the respective periods covered thereby in conformity with GAAP consistently followed throughout the periods covered thereby. Neither Fifth Third nor any significant subsidiaries of Fifth Third have any material liabilities, obligations or indebtedness required to be disclosed in such financial statements other than the liabilities, obligations and indebtedness disclosed in such financial statements (including footnotes). Fifth Third will furnish to South Florida Bank Holding its unaudited consolidated financial statements as at June 30, 1998 and September 30, 1998 and for the three (3) months then ended as soon as such statements publicly are available, and shall continue to furnish information for subsequent calendar quarter periods to South Florida Bank Holding as soon as such becomes publicly available until the Closing Date.

E. Except for events relating to the business environment in general: (i) since June 30, 1998, to the date hereof there have been no material adverse changes in the consolidated financial condition, operations or business of Fifth Third; (ii) the chief executive officer and the chief financial officer of Fifth Third are not aware of any events which have occurred since June 30, 1998, or which are reasonably certain to occur in the future and which reasonably can be expected to result in any material adverse change in the consolidated financial condition, operations or business of Fifth Third; and (iii) since June 30, 1998, to the date hereof there have been no material changes in the methods of business operations of Fifth Third and its subsidiaries.

F. 1. The Executive Committee of the Board of Directors of Fifth Third, by resolution adopted by the members present at a meeting duly called and held, at which meeting a quorum was at all times present and acting, has approved this Agreement, including reserving for issuance to South Florida Bank Holding shareholders in accordance with this Agreement, a sufficient number of shares of Fifth Third Common Stock. Approval and adoption of this Agreement by the shareholders of Fifth Third is not required under Ohio law or under the Second Amended Articles of Incorporation, as amended, or Code of Regulations of Fifth Third.

2. Fifth Third has corporate power and authority to enter into this Agreement and to carry out its obligations hereunder subject to certain required regulatory approvals. This Agreement, when executed and delivered, will have been duly authorized and will constitute a valid and binding obligation of Fifth Third, enforceable in accordance with its terms, except to the extent that (i) enforceability thereof may be limited by insolvency, reorganization, liquidation, bankruptcy, readjustment of debt or other laws of general application relating to or affecting the enforcement of creditors' rights generally and (ii) the availability of certain remedies may be precluded by general principles of equity, subject, however, to the receipt of requisite regulatory approvals.

3. Neither the execution of this Agreement nor the consummation of the transactions contemplated hereby and thereby, does or will (i) conflict with, result in a breach of, violate or constitute a default, under Fifth Third's Second Amended Articles of Incorporation, as amended, or Code of Regulations or, to the best knowledge of its chief executive officer and chief financial officer, any federal, foreign, state or local law, statute, ordinance, rule, regulation or court or administrative order, or any agreement, arrangement, or commitment to which Fifth Third is subject or bound; (ii) to the best knowledge of the chief executive officer and chief financial officer of Fifth Third, result in the creation of or give any person the right to create any material lien, charge, encumbrance, security agreement or any other material rights of others or other material adverse interest upon any material right, property or asset belonging to Fifth Third or any of its subsidiaries other than such rights as may be given the shareholders of South Florida Bank Holding pursuant to the provisions of Sections 607.1301 through 607.1303 of the Florida Revised Code; (iii) terminate or give any person the right to terminate, amend, abandon, or refuse to perform any material agreement, arrangement or commitment to which Fifth Third is a party or by which Fifth Third's rights, properties or assets are subject or bound; or (iv) accelerate or modify, or give any party thereto the right to accelerate or modify, the time within which, or the terms according to which, Fifth Third is to perform any duties or obligations or receive any rights or benefits under any material agreement, arrangements or commitments.

G. Complete and accurate copies of (i) the Second Amended Articles of Incorporation, as amended, and (ii) the Code of Regulations of Fifth Third in force as of the date hereof have been delivered to South Florida Bank Holding.

H. To the best knowledge of the chief executive officer and chief financial officer of Fifth Third, neither Fifth Third nor any of its subsidiaries has knowingly engaged in any activity or omitted to take any action which, in any material way, has resulted or could result in the violation of (i) any local, state or federal law or (ii) any regulation, order, injunction or decree of any court or governmental body, the violation of either of which could reasonably be expected to have a material adverse effect on the financial condition Fifth Third and its subsidiaries taken as a whole. To the best knowledge of the chief executive officer and chief financial officer of Fifth Third, Fifth Third and its subsidiaries possess all licenses, franchise, permits and other governmental authorizations necessary for the continued conduct of their businesses without material interference or interruption.

I. 1. To the best knowledge of the chief executive officer and chief financial officer of Fifth Third, neither this Agreement nor any report, statement, list, certificate or other information furnished or to be furnished by Fifth Third to South Florida Bank Holding or its agents in connection with this Agreement or any of the transactions contemplated hereby (including, without limitation, any information which has been or shall be supplied with respect to its business operations and financial condition for inclusion in the proxy statement/prospectus and registration statement relating to the merger) contains or shall contain (in the case of information relating to the proxy statement/prospectus, at the time it is mailed, and, in the case of the registration statement, at the time it becomes effective and, in the case of the proxy statement/prospectus and the registration statement, at the time the annual or special meeting of shareholders of South Florida Bank Holding is held to consider the adoption of this Agreement) an untrue statement of a material fact or omits or shall omit to state a material fact necessary to make the statements contained herein or therein, in light of the circumstances in which they are made, not misleading.

2. Fifth Third has furnished to South Florida Bank Holding or its agents true and complete copies (including all exhibits and all documents incorporated by reference) of the following documents as filed by Fifth Third with the SEC:

- a. Fifth Third's Annual Report on Form 10-K for the year ended December 31, 1997, and reports on Form 10-Q for the quarters ended March 31 and June 30, 1998;
- b. any Current Report on Form 8-K with respect to any event occurring after June 30, 1998 and prior to the date of this Agreement;
- c. any report filed by Fifth Third to amend or modify any of the reports described above; and
- d. all proxy statements prepared in connection with meetings of Fifth Third's shareholders held or to be held subsequent to June 30, 1998.

The information set forth in the documents described in this Article II, Section I, Subsection 2 (including all exhibits thereto and all documents incorporated therein by reference) did not, as of the dates on which such reports were filed with the SEC, (a) contain any untrue statement of a material fact, (b) omit any material fact required to be stated therein or necessary to make the statements contained therein, in light of the circumstances under which they were made, not misleading, or (c) omit any material exhibit required to be filed therewith. Prior to the date hereof no event has occurred subsequent to June 30, 1998 which Fifth Third is required to describe in a Current Report on Form 8-K other than the Current Reports heretofore furnished by Fifth Third to South Florida Bank Holding. Fifth Third timely shall furnish South Florida Bank Holding with copies of all reports filed by Fifth Third with the SEC subsequent to the date of this Agreement and until the Closing Date.

J. There are no actions, suits, proceedings, investigations or assessments of any kind pending or, to the best knowledge of the chief executive officer and chief financial officer of Fifth Third, threatened against Fifth Third or any Fifth Third subsidiary, which reasonably can be expected to result in any material adverse change in the consolidated financial condition, operations, business or prospects of Fifth Third.

K. Since June 30, 1998 to the date hereof, none of Fifth Third's banking subsidiaries and thrift subsidiaries has incurred any unusual or extraordinary loan losses which would be material to Fifth Third on a consolidated basis; and to the best knowledge and belief of the chief executive officer and chief financial officer of Fifth Third, and in the light of any banking or Bank Subsidiary's historical loan loss experience and their managements' analysis of the quality and performance of their respective loan portfolios, as of June 30, 1998, their consolidated reserves for loan losses are adequate to absorb all known and reasonably anticipated losses as of such date.

L. Fifth Third and its subsidiaries have filed all federal, state and local tax returns required to be filed (after giving effect to all extensions) by them, respectively, and have paid or provided for all tax liabilities shown to be due thereon or which have been assessed against them, respectively.

M. Fifth Third has not, directly or indirectly, dealt with any broker or finder in connection with this transaction and has not incurred and will not incur any obligation for any broker's or finder's fee or commission in connection with the transactions provided for in this Agreement.

N. Fifth Third has no unfunded liabilities with respect to any Benefit Plan (as such term is defined in Section Q.1. of Article II hereof, but applied to Fifth Third, its subsidiaries and affiliates) that are material, either individually or in the aggregate, to Fifth Third on a consolidated basis and that have not been recorded and disclosed as required by GAAP in the most recent year-end, audited financial statements of Fifth Third supplied to South Florida Bank Holding pursuant to Section D of Article III hereof.

O. The investment portfolios of Fifth Third and its subsidiaries and affiliates consist of securities in marketable form. Since June 30, 1998, to the date hereof Fifth Third and its affiliates, on a consolidated basis, have not incurred any unusual or extraordinary losses in their respective investment portfolios, and, except for events relating to the business environment in general, including market fluctuations, the management of Fifth third is not aware of any events which are reasonably certain to occur in the future and which reasonably can be expected to result in any material adverse change in the quality or performance of the investment portfolios of Fifth Third and its affiliates on a consolidated basis.

P. As of the date hereof, Fifth Third is not aware of the existence of any factor that would materially delay or materially hinder issuance of any of the required regulatory approvals necessary to consummate the Merger or the other transactions contemplated hereby.

**IV. *Obligations of South Florida Bank Holding Between the Date of this Agreement and the Effective Time.***

A. South Florida Bank Holding, in consultation with Fifth Third, will take all actions necessary to call and hold its annual or a special meeting of its shareholders as soon as practicable after the Fifth Third registration statement relating to this transaction has been declared effective by the Securities and Exchange Commission (the "SEC") and under all applicable state securities laws for the purpose of approving and adopting this Agreement and any other documents or actions necessary to the consummation of the Merger provided for herein pursuant to law. The Board of Directors of South Florida Bank Holding intends to inform the shareholders of South Florida Bank Holding in the proxy materials relating to the annual or special meeting that all Directors of South

Florida Bank Holding presently intend to vote all shares of South Florida Bank Holding Common Stock which they own of record in favor of approving this Agreement and any such other necessary documents or actions, and all Directors will recommend approval of this Agreement to the other shareholders of South Florida Bank Holding, subject only to such Directors' fiduciary obligations.

B. (i) Consistent with GAAP, South Florida Bank Holding agrees that on or before the Effective Time based on a review of the Bank Subsidiary's loan losses, current classified assets and commercial, multi-family and residential mortgage loans and investment portfolio, South Florida Bank Holding will work with Fifth Third with the goal of establishing collection procedures, internal valuation reviews, credit policies and practices and general valuation allowances which are consistent with the guidelines used within the Fifth Third holding company system, provided that no adjustment to general valuation allowances or reserves shall be made until immediately prior to the Effective Time and all conditions precedent to the obligations of the parties hereto have either been satisfied or waived as confirmed by such parties in writing. Fifth Third shall provide such assistance and direction to South Florida Bank Holding as is necessary in conforming to such policies, practices, procedures and asset dispositions which are mutually agreeable between the date of this Agreement until the Effective Time; and (ii) from the date of this Agreement until the Effective Time, South Florida Bank Holding and the Bank Subsidiary each will be operated in the ordinary course of business, and neither of them will, without the prior written consent of Fifth Third, which consent shall not be unreasonably withheld: make any changes in its capital or corporate structures; issue any additional shares of its Common Stock other than pursuant to the exercise of options granted prior to the date hereof; issue any other equity securities, other than pursuant to the exercise of options granted prior to the date hereof; issue as borrower any long term debt or convertible or other securities of any kind, or right to acquire any of its securities; make any material changes in its method of business operations; make, enter into any agreement to make, or become obligated to make, any capital expenditures in excess of \$15,000; make, enter into or renew any agreement for services to be provided to South Florida Bank Holding or the Bank Subsidiary or permit the automatic renewal of any such agreement, except any agreement for services having a term of not more than three months or requiring the expenditure of not more than \$15,000 (for this purpose the phrase "permit the automatic renewal" includes the failure to send a notice of termination of such contract if such failure would constitute a renewal); open for business any branch office which has been approved by the appropriate regulatory authorities but not yet opened or apply to the appropriate regulatory authorities to establish a new branch office or expand any existing branch office; acquire, become obligated to acquire, or enter into any agreement to acquire, any banking or non-banking company or any branch offices of any such companies, other than such agreements existing on the date hereof and disclosed to Fifth Third; declare or pay any cash dividends on its own stock other than normal and customary cash dividends per quarter paid in such amounts and at such times as South Florida Bank Holding historically has done on its Common stock, provided this covenant shall only apply to South Florida Bank Holding; pay any stock dividends or make any other distributions on its stock other than cash dividends as described in the immediately preceding clause; change or otherwise amend any Benefit Plans other than as required by law or as contemplated herein; and provide any increases in employee salaries or benefits other than in the ordinary course of business. South Florida Bank Holding agrees that it will not sell or otherwise dispose of or encumber any of the shares of the capital stock of the Bank Subsidiary which are now owned by it.

C. Except as required by applicable law or regulation and except for actions taken with the consent of Fifth Third, neither South Florida Holding nor the Bank Subsidiary shall (a) implement or adopt any material change in their interest rate risk management policies, procedures, or practices; (b) fail to follow its existing policies or practices with respect to managing their exposure to interest rate risk; or (c) fail to use commercially reasonable means to avoid any material increase in their aggregate exposure to interest rate risk.

D. Not later than the 15<sup>th</sup> day prior to the mailing of South Florida Bank Holding's proxy statement with respect to the Merger, South Florida Bank Holding shall deliver to Fifth Third a list of each person that, to the best of its knowledge, is or is reasonably likely to be, as of the date of the annual or special meeting called to approve the Merger, deemed an "affiliate" of it as that term is used in Rule 145 under the Securities Act of 1933, as amended, or SEC Accounting Series Releases 130 and 135 (the "South Florida Bank Holding Affiliates"). South Florida Bank Holding shall use its best efforts to cause each South Florida Bank Holding Affiliate to execute and deliver to Fifth Third on or before the mailing of such proxy statement an agreement in the form of Appendix D hereto.

**V. *Cooperation and Other Obligations and Other Covenants***

A. Fifth Third will, prepare and cause to be filed at its expense such applications and other documents with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Ohio Division of Banks, the Florida Division of Banks, and any other governmental agencies as are required to secure the requisite approval of such agencies to the consummation of the transactions provided for in this Agreement, and the parties shall cooperate in the preparation of an appropriate registration statement, including the prospectus, proxy statement, and such other documents necessary to comply with all federal and state securities laws relating to the registration and issuance of the shares of Fifth Third Common Stock to be issued to the shareholders of South Florida Bank Holding in this transaction (the expenses thereof, other than accounting, legal, investment banking, financial consulting and associated expenses of South Florida Bank Holding and its affiliates, to be paid by Fifth Third), and any other laws applicable to the transactions provided for in this Agreement. Fifth Third shall use all reasonable efforts to file all such applications within ninety (90) days of the date of this Agreement and to secure all such approvals. South Florida Bank Holding agrees that it will, as promptly as practicable after request and at its own expense, provide Fifth Third with all information and documents concerning South Florida Bank Holding and Bank Subsidiary, as shall be required in connection with preparing such applications, registration statements and other documents and in connection with securing such approvals. Prior to filing any such applications or other documents with the applicable governmental agencies, Fifth Third shall provide copies thereof to South Florida Bank Holding. Fifth Third shall promptly provide to South Florida Bank Holding copies of all applications filed with the governmental agencies relating to the transactions contemplated by this Agreement, and correspondence sent from and to Fifth Third with respect to such applications. Fifth Third agrees that it will, as promptly as practicable after request and at its own expense, provide South Florida Bank Holding with all information and documents concerning Fifth Third and its subsidiaries as shall be required in connection with preparing such applications, registration statements and other documents which are to be prepared and filed by South Florida Bank Holding and in connection with approvals required to be obtained by South Florida Bank Holding hereunder. Prior to filing any such applications, statements or other documents with the applicable governmental agency, South Florida Bank Holding shall provide, at least five (5) days prior to the filing date, copies thereof to Fifth Third.

B. Each of the parties hereto agrees to use its best efforts and to cooperate with the other party in all reasonable respects in order to carry out and consummate the transactions contemplated by this Agreement at the earliest practicable time including, without limitation, the filing of applications, notices and other documents with, and obtaining approval from, appropriate governmental regulatory agencies.

C. South Florida Bank Holding agrees to permit Fifth Third, its officers, employees, accountants, agents and attorneys, and Fifth Third agrees to permit South Florida Bank Holding, its officers, employees, accountants, agents and attorneys, to have reasonable access during business hours to their respective books, records and properties, and those of the Bank Subsidiary and Fifth

Third Bank as well, for the purpose of making a detailed examination, or updating and amplifying prior examinations, of the financial condition, assets, liabilities, legal compliance, affairs and the conduct of the business of South Florida Bank Holding and the Bank Subsidiary or Fifth Third or Fifth Third Bank, as the case may be, prior to the Effective Time, and also to permit the monitoring of the foregoing on an ongoing basis (such rights of examination and monitoring to be subject to the confidentiality obligations set forth in such Paragraph VII.D. hereof); provided, however, that any such examination by Fifth Third or South Florida Bank Holding shall not relieve Fifth Third or South Florida Bank Holding from any responsibility or liability for any material misrepresentation or material breach of warranty hereunder discovered in the course of or subsequently to such examination and prior to the Effective Time.

D. If all options have not been exercised prior to the Effective Time, South Florida Bank Holding shall terminate its stock option plan, and any outstanding stock options at the Effective Time.

E. (1) South Florida Bank Holding or Bank Subsidiary shall take all actions necessary to freeze the Qualified Benefit Plans as of a date at least sixty (60) days preceding the Effective Time such that no further contributions (including employee 401(k) contributions) shall be made under the Qualified Benefit Plans.

(2) If Fifth Third so requests, South Florida Bank Holding or the Bank Subsidiary shall develop a plan and timetable for terminating any or all of the Qualified Benefit Plans and, with the advance written approval of Fifth Third, shall proceed with the implementation of said termination plan and timetable.

(3) South Florida Bank Holding and Bank Subsidiary, without the advance written consent of Fifth Third shall not (a) adopt any amendments to the Qualified Benefit Plans after the date of this Agreement; or (b) make any distributions from the Qualified Benefit Plans after the date of this Agreement; or (c) make any contributions to the Qualified Benefit Plans (except 401(k) employee contributions) after the date of this Agreement; or (d) take any action reducing or restricting the availability of surplus under the defined benefit plan.

(4) South Florida Bank Holding or Bank Subsidiary shall provide to Fifth Third at least sixty (60) days prior to the Effective Time, documentation reasonably satisfactory to Fifth Third demonstrating that the requirements of Sections 404, 412, 415, 416, 401(k) and (m) of the Code have been satisfied by all of its Qualified Benefit Plans.

(5) With respect to any Benefit Plan that provides for vesting of benefits, there shall be no discretionary acceleration of vesting without Fifth Third's consent whether or not such discretionary acceleration of vesting is provided under the terms of the Benefit Plan; provided that a Benefit Plan which pursuant to its terms provides for an acceleration of vesting upon a change of control of South Florida Bank Holding shall not be deemed to involve a discretionary acceleration of vesting and vesting thereunder shall accelerate as of the Effective Time.

## **VI. *Conditions Precedent to Closing.***

### **A. *Conditions to the Obligations of Each of the Parties:***

The obligation of each of the parties hereto to consummate the transactions provided for herein is subject to the fulfillment on or prior to the Effective Time of each of the following conditions:

1. The shareholders of South Florida Bank Holding shall have duly approved and adopted this Agreement in accordance with and as required by law and in accordance with its

Certificate of Incorporation and Bylaws.

2. All necessary governmental and regulatory orders, consents, clearances and approvals and requirements shall have been secured and satisfied for the consummation of such transactions, including without limitation, those of the Federal Reserve System, the Ohio Division of Banks, the Florida Division of Banks and the Federal Deposit Insurance Corporation to the extent required.

3. Prior to or at the Effective Time, no material investigation by any state or federal agency shall have been threatened or instituted seeking to enjoin or prohibit, or enjoining or prohibiting, the transactions contemplated hereby and no material governmental action or proceeding shall have been threatened or instituted before any court or government body or authority, seeking to enjoin or prohibit, or enjoining or prohibiting, the transactions contemplated hereby other than investigations, actions and proceedings which have been withdrawn prior to or at the Effective Time without material adverse effect to Fifth Third or South Florida Bank Holding and other than regularly-scheduled regulatory examinations.

4. Any waiting period mandated by law in respect of the final approval by any applicable Federal regulator(s) of the transaction contemplated herein shall have expired.

B. *Conditions to the Obligations of Fifth Third:*

The obligation of Fifth Third to consummate the transactions provided for herein is subject to the fulfillment at or prior to the Effective Time of each of the following conditions unless waived by Fifth Third in a writing delivered to South Florida Bank Holding which specifically refers to the condition or conditions being waived:

1. All of the representations and warranties of South Florida Bank Holding set forth in Article II of this Agreement shall be true and correct in all material respects as of the date of this Agreement and at and as of the Closing Date (as hereinafter defined) as if each such representation and warranty was given on and as of the Closing Date, except for any such representations and warranties made as of a specified date, which shall be true and correct in all material respects as of such date.

2. South Florida Bank Holding shall have performed all of the obligations required of it under the terms of this Agreement in all material respects.

3. Smith, Mackinnon, Greeley, Bowdoin & Edwards, P.A., counsel for South Florida Bank Holding and the Bank Subsidiary, shall have delivered an opinion addressed to Fifth Third in substantially the form appended hereto as Appendix A.

4. The aggregate amount of consolidated shareholders' equity (including Common Stock, Additional Paid-In Capital and Retained Earnings and excluding Treasury Stock) of South Florida Bank Holding as of September 30, 1998 and immediately prior to the Effective Time, as shown by and reflected in its books and records of accounts on a consolidated basis in accordance with GAAP, shall not be less than \$9,000,000. For purposes of this Subparagraph 4 to Article VI, Section B, (A) any expenses or accruals after the date hereof relating to (i) the adjustments contemplated by Article IV, Section B (i) herein, (ii) termination or funding of any of South Florida Bank Holding's or the Bank Subsidiary's Benefit Plans, as contemplated herein, (iii) expenses associated with the Merger, (iv) market value adjustments to the investment portfolio of South Florida Bank Holding and the Bank Subsidiary, or (v) dividends paid by South Florida Bank Holding in accordance with the terms of this Agreement, shall be excluded for purposes of calculation of South Florida Bank Holding's and the Bank Subsidiary's shareholders' equity as



contemplated herein prior to the Effective Time.

5. Fifth Third's independent certified public accountants shall have reviewed the unaudited consolidated financial statements of South Florida Bank Holding as at the end of the month immediately preceding the Effective Time, as well as the unaudited separate financial statements of the Bank Subsidiary as of the same date, performed such other auditing procedures as may be requested by Fifth Third and reported in good faith that they are not aware of any material modifications which would have a material adverse effect on the financial condition of South Florida Bank Holding or the Bank Subsidiary that should be made in order for such financial statements to (i) be in conformity with GAAP excluding the presentation of footnotes, and (ii) accurately state the financial condition and results of operations of South Florida Bank Holding and each of the Bank Subsidiary, and such modifications, in either case, would have a material adverse effect on the financial condition of South Florida Bank Holding or any of the Bank Subsidiary.

6. The receipt of a certificate from South Florida Bank Holding and each of the Bank Subsidiary, executed by the chief executive officer and chief financial officer of each, dated the Closing Date, certifying to their best knowledge and belief that: (i) all of the representations and warranties set forth in Article II hereof were true and correct as of the date of this Agreement and as of the Closing Date in all material respects, except for any such representations and warranties made as of a specified date, which shall be true and correct in all material respects as of such date; and (ii) it has met and fully complied in all material respects with all of the obligations required of it under the terms of this Agreement.

7. The total issued and outstanding shares of South Florida Bank Holding Common Stock shall not exceed 1,272,475 shares including all options to purchase South Florida Bank Holding Common Stock.

8. (a) In consideration of the consummation of this transaction, the Directors of South Florida Bank Holding shall execute and deliver to Fifth Third an agreement by which the Directors shall agree for a period of (A) two (2) years after the Effective Time for all Directors other than William P. Valenti and (B) one (1) year from the Effective Time for William P. Valenti, to refrain from directly or indirectly, whether for their own account or for the account of any other person, firm, corporation, or other business organization, (i) in the states of Ohio, Kentucky, Indiana, Florida or Arizona, engage in providing Banking Services (as defined below) on behalf of any other business organization who is a competitor of Fifth Third, (ii) provide Banking Services to any Client (as defined below), (iii) make any statement or take any actions that may interfere with Fifth Third's or any Affiliate's business relationships with any Client, (iv) contact either directly or indirectly any Client or otherwise induce or attempt to induce any Client to enter into any business relationship with any person or firm other than the Fifth Third or an Affiliate relating to Banking Services of any type, (v) endeavor or entice away from the Fifth Third any person who the Director has actual knowledge that such person is, or was at any time during the period the Director was employed by Fifth Third or during the Restricted Period, employed by or associated with Fifth Third as an executive, officer, employee, manager, salesperson, consultant, independent contractor, representative or other agent, or (vi) take any actions that may interfere with Fifth Third's property rights in lists of Clients or otherwise diminish the value of such lists to Fifth Third. Notwithstanding any provision contained in this Article VI, Section 8, the restrictions contained herein shall not be applicable to any activity of the Director or any activity of his or her spouse which existed at the time of this Agreement and which was disclosed in writing by the Director to Fifth Third. Notwithstanding the foregoing, (a) in the event William P. Valenti becomes an employee of Fifth Third Bank at the Effective Time on terms mutually acceptable to Fifth Third Bank and Mr. Valenti, he will not be obligated to execute the aforementioned agreement, and (b) the aforementioned non-competition agreement will not be deemed to apply to the rendering of any legal services by Mr. James Humphry as outside counsel, directly by Mr. Humphry or by members

of any law firm in which he is a member or employee, to any bank, savings and loan or other financial institution with which he may now or hereafter have a lawyer/client relationship.

(b) The term "Restricted Period" shall mean the period beginning on the Effective Date and ending two years thereafter.

(c) The term "Banking Services" shall mean retail or commercial deposit or lending business, asset management and all other services which are customarily provided by banks or which are otherwise provided by Fifth Third or its affiliates.

(d) For all purposes of this Agreement, the term "Client" shall mean all persons or entities who are or were clients of Fifth Third at the date of termination of employment or at any time during the two year period prior to the date of termination of the Director's term, any potential clients who to the Director's actual knowledge, have been identified and contacted by a representative of Fifth Third. The term "Client" shall not include any member of the Employee's immediate family, as defined under Rule 16a-1 of the Securities Exchange Act of 1934, as amended (the "Exchange Act") or any trust of which the Employee or any member of his immediate family (as defined in Rule 16a-1 of the Exchange Act) is a trustee or beneficiary.

C. *Conditions to the Obligations of South Florida Bank Holding:*

The obligation of South Florida Bank Holding to consummate the transactions provided for herein and in the Agreement of Merger is subject to the fulfillment at or prior to the Effective Time of each of the following conditions unless waived by South Florida Bank Holding in a writing delivered to Fifth Third which specifically refers to the condition or conditions being waived:

1. All of the representations and warranties of Fifth Third set forth in Article III of this Agreement shall be true and correct in all material respects as of the date of this Agreement and as of the Closing Date as if each such representation and warranty was given on and as of the Closing Date, except for any such representations and warranties made as of a specified date, which shall be true and correct in all material respects as of such date.

2. Fifth Third shall have performed all of the obligations required of it under the terms of this Agreement and the Agreement of Merger in all material respects.

3. Paul L. Reynolds, counsel for Fifth Third, shall have delivered an opinion addressed to South Florida Bank Holding in substantially the form appended hereto as Appendix B.

4. The receipt of a certificate from Fifth Third, executed by its chief executive officer and chief financial officer, dated the Closing Date, certifying to their best knowledge and belief that: (i) all of the representations and warranties set forth in Article III were true and correct as of the date of this Agreement and as of the Closing Date, except for any such representations and warranties made as of a specified date, which shall be true and correct in all material respects as of such date; and, (ii) Fifth Third has met and fully complied in all material respects with all of the obligations required of it under the terms of this Agreement.

5. Fifth Third shall have registered its shares of Common Stock to be issued to the South Florida Bank Holding shareholders hereunder with the SEC pursuant to the Securities Act of 1933, as amended, and with all applicable state securities authorities. The registration statement with respect thereto shall have been declared effective by the SEC and all applicable state securities authorities and no stop order shall have been issued. The shares of Fifth Third Common Stock to be issued to the South Florida Bank Holding shareholders hereunder shall have been authorized for trading on the National Market System of the National Association of Securities Dealers upon

official notice of issuance.

6. Fifth Third's Trust Department, as the Exchange Agent, will acknowledge in writing to South Florida Bank Holding that it is in receipt of (i) certificates representing a whole number of shares of Fifth Third Common Stock to be issued to the shareholders of South Florida Bank Holding pursuant to this Agreement, and (ii) sufficient cash to be paid to the South Florida Bank Holding shareholders for fractional shares.

7. South Florida Bank Holding shall have received a written opinion from Fifth Third's counsel, Graydon, Head & Ritchey, in a form reasonably satisfactory to South Florida Bank Holding and Fifth Third, to the effect that the exchange of shares in the Merger of South Florida Bank Holding Common Stock for Fifth Third Common Stock will not give rise to gain or loss to the shareholders of South Florida Bank Holding with respect to such exchange of shares, the federal income tax basis of the shares of Fifth Third Common Stock received in exchange for the shares of South Florida Bank Holding Common Stock will be equal to the holder's basis of the South Florida Bank Holding Common Stock surrendered in exchange therefor, and the holding period of such Fifth Third Common Stock will include the holding period of the South Florida Bank Holding Common Stock surrendered in exchange therefor.

8. South Florida Bank Holding shall have received from its financial advisor a letter, dated within five days of the date of the Proxy Statement to the effect that, in the opinion of such firm, the consideration to be paid in the Merger is fair, from a financial point of view, to the holders of South Florida Bank Holding Common Stock. South Florida will deliver a copy of such letter to Fifth Third within two (2) business days after such letter is issued.

## VII. *Additional Covenants*

A. The Bank Subsidiary shall be merged with and into Fifth Third Bank, to be effective the Effective Time. The parties hereto agree to cooperate with one another to effect such merger. Upon consummation of any merger of the Bank Subsidiary, the separate corporate existence of the Bank Subsidiary shall cease by operation of law.

B. 1. Fifth Third shall consider employing at Fifth Third or other Fifth Third subsidiaries or affiliates as many of the South Florida Bank Holding and Bank Subsidiary employees who desire employment within Fifth Third holding company system as possible, to the extent of available positions and consistent with Fifth Third's standard staffing levels and personnel policies; provided that such continuing employees will not be subject to any exclusion or penalty for pre-existing conditions that were covered under the Bank Subsidiary's medical plan immediately prior to the Effective Time or any waiting period relating to coverage under Fifth Third's medical plan. For the purposes of participation and vesting (but not benefit accrual under any employee benefit plans of Fifth Third other than South Florida Bank Holding benefit plans) under Fifth Third employee benefit plans, the service of the employees of South Florida Bank Holding prior to the Effective Time shall be treated as service with Fifth Third. For purposes of applying any deductible limitations, out of pocket minimums, or health certification requirements under any health group plan made available to South Florida Bank Holding employees and their dependents after the Merger, South Florida Bank Holding employees shall not be treated as new hires and shall be given appropriate credit for their participation immediately prior to the Merger in any South Florida Bank Holding Plan that constituted a group health plan.

2. Those employees of South Florida Bank Holding and the Bank Subsidiary who do not have an employment or severance agreement and who are not to be employed by Fifth Third or who are terminated or voluntarily resign after being notified that, as a condition of employment, such employee must work at a location more than thirty (30) miles from such employee's former

location of employment or that such employee's salary will be decreased, in any case and in both cases, within thirty (30) days after the Effective Time, and who sign and deliver a termination and release agreement in the form attached as Appendix C hereto, shall be entitled to severance pay equal to, in the case of officers and all other exempt employees of South Florida Bank Holding or the Bank Subsidiary, two (2) weeks of pay for each year of service up to a maximum of sixteen (16) weeks pay with a minimum of two (2) weeks of pay; and in the case of all other employees two (2) weeks of pay for each year of service up to a maximum of twelve (12) weeks pay for these purposes and a minimum of two (2) weeks of pay; if there has been a break in an employee's period of employment, the prior period shall be added to the current period of employment. Fifth Third shall provide sufficient notification to South Florida Bank Holding of those employees it will not be hiring in order that such employees terminated by South Florida Bank Holding can be given appropriate notice of termination in advance of the effectiveness thereof. Nothing contained in this Paragraph VII.B.2 shall be construed or interpreted to limit or modify in any way Fifth Third's at will employment policy.

3. Any officer of South Florida Bank Holding or the Bank Subsidiary who has an employment or severance agreement with South Florida Bank Holding or the Bank Subsidiary as of October 1, 1998 (each a "Contract Officer") shall receive as of the Effective Time, the severance or termination payments provided for in their respective employment agreements ("Contract Payments") as their sole severance payments from South Florida Bank Holding and Fifth Third in connection with the Merger, (provided that the Contract Payments owed under employment agreements shall be limited to be base salary only to be paid under the remaining terms under such employment agreements). As a condition to receiving their Contract Payments each Contract Officer shall sign and deliver to Fifth Third a termination and release agreement. All such agreements shall be in the form attached hereto as Appendix C. Notwithstanding the foregoing or any other provision of this Agreement, in no event shall any Contract Officer receive any payment that would be considered an "Excess Parachute Payment" pursuant to Section 280(G) of the Code. Notwithstanding the foregoing, Fifth Third agrees that South Florida Holding shall honor the terms of the employment agreements between South Florida Bank Holding and each of William P. Valenti and Harold S. Taylor, copies of which are attached hereto on Schedule 1, including the payment of any "change in control" payments owed thereunder, provided that each remains employed with South Florida Bank Holding up through the Effective Time. Such employment agreements shall not be amended without the prior written consent of Fifth Third. Prior to the Effective Time, Fifth Third shall negotiate with each of William P. Valenti and Harold S. Taylor with the intent that each of such employees obtain positions with Fifth Third Bank as "at will" employees of Fifth Third Bank on terms mutually acceptable to Fifth Third Bank and each of William P. Valenti and Harold S. Taylor.

C. (i) From and after the Effective Time, Fifth Third shall assume the obligations of South Florida Bank Holding, Bank Subsidiary and any of their subsidiaries arising under applicable Ohio, Florida and Federal law in existence as of the date hereof or as amended prior to the Effective Time and under the South Florida Bank Holding Articles of Incorporation and Code of Regulations or Bank Subsidiary Articles of Incorporation or Bylaws as in effect on the date hereof to indemnify, defend and hold harmless each person who is now, or has been at any time prior to the date hereof or who become, prior to the Effective Time, an officer or director of South Florida Bank Holding, Bank Subsidiary, or any of their subsidiaries (the "Indemnified Parties") against losses, claims, damages, costs, expenses (including reasonable attorneys' fees), liabilities or judgments or amounts that are paid in settlement (which settlement shall require the prior written consent of Fifth Third) of or in connection with any claim, action, suit, proceeding or investigation (a "Claim") in which an Indemnified Party is, or is threatened to be made, a party or a witness based in whole or in part on or arising in whole or in part out of the fact that such person is or was a director or officer of South Florida Bank Holding, the Bank Subsidiary or any of their subsidiaries if such Claim pertains to any matter or fact arising, existing or occurring prior to the Effective Time (including, without

limitation, the merger and the transactions contemplated by this Agreement), regardless of whether such Claim is asserted or claimed prior to, at or after the Effective Time. Fifth Third shall pay expenses in advance of the final disposition of any such action or proceeding to each Indemnified Party to the full extent permitted by law and under the South Florida Bank Holding Articles of Incorporation or Bylaws or Bank Subsidiary's Articles of Incorporation or Bylaws. Fifth Third's assumption of the indemnification obligations of South Florida Bank Holding, Bank Subsidiary or any of their subsidiaries as provided herein shall continue for a period of three years after the Effective Time or, in the case of claims asserted prior to the third anniversary of the Effective Time until such matters are finally resolved. Any Indemnified Party wishing to claim indemnification under this provision, upon learning of any Claim shall notify Fifth Third (but the failure to so notify Fifth Third shall not relieve Fifth Third from any liability which Fifth Third may have under this Section except to the extent Fifth Third is materially prejudiced thereby). Notwithstanding the foregoing, the Indemnified Parties as a group may retain only one law firm to represent them with respect to each matter under this Section unless there is, under applicable standards of professional conduct, a conflict on any one significant issue between the positions of any two or more Indemnified parties.

(ii) From and after the Effective Time, the directors, officers and employees of South Florida Bank Holding and its subsidiaries who become directors, officers or employees of Fifth Third or any of its subsidiaries, except for the indemnification rights set forth in subparagraph (i) above, shall have indemnification rights with prospective application only. The prospective indemnification rights shall consist of such rights to which directors, officers or employees of Fifth Third or the subsidiary by which such person is employed are entitled under the provisions of the Articles of Incorporation of Fifth Third or similar governing documents of Fifth Third or its applicable subsidiaries, as in effect from time to time after the Effective Time, as applicable, and provisions of applicable law as in effect from time to time after the Effective Time.

(iii) The obligations of Fifth Third provided under this Article VII, Section C. are intended to benefit, and be enforceable against Fifth Third directly by, the Indemnified parties, and shall be binding on all respective successors of Fifth Third.

(iv) Fifth Third shall also purchase and keep in force for a three (3) year period, a policy of directors' and officers' liability insurance to provide coverage for acts or omissions of the type currently covered by South Florida Bank Holding's existing directors' and officers' liability insurance for acts or omissions occurring on or prior to the Effective Time, but only to the extent such insurance may be purchased or kept in full force on commercially reasonable terms taking into account the cost thereof and the benefits provided thereby. It is agreed that such costs shall be commercially reasonable so long as they do not exceed 100% of the annual costs currently paid for such coverage by South Florida Bank Holding.

D. Fifth Third will not disclose to others, shall not use in respect of its (or any of its subsidiaries) business operations, and will hold in confidence any non-public, confidential information disclosed to it by South Florida Bank Holding concerning South Florida Bank Holding or the Bank Subsidiary. South Florida Bank Holding will not disclose to others, shall not use in respect of its (or any of its subsidiaries) business operations, and will hold in confidence any non-public, confidential information disclosed to it concerning Fifth Third or any of its affiliates. In the event the Merger is not completed, all non-public financial statements, documents and materials, and all copies thereof, shall be returned to South Florida Bank Holding or Fifth Third, as the case may be, and shall not be used by Fifth Third or South Florida Bank Holding, as the case may be, in any way detrimental to South Florida Bank Holding or Fifth Third.

E. All notices under this Agreement or under the Agreement of Merger shall be in writing and shall be sufficient in all respects if delivered in person or mailed by certified mail, return receipt

requested, with postage prepaid and addressed, if to South Florida Bank Holding to Mr. William P. Valenti, President and CEO, South Florida Bank Holding Corporation, 2017 McGregor Blvd., Ft. Myers, Florida 33901, with a copy to John P. Greeley, Esq., Smith, Mackinnon, Greeley, Bowdoin & Edwards, P.A. Law Firm, Suite 800 Citrus Center, 255 Orange Avenue, Orlando, Florida 32801; and if to Fifth Third, to Mr. George A. Schaefer, Jr., President and Chief Executive Officer, Fifth Third Bancorp, 38 Fountain Square Plaza, Cincinnati, Ohio 45263, with a copy to Paul L. Reynolds, Esq., Senior Vice President and General Counsel, Fifth Third Bank, Legal Division, 38 Fountain Square Plaza, 2nd Floor, Cincinnati, Ohio 45263. Such notices shall be deemed to be received when delivered in person or when deposited in the mail by certified mail, return receipt requested with postage prepaid.

F. This Agreement, together with the written instruments specifically referred to herein and such other written agreements delivered by Fifth Third or South Florida Bank Holding to each other pursuant hereto constitute the entire agreement between the parties with regard to the transactions contemplated herein and supersede any prior agreements, whether oral or in writing. This Agreement may be hereafter amended only by a written instrument executed by each of the parties pursuant to Article X hereof.

G. During the period from the date of this Agreement to the Effective Time, except with the prior approval of Fifth Third, South Florida Bank Holding shall not, and shall not permit its representatives to, directly or indirectly, subject to the exercise by the Directors of South Florida Bank Holding of their fiduciary duties, initiate, solicit, negotiation with, encourage discussions with, provide information to, or agree to a transaction with, any corporation, partnership, person or other entity or group concerning any merger of either South Florida Bank Holding or the Bank Subsidiary or any sale of substantial assets, sale of shares of capital stock (or securities convertible or exchangeable into or otherwise evidencing, or any agreement or instrument evidencing, the right to acquire capital stock) or similar transaction involving South Florida Bank Holding or the Bank Subsidiary (any such transaction being referred to herein as an "Acquisition Transaction"). South Florida Bank Holding promptly shall communicate to Fifth Third the terms of any proposal which it may receive in respect of an Acquisition Transaction and any request by or indication of interest on the part of any third party with respect to initiation of any Acquisition Transaction or discussions with respect thereto. South Florida bank Holding shall immediately cease and cause to be terminated any activities, discussions or negotiations concerning or provide any confidential information to, or have any discussions with, any person relating to any Acquisition Transaction.

H. Fifth Third and South Florida Bank Holding shall each indemnify and hold the other harmless for any claim, liability or expense (including reasonable attorneys' fees) arising from a misstatement or omission in the applications submitted to regulatory agencies for approval of the transaction contemplated by this Agreement relating to the indemnifying party which is based or made in reliance upon any representation, warranty, or covenant of such party in this Agreement or any certification, document, or other information furnished or to be furnished by such party pursuant to this Agreement. From and after the Closing Date, this subsection shall be of no further force or effect.

I. Upon the request of Fifth Third and at the sole option of Fifth Third, South Florida Holding and the Bank Subsidiary shall execute and deliver to Midwest Payment Systems, Inc. ("MPS") an agreement to convert all electronic funds transfer ("EFT") related services to MPS and the Jeanie® system. Such Agreement shall provide that MPS will be the exclusive provider of such services to South Florida Bank Holding and the Bank Subsidiary for a period of five (5) years from the date such agreements are executed. Fifth Third agrees that the cost of the conversion of South Florida Bank Holding and the Bank Subsidiary to EFT provided by MPS and conversion to the Jeanie® system (including, without limitation, the cost of all card reissue, signage and penalties relating to terminating its current EFT relationships) will be paid by Fifth

Third. Fifth Third further agrees that the costs and fees to South Florida Bank Holding and the Bank Subsidiaries for the Jeanie® service shall not exceed those charged by the current EFT service provider of South Florida Bank Holding and the Bank Subsidiary, subject to any increases in such costs and fees which would otherwise be permitted under their current EFT processing agreements. In the event this Agreement is terminated pursuant to Article VIII hereof for any reason except a material breach or default by South Florida Bank Holding, and if, in such instance, South Florida Bank Holding desires to convert to another provider of EFT services, Fifth Third shall pay all costs and expenses associated with such conversion, provided, however, such costs and expenses are reasonable when compared to costs and expenses ordinarily charged in the EFT services industry. In no event shall South Florida Bank Holding or the Bank Subsidiary be required to take any actions pursuant to this Paragraph I or otherwise under this Agreement or the Agreement of merger that are contrary to any applicable law, regulation, rule or order or which constitute a breach of the fiduciary duties of the directors of South Florida Bank Holding or the Bank Subsidiary.

J. Fifth Third and South Florida Bank Holding shall agree with each other as to the form and substance of any press release related to this Agreement or the transactions contemplated hereby and thereby, and shall consult with each other as to the form and substance of other public disclosures related thereto, provided, however, that nothing contained herein shall prohibit either party from making any disclosure which its counsel deems required by law, and provided, further, however, that Fifth Third shall not be required to incorporate any comments from South Florida Bank Holding into such releases or public filings unless determined to be appropriate by Fifth Third in good faith.

K. Each party hereto shall bear and pay all costs and expenses incurred by it in connection with the transactions contemplated by this Agreement, including, without limitation, fees, costs and expenses of its own financial consultants, investment bankers, accountants and counsel, without reduction or modification in the number of shares of Fifth Third Common Stock to be issued hereunder. The expenses of printing and mailing the prospectus/proxy statement shall be paid by Fifth Third.

L. 1. Between the date hereof and the Closing Date, South Florida Bank Holding shall promptly advise Fifth Third in writing of any fact that, if existing or known at the date hereof, would have been required to be set forth or disclosed in or pursuant to this Agreement or of any fact that, if existing or known at the date hereof, would have made any of the representations contained herein untrue to any material extent, and which in each case, would be likely to have a material adverse effect on South Florida Bank Holding and its subsidiaries, taken as a whole, provided, however, that no such information so disclosed to Fifth Third shall be deemed an exception to any representation, warranty or covenant made by South Florida Bank Holding unless Fifth Third, in its sole discretion, agrees in writing to accept such exception .

2. Between the date hereof and the Closing Date, Fifth Third shall promptly advise South Florida Bank Holding in writing of any fact that, if existing or known at the date hereof, would have been required to be set forth or disclosed in or pursuant to this Agreement or of any fact that, if existing or known at the date hereof, would have made any of the representations contained herein untrue to any material extent, and which in each case, would be likely to have a material adverse effect on Fifth Third and its subsidiaries, taken as a whole, provided, however, that no such information so disclosed to South Florida Bank Holding shall be deemed an exception to any representation, warranty or covenant made by Fifth Third unless South Florida Bank Holding, in its sole discretion, agrees in writing to accept such exception .

## VIII. *TERMINATION*

A. This Agreement may be terminated at any time prior to the Effective Time by written notice delivered by Fifth Third to South Florida Bank Holding or by South Florida Bank Holding to Fifth Third in the following instances:

1. By Fifth Third or South Florida Bank Holding, if there has been to the extent contemplated in Article VI, Sections B.1. and 2. and Article VI, Sections C.1. and 2. herein, a material misrepresentation, a material breach of warranty or a material failure to comply with any covenant on the part of the other party with respect to the representations, warranties, and covenants set forth herein and such misrepresentations, breach or failure to comply has not been cured (if capable of cure) within thirty (30) days after receipt of written notice, provided, the party in default shall have no right to terminate for its own default.

2. By Fifth Third or South Florida Bank Holding, in each case taken as a whole, if the business or assets or financial condition of the other party shall have materially and adversely changed from that in existence at June 30, 1998, other than any such change attributable to or resulting from any change in law, regulation or GAAP, changes in interest rates, economic, financial or market conditions affecting the banking or thrift industry generally or changes that may occur as a consequence of actions or inactions that either party hereto is expressly obligated to take under this Agreement.

3. By Fifth Third or South Florida Bank Holding, if the merger transaction contemplated herein has not been consummated by June 30, 1999, provided the terminating party is not in material breach or default of any representations, warranty or covenant contained herein on the date of such termination.

4. By the mutual written consent of Fifth Third and South Florida Bank Holding.

5. By Fifth Third if any event occurs which renders impossible of satisfaction in any material respect one or more of the conditions to the obligations of Fifth Third to effect the Merger set forth in Article VI, Sections A. and B. herein and non-compliance is not waived by Fifth Third.

6. By South Florida Bank Holding if any event occurs which renders impossible of satisfaction in any material respect one or more of the conditions of the obligations of South Florida Bank Holding to effect the Merger as set forth in Article VI, Sections A. and C. herein and non-compliance is not waived by South Florida Bank Holding.

B. If South Florida Bank Holding shareholders, acting at a meeting held for the purpose of voting upon this Agreement and the Agreement of Merger, fail to approve such agreements in the manner required by law, then this Agreement and the Agreement of Merger shall be deemed to be automatically terminated, provided that South Florida Bank Holding.

C. Upon termination as provided in this Section, this Agreement and the Agreement of Merger, except for the provisions of Sections D, H, J and K of Article VII hereof shall be void and of no further force or effect, and, except as provided in Section H of Article VII hereof, neither party hereto not in material breach or default of its representations, warranties and covenants hereunder shall have any liability of any kind to the other party including but not limited to liability for expenses incurred by the other party in connection with this transaction; provided that no such termination shall relieve a breaching party from liability for any uncured willful breach of a covenant, undertaking, representation or warranty giving rise to such termination.



## **IX. CLOSING AND EFFECTIVE TIME**

The consummation of the transactions contemplated by this Agreement shall take place at a closing to be held at the offices of Fifth Third in Cincinnati, Ohio on a Friday which is as soon as is reasonably possible following the date that all of the conditions precedent to closing set forth in Article VI hereof, including the waiting period required by any banking or bank holding company regulatory agency after its approval of the Merger is issued before the transaction may be consummated, have been fully met or effectively waived (the "Closing Date"). Pursuant to the filing of articles or a certificate of merger (which shall be acceptable to South Florida Bank Holding and Fifth Third) with the Secretary of the State of Ohio and the Secretary of State of Florida in accordance with law and this Agreement, the Merger provided for herein shall become effective at the close of business on said day (the "Effective Time"). By mutual agreement of the parties, the closing may be held at any other time or place or on any other date and the effectiveness of the Merger (and the Effective Time) may be changed by such mutual agreement. None of the representations, warranties and agreements in this Agreement or in any instrument delivered pursuant to this Agreement shall survive the Effective Time, except for agreements of the parties which by their terms are intended to be performed after the Effective Time.

## **X. AMENDMENT**

This Agreement may be amended, modified or supplemented by the written agreement of South Florida Bank Holding and Fifth Third upon the authorization of each company's respective Board of Directors at any time before or after approval of the Merger and this Agreement by the shareholders of South Florida Bank Holding, but after any such approval by the shareholders of South Florida Bank Holding no amendment shall be made (without further shareholder approval) which changes in any manner adverse to such shareholders the consideration to be provided to such shareholders pursuant to this Agreement and the Agreement of Merger.

## **XI. GENERAL**

This Agreement was made in the State of Ohio and shall be interpreted under the laws of the United States and the State of Ohio. This Agreement and all of the provisions hereof shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns but except as specifically set forth herein none of the provisions hereof shall be binding upon and inure to the benefit of any other person, firm or corporation whomsoever. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned or transferred by operation of law or otherwise by any party hereto without the prior written consent of the other party hereto; provided, however, that the merger or consolidation of Fifth Third shall not be deemed an assignment hereunder if Fifth Third is the surviving corporation in such merger or consolidation and its Common Stock shall thereafter continue to be publicly traded and issuable to South Florida Bank Holding shareholders pursuant to the terms of this Agreement.

XII. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which shall be deemed an original for all purposes but such counterparts taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date hereinabove set forth.

FIFTH THIRD BANCORP

(SEAL)

By: Robert P. Niehaus  
Robert P. Niehaus  
Executive Vice President

Attest: Paul L. Reynolds  
Paul L. Reynolds  
Assistant Secretary

SOUTH FLORIDA BANK HOLDING CORPORATION

(SEAL)

By: R. Ernest Hendry  
R. Ernest Hendry  
Chairman of the Board of Directors

Attest: William P. Valenti  
William P. Valenti  
President and Chief Executive Officer