

# **EXHIBIT**

# **E**

but not limited to EPROM, PROM, RAM and ROM, or on or in any other vehicle for digital data storage and/or transmittal.

12. The term "ESI" shall mean data including writings, drawings, emails, graphs, charts, photographs, sound recordings, images, and other data or data compilations - stored in any medium from which information can be obtained either directly or, if necessary, after translation by SunTrust into a reasonably usable form.

13. The term "Network" means any hardware and/or software combination that connects two or more Computers together and which allows the Computers to share and/or transfer Data between them. For the purposes of this definition, the connection between or among the Computers need not be either physical or direct, i.e., wireless Networks, and sharing and/or transferring Data via indirect routes utilizing modems and phone company facilities. In addition, there need not be a central file or Data server nor a central Network operating system in place, i.e., peer-to-peer Networks and Networks utilizing a mainframe host to facilitate Data transfer.

14. The term "Rotation" means any plan, policy or procedure that involves the re-use of an Electronic Media device after it has been used for backup, archival, or other Electronic Data storage purposes, particularly if such re-use results in the alteration and/or destruction of the Electronic Data residing on the device prior to its re-use.

15. "Relevant time period" for the purposes of these requests, except as otherwise stated in a particular request, is from July 2004 through the present.

## II. DEPOSITION SUBJECT MATTER

SunTrust shall designate and produce for deposition one or more of its officers, directors, managing agents, or other persons who are knowledgeable about and consent to testify on its behalf concerning the following subject matters:

1. SunTrust's policies and practices concerning the deletion, backup, and preservation of Electronic Data, including:
  - (a) The backup schedule employed by SunTrust;
  - (b) The backup and preservation of Data contained on Network servers or other Network storage devices;
  - (c) The backup and preservation of Data contained on non-Networked storage devices, including laptops, home Computer Systems, and local drives of Networked Computer Systems;
  - (d) The backup and preservation of Data contained on the hard drives of Computer Systems no longer in active service;
  - (e) The rotation or reuse of any Electronic Media used by SunTrust to backup Electronic Data;

4097.101/334402

5

- (f) The deletion of Data from SunTrust's Computer Systems, whether by scheduled, automated, or individualized processes;
  - (g) System upgrades;
  - (h) Server upgrades; and
  - (i) The identity of all people with responsibility for, or the greatest knowledge of, SunTrust's policies and practices regarding the items described in (a) through (h) above.
2. SunTrust's ability to restore archived Electronic Data such that upon restoration it may be accessed, viewed, exported, or printed, and the process, time, and expense associated with undertaking the restoration of archived Electronic Data in accordance with the foregoing topic.
3. SunTrust's policies and procedures regarding backup data for current and former employees and the implementation of such policies.
4. The practices, policies, and procedures that govern or governed the maintenance, retention, preservation, or destruction of documents and communications relating to the Engler Accounts, including but not limited to the length of time documents and communications are retained, the types of documents and communications retained and not retained, and the manner in which documents and communications are kept by SunTrust.
5. The types of documents and communications created, received, or retained by SunTrust relating to the Engler Accounts, including but not limited to electronic and internet-based documents and communications.
6. SunTrust's efforts at any time, including but not limited to its efforts during the course of its business dealings with the Engler Accounts, as well as its efforts after the Engler Accounts were closed, to maintain, collect, preserve, or destroy documents relating to the Engler Accounts.
7. SunTrust's efforts and procedures relating to or undertaken in the course of responding to the subpoenas issued by the Trustee, including:
- a. the identities of all individuals from whom documents were requested and/or collected;
  - b. the locations from which documents were collected;
  - c. the decisions concerning whom to ask for documents and where to look for documents;
  - d. the review by attorneys, employees, or agents undertaken in determining the responsiveness of individual documents;

4097.101/334402

9

- e. the internal monitoring of compliance with document requests; and
  - f. the physical production of documents and things.
8. The length of time and the means by which emails and other electronic communications relating to the Engler Accounts are stored and retained by SunTrust.
9. SunTrust's search for and production of electronic communications, including emails, responsive to the Trustee's subpoenas.
10. The identity and actions undertaken by the SunTrust employees responsible for opening, monitoring, administering, and closing the Engler Accounts.
11. Any investigation of the Engler Accounts that was performed by SunTrust in the ordinary course of SunTrust's administration of those accounts, including but not limited to any investigation conducted by SunTrust's Compliance Department and any communications SunTrust had with other banks regarding those investigations.
12. The communications and circumstances surrounding SunTrust's decision to close the Engler Accounts.
13. SunTrust's policies and procedures established to satisfy the Bank Secrecy Act, the Patriot Act, Anti-Money Laundering regulations, and "know your customer requirements," and SunTrust's application of those policies and procedures regarding the opening, monitoring, administering, and closing the Engler Accounts.

4097.101/334402

7