

UNITED STATES OF AMERICA  
BEFORE THE  
BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM  
WASHINGTON, D.C.

THE STATE OF ALABAMA  
ALABAMA STATE BANKING DEPARTMENT  
MONTGOMERY, ALABAMA

Written Agreement by and among

SUNSOUTH BANCSHARES, INC.  
Dothan, Alabama

FEDERAL RESERVE BANK OF  
ATLANTA  
Atlanta, Georgia

and

ALABAMA STATE BANKING  
DEPARTMENT  
Montgomery, Alabama

Docket No. 13-028-WA-HC

WHEREAS, SunSouth Bancshares, Inc., Dothan, Alabama (“SunSouth”), a registered bank holding company, owns and controls SunSouth Bank, Dothan, Alabama (the “Bank”), a state-chartered nonmember bank, and various nonbank subsidiaries;

WHEREAS, it is the common goal of SunSouth, the Federal Reserve Bank of Atlanta (the “Reserve Bank”), and the Alabama State Banking Department (the “Department”) to improve the financial soundness of SunSouth so that SunSouth may serve as a source of strength to the Bank;

WHEREAS, SunSouth, the Reserve Bank, and the Department have mutually agreed to enter into this Written Agreement (the “Agreement”); and

WHEREAS, on September 11, 2013, the board of directors of SunSouth, at a duly constituted meeting, adopted a resolution authorizing and directing J. Steven Roy to enter into this Agreement on behalf of SunSouth and consenting to compliance with each and every provision of this Agreement by SunSouth and its institution-affiliated parties, as defined in sections 3(u) and 8(b)(3) of the Federal Deposit Insurance Act, as amended (the “FDI Act”) (12 U.S.C. §§ 1813(u) and 1818(b)(3)).

NOW, THEREFORE, SunSouth, the Reserve Bank, and the Department agree as follows:

**Source of Strength**

1. The board of directors of SunSouth shall take appropriate steps to fully utilize SunSouth’s financial and managerial resources, pursuant to section 38A of the FDI Act (12 U.S.C. § 1831o-1) and section 225.4(a) of Regulation Y of the Board of Governors of the Federal Reserve System (the “Board of Governors”) (12 C.F.R. § 225.4(a)), to serve as a source of strength to the Bank, including, but not limited to, taking steps to ensure that the Bank complies with the Consent Order issued by the Department and the Federal Deposit Insurance Corporation on May 2, 2013 and any other supervisory action taken by the Bank’s federal or state regulators.

**Dividends and Distributions**

2. (a) SunSouth shall not declare or pay any dividends without the prior written approval of the Reserve Bank, the Director of the Division of Banking Supervision and Regulation (the “Director”) of the Board of Governors, and the Superintendent of the Department (the “Superintendent”).

(b) SunSouth shall not directly or indirectly take dividends or any other form of payment representing a reduction in capital from the Bank without the prior written approval of the Reserve Bank and the Department.

(c) SunSouth and its nonbank subsidiaries shall not make any distributions of interest, principal, or other sums on subordinated debentures or trust preferred securities without the prior written approval of the Reserve Bank, the Director, and the Superintendent.

(d) All requests for prior approval shall be received by the Reserve Bank and the Department at least 30 days prior to the proposed dividend declaration date, proposed distribution on subordinated debentures, and required notice of deferral on trust preferred securities. All requests shall contain, at a minimum, current and projected information on SunSouth's capital, earnings, and cash flow; the Bank's capital, asset quality, earnings, and allowance for loan and lease losses; and identification of the sources of funds for the proposed payment or distribution. For requests to declare or pay dividends, SunSouth must also demonstrate that the requested declaration or payment of dividends is consistent with the Board of Governors' Policy Statement on the Payment of Cash Dividends by State Member Banks and Bank Holding Companies, dated November 14, 1985 (Federal Reserve Regulatory Service, 4-877 at page 4-323).

### **Debt and Stock Redemption**

3. (a) SunSouth and any nonbank subsidiary shall not, directly or indirectly, incur, increase, or guarantee any debt without the prior written approval of the Reserve Bank and the Department. All requests for prior written approval shall contain, but not be limited to, a statement regarding the purpose of the debt, the terms of the debt, the planned source(s) for

debt repayment, and an analysis of the cash flow resources available to meet such debt repayment.

(b) SunSouth shall not, directly or indirectly, purchase or redeem any shares of its stock without the prior written approval of the Reserve Bank and the Department.

### **New Directors**

4. (a) SunSouth shall take all available actions necessary to increase the number of outside directors, and shall report quarterly to the Reserve Bank and the Department on efforts to secure new directors.

(b) For the purposes of this Agreement, the term: (i) “outside director” is defined as an individual, not an employee or executive officer of SunSouth or the Bank, who owns less than 10 percent of the outstanding voting stock of SunSouth or the Bank and who is not related in any manner to any shareholder who owns 10 percent or more of the outstanding voting stock of SunSouth or the Bank or any related interest of such a shareholder; and (ii) “executive officer” is defined as set forth in section 215.2(e) of Regulation O of the Board of Governors (12 C.F.R. 215.2(e)).

### **Compliance with Laws and Regulations**

5. (a) In appointing any new director or senior executive officer, or changing the responsibilities of any senior executive officer so that the officer would assume a different senior executive officer position, SunSouth shall comply with the notice provisions of section 32 of the FDI Act (12 U.S.C. § 1831i) and Subpart H of Regulation Y of the Board of Governors (12 C.F.R. §§ 225.71 *et seq.*) and shall obtain the Department’s approval.

(b) SunSouth shall comply with the restrictions on indemnification and severance payments of section 18(k) of the FDI Act (12 U.S.C. § 1828(k)) and

Part 359 of the Federal Deposit Insurance Corporation's regulations (12 C.F.R. Part 359).

### **Progress Reports**

6. Within 45 days after the end of each calendar quarter following the date of this Agreement, the board of directors shall submit to the Reserve Bank and the Department written progress reports detailing the form and manner of all actions taken to secure compliance with the provisions of this Agreement and the results thereof and a parent company only balance sheet, income statement, and, as applicable, report of changes in stockholders' equity.

### **Communications**

7. All communications regarding this Agreement shall be sent to:

- (a) Mr. Allen Stanley  
Assistant Vice President  
Federal Reserve Bank of Atlanta  
1000 Peachtree Street, N.E.  
Atlanta, Georgia 30309
- (b) Mr. John D. Harrison  
Superintendent  
Alabama State Banking Department  
401 Adams Avenue, Suite 680  
Montgomery, Alabama 36104
- (c) Mr. J. Steven Roy  
Chairman of the Board  
SunSouth Bancshares, Inc.  
108 Jamestown Boulevard  
Dothan, Alabama 36302

### **Miscellaneous**

8. Notwithstanding any provision of this Agreement, the Reserve Bank and the Department may, in their sole discretion, grant written extensions of time to SunSouth to comply with any provision of this Agreement.

9. The provisions of this Agreement shall be binding upon SunSouth and its institution-affiliated parties, in their capacities as such, and their successors and assigns.

10. Each provision of this Agreement shall remain effective and enforceable until stayed, modified, terminated, or suspended in writing by the Reserve Bank and the Department.

11. The provisions of this Agreement shall not bar, estop, or otherwise prevent the Board of Governors, the Reserve Bank, the Department or any other federal or state agency from taking any other action affecting SunSouth, the Bank, any nonbank subsidiary of SunSouth, or any of their current or former institution-affiliated parties and their successors and assigns.

12. Pursuant to section 50 of the FDI Act (12 U.S.C. § 1831aa), this Agreement is enforceable by the Board of Governors under section 8 of the FDI Act (12 U.S.C. § 1818).

13. This Agreement does not supersede any other enforcement action involving SunSouth and the Department.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the 20<sup>th</sup> day of September, 2013.

SUNSOUTH BANCSHARES, INC.

By: /s/ J. Steven Roy  
J. Steven Roy  
Chairman of the Board

FEDERAL RESERVE BANK  
OF ATLANTA

By: /s/ Allen Stanley  
Allen Stanley  
Assistant Vice President

ALABAMA STATE BANKING  
DEPARTMENT

By: /s/ John D. Harrison  
John D. Harrison  
Superintendent of Banks