

WACHOVIA CORP NEW  
Form 10-K  
February 28, 2006

**SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549  
FORM 10-K**

**Annual report pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 (the Exchange Act ) for the fiscal year ended December 31, 2005**

**Commission file number 1-10000**

**WACHOVIA CORPORATION**

(Exact name of registrant as specified in its charter)

**NORTH CAROLINA**

(State of incorporation)

**56-0898180**

(I.R.S. Employer Identification No.)

**ONE WACHOVIA CENTER**

**CHARLOTTE, NC**

(Address of principal executive offices)

**28288-0013**

(Zip Code)

**Registrant's telephone number, including area code: (704) 374-6565**

**Securities registered pursuant to Section 12(b) of the Exchange Act:**

**TITLE OF EACH CLASS**

**NAME OF EXCHANGE ON WHICH REGISTERED**

Common Stock, \$3.33 1/3 par value (including attached rights)

New York Stock Exchange, Inc. (the NYSE )

5.80% Fixed-to-Floating Rate Normal Wachovia Income Trust Securities

NYSE

fully and unconditionally guaranteed by Wachovia Corporation

Commodity-Linked Notes due November 3, 2008

NYSE

Commodity-Linked Notes due August 6, 2009

NYSE

See full list of securities listed on the American Stock Exchange on the page directly following this cover page

**Securities registered pursuant to Section 12(g) of the Exchange Act:**

**TITLE OF EACH CLASS**

Dividend Equalization Preferred shares, no par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.

Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act.

Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, or a non-accelerated filer.

Large accelerated filer  Accelerated filer  Non-accelerated filer

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes  No

As of June 30, 2005, the last business day of the registrant's completed second fiscal quarter, the aggregate market value of the voting and non-voting common equity held by non-affiliates was approximately \$77.8 billion.

As of January 31, 2006, there were 1,551,647,636 shares of the registrant's common stock outstanding, \$3.33 1/3 par value per share.

**DOCUMENTS INCORPORATED BY REFERENCE IN FORM 10-K**

**INCORPORATED DOCUMENTS**

**WHERE INCORPORATED IN FORM 10-K**

1. Certain portions of the Corporation's Annual Report to Stockholders for the year ended December 31, 2005 ( Annual Report ).  
Part I Items 1 and 2; Part II Items 5, 6, 7, 7A, 8 and 9A;  
and  
Part IV Item 15.
  2. Certain portions of the Corporation's Proxy Statement for the Annual Meeting of Stockholders to be held April 18, 2006 ( Proxy Statement ).  
Part III Items 10, 11, 12, 13 and 14.
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**Securities registered pursuant to Section 12(b) of the Exchange Act and listed on the American Stock Exchange are as follows:**

Participating Index Notes (PINS) TEES Targeted Efficient Equity Securities Linked to the S&P 500<sup>®</sup> Index due August 19, 2009; *Trigger* CAPITALS (Covered Asset Participation Target exchangeable Securities) Linked to the S&P 500<sup>®</sup> Composite Stock Price Index due December 8, 2008; LUNARS (Leveraged Upside Indexed Accelerated Return Securities) Linked to the Nasdaq 100<sup>®</sup> Index due April 26, 2006; ASTROS (ASseT Return Obligation Securities) Linked to the Nikkei 225<sup>®</sup> Index Due March 2, 2010; ASTROS (ASseT Return Obligation Securities) Linked to a Global Basket of Indices due February 2, 2010; ASTROS (ASseT Return Obligation Securities) Linked to the Dow Jones Global Titans 50 Index due March 3, 2010; LUNARS (Leveraged Upside Indexed Accelerated Return Securities) Linked to the S&P 500<sup>®</sup> Composite Stock Price Index due September 5, 2006; *Trigger* CAPITALS (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of CONSOL Energy Inc. due March 7, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of Nabors Industries Ltd. due April 25, 2006; ASTROS (ASseT Return Obligation Securities) Linked to the Global Equity Basket (Series 2005-2) due May 5, 2010; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of Lyondell Chemical Company due June 1, 2006; LUNARS (Leveraged Upside Indexed Accelerated Return Securities) Linked to the S&P 500<sup>®</sup> Composite Stock Price Index due December 4, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of Phelps Dodge Corporation due June 14, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of eBay Inc. due July 28, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of ImClone Systems Incorporated due August 4, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of Chesapeake Energy Corporation due September 1, 2006; *Trigger* CAPITALS(sm) (Covered Asset Participation Target exchangeable Securities) Linked to the Common Stock of Sunoco, Inc. due November 1, 2006; LUNARS (Leveraged Upside Indexed Accelerated Return Securities) Linked to the Nikkei 225<sup>®</sup> Index due April 30, 2007; Exchangeable Notes Linked to the Common Stock of Three Oil Industry Companies due December 15, 2010; Enhanced Yield Securities Linked to the Common Stock of Newmont Mining Corporation due December 1, 2006; Enhanced Yield Securities Linked to the Common Stock of Chesapeake Energy Corporation due December 30, 2006; Enhanced Yield Securities Linked to the Common Stock of Halliburton Company due December 30, 2006; Enhanced Yield Securities Linked to the Common Stock of Google Inc. due February 1, 2007.

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**PART I**

*Wachovia Corporation (formerly named First Union Corporation, Wachovia ) may from time to time make written or oral forward-looking statements, including statements contained in Wachovia's filings with the Securities and Exchange Commission (including this Annual Report on Form 10-K and the Exhibits hereto), in its reports to stockholders and in other Wachovia communications. These statements relate to future, not past, events. These forward-looking statements include, among others, statements with respect to Wachovia's beliefs, plans, objectives, goals, guidelines, expectations, financial condition, results of operations, future performance and business, including without limitation, (i) statements relating to the benefits of the merger (including divestitures related thereto) between Wachovia and SouthTrust Corporation (the SouthTrust Merger ) completed on November 1, 2004, including future financial and operating results, cost savings, enhanced revenues and the accretion or dilution to reported earnings that may be realized from the SouthTrust Merger, (ii) statements relating to the benefits of the proposed merger among Wachovia, Westcorp and WFS Financial Inc (the Westcorp Merger and together with the SouthTrust merger, the Mergers ), including future financial and operating results, cost savings, enhanced revenues and the accretion of reported earnings that may be realized from the Westcorp Merger, (iii) statements regarding Wachovia's goals and expectations with respect to earnings, earnings per share, revenue, expenses and the growth rate in such items, as well as other measures of economic performance, including statements relating to estimates of credit quality trends, and (iv) statements preceded by, followed by or that include the words may , could , should , would , believe , anticipate , estimate , expect , intend , plan , projects , outlook or similar expressions. These forward-looking statements are based upon the current beliefs and expectations of Wachovia's management and are subject to significant risks and uncertainties that are subject to change based on various factors (many of which are beyond Wachovia's control. Actual results may differ from those set forth in the forward-looking statements.*

*The following factors, among others, could cause Wachovia's financial performance to differ materially from that expressed in any forward-looking statements: (1) the risk that the businesses of Wachovia and SouthTrust in connection with the SouthTrust Merger or the businesses of Wachovia, Westcorp and WFS Financial Inc in connection with the Westcorp Merger will not be integrated successfully or such integration may be more difficult, time-consuming or costly than expected; (2) expected revenue synergies and cost savings from the Mergers may not be fully realized or realized within the expected time frame; (3) revenues following the Mergers may be lower than expected; (4) deposit attrition, operating costs, customer loss and business disruption following the Mergers, including, without limitation, difficulties in maintaining relationships with employees, may be greater than expected; (5) the strength of the United States economy in general and the strength of the local economies in which Wachovia conducts operations may be different than expected, resulting in, among other things, a deterioration in credit quality or a reduced demand for credit, including the resultant effect on Wachovia's loan portfolio and allowance for loan losses; (6) the effects of, and changes in, trade, monetary and fiscal policies and laws, including interest rate policies of the Board of Governors of the Federal Reserve System; (7) inflation, interest rate, market and monetary fluctuations; (8) adverse conditions in the stock market, the public debt market and other capital markets (including changes in interest rate conditions) and the impact of such conditions on Wachovia's capital markets and capital management activities, including, without limitation, Wachovia's mergers and acquisition advisory business, equity and debt underwriting activities, private equity investment activities, derivative securities activities, investment and wealth management advisory businesses, and brokerage activities; (9) the timely development of competitive new products and services by Wachovia and the acceptance of these products and services by new and existing customers; (10) the willingness of customers to accept third party products marketed by Wachovia; (11) the willingness of customers to substitute competitors' products and services for Wachovia's products and services and vice versa; (12) the impact of changes in financial services laws and regulations (including laws concerning taxes, banking, securities and insurance); (13) technological changes; (14) changes in consumer spending and saving habits; (15) the effect of corporate restructurings, acquisitions and/or dispositions we may undertake from time to time, and the actual restructuring and other expenses related thereto, and the failure to achieve the expected revenue growth and/or expense savings from such corporate restructurings, acquisitions and/or dispositions; (16) the growth and profitability of Wachovia's non-interest or fee income being less than expected; (17) unanticipated regulatory or*

*judicial proceedings or rulings; (18) the impact of changes in accounting principles; (19) adverse changes in financial performance and/or condition of Wachovia's borrowers which could impact repayment of such borrowers outstanding loans; (20) the impact on Wachovia's businesses, as well as on the risks set forth above, of various domestic or international military or terrorist activities or conflicts; and (21) Wachovia's success at managing the risks involved in the foregoing.*

*Wachovia cautions that the foregoing list of important factors is not exclusive. Wachovia does not undertake to update any forward-looking statement, whether written or oral, that may be made from time to time by or on behalf of Wachovia.*

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## **ITEM 1. BUSINESS.**

### **GENERAL**

Wachovia was incorporated under the laws of North Carolina in 1967 and is registered as a financial holding company and a bank holding company under the Bank Holding Company Act of 1956, as amended. The merger of the former Wachovia Corporation ( Legacy Wachovia ) and First Union Corporation ( Legacy First Union ) was effective September 1, 2001. Legacy First Union changed its name to Wachovia Corporation on the date of the merger. As the surviving corporate entity in the merger, information contained in this Annual Report on Form 10-K, unless indicated otherwise, includes information about Legacy First Union only. Whenever we use the Wachovia name in this Annual Report on Form 10-K, we mean the new combined company and, before the merger, Legacy First Union, unless indicated otherwise.

We provide a wide range of commercial and retail banking and trust services through full-service banking offices in Alabama, Connecticut, Delaware, Florida, Georgia, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and Washington, D.C. Wachovia Bank, National Association ( WBNA ) operates these banking offices, except those in Delaware, which are operated by Wachovia Bank of Delaware, National Association. We also provide various other financial services, including mortgage banking, investment banking, investment advisory, home equity lending, asset-based lending, leasing, insurance, international and securities brokerage services, through other subsidiaries. Our retail securities brokerage business is conducted through Wachovia Securities, LLC, and operates in 49 states.

Our principal executive offices are located at One Wachovia Center, 301 South College Street, Charlotte, North Carolina 28288-0013 (telephone number (704) 374-6565).

Since the 1985 Supreme Court decision allowing interstate banking expansion, we have concentrated our efforts on building a large, diversified financial services organization, primarily doing business in the eastern region of the United States. Since November 1985, we have completed over 100 banking-related acquisitions.

Our business focus is on generating improved core earnings growth from our four key businesses, including Capital Management, the General Bank, Wealth Management, and the Corporate and Investment Bank. We will continue to evaluate our operations and organizational structures to ensure they are closely aligned with our goal of maximizing performance in our core business lines. When consistent with our overall business strategy, we may consider the disposition of certain assets, branches, subsidiaries or lines of business. We routinely explore acquisition opportunities, particularly in areas that would complement our core business lines, and frequently conduct due diligence activities in connection with possible acquisitions. As a result, acquisition discussions and, in some cases, negotiations frequently take place and future acquisitions involving cash, debt or equity securities can be expected. Additional information relating to our businesses and our subsidiaries is included in the information set forth on pages 21 through 27 and in Note 14 on pages 95 through 97 in the Annual Report and incorporated herein by reference. Information relating to Wachovia Corporation only is set forth in Note 22 on pages 120 through 122 in the Annual Report and incorporated herein by reference.

### **Available Information**

Wachovia's Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 are accessible at no cost on our website, [www.wachovia.com](http://www.wachovia.com), as soon as reasonably practicable after those reports have been electronically filed or submitted to the SEC. These filings are also accessible on the SEC's website, [www.sec.gov](http://www.sec.gov). In addition, Wachovia makes available on [www.wachovia.com](http://www.wachovia.com) (i) its Corporate Governance Guidelines, (ii) its Code of Conduct & Ethics, which applies to its directors and all employees, and (iii) the charters of the Audit, Management Resources & Compensation, and Corporate Governance & Nominating Committees of its Board of Directors. These materials also are available free of charge in print to stockholders who request them by writing to: Investor Relations, Wachovia Corporation, 301 South College Street, Charlotte, North Carolina 28288-0206. Wachovia also makes available through our website statements of beneficial ownership of Wachovia's equity securities filed by our directors, officers and 10% or greater shareholders under Section 16 of the Securities Exchange Act of 1934. The information on our website is not incorporated by reference into this report.

### **COMPETITION**

Our subsidiaries face substantial competition in their operations from banking and non-banking institutions, including savings and loan associations, credit unions, money market funds and other investment vehicles, mutual fund advisory companies, brokerage firms, insurance companies, leasing companies, credit card issuers, mortgage banking companies, investment banking companies, finance companies and other types of financial services providers, including Internet-only financial service providers.

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## REGULATION AND SUPERVISION

*The following discussion sets forth some of the material elements of the regulatory framework applicable to financial holding companies and bank holding companies and their subsidiaries and provides some specific information relevant to us. The regulatory framework is intended primarily for the protection of depositors and the Bank Insurance Fund and not for the protection of security holders and creditors. To the extent that the following information describes statutory and regulatory provisions, it is qualified in its entirety by reference to the particular statutory and regulatory provisions.*

The current regulatory environment for financial institutions includes substantial enforcement activity by the federal banking agencies, the U.S. Department of Justice, the Securities and Exchange Commission and other state and federal law enforcement agencies, reflecting an increase in activity over prior years. This environment entails significant potential increases in compliance requirements and associated costs. A number of banking institutions have recently been subject to enforcement actions as well as settlements involving, among other things, cease and desist orders, written agreements, deferred prosecutions and payments of monetary penalties.

### Bank Holding Company Activities

#### *General*

As a financial holding company and a bank holding company, Wachovia is regulated under the Bank Holding Company Act of 1956, as well as other federal and state laws governing the banking business. The Federal Reserve Board is the primary regulator of Wachovia, and supervises our activities on a continual basis. Our subsidiaries are also subject to regulation and supervision by various regulatory authorities, including the Federal Reserve Board, the Comptroller of the Currency (the *Comptroller*) and the Federal Deposit Insurance Corporation (the *FDIC*). The Gramm-Leach-Bliley Financial Modernization Act of 1999 was enacted on November 12, 1999. The Modernization Act, which amended the Bank Holding Company Act,

allows bank holding companies that qualify as financial holding companies to engage in a broad range of financial and related activities;

allows insurers and other financial services companies to acquire banks;

removes various restrictions that applied to bank holding company ownership of securities firms and mutual fund advisory companies; and

establishes the overall regulatory structure applicable to bank holding companies that also engage in insurance and securities operations.

The Federal Reserve Board notified us that, effective March 13, 2000, we are authorized to operate as a financial holding company and therefore are eligible to engage in, or acquire companies engaged in, the broader range of activities that are permitted by the Modernization Act. These activities include those that are determined to be financial in nature, including insurance underwriting, securities underwriting and dealing, and making merchant banking investments in commercial and financial companies. If any of our banking subsidiaries ceases to be well capitalized or well managed under applicable regulatory standards, the Federal Reserve Board may, among other things, place limitations on our ability to conduct these broader financial activities or, if the deficiencies persist, require us to divest the banking subsidiary. In addition, if any of our banking subsidiaries receives a rating of less than satisfactory under the Community Reinvestment Act of 1977 (*CRA*), we would be prohibited from engaging in any additional activities other than those permissible for bank holding companies that are not financial holding companies. Our banking subsidiaries currently meet these capital, management and CRA requirements.

#### *Interstate Banking*

The Reigle-Neal Interstate Banking and Branching Efficiency Act of 1994 (the *IBBEA*) authorized interstate acquisitions of banks and bank holding companies without geographic limitation. Under IBBEA a bank holding company cannot make an interstate acquisition of a bank if, as a result, it would control more than 10% of the total United States insured depository deposits and more than 30% of the applicable state law limit of deposits in that state.



### *Banking Acquisitions*

As a bank holding company, we are required to obtain prior Federal Reserve Board approval before acquiring more than 5% of the voting shares, or substantially all of the assets, of a bank holding company, bank or savings association. In determining whether to approve a proposed bank acquisition, federal bank regulators will consider, among other factors, the effect of the acquisition on competition, the public benefits expected to be received from the acquisition, the projected capital ratios and levels on a post-acquisition basis, and the acquiring institution's record of addressing the credit needs of the communities it serves, including the needs of low and moderate income neighborhoods, consistent with the safe and sound operation of the bank, under the CRA.

### *Subsidiary Dividends*

Wachovia is a legal entity separate and distinct from its banking and other subsidiaries. A major portion of our revenues results from amounts paid as dividends to us by our national bank subsidiaries. The Comptroller's prior approval is required if the total of all dividends declared by a national bank in any calendar year will exceed the sum of that bank's net profits for that year and its retained net profits for the preceding two calendar years, less any required transfers to surplus. Federal law also prohibits national banks from paying dividends that would be greater than the bank's undivided profits after deducting statutory bad debt in excess of the bank's allowance for loan losses. Under the foregoing dividend restrictions and certain restrictions applicable to certain of our non-banking subsidiaries, as of December 31, 2005, our subsidiaries, without obtaining affirmative governmental approvals, could pay aggregate dividends of \$4.0 billion to us during 2006. This amount is not necessarily indicative of amounts that may be available in future periods. In 2005, our subsidiaries paid \$4.1 billion in cash dividends to us. In addition, we and our banking subsidiaries are subject to various general regulatory policies and requirements relating to the payment of dividends, including requirements to maintain adequate capital above regulatory minimums. The appropriate federal regulatory authority is authorized to determine under certain circumstances relating to the financial condition of a bank or bank holding company that the payment of dividends would be an unsafe or unsound practice and to prohibit payment thereof. The appropriate federal regulatory authorities have indicated that paying dividends that deplete a bank's capital base to an inadequate level would be an unsafe and unsound banking practice and that banking organizations should generally pay dividends only out of current operating earnings.

### *Source of Strength*

Under Federal Reserve Board policy, we are expected to act as a source of financial strength to each of our subsidiary banks and to commit resources to support each of those subsidiaries. This support may be required at times when, absent that Federal Reserve Board policy, we may not find ourselves able to provide it. Capital loans by a bank holding company to any of its subsidiary banks are subordinate in right of payment to deposits and to certain other indebtedness of such subsidiary banks. In the event of a bank holding company's bankruptcy, any commitment by the bank holding company to a federal bank regulatory agency to maintain the capital of a subsidiary bank will be assumed by the bankruptcy trustee and entitled to a priority of payment.

Federal law also authorizes the Comptroller to order an assessment of Wachovia if the capital of one of our national bank subsidiaries were to become impaired. If we failed to pay the assessment within three months, the Comptroller could order the sale of our stock in the national bank to cover the deficiency.

### *Capital Requirements*

Federal banking regulators have adopted risk-based capital and leverage guidelines that require that our capital-to-assets ratios meet certain minimum standards. Under the risk-based capital requirements for bank holding companies, the minimum requirement for the ratio of capital to risk-weighted assets (including certain off-balance-sheet activities, such as standby letters of credit) is 8%. At least half of the total capital (as defined below) is to be composed of common stockholders' equity, retained earnings, qualifying perpetual preferred stock (in a limited amount in the case of cumulative preferred stock) and minority interests in the equity accounts of consolidated subsidiaries, less goodwill and certain intangibles (tier 1 capital). The remainder of total capital may consist of mandatory convertible debt securities and a limited amount of subordinated debt, qualifying preferred stock and loan loss allowance (tier 2 capital), and together with tier 1 capital, total capital. At December 31, 2005, our tier 1 capital and total capital ratios were 7.50% and 10.82%, respectively.

In addition, the Federal Reserve Board has established minimum leverage ratio guidelines for bank holding companies. These requirements provide for a minimum leverage ratio of tier 1 capital to adjusted average quarterly assets less certain amounts ( leverage ratio ) equal to 3% for bank holding companies that meet certain specified criteria, including having the highest regulatory rating. All other bank holding companies will generally be required to maintain a leverage ratio of at least 4%. Our

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leverage ratio at December 31, 2005, was 6.12%. The guidelines also provide that bank holding companies experiencing internal growth or making acquisitions will be expected to maintain strong capital positions substantially above the minimum supervisory levels without significant reliance on intangible assets. Furthermore, the guidelines indicate that the Federal Reserve Board will continue to consider a tangible tier 1 leverage ratio (deducting all intangibles) in evaluating proposals for expansion or to engage in new activity. The Federal Reserve Board has not advised us of any specific minimum leverage ratio or tier 1 leverage ratio applicable to us.

Each of our subsidiary banks is subject to similar capital requirements adopted by the Comptroller or other applicable regulatory agency. Neither the Comptroller nor such applicable regulatory agency has advised any of our subsidiary banks of any specific minimum leverage ratios applicable to it. The capital ratios of our bank subsidiaries are set forth in Table 16 on page 58 in the Annual Report and incorporated herein by reference.

The risk-based capital requirements identify concentrations of credit risk and certain risks arising from non-traditional activities, and the management of those risks, as important factors to consider in assessing an institution's overall capital adequacy. Other factors taken into consideration by federal regulators include: interest rate exposure; liquidity, funding and market risk; the quality and level of earnings; the quality of loans and investments; the effectiveness of loan and investment policies; and management's overall ability to monitor and control financial and operational risks, including the risks presented by concentrations of credit and non-traditional activities.

Effective April 1, 2002, Federal Reserve Board rules govern the regulatory capital treatment of merchant banking investments and certain other equity investments, including investments made by our principal investing group, in non-financial companies held by bank holding companies. The rules generally impose a capital charge that increases incrementally as the value of the banking organization's equity investments increase. An 8% tier 1 capital deduction would apply on covered investments that in total represent up to 15% of an organization's tier 1 capital. For covered investments that total more than 25% of the organization's tier 1 capital, a capital deduction of 25% would be imposed.

Equity investments made through small business investment companies in an amount up to 15% of the banking organization's tier 1 capital are exempt from the new charges, but the full amount of the equity investments are still included when calculating the aggregate value of the banking organization's non-financial equity investments.

Changes to the risk-based capital regime are frequently proposed or implemented. The minimum risk-based capital requirements adopted by the federal banking agencies follow the Capital Accord of the Basel Committee on Banking Supervision. The Basel Committee, which is comprised of bank supervisors and central banks from the major industrialized countries, issued its Capital Accord in 1988 to achieve convergence in the capital regulations applicable to internationally active banking organizations. The Basel Committee issued a proposed replacement for the Capital Accord in January 2001, and, subsequently, it issued a number of working papers supplementing various aspects of that replacement (the New Accord). Based on these documents, the New Accord would adopt a three-pillar framework for addressing capital adequacy. These pillars would include minimum capital requirements, more emphasis on supervisory assessment of capital adequacy and greater reliance on market discipline. Under the New Accord, minimum capital requirements would be more differentiated based upon perceived distinctions in creditworthiness. Such requirements would be based either on ratings assigned by rating agencies or, in the case of a banking organization that met certain supervisory standards, on the organization's internal credit ratings. The minimum capital requirements in the New Accord would also include a separate capital requirement for operational risk. In August 2003, U.S. federal banking regulators issued an Advance Notice of Proposed Rulemaking addressing the implementation of the New Accord in the U.S., which contemplates requiring all U.S. banking institutions with over \$250 billion in assets (including Wachovia) to implement the advanced approaches for measuring risk under the New Accord on a mandatory basis. In June 2004, the Basel Committee published new international guidelines for calculating regulatory capital. Under these Basel II capital standards, we will be required to calculate regulatory capital under the New Accord, in parallel with the existing capital rules beginning in 2008. In 2009, we will calculate regulatory capital solely under the New Accord, subject to certain required minimum levels.

## **Bank Activities**

### *General*

WBNA and our other national bank subsidiaries are subject to the provisions of the National Bank Act, are under the supervision of, and subject to periodic examination by, the Comptroller, and are subject to the rules and regulations of

the Comptroller, the Federal Reserve Board, and the FDIC. WACHOVIA's operations in other countries are also subject to various restrictions imposed by the laws of those countries. In addition, all of our banks have FDIC insurance and are subject to the Federal Deposit Insurance Act (the FDIA).

*Prompt Corrective Action*

The FDIA, among other things, requires the federal banking agencies to take prompt corrective action in respect of depository institutions that do not meet minimum capital requirements. The FDIA establishes five tiers for FDIC-insured banks: (i) well

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capitalized if it has a total capital ratio of 10% or greater, a tier 1 capital ratio of 6% or greater and a leverage ratio of 5% or greater and is not subject to any order or written directive by any such regulatory authority to meet and maintain a specific capital level for any capital measure; (ii) adequately capitalized if it has a total capital ratio of 8% or greater, a tier 1 capital ratio of 4% or greater and a leverage ratio of 4% or greater (3% in certain circumstances) and is not well capitalized; (iii) undercapitalized if it has a total capital ratio of less than 8%, a tier 1 capital ratio of less than 4% or a leverage ratio of less than 4% (3% in certain circumstances); (iv) significantly undercapitalized if it has a total capital ratio of less than 6%, a tier 1 capital ratio of less than 3% or a leverage ratio of less than 3%; and (v) critically undercapitalized if its tangible equity is equal to or less than 2% of average quarterly tangible assets. An institution may be downgraded to, or deemed to be in, a capital category that is lower than is indicated by its capital ratios if it is determined to be in an unsafe or unsound condition or if it receives an unsatisfactory examination rating with respect to certain matters. As of December 31, 2005, all of our deposit-taking subsidiary banks had capital levels that qualify them as being well capitalized under those regulations.

Undercapitalized depository institutions are subject to growth limitations, the requirement to submit a capital restoration plan, and a variety of other restrictions the severity of which are keyed to the bank's capital tier and other factors. Ultimately, critically undercapitalized institutions are subject to the appointment of a receiver or conservator. A bank that is not well capitalized is subject to certain limitations relating to so-called brokered deposits.

#### *Cross Default*

Each of our banks can be held liable for any loss incurred, or reasonably expected to be incurred, by the FDIC due to the default of any other of our banks, and for any assistance provided by the FDIC to any of our banks that is in danger of default and that is controlled by the same bank holding company. Default means generally the appointment of a conservator or receiver. In danger of default means generally the existence of certain conditions indicating that a default is likely to occur in the absence of regulatory assistance. An FDIC cross-guarantee claim against a bank is generally superior in right of payment to claims of the holding company and its affiliates against such depository institution.

If the FDIC is appointed the conservator or receiver of an insured depository institution, upon its insolvency or in certain other events, the FDIC has the power: (i) to transfer any of the depository institution's assets and liabilities to a new obligor without the approval of the depository institution's creditors; (ii) to enforce the terms of the depository institution's contracts pursuant to their terms; or (iii) to repudiate or disaffirm any contract or lease to which the depository institution is a party, the performance of which is determined by the FDIC to be burdensome and the disaffirmance or repudiation of which is determined by the FDIC to promote the orderly administration of the depository institution.

#### *Deposit Insurance*

The FDIC assessment rate on our subsidiary bank deposits currently is zero, but may change in the future. The FDIC may increase or decrease the assessment rate schedule on a semiannual basis. An increase in the BIF assessment rate could have a material adverse effect on our earnings, depending on the amount of the increase. The FDIC is authorized to terminate a depository bank's deposit insurance upon a finding by the FDIC that the bank's financial condition is unsafe or unsound or that the institution has engaged in unsafe or unsound practices or has violated any applicable rule, regulation, order or condition enacted or imposed by the bank's regulatory agency. The termination of deposit insurance for one or more of our subsidiary depository banks could have a material adverse effect on our earnings, depending on the collective size of the particular institutions involved. In addition, if the ratio of insured deposits to money in the BIF drops below specified levels, the FDIC would be required to impose premiums on all banks insured by the BIF.

#### *Borrowings*

There are also various legal restrictions on the extent to which Wachovia and our non-bank subsidiaries can transfer funds to, or borrow or otherwise obtain credit from, our banking subsidiaries. In general, these restrictions require that any such extensions of credit must be secured by designated amounts of specified collateral and are limited, as to any one of us or those non-bank subsidiaries, to 10% of the lending bank's capital stock and surplus, and as to us and all non-bank subsidiaries in the aggregate, to 20% of such lending bank's capital stock and surplus. A bank's transactions with its non-bank affiliates are also generally required to be on arm's length terms.

*Depositor Preference*

Under federal law, deposits and certain claims for administrative expenses and employee compensation against an insured depository institution would be afforded a priority over other general unsecured claims against such an institution, including federal funds and letters of credit, in the liquidation or other resolution of such an institution by any receiver. As a result, whether or not the FDIC ever sought to repudiate any obligations held by public noteholders of any subsidiary of Wachovia that

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is an insured depository institution, the public noteholders would be treated differently from, and could receive, if anything, substantially less than, the depositors of the depository institution.

#### **Other Regulation**

##### *Non-Bank Activities*

Our bank and certain nonbank subsidiaries are subject to direct supervision and regulation by various other federal, state and foreign authorities (many of which will be considered functional regulators under the Modernization Act). We also conduct securities underwriting, dealing and brokerage activities primarily through Wachovia Securities, LLC and Wachovia Capital Markets, LLC, which are subject to the regulations of the SEC, the National Association of Securities Dealers, Inc. (the NASD) and the NYSE. The operations of our mutual funds also are subject to regulation by the SEC. Our insurance subsidiaries are subject to regulation by applicable state insurance regulatory agencies. The types of activities in which the foreign branches of WBNA and our international subsidiaries may engage are subject to various restrictions imposed by the Federal Reserve Board. Those foreign branches and international subsidiaries also are subject to the laws and regulatory authorities of the countries in which they operate. The Wachovia entities that are broker-dealers registered with the SEC are subject to, among other things, net capital rules designed to measure the general financial condition and liquidity of a broker-dealer. Under these rules, these entities are required to maintain the minimum net capital deemed necessary to meet broker-dealers' continuing commitments to customers and others and required to keep a substantial portion of their assets in relatively liquid form. Broker-dealers are also subject to other regulations covering their business operations, including sales and trading practices, public offerings, publication of research reports, use and safekeeping of client funds and securities, capital structure, record-keeping and the conduct of directors, officers and employees. Broker-dealers are also subject to regulation by state securities regulators in applicable states. Violations of the regulations governing the actions of a broker-dealer can result in the revocation of broker-dealer licenses, the imposition of censures or fines, the issuance of cease and desist orders and the suspension or expulsion from the securities business of a firm, its officers or its employees.

Wachovia entities engaging in our investment management activities are registered as investment advisers with the SEC, and in certain states, some employees are registered as investment adviser representatives. Recent legislative and regulatory scrutiny in the mutual fund industry has increased. This scrutiny has resulted in the adoption of new rules and a number of legislative and regulatory proposals, including SEC rules designed to strengthen existing prohibitions relating to late trading and enhance required disclosure and supervision of market timing policies and pricing and mutual fund sales practices.

Our subsidiaries acting as consumer lenders also are subject to regulation under various federal laws, including the Truth-in-Lending, the Equal Credit Opportunity, the Fair Credit Reporting, the Fair Debt Collection Practice and the Electronic Funds Transfer Acts, as well as various state laws. These statutes impose requirements on the making, enforcement and collection of consumer loans and on the types of disclosures that need to be made in connection with such loans.

##### *International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001*

The President signed the USA Patriot Act of 2001 into law in October 2001. This act contains the International Money Laundering Abatement and Financial Anti-Terrorism Act of 2001 (the IMLAFA). The IMLAFA substantially broadens existing anti-money laundering legislation and the extraterritorial jurisdiction of the United States, imposes new compliance and due diligence obligations, creates new crimes and penalties, compels the production of documents located both inside and outside the United States, including those of foreign institutions that have a correspondent relationship in the United States, and clarifies the safe harbor from civil liability to customers. The U.S. Treasury Department has issued a number of regulations implementing the USA Patriot Act that apply certain of its requirements to financial institutions such as our banking and broker-dealer subsidiaries. The regulations impose new obligations on financial institutions to maintain appropriate policies, procedures and controls to detect, prevent and report money laundering and terrorist financing. The increased obligations of financial institutions, including Wachovia, to identify their customers, watch for and report suspicious transactions, respond to requests for information by regulatory authorities and law enforcement agencies, and share information with other financial institutions, requires the implementation and maintenance of internal procedures, practices and controls which have

increased, and may continue to increase, our costs and may subject us to liability.

Pursuant to the IMLAFA, Wachovia established anti-money laundering compliance and due diligence programs which include, among other things, the designation of a compliance officer, employee training programs, and an independent audit function to review and test the program.

As noted above, enforcement and compliance-related activity by government agencies has increased. Money laundering and anti-terrorism compliance is among the areas receiving a high level of focus in the present environment.

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*Privacy*

Under the Modernization Act, federal banking regulators adopted rules limiting the ability of banks and other financial institutions to disclose nonpublic information about consumers to nonaffiliated third parties. The rules require disclosure of privacy policies to consumers and, in some circumstances, allow consumers to prevent disclosure of certain personal information to nonaffiliated third parties. The privacy provisions of the Modernization Act affect how consumer information is transmitted through diversified financial services companies and conveyed to outside vendors.

*Sarbanes-Oxley*

The President signed into law the Sarbanes-Oxley Act of 2002, which addresses, among other issues, corporate governance, auditing and accounting, internal controls, executive compensation, and enhanced and timely disclosure of corporate information. The NYSE has also adopted corporate governance rules that have been approved by the SEC. The changes are intended to allow stockholders to more easily and efficiently monitor the performance of companies and directors.

*Future Legislation*

Changes to the laws and regulations (including changes in interpretation or enforcement) in the states and countries where we and our subsidiaries do business can affect the operating environment of bank holding companies and their subsidiaries in substantial and unpredictable ways. From time to time, various legislative and regulatory proposals are introduced. These proposals, if codified, may change banking statutes and regulations and our operating environment in substantial and unpredictable ways. If codified, these proposals could increase or decrease the cost of doing business, limit or expand permissible activities or affect the competitive balance among banks, savings associations, credit unions and other financial institutions. We cannot accurately predict whether those changes in laws and regulations will occur, and, if those changes occur, the ultimate effect they would have upon our financial condition or results of operations. It is likely, however, that the current high level of enforcement and compliance-related activities of federal and state authorities will continue and potentially increase.

**Additional Information**

Additional information related to certain accounting and regulatory matters is set forth on pages 17 through 19, and on pages 40 and 42 in the Annual Report and incorporated herein by reference.

**ITEM 1A. RISK FACTORS.**

An investment in Wachovia's securities may involve risks due to the nature of the businesses we engage in and activities related to those businesses. The following are the most significant risks associated with those businesses or activities:

*Business risk.* Wachovia's business model is based on a diversified mix of businesses that provide a broad range of financial products and services, delivered through multiple distribution channels. Wachovia's diversified businesses are subject to a wide range of competition, ranging from smaller community banking institutions, financial advisors and investment advisors to large, diversified, multi-national financial services providers. Risks associated with our business model include:

the timely development of competitive new products and services by Wachovia and the acceptance of these products and services by new and existing customers;

the willingness of customers to accept third party products marketed by Wachovia;

the willingness of customers to substitute competitors' products and services for Wachovia's products and services and vice versa;

the impact of changes in financial services laws and regulations (including laws concerning taxes, banking, securities and insurance);

technological changes; and

changes in consumer spending and saving habits.

*Credit risk.* Wachovia is one of the nation's largest lenders, and the credit quality of our portfolio can have a significant impact on our earnings. Credit risk is the risk of loss due to adverse changes in a borrower's ability to meet its financial obligations under agreed upon terms. Risks associated with our credit quality include:

the strength of the United States economy in general and the strength of the local economies in which Wachovia conducts operations may be different than expected resulting in, among other things, a deterioration in credit quality or a reduced demand for credit, including the resultant effect on Wachovia's loan portfolio and allowance for loan losses; and

adverse changes in the financial performance and/or condition of Wachovia's borrowers which could impact repayment of such borrowers' outstanding loans.

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*Market risk.* Wachovia's businesses are subject to market risk. The components of market risk are interest rate risk inherent in our balance sheet, price risk in our principal investing portfolio and market value risk in our trading portfolios. Risks associated with managing market risk include:

the effects of, and changes in, trade, monetary and fiscal policies and laws, including interest rate policies of the Federal Reserve Board;

inflation, interest rate, market and monetary fluctuations; and

adverse conditions in the stock market, the public debt market and other capital markets (including changes in interest rate conditions) and the impact of such conditions on Wachovia's capital markets and capital management activities, including, without limitation, Wachovia's mergers and acquisition advisory business, equity and debt underwriting activities, private equity investment activities, derivative securities activities, investment and wealth management advisory businesses, and brokerage activities.

*Operational risk.* Operational risk is the risk of loss from inadequate or failed internal processes, people and systems or from external events. Risks associated with operational risk include:

unanticipated regulatory or judicial proceedings or rulings;

matters impacting our business or ethical reputation;

the impact of changes in accounting principles;

the impact on Wachovia's businesses of various domestic or international military or terrorist activities or conflicts; and

Wachovia's success at managing all of these risks.

*Acquisitions and divestitures.* When consistent with our overall business strategy, we may consider disposing of certain assets, branches, subsidiaries or lines of business. We continue to routinely explore acquisition opportunities in areas that would complement our core businesses, and frequently conduct due diligence activities in connection with possible acquisitions. As a result, acquisition discussions and, in some cases, negotiations frequently take place and future acquisitions involving cash, debt or equity securities could occur. In the event Wachovia engages in acquisitions or divestitures, there are risks involved. Risks associated with acquisitions and divestitures include:

the risk that the businesses proposed to be acquired or divested will not be integrated successfully or such integration may be more difficult, time-consuming or costly than expected;

the risk that expected revenue synergies and cost savings from the businesses proposed to be acquired may not be fully realized or realized within the expected time frames;

the risk that revenues following the proposed acquisition may be lower than expected; and

the risk that deposit attrition, operating costs, customer loss and business disruption following the proposed acquisition, including, without limitation, difficulties in maintaining relationships with employees, may be greater than expected.

**ITEM 1B. UNRESOLVED STAFF COMMENTS.**

None.

**ITEM 2. PROPERTIES.**

As of December 31, 2005, we and our subsidiaries owned 2,013 locations and leased 3,887 locations in 47 states, Washington, D.C., Puerto Rico and 34 foreign countries from which our business is conducted, including a multi-building office complex in Charlotte, North Carolina, which serves as Wachovia's administrative headquarters, as well as the headquarters of WBNA, Wachovia Mortgage Corporation, Wachovia Capital Markets, LLC, and most of our non-banking subsidiaries. That multi-office complex is used as administrative headquarters for our General

Bank, Corporate and Investment Bank, Capital Management and the Parent segments as identified in our Annual Report. Wachovia's Wealth Management segment, as identified in our Annual Report, has its principal administrative offices in a multi-office complex in Winston-Salem, North Carolina.

Some of our non-banking subsidiaries have principal administrative offices in other cities in the United States. The principal administrative offices of our retail securities brokerage operations are in Richmond, Virginia. The principal administrative offices of our mutual fund operations are in Boston, Massachusetts. The principal administrative offices of our second mortgage servicing operations are in Sacramento, California. Certain of our institutional securities operations are conducted in offices in

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New York, New York and Baltimore, Maryland. The vast majority of our leased and owned properties are used for our branch banking operations and retail securities brokerage offices. Additional information relating to our lease commitments is set forth in Note 20 on page 113 in the Annual Report and incorporated herein by reference.

**ITEM 3. LEGAL PROCEEDINGS.**

Wachovia and certain of our subsidiaries are involved in a number of judicial, regulatory and arbitration proceedings concerning matters arising from the conduct of our business activities. These proceedings include actions brought against Wachovia and/or its subsidiaries with respect to transactions in which Wachovia and/or our subsidiaries acted as banker, lender, underwriter, financial advisor or broker or in activities related thereto. In addition, Wachovia and its subsidiaries may be requested to provide information or otherwise cooperate with governmental authorities in the conduct of investigations of other persons or industry groups. It is Wachovia's policy to cooperate in all regulatory inquiries and investigations.

Although there can be no assurance as to the ultimate outcome, Wachovia and/or our subsidiaries have generally denied, or believe we have a meritorious defense and will deny, liability in all significant litigation pending against us, including the matters described below, and we intend to defend vigorously each such case. Reserves are established for legal claims when payments associated with the claims become probable and the costs can be reasonably estimated. The actual costs of resolving legal claims may be substantially higher or lower than the amounts reserved for those claims.

*Securities Litigation.* A number of purported class actions were filed in June through August 1999 against us in the United States District Courts for the Western District of North Carolina and for the Eastern District of Pennsylvania. These actions named Legacy First Union and certain executive officers as defendants and were purported to be on behalf of persons who purchased shares of our common stock from August 14, 1998, through May 24, 1999. These actions were consolidated into one case in the U.S. District Court for the Western District of North Carolina in October 1999. These complaints alleged various violations of federal securities law, including violations of Section 10(b) of the Exchange Act, and that the defendants made materially misleading statements and/or material omissions which artificially inflated prices for our common stock. The complaints alleged that management failed to disclose integration problems in the CoreStates Financial Corp merger and misstated the value of our interest in certain mortgage-backed securities of The Money Store, Inc. ( TMSI ) acquired by Legacy First Union on June 30, 1998. Plaintiffs sought a judgment awarding damages and other relief. In January 2001, the U.S. District Court for the Western District of North Carolina granted Wachovia's motion to dismiss the litigation for failure to state a claim upon which relief could be granted. Although the plaintiffs did not appeal this ruling, they sought, and received permission to file an amended complaint. In August 2001, plaintiffs filed an amended complaint that abandoned their previous allegations concerning the CoreStates Financial Corp merger and primarily raised new allegations of irregularities at TMSI prior to its acquisition by Legacy First Union. In October 2001, Wachovia filed a motion to dismiss the securities litigation consolidated in the U.S. District Court for the Western District of North Carolina. In September 2002, the court granted the motion in part, limiting any new complaint to claims regarding alleged misstatements or omissions pled in earlier complaints. The plaintiffs filed a third consolidated and amended complaint in October 2002, purportedly on behalf of a class of purchasers of our common stock during the period from March 4, 1998 to May 24, 1999. The complaint alleges, among other things, that Legacy First Union disregarded problems at TMSI and did not write down goodwill from the TMSI acquisition soon enough. In December 2003, the court denied Wachovia's motion to strike portions of this complaint. In February 2004, Wachovia filed a motion to dismiss the amended complaint. On January 20, 2006, the court granted Wachovia's motion to dismiss the amended complaint with prejudice.

*In the Matter of KPMG LLP Certain Auditor Independence Issues.* The SEC has requested Wachovia to produce certain information concerning any agreements or understandings by which Wachovia referred clients to KPMG LLP during the period January 1, 1997 to November 2003 in connection with an inquiry regarding the independence of KPMG LLP as Wachovia's outside auditors during such period. Wachovia is continuing to cooperate with the SEC in its inquiry, which is being conducted pursuant to a formal order of investigation entered by the SEC on October 21, 2003. Wachovia believes the SEC's inquiry relates to certain tax services offered to Wachovia customers by KPMG LLP during the period from 1997 to early 2002, and whether these activities might have caused KPMG LLP not to be

independent from Wachovia, as defined by applicable accounting and SEC regulations requiring auditors of an SEC-reporting company to be independent of the company. Wachovia and/or KPMG LLP received fees in connection with a small number of personal financial consulting transactions related to these services. KPMG LLP has confirmed to Wachovia that during all periods covered by the SEC's inquiry, including the present, KPMG LLP was and is independent from Wachovia under applicable accounting and SEC regulations.

*Mutual Fund Sales Practices.* Securities regulators are currently investigating Wachovia Securities and Evergreen Investment Services, Inc. regarding practices and procedures for the offer and sale of certain mutual funds. Wachovia believes the regulators are reviewing the adequacy of Wachovia Securities' disclosures regarding revenue sharing arrangements with certain investment companies and has been advised that they are investigating Wachovia Securities and Evergreen Investment Services' mutual fund sales and distribution practices.

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*Research Matters.* Various regulators have been investigating Wachovia Capital Markets, LLC, Wachovia's institutional broker-dealer subsidiary (WCM), related to the existence of alleged conflicts of interest between WCM's equity research and investment banking departments. Certain of those regulators have notified WCM that they are considering instituting proceedings based upon various purported regulatory violations, including generally state securities laws and state laws regarding business practices. WCM is in discussions with these regulators about resolving these matters.

*Adelphia Litigation.* Certain Wachovia affiliates are defendants in an adversary proceeding pending in the United States Bankruptcy Court for the Southern District of New York related to the bankruptcy of Adelphia Communications Corporation (Adelphia). The Official Committee of Unsecured Creditors in that bankruptcy case has filed an adversary proceeding on behalf of Adelphia against over 300 financial services companies, including the Wachovia affiliates. The complaint asserts claims against the defendants under state law, bankruptcy law and the Bank Holding Company Act and seeks equitable relief and an unspecified amount of compensatory and punitive damages. The Official Committee of Equity Security Holders has sought leave to intervene in that complaint and sought leave to bring additional claims against certain of the financial services companies, including the Wachovia affiliates, including additional federal and state claims. On August 30, 2005, the bankruptcy court granted the creditors' committee and the equity holders' committee standing to proceed with their claims. Wachovia and other defendants have filed motions to dismiss the complaints.

In addition, certain affiliates of Wachovia, together with numerous other financial services companies, have been named in several private civil actions by investors in Adelphia debt and/or equity securities, alleging among other claims, misstatements in connection with Adelphia securities offerings between 1997 and 2001. Wachovia affiliates acted as an underwriter in certain of those securities offerings, as agent and/or lender for certain Adelphia credit facilities, and as a provider of Adelphia's treasury/cash management services. These complaints, which seek unspecified damages, have been consolidated in the United States District Court for the Southern District of New York. In separate orders entered in May and July 2005, the District Court dismissed a number of the securities law claims asserted against Wachovia, leaving some securities law claims pending. Wachovia still has a pending motion to dismiss with respect to these claims.

*Bluebird Partners, L.P., Litigation.* On December 12, 2002, the jury in the Supreme Court of the State of New York, County of New York, returned a verdict against First Fidelity Bank, N.A. New Jersey, a predecessor to WBNA in the case captioned *Bluebird Partners, L.P. v. First Fidelity Bank, N.A., et al.* The trial court directed a verdict in favor of CoreStates New Jersey National Bank, another predecessor of WBNA. In this action for breach of contract, breach of fiduciary duty, negligence and malpractice, plaintiff alleges that First Fidelity, while serving as indenture trustee for debt certificates issued by Continental Airlines, failed to take the necessary action to protect the value of the collateral after Continental Airlines filed for bankruptcy on December 3, 1990 and that the decline in the value of the collateral during the pendency of the bankruptcy caused plaintiff's losses. On July 10, 2003, the trial judge granted First Fidelity's motion to set aside the verdict, holding that the evidence was insufficient to support the verdict. Plaintiff appealed, and on October 7, 2004, the Supreme Court, Appellate Division, First Department reversed the dismissal and reinstated the verdict. On January 13, 2005, the court entered judgment against WBNA in the amount of \$32.9 million plus pre- and post-judgment interest at the statutory rate from April 27, 1993. Both parties filed appeals which were argued in 2005 but which have not yet been decided. On February 15, 2006, Wachovia and Bluebird entered into a settlement agreement, the terms of which are confidential, which terminates the ongoing litigation and resolves any remaining disputes between the parties. Based on previously recorded reserves, the settlement will not have a material adverse effect on Wachovia's consolidated financial position or results of operations.

*Other Regulatory Matters.* Governmental and self-regulatory authorities have instituted numerous ongoing investigations of various practices in the securities and mutual fund industries, including those discussed in Wachovia's previous filings with the SEC and those relating to revenue sharing (including directed brokerage), market-timing, late trading, sales practices and record retention. The investigations cover advisory companies to mutual funds, broker-dealers, hedge funds and others. Wachovia has received subpoenas and other requests for documents and testimony relating to the investigations, is endeavoring to comply with those requests, is cooperating with the investigations, and where appropriate, is engaging in discussions to resolve the investigations. Wachovia is

continuing its own internal review of policies, practices, procedures and personnel, and is taking remedial action where appropriate.

In connection with one of these investigations, on July 28, 2004, the SEC staff advised Wachovia's investment advisory subsidiary that the staff is considering recommending to the SEC that it institute an enforcement action against the investment advisory subsidiary, Evergreen Investment Management Company, LLC, and other Evergreen entities. The SEC staff's proposed allegations relate to (i) an arrangement involving a former Evergreen employee and an individual broker pursuant to which the broker, on behalf of a client, made exchanges to and from a mutual fund during the period December 2000 through April 2003 in excess of the limitations set forth in the mutual fund prospectus, (ii) purchase and sale activity from September 2001 through January 2003 by a former Evergreen portfolio manager in the mutual fund he managed at the time, (iii) the sufficiency of systems for monitoring exchanges and enforcing exchange limitations stated in mutual fund prospectuses, and (iv) the adequacy of e-mail retention practices. In addition, on September 17, 2004, the SEC staff advised Wachovia Securities that the staff is considering recommending to the SEC that it institute an enforcement action against the brokerage subsidiary regarding the allegations described in (i) of the preceding sentence. Wachovia currently is engaged in discussions with the SEC

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staff regarding the matters described in (i) through (iv) above. Wachovia intends to make a written Wells submission, if it is unable to satisfactorily resolve these matters, explaining why Wachovia believes enforcement action should not be instituted.

In addition, as previously disclosed, Wachovia also is cooperating with governmental and self-regulatory authorities in matters relating to the brokerage operations of Prudential Financial, Inc. that were included in Wachovia's retail brokerage combination with Prudential. Under the terms of that transaction, Wachovia is indemnified by Prudential for liabilities relating to those matters.

*Outlook.* Based on information currently available, advice of counsel, available insurance coverage and established reserves, Wachovia believes that the eventual outcome of the actions against Wachovia and/or its subsidiaries, including the matters described above, will not, individually or in the aggregate, have a material adverse effect on Wachovia's consolidated financial position or results of operations. However, in the event of unexpected future developments, it is possible that the ultimate resolution of those matters, if unfavorable, may be material to Wachovia's results of operations for any particular period.

Disclosure of Tax Shelter Penalties

Not applicable.

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS.**

None.

**PART II**

**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES.**

Our common stock is listed on the NYSE. Table 6 on page 49 in the Annual Report sets forth information relating to the quarterly prices of, and quarterly dividends paid on, the common stock for the two-year period ended December 31, 2005, and incorporated herein by reference. Prices shown represent the high, low and quarter-end sale prices of the common stock as reported on the NYSE Composite Transactions tape for the periods indicated. As of December 31, 2005, there were 177,924 holders of record of the common stock.

In connection with the merger with Legacy Wachovia, holders of shares of Legacy Wachovia common stock elected to receive, in addition to 2 shares of Wachovia common stock, either a one-time \$0.48 cash payment or 2 shares of a new class of Wachovia preferred stock. At December 31, 2005, 96,536,312 Wachovia Dividend Equalization Preferred shares (DEPs) were outstanding. Because Wachovia paid common stock dividends equal to \$1.25 per share in the four quarters of 2003, holders of DEPs are no longer entitled to receive any dividend on the DEPs and Wachovia has ceased to pay any such dividends. The DEPs are not listed on a national securities exchange and have no voting rights.

Subject to the prior rights of holders of any outstanding shares of our preferred stock or Class A preferred stock, holders of common stock are entitled to receive such dividends as may be legally declared by our board of directors and, in the event of dissolution and liquidation, to receive our net assets remaining after payment of all liabilities, in proportion to their respective holdings. Additional information concerning certain limitations on our payment of dividends is set forth above under Business Supervision and Regulation; Payment of Dividends and in Note 22 on page 120 in the Annual Report and incorporated herein by reference.

Under our Shareholder Protection Rights Agreement, each outstanding common stock share has a right attached to it. This right remains attached unless a separation time occurs. At separation time, common shareholders will receive separate certificates for these rights. Each right entitles its owner to purchase at separation time one one-hundredth of a share of a participating series of Class A preferred stock for \$105. This series of Class A preferred stock would have economic and voting terms similar to those of one common stock share. Separation time would generally occur at the earlier of the following two dates:

the tenth business day after any person commences a tender or exchange offer that entitles that person to 10% or more of our outstanding common stock, or

the tenth business day after we publicly announce that a person has acquired beneficial ownership of 10% or more of our outstanding common stock.



These rights will not trade separately from the shares of common stock until a separation time occurs, and may be exercised on the business day immediately after the separation time. The rights will expire at the earliest of:

- the date on which our board of directors elects to exchange the rights for our common stock or preferred stock as described below;

- the close of business on December 28, 2010, unless our board of directors extends that time; or

- the date on which the rights are terminated as described below.

Once we publicly announce that a person has acquired 10% of our outstanding common stock, we can allow for rights holders to buy our common stock for half of its market value. For example, we would sell to each rights holder common stock shares worth \$210 for \$105 in cash. At the same time, any rights held by the 10% owner or any of its affiliates, associates or transferees will be void. In addition, if we are acquired in a merger or other business combination after a person has become a 10% owner, the rights held by shareholders would become exercisable to purchase the acquiring company's common stock for half of its market value.

In the alternative, our board of directors may elect to exchange all of the then outstanding rights for shares of common stock at an exchange ratio of two common stock shares for one right. Upon election of this exchange, a right will no longer be exercisable and will only represent a right to receive two common stock shares.

If we are required to issue common stock shares upon the exercise of rights, or in exchange for rights, our board of directors may substitute shares of participating Class A preferred stock. The substitution will be at a rate of two one one-hundredths of a share of participating Class A preferred stock for each right exchanged.

The rights may be terminated without any payment to holders before their exercise date. The rights have no voting rights and are not entitled to dividends.

The rights will not prevent a takeover of Wachovia. The rights, however, may cause substantial dilution to a person or group that acquires 10% or more of our common stock unless our board first terminates the rights. Nevertheless, the rights should not interfere with a transaction that is in Wachovia's and its shareholders' best interests because the board can terminate the rights before that transaction is completed.

The complete terms of the rights are contained in the Shareholder Protection Rights Agreement. The foregoing description of the rights and the rights agreement is qualified in its entirety by reference to the agreement. A copy of the rights agreement can be obtained upon written request to Wachovia Bank, National Association, 1525 West W.T. Harris Blvd., Charlotte, North Carolina 28288-1153.

Additional information relating to our common stock and the DEPs is set forth in Note 12 on pages 91 through 93 in the Annual Report and incorporated herein by reference.

#### **Purchases of Equity Securities by the Issuer and Affiliated Purchasers.**

In January 2004, our board of directors authorized the repurchase of 60 million shares of our common stock, which together with remaining authority from previous board authorizations in 1999 and 2000, permitted Wachovia to repurchase up to 123 million shares of our common stock as of January 15, 2004, the date that authorization was announced. In addition, on August 16, 2005, Wachovia announced that our board of directors authorized the repurchase of an additional 100 million shares of our common stock. Future stock repurchases may be private or open-market purchases, including block transactions, accelerated or delayed block transactions, forward transactions, collar transactions, and similar transactions. The amount and timing of stock repurchases will be based on various factors, such as management's assessment of Wachovia's capital structure and liquidity, the market price of Wachovia common stock compared to management's assessment of the stock's underlying value, and applicable regulatory, legal and accounting factors. In 2005, Wachovia repurchased 44.53 million shares of Wachovia common stock in the open market at an average cost of \$52.02 per share. In addition, Wachovia settled equity collar contracts in 2005 representing 7.5 million shares at an average cost of \$48.61 per share. Please see "Stockholders' Equity" on page 31 in the Annual Report, filed as Exhibit (13) to this Report, for additional information about Wachovia's share repurchases in 2005. The following table sets forth information about our stock repurchases for the three months ended December 31, 2005.

**Issuer Repurchases of Equity Securities**

| Period (1)                            | Total Number<br>of<br>Shares<br>Purchased | Average<br>Price<br>Paid | Total Number<br>of<br>Shares<br>Purchased<br>as Part of<br>Publicly<br>Announced<br>Plans<br>or Programs | Maximum<br>Number<br>(or Approximate<br>Dollar Value) of<br>Shares that May<br>Yet Be<br>Purchased |
|---------------------------------------|---|--------------------------|--|--|
|                                       |   |                          |  | Under the<br>Plans or<br>Programs  |
|                                       | (2)                                       | per Share                | (3)  | (3)  |
| October 1, 2005 to October 31, 2005   | 867,000                                   | \$ 48.54                 | 867,000  | 123,631,164  |
| November 1, 2005 to November 30, 2005 |   |                          |  | 123,631,164  |
| December 1, 2005 to December 31, 2005 |   |                          |  | 123,631,164  |
| <b>Total</b>                          | <b>867,000</b>                            | <b>48.54</b>             | <b>867,000</b>   | <b>123,631,164</b>   |

(1) Based on trade date, not settlement date.

(2) All of these shares were repurchased pursuant to publicly announced share repurchase programs. The nature of these repurchases were as follows: October 2005 open market repurchases: 867,000 shares.

In addition to these repurchases, pursuant to Wachovia's employee stock option plans, participants may exercise Wachovia stock options by surrendering shares of Wachovia common stock the participants already own as payment of the option exercise price. Shares so surrendered by participants in Wachovia's employee stock option plans are repurchased pursuant to the terms of the applicable stock option plan and not pursuant to publicly announced share repurchase programs. For the quarter ended December 31, 2005, the following shares of Wachovia common stock were surrendered by participants in Wachovia's employee stock option plans: October 2005 10,145 shares at an average price per share of \$48.64; November 2005 51,642 shares at an average price per share of \$51.62; and December 2005 25,094 shares at an average price per share of \$53.64.

(3) On May 25, 1999, Wachovia announced a stock repurchase program pursuant to which Wachovia was authorized to repurchase up to 50 million shares of its common stock. On June 26, 2000, Wachovia announced a stock repurchase program pursuant to which Wachovia was authorized to repurchase up to 50 million shares of its common stock. On January 15, 2004, Wachovia announced a stock repurchase program pursuant to which Wachovia was authorized to repurchase up to 60 million shares of its common stock. On August 16, 2005, Wachovia announced a stock repurchase program pursuant to which Wachovia was authorized to repurchase up to 100 million shares of its common stock. None of these programs has an expiration date and each respective program expires upon completion of repurchases totaling the amount authorized for repurchase. During the second quarter of 2004, all remaining shares authorized under the May 1999 authorization, which totaled approximately 5.2 million shares at the beginning of the quarter, were repurchased. During the first quarter of 2005, all remaining shares authorized under the June 2000 authorization, which totaled approximately 15.7 million shares at the beginning of the quarter, were repurchased. As of December 31, 2005, there are no more shares remaining under the May 1999 and June 2000 authorizations, approximately 23.6 million shares remaining under the January 2004 authorization, and 100 million shares remaining

under the August 2005 authorization.

**ITEM 6. *SELECTED FINANCIAL DATA.***

In response to this Item, the information set forth in Table 3 on page 47 in the Annual Report is incorporated herein by reference.

**ITEM 7. *MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS.***

In response to this Item, the information set forth on pages 14 through 61 in the Annual Report is incorporated herein by reference.

**ITEM 7A. *QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK.***

In response to this Item, the information set forth on pages 33 through 39 and in Note 4 on page 78, in Note 19 on page 108, and in Note 20 on page 113 in the Annual Report is incorporated herein by reference.

**ITEM 8. *FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA.***

In response to this Item, the information set forth in Table 6 on page 49 and on pages 62 through 122 in the Annual Report is incorporated herein by reference.

**ITEM 9. *CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE.***

None.

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**ITEM 9A. CONTROLS AND PROCEDURES.**

*Evaluation of Disclosure Controls and Procedures.* As of December 31, 2005, the end of the period covered by this Annual Report on Form 10-K, Wachovia's management, including Wachovia's Chief Executive Officer and Chief Financial Officer, evaluated the effectiveness of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934). Based upon that evaluation, Wachovia's Chief Executive Officer and Chief Financial Officer each concluded that as of December 31, 2005, the end of the period covered by this Annual Report on Form 10-K, Wachovia maintained effective disclosure controls and procedures.

*Management's Report on Internal Control over Financial Reporting.* Wachovia's management is responsible for establishing and maintaining effective internal control over financial reporting (as defined in Rule 13a-15(f) under the Securities Exchange Act of 1934). Wachovia's internal control over financial reporting is under the general oversight of the Board of Directors acting through the Audit Committee, which is composed entirely of independent directors. KPMG LLP, Wachovia's independent auditors, has direct and unrestricted access to the Audit Committee at all times, with no members of management present, to discuss its audit and any other matters that have come to its attention that may affect Wachovia's accounting, financial reporting or internal controls. The Audit Committee meets periodically with management, internal auditors and KPMG LLP to determine that each is fulfilling its responsibilities and to support actions to identify, measure and control risk and augment internal control over financial reporting. Internal control over financial reporting, however, cannot provide absolute assurance of achieving financial reporting objectives because of its inherent limitations.

Under the supervision and with the participation of management, including Wachovia's Chief Executive Officer and Chief Financial Officer, Wachovia conducted an evaluation of the effectiveness of our internal control over financial reporting as of December 31, 2005 based on the framework in *Internal Control - Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based upon that evaluation, management concluded that our internal control over financial reporting was effective as of December 31, 2005. Management's report on internal control over financial reporting is set forth on page 62 in Wachovia's 2005 Annual Report, which is included as Exhibit 13 to this Annual Report on Form 10-K, and is incorporated herein by reference. Management's assessment of the effectiveness of Wachovia's internal control over financial reporting has been audited by KPMG LLP, an independent, registered public accounting firm, as stated in its report, which is set forth on page 63 in Wachovia's 2005 Annual Report and is incorporated herein by reference.

*Changes in Internal Control Over Financial Reporting.* No change in our internal control over financial reporting occurred during the fourth quarter of our fiscal year ended December 31, 2005, that has materially affected, or is reasonably likely to materially affect, Wachovia's internal control over financial reporting.

**ITEM 9B. OTHER INFORMATION.**

None.

**PART III**

**ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT.**

Our executive officers are generally elected to their offices for one-year terms at the board of directors meeting in April of each year. The terms of any executive officers elected after that date expire at the same time as the terms of the executive officers elected on that date. The names of each of our current executive officers, their ages, their positions with us, and, if different, their business experience during the past five years, are as follows:

G. Kennedy Thompson (55). Chairman, since February 2003, Chief Executive Officer, since April 2000, and President, since December 1999. Also Chairman, from March 2001 to September 2001. Also, a director of Wachovia. David M. Carroll (48). Senior Executive Vice President, since September 2001. Previously, Executive Vice President and Chief

E-Commerce Officer, from May 1999 to September 2001.

Stephen E. Cummings (50). Senior Executive Vice President, since February 2002. Previously, Senior Vice President of Wachovia Securities, Inc. (formerly named First Union Securities, Inc.) and Co-Head, Corporate and Investment Bank, from January 2000 to February 2002.

Jean E. Davis (50). Senior Executive Vice President, since September 2001. Previously, Executive Vice President, Wachovia Operational Services, from February 1999 to September 2001.

Benjamin P. Jenkins, III (61). Vice Chairman, since December 2005. Previously, Senior Executive Vice President, from September 2001 to December 2005, and Vice Chairman, from August 1999 to September 2001.

Stanhope A. Kelly (48). Senior Executive Vice President, since September 2001. Previously, Senior Executive Vice President, from January 2000 to September 2001, and Senior Vice President, prior to January 2000, Legacy Wachovia.

Shannon W. McFayden (45). Senior Executive Vice President, since February 2004. Previously, Executive Vice President, Director Community Affairs, from December 2003 to February 2004, Senior Vice President, Director of Community Affairs, from September 2001 to December 2003, Senior Vice President, Director of Human Resources Performance Consulting, from January 2001 to September 2001, and Senior Vice President, Director of Human Resources Relationship Teams, prior to January 2001.

Mark C. Treanor (59). Senior Executive Vice President, Secretary and General Counsel, since September 2001. Previously, Executive Vice President, Secretary and General Counsel, from August 1999 to September 2001.

Donald K. Truslow (47). Senior Executive Vice President, since September 2001. Previously, Senior Executive Vice President and Chief Risk Officer, from August 2000 to September 2001, and Comptroller and Treasurer, prior to August 2000, Legacy Wachovia.

Thomas J. Wurtz (44). Senior Executive Vice President and Chief Financial Officer, since January 2006. Previously, Executive Vice President and Treasurer, from October 2002 to January 2006, and Senior Vice President and Treasurer prior to October 2002.

Wallace D. Malone, Jr. was Vice Chairman and a director of Wachovia prior to his retirement in January 2006. Robert P. Kelly was Senior Executive Vice President and Chief Financial Officer prior to terminating his employment with Wachovia in February 2006. In addition to the foregoing, the information set forth in the Proxy Statement under the headings General Information and Nominees , Board Matters Committee Structure; Audit Committee , Corporate Governance Policies and Practices Code of Conduct & Ethics , and under the subheading Section 16(a) Beneficial Ownership Reporting Compliance under the heading Other Matters Relating to Executive Officers and Directors is incorporated herein by reference.

**ITEM 11. EXECUTIVE COMPENSATION.**

In response to this Item, the information set forth in the Proxy Statement under the headings Corporate Governance Policies and Practices Compensation of Directors , Executive Compensation , Employment Contracts , and Compensation Committee Interlocks and Insider Participation is incorporated herein by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS.**

In response to this Item, the information set forth in the Proxy Statement relating to the ownership of common stock and DEPs by our directors, executive officers and principal stockholders under the headings Security Ownership of Management and Security Ownership of Certain Beneficial Owners , is incorporated herein by reference.

In addition, set forth below is certain information relating to securities authorized for issuance under our equity compensation plans and a description of material features of equity compensation plans not approved by stockholders.

**Additional Information Regarding Wachovia's Equity Compensation Plans**

We maintain several equity compensation plans. Our current primary plan is the Wachovia Corporation 2003 Stock Incentive Plan, which is used for stock awards to our executive officers as well as other key employees. Our shareholders approved the 2003 Plan at our 2003 annual shareholders meeting. The 2003 Plan is the only plan Wachovia currently uses to make stock compensation awards. Prior to adopting the 2003 Plan, Wachovia utilized some equity compensation plans that were approved by our stockholders and some equity compensation plans that were not required to be approved by our stockholders. One such plan, named the Wachovia Stock Plan and referred to herein as the Legacy Wachovia Stock Plan , was approved by Legacy Wachovia stockholders in 1994. See Material Features of Stock Plans Not Approved by Stockholders below.

The following table gives information as of December 31, 2005 with respect to shares of our common stock that may be issued under existing stock incentive plans. The table does not include information with respect to shares subject to outstanding options granted under certain stock incentive plans assumed by Wachovia in connection with mergers and acquisitions of companies that originally granted those options, including SouthTrust. Footnote (5) to the table indicates the total number of shares of common stock issuable upon the exercise of options under the assumed plans as of December 31, 2005, and the weighted average exercise price of those options. No additional options may be granted under those assumed plans.

#### EQUITY COMPENSATION PLAN INFORMATION

| Plan category  | (a)<br><br>Number of securities<br>to be issued upon<br>exercise of<br>outstanding<br>options,<br>warrants and<br>rights | (b)<br><br>Weighted-average<br>exercise price of<br>outstanding options,<br>warrants and rights | (c)<br><br>Number of securities<br>remaining<br>available<br>for future<br>issuance<br><br>under equity<br>compensation<br>plans<br>(excluding<br>securities<br>reflected<br><br>in column (a)) (1) |
|--|--|---|---|
| Equity compensation plans approved by stockholders (2)     | 90,531,312   | \$41.38   | 83,588,454(3)   |
| Equity compensation plans not approved by stockholders (4) | 10,192,861   | \$35.96   | 0   |
| Total  | 100,724,173  | \$40.83   | 83,588,454  |

(1) Following adoption of the 2003 Stock Incentive Plan, Wachovia will not issue any future awards from any stock compensation plans other than the 2003 Plan. The 2003 Plan contains a provision that enables Wachovia to make new stock awards under the 2003 Plan equal to the number of forfeited, cancelled, terminated, expired or lapsed stock awards granted under any Wachovia stock plan. For purposes of completing this table, Wachovia has assumed that none of such forfeitures, cancellations, terminations, expirations or lapses will occur. The securities remaining available for future issuance set forth in column (c) under the 2003 Plan may be in the form of stock options,

stock appreciation rights, or

stock awards, including restricted stock awards, restricted stock units, performance stock awards, performance stock units or other awards based on or with a value tied to, shares of Wachovia common stock.

(2) Consists of (A) the 2003 Plan which is currently in effect, and (B) Wachovia's 1998 Stock Incentive Plan, 1996 Master Stock Compensation Plan and 1992 Master Stock Compensation Plan, each of which was approved by stockholders; however, following adoption of the 2003 Plan, Wachovia cannot make new stock awards under these other plans. As of December 31, 2005, a total of 45,398,913 shares of Wachovia common stock were issuable upon the exercise of outstanding options under the plans set forth in (B) of the preceding sentence and the weighted average exercise price of those outstanding options is \$39.31 per share.

(3) Represents only shares available for issuance under the 2003 Plan.

(4) Consists of the 2001 Stock Incentive Plan, the Employee Retention Stock Plan and the Legacy Wachovia Stock Plan, each discussed below under *Material Features of Stock Plans Not Approved by Stockholders* .

(5) The table does not include information for stock incentive plans Wachovia assumed in connection with mergers and acquisitions of the companies that originally established those plans, except for the Legacy Wachovia Stock Plan. As of December 31, 2005, a total of 33,145,623 shares of common stock were issuable upon exercise of outstanding options under those assumed plans. The weighted average exercise price of those outstanding options is \$32.11 per share. No additional options may be granted under those assumed plans.

**Material Features of Stock Plans Not Approved by Stockholders**

The following is a brief summary of Wachovia's stock compensation plans that have not been approved by stockholders. Those plans are the 2001 Stock Incentive Plan, the Employee Retention Stock Plan and the Legacy Wachovia Stock Plan. Wachovia issued stock awards under these plans prior to adoption of the 2003 Plan. Wachovia will not issue any future stock awards from any of these plans. Our Management Resources & Compensation Committee of Wachovia's board of directors administers all of these plans and has authority to make all decisions regarding these plans. These plans share the same general features, except as may be set forth in more detail below.

*General.* The plans provide for the grant of options and stock awards, including restricted stock awards, to non-executive officer employees. The number of shares available for previously issued but unexercised options is subject to

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adjustment for any future stock dividends, splits, mergers, combinations or other capitalization changes. In the event of a change in control of Wachovia, all outstanding awards under the plans will be immediately exercisable and/or fully vested, as the case may be. The Legacy Wachovia board and stockholders adopted the Legacy Wachovia Stock Plan in April 1994. The Legacy Wachovia Stock Plan was further amended and restated effective April 2002 by Wachovia following the merger between Legacy First Union and Legacy Wachovia. Legacy First Union's board of directors adopted the 2001 Stock Incentive Plan in July 2001 and adopted the Employee Retention Stock Plan in April 2000.

*Options.* Each option granted under the plans is evidenced by a written award agreement that specifies the type of option granted, the option exercise price, the option duration, the vesting date(s) and the number of shares of common stock subject to the option. No option granted under the plans has an option exercise price that is less than the fair market value of the common stock on the option grant date. No option will be exercisable later than the tenth anniversary date of its grant.

Payment of the option price upon exercise may be made (i) in cash, (ii) by tendering shares of previously owned common stock having a fair market value at the time of exercise equal to the total option exercise price, (iii) cashless exercise through a broker, or (iv) by a combination of the foregoing.

*2001 Stock Incentive Plan and Employee Retention Plan.* Unless the compensation committee determines otherwise, in the event the employment of a participant is terminated by reason of death, disability or retirement, any outstanding options will become immediately exercisable at any time prior to the earlier of the expiration date of the options or within three years after employment ceases. If the employment of the participant terminates for any other reason, unless the compensation committee determines otherwise, the rights under any then outstanding and unexercisable options will be forfeited and the rights under any then outstanding and exercisable options will be forfeited upon the earlier of the option expiration date or three months after the day employment ends.

*Legacy Wachovia Stock Plan.* Unless the compensation committee determines otherwise, in the event the employment of a participant is terminated by reason of displacement, death, disability or retirement, any outstanding options will become immediately exercisable at any time prior to the earlier of the expiration date of the options or within a certain period after employment ceases, depending on the date of option grant. If the employment of the participant terminates for any other reason, unless the compensation committee determines otherwise, the rights under any then outstanding and unexercisable options will be forfeited and the rights under any then outstanding and exercisable options will be forfeited upon the earlier of the option expiration date or three months after the day employment ends.

*Stock Awards.* During the period of restriction, participants holding shares of restricted stock may exercise full voting rights and be entitled to receive all dividends and other distributions paid with respect to those shares while they are so held. If any such dividends or distributions are paid in shares of common stock, the shares will be subject to the same restrictions on transferability as the shares of restricted stock with respect to which they were paid. Under the Legacy Wachovia Stock Plan, if the stock awards are in the form of restricted stock units, the participant will not have voting rights with respect to those restricted units and may receive dividend equivalent rights if provided in the applicable award agreement.

*2001 Stock Incentive Plan and Employee Retention Plan.* Unless the compensation committee determines otherwise, in the event that a participant terminates employment because of normal retirement, death or disability, any remaining period of restriction applicable to the stock award will terminate automatically. Unless the compensation committee determines otherwise, if the employment of a participant terminates for any reason other than death, disability or normal retirement, then any stock awards subject to restrictions on the date of such termination will automatically be forfeited on the day employment terminates; provided, however, if employment terminates due to early retirement or any involuntary termination by Wachovia, the compensation committee may, in its sole discretion, waive the automatic forfeiture of any or all such stock awards and/or may add such new restrictions to such stock awards as it deems appropriate.

*Legacy Wachovia Stock Plan.* Unless the compensation committee determines otherwise, in the event that a participant terminates employment because of displacement, retirement, death or disability, any remaining period of restriction applicable to the stock award terminates automatically. Unless the compensation committee determines

otherwise, if the employment of a participant terminates for any reason other than death, disability or normal retirement, then any stock awards subject to restrictions on the date of such termination will automatically be forfeited on the day employment terminates; provided, however, if employment terminates due to early retirement or any involuntary termination by Wachovia, the compensation committee may, in its sole discretion, waive the automatic forfeiture of any or all such stock awards and/or may add such new restrictions to such stock awards as it deems appropriate. Except as may otherwise be provided in the Legacy Wachovia Stock Plan or as the compensation committee otherwise determines, in the event that a participant terminates employment with Wachovia for any reason other than as set forth above, or for any reason provided for in the terms of the grant, then any shares of restricted stock still subject to restrictions at the date of such termination shall automatically be forfeited.

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SARs. The Employee Retention Stock Plan and the Legacy Wachovia Stock Plan provided for awards of stock appreciation rights, or SARs, to participants. An SAR represents a right to receive a payment in cash, common stock, or a combination of both, equal to the excess of the fair market value of a specified number of shares of common stock on the date the SAR is exercised over an amount equal to the fair market value on the date the SAR was granted (or the option exercise price for SARs granted in tandem with an option). Each SAR grant is evidenced by an award agreement specifying the SAR exercise price, duration, the number of shares of common stock subject to the SAR, and whether the SAR is granted in tandem with an option or is freestanding. SARs granted in tandem with an option may be exercised for all or part of the shares subject to the related option but only to the extent that the related option is then exercisable.

If the employment of a participant terminates by reason of displacement, death, disability or normal retirement, any then outstanding SARs granted to the participant will become immediately exercisable. Unless the compensation committee determines otherwise, any such outstanding SARs will be forfeited on the expiration date of the SARs or within a certain period after employment terminates, depending on the date of grant. Unless the compensation committee determines otherwise, if a participant's employment terminates for any reason other than displacement, death, disability or normal retirement, (i) any then outstanding but unexercisable SARs granted to the participant will be forfeited, and (ii) any then outstanding and exercisable SARs granted to the participant will be forfeited on the expiration date of the SARs or three months after employment terminates, whichever period is shorter.

**ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS.**

In response to this Item, the information set forth in the Proxy Statement under the heading "Other Matters Relating to Executive Officers and Directors" is incorporated herein by reference.

**ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES.**

In response to this Item, the information set forth in the Proxy Statement in the table and footnotes under the heading "Proposal to Ratify the Appointment of Auditors - Fees Paid to Independent Auditors" and under the heading "Proposal to Ratify the Appointment of Auditors - Audit Committee Pre-Approval of Audit and Permissible Non-Audit Services" is incorporated herein by reference.

**PART IV**

**ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES.**

(a) Our consolidated financial statements, including the notes thereto and independent auditors' report thereon, are set forth on pages 62 through 122 of the Annual Report, and are incorporated herein by reference. All financial statement schedules are omitted since the required information is either not applicable, is immaterial or is included in our consolidated financial statements and notes thereto. A list of the exhibits to this Form 10-K is set forth on the Exhibit Index immediately preceding such exhibits and is incorporated herein by reference.

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**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

**WACHOVIA CORPORATION**

Date: February 28, 2006

**By: /s/ David M. Julian**

DAVID M. JULIAN  
EXECUTIVE VICE PRESIDENT

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities indicated and on the date indicated.

| <u>SIGNATURE</u>        | <u>CAPACITY</u>  |
|-------------------------|--|
| G. KENNEDY<br>THOMPSON* | Chairman, President, Chief Executive Officer and Director                        |
| G. KENNEDY<br>THOMPSON  |  |
| THOMAS J.<br>WURTZ*     | Senior Executive Vice President and Chief Financial Officer                      |
| THOMAS J. WURTZ         |  |
| DAVID M. JULIAN*        | Executive Vice President and Corporate Controller (Principal Accounting Officer) |
| DAVID M. JULIAN         |  |
| JOHN D. BAKER, II*      | Director   |
| JOHN D. BAKER, II       |  |
| JAMES S.<br>BALLOUN*    | Director   |
| JAMES S. BALLOUN        |  |
| ROBERT J. BROWN*        | Director   |
| ROBERT J. BROWN         |  |
|                         | Director   |
| PETER C.<br>BROWNING    |  |

Director

JOHN T. CASTEEN,  
III

Director

WILLIAM H.  
GOODWIN, JR.\*

WILLIAM H.  
GOODWIN, JR.

Director

ROBERT A.  
INGRAM\*

ROBERT A.  
INGRAM

Director

DONALD M.  
JAMES\*

DONALD M. JAMES

Director

MACKEY J.  
MCDONALD\*

MACKEY J.  
MCDONALD

Director

JOSEPH  
NEUBAUER\*

JOSEPH NEUBAUER

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| <u>SIGNATURE</u>       | <u>CAPACITY</u> |
|------------------------|-----------------|
| LLOYD U. NOLAND, III*  | Director        |
| LLOYD U. NOLAND, III   | Director        |
| VAN L. RICHEY          |                 |
| RUTH G. SHAW*          | Director        |
| RUTH G. SHAW           |                 |
| LANTY L. SMITH*        | Director        |
| LANTY L. SMITH         |                 |
| JOHN C. WHITAKER, JR.* | Director        |
| JOHN C. WHITAKER, JR.  |                 |
| DONA DAVIS YOUNG*      | Director        |
| DONA DAVIS YOUNG       |                 |

\*By Mark C. Treanor, Attorney-in-Fact

/s/ MARK C. TREANOR

MARK C. TREANOR

Date: February 28, 2006

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**EXHIBIT INDEX**

| EXHIBIT NO. | DESCRIPTION   | LOCATION   |
|-------------|---|--|
| (3)(a)      | Restated Articles of Incorporation of Wachovia.                                       | Incorporated by reference to Exhibit (3)(a) to Wachovia's 2001 Third Quarter Report on Form 10-Q.                    |
| (3)(b)      | Articles of Amendment to Articles of Incorporation of Wachovia.                       | Incorporated by reference to Exhibit (3)(b) to Wachovia's 2002 Annual Report on Form 10-K.                           |
| (3)(c)      | Articles of Amendment to Articles of Incorporation of Wachovia.                       | Incorporated by reference to Exhibit (3)(c) to Wachovia's 2002 Annual Report on Form 10-K.                           |
| (3)(d)      | Articles of Amendment to Articles of Incorporation of Wachovia.                       | Incorporated by reference to Exhibit 4.1 to Wachovia's Current Report on Form 8-K dated February 1, 2006.            |
| (3)(e)      | Bylaws of Wachovia, as amended.   | Incorporated by reference to Exhibit (3)(b) to Wachovia's 2001 Third Quarter Report on Form 10-Q.                    |
| (4)(a)      | Instruments defining the rights of the holders of Wachovia's long-term debt.          | *  |
| (4)(b)      | Wachovia's Shareholder Protection Rights Agreement.                                   | Incorporated by reference to Exhibit (4) to Legacy First Union's Current Report on Form 8-K dated December 20, 2000. |
| (4)(c)      | Amendment to Wachovia's Shareholder Protection Rights Agreement.                      | Filed herewith.  |
| (10)(a)     | Wachovia's Deferred Compensation Plan for Officers.                                   | Incorporated by reference to Exhibit (10)(b) to Legacy First Union's 1988 Annual Report on Form 10-K.                |
| (10)(b)     | Wachovia's Deferred Compensation Plan for Non-Employee Directors, as amended.         | Incorporated by reference to Exhibit (10)(c) to Legacy First Union's 2000 Annual Report on Form 10-K.                |
| (10)(c)     | Wachovia's Contract Executive Deferred Compensation Plan.                             | Incorporated by reference to Exhibit (10)(d) to Legacy First Union's 1997 Annual Report on Form 10-K.                |
| (10)(d)     | Wachovia's Supplemental Executive Long-Term Disability Plan, as amended and restated. | Incorporated by reference to Exhibit (99) to Wachovia's Current Report on Form 8-K dated January 5, 2005.            |

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|         |  |  |
|---------|--|--|
| (10)(e) | Wachovia's 1992 Master Stock Compensation Plan.  | Incorporated by reference to Exhibit (28) to Legacy First Union's Registration Statement No. 33-47447.         |
| (10)(f) | Wachovia's Elective Deferral Plan.   | Incorporated by reference to Exhibit (4) to Legacy First Union's Registration Statement No. 33-60913.          |
| (10)(g) | Amendment 2005-1 to Wachovia's Elective Deferral Plan.   | Incorporated by reference to Exhibit (10)(e) to Wachovia's Current Report on Form 8-K dated December 22, 2005. |
| (10)(h) | Wachovia's 1996 Master Stock Compensation Plan.  | Incorporated by reference to Exhibit (10) to Legacy First Union's 1996 First Quarter Report on Form 10-Q.      |
| (10)(i) | Wachovia's 1998 Stock Incentive Plan, as amended.  | Incorporated by reference to Exhibit (10)(j) to Wachovia's 2001 Annual Report on Form 10-K.                    |
| (10)(j) | Employment Agreement between Wachovia and G. Kennedy Thompson.   | Incorporated by reference to Exhibit (10)(q) to Legacy First Union's 1999 Annual Report on Form 10-K.          |
| (10)(k) | Amendment No. 1 to Employment Agreement between Wachovia and G. Kennedy Thompson.  | Incorporated by reference to Exhibit (10)(l) to Wachovia's 2001 Annual Report on Form 10-K.                    |
| (10)(l) | Termination Agreement between Wachovia and G. Kennedy Thompson.  | Incorporated by reference to Exhibit (10)(f) to Wachovia's Current Report on Form 8-K dated December 22, 2005. |
| (10)(m) | Employment Agreements between Wachovia and Benjamin P. Jenkins, III and Stephen E. Cummings.   | Incorporated by reference to Exhibit (10) to Wachovia's 2002 Second Quarter Report on Form 10-Q.               |
| (10)(n) | Employment Agreement between Wachovia and Robert P. Kelly.   | Incorporated by reference to Exhibit (10)(n) to Wachovia's 2002 Annual Report on Form 10-K.                    |
| (10)(o) | Employment Agreement between Wachovia and David M. Carroll.  | Incorporated by reference to Exhibit (10)(m) to Wachovia's 2004 Annual Report on Form 10-K.                    |
| (10)(p) | Amendment No. 1 to Employment Agreements between Wachovia and Benjamin P. Jenkins, III, David M. Carroll, Stephen E. Cummings and Robert P. Kelly. | Incorporated by reference to Exhibit (10)(a) to Wachovia's Current Report on Form 8-K dated December 22, 2005. |
| (10)(q) | Form of Employment Agreement between Wachovia and certain other Executive Officers of Wachovia.  | Incorporated by reference to Exhibit (10)(m) to Wachovia's 2001 Annual Report on Form 10-K.                    |

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| EXHIBIT NO. | DESCRIPTION   | LOCATION   |
|-------------|---|--|
| (10)(r)     | Form of Amendment to Employment Agreement between Wachovia and certain other Executive Officers of Wachovia.  | Incorporated by reference to Exhibit (10)(c) to Wachovia's Current Report on Form 8-K dated December 22, 2005. |
| (10)(s)     | Wachovia's Senior Management Incentive Plan.  | Incorporated by reference to Exhibit (10)(t) to Legacy First Union's 2000 Annual Report on Form 10-K.          |
| (10)(t)     | Form of Senior Executive Retirement Agreement between Wachovia and certain Executive Officers of Wachovia.  | Incorporated by reference to Exhibit 10.15 to Legacy Wachovia's 1999 Annual Report on Form 10-K.               |
| (10)(u)     | Wachovia's Senior Management Incentive Plan, as amended.  | Incorporated by reference to Exhibit 10.4 to Legacy Wachovia's 1999 Second Quarter Report on Form 10-Q.        |
| (10)(v)     | Wachovia's Amended and Restated Executive Deferred Compensation Plan.   | Incorporated by reference to Exhibit 10.2 to Legacy Wachovia's 2000 First Quarter Report on Form 10-Q.         |
| (10)(w)     | Wachovia's 2001 Stock Incentive Plan.   | Incorporated by reference to Exhibit (10)(v) to Wachovia's 2001 Annual Report on Form 10-K.                    |
| (10)(x)     | Wachovia's Stock Plan, as amended and restated.   | Incorporated by reference to Exhibit 10.23 to Legacy Wachovia's 2000 Third Quarter Report on Form 10-Q.        |
| (10)(y)     | Wachovia's Executive Long-Term Disability Income Plan.  | Incorporated by reference to Exhibit 10.34 to Legacy Wachovia's 1997 Annual Report on Form 10-K.               |
| (10)(z)     | Form of Callable Split Dollar Insurance Agreement between Wachovia and certain Executive Officers of Wachovia.  | Incorporated by reference to Exhibit 10.39 to Legacy Wachovia's 2000 Third Quarter Report on Form 10-Q.        |
| (10)(aa)    | Form of Non-Callable Split Dollar Insurance Agreement between Wachovia and certain Executive Officers of Wachovia.  | Incorporated by reference to Exhibit 10.40 to Legacy Wachovia's 2000 Third Quarter Report on Form 10-Q.        |
| (10)(bb)    | Form of Split Dollar Life Insurance Agreement between Wachovia and G. Kennedy Thompson, Benjamin P. Jenkins, III, and certain Executive Officers of Wachovia. | Incorporated by reference to Exhibit (10)(ee) to Wachovia's 2002 Annual Report on Form 10-K.                   |
| (10)(cc)    | Wachovia's Employee Retention Stock Plan.   | Incorporated by reference to Exhibit (10)(ff) to Wachovia's 2002 Annual Report on Form 10-K.                   |

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| (10)(dd) | Wachovia's Savings Restoration Plan.   | Incorporated by reference to Exhibit (10)(gg) to Wachovia's 2002 Annual Report on Form 10-K.                       |
| (10)(ee) | Wachovia's 2003 Stock Incentive Plan.  | Incorporated by reference to Exhibit (10) to Wachovia's 2003 First Quarter Report on Form 10-Q.                    |
| (10)(ff) | Split-Dollar Life Insurance Termination Agreement between Wachovia and G. Kennedy Thompson.  | Incorporated by reference to Exhibit (10)(ff) to Wachovia's 2003 Annual Report on Form 10-K.                       |
| (10)(gg) | Insurance Bonus Agreement between Wachovia and G. Kennedy Thompson.  | Incorporated by reference to Exhibit (10)(gg) to Wachovia's 2003 Annual Report on Form 10-K.                       |
| (10)(hh) | Form of Split-Dollar Life Insurance Termination Agreement between Wachovia and certain Executive Officers of Wachovia, including David M. Carroll. | Incorporated by reference to Exhibit (10)(hh) to Wachovia's 2003 Annual Report on Form 10-K.                       |
| (10)(ii) | Form of Insurance Bonus Agreement between Wachovia and certain Executive Officers of Wachovia, including Robert P. Kelly and Stephen E. Cummings.  | Incorporated by reference to Exhibit (10)(ii) to Wachovia's 2003 Annual Report on Form 10-K.                       |
| (10)(jj) | Split-Dollar Insurance Special Election Form between Wachovia and Benjamin P. Jenkins, III.  | Incorporated by reference to Exhibit (10)(jj) to Wachovia's 2003 Annual Report on Form 10-K.                       |
| (10)(kk) | SouthTrust Corporation Long-Term Incentive Plan.   | Incorporated by reference to Exhibit 2 to SouthTrust's 2000 Proxy Statement on Schedule 14A, filed March 10, 2000. |
| (10)(ll) | SouthTrust Corporation Amended and Restated Senior Officer Performance Incentive Plan.   | Incorporated by reference to Appendix B to SouthTrust's 2004 Proxy Statement on Schedule 14A, filed March 8, 2004. |
| (10)(mm) | SouthTrust Corporation Performance Incentive Retirement Benefit Plan.  | Incorporated by reference to Exhibit (10)(d) to SouthTrust's 2001 Annual Report on Form 10-K.                      |
| (10)(nn) | Amended and Restated SouthTrust Corporation Deferred Compensation Plan, as amended and restated.   | Incorporated by reference to Exhibit (99)(c) to Wachovia's Current Report on Form 8-K dated May 2, 2005.           |
| (10)(oo) | SouthTrust Corporation Enhanced Retirement Benefit Plan, as amended and restated   | Incorporated by reference to Exhibit (10)(f) to Wachovia's Current Report on Form 8-K dated May 2, 2005.           |
| (10)(pp) | SouthTrust Corporation Wallace D. Malone, Jr., Nonqualified Deferred Compensation Plan.  | Incorporated by reference to Exhibit (10)(g) to SouthTrust's 2001 Annual Report on Form 10-K.                      |

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| EXHIBIT NO. | DESCRIPTION  | LOCATION   |
|-------------|--|--|
| (10)(qq)    | Amendment 2005-1 to SouthTrust Corporation Wallace D. Malone, Jr. Nonqualified Deferred Compensation Plan. | Incorporated by reference to Exhibit (10)(d) to Wachovia's Current Report on Form 8-K dated December 22, 2005.     |
| (10)(rr)    | Amended and Restated SouthTrust Corporation Executive Deferred Compensation Plan.                          | Incorporated by reference to Exhibit (10)(h) to SouthTrust's 2001 Annual Report on Form 10-K.                      |
| (10)(ss)    | SouthTrust Corporation Wallace D. Malone, Jr., Second Nonqualified Deferred Compensation Plan.             | Incorporated by reference to Exhibit (10)(i) to SouthTrust's 2001 Annual Report on Form 10-K.                      |
| (10)(tt)    | Amended and Restated Employment Agreement for Wallace D. Malone, Jr.                                       | Incorporated by reference to Exhibit (10)(n) to SouthTrust's 2001 Annual Report on Form 10-K.                      |
| (10)(uu)    | Amendment No. 1 to Amended and Restated Employment Agreement for Wallace D. Malone, Jr.                    | Incorporated by reference to Exhibit (10)(b) to Wachovia's Current Report on Form 8-K dated December 22, 2005.     |
| (10)(vv)    | Amendment No. 2 to Amended and Restated Employment Agreement for Wallace D. Malone, Jr.                    | Incorporated by reference to Exhibit (10)(a) to Wachovia's Current Report on Form 8-K dated January 3, 2006.       |
| (10)(ww)    | SouthTrust Corporation Executive Management Retirement Plan.   | Incorporated by reference to Exhibit (10)(a) to SouthTrust's 2002 First Quarter Report on Form 10-Q.               |
| (10)(xx)    | SouthTrust Corporation 2004 Long-Term Incentive Plan.  | Incorporated by reference to Appendix C to SouthTrust's 2004 Proxy Statement on Schedule 14A, filed March 8, 2004. |
| (10)(yy)    | Form of stock award agreements for Executive Officers of Wachovia.   | Incorporated by reference to Exhibit (10)(ss) to Wachovia's 2004 Annual Report on Form 10-K.                       |
| (10)(zz)    | Wachovia Corporation Executive Severance Pay Plan.   | Incorporated by reference to Exhibit (99)(a) to Wachovia's Current Report on Form 8-K dated May 2, 2005.           |
| (10)(aaa)   | Compensation for Non-Employee Directors of Wachovia.   | Incorporated by reference to Wachovia's Current Report on Form 8-K dated June 22, 2005.                            |
| (12)(a)     | Computations of Consolidated Ratios of Earnings to Fixed Charges.  | Filed herewith.  |
| (12)(b)     | Computations of Consolidated Ratios of Earnings to Fixed Charges and Preferred Stock Dividends             | Filed herewith.  |

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| (13)    | Wachovia's 2005 Annual Report to Stockholders.**  | Filed herewith. |
| (21)    | List of Wachovia's subsidiaries.  | Filed herewith. |
| (23)    | Consent of KPMG LLP.  | Filed herewith. |
| (24)    | Power of Attorney.  | Filed herewith. |
| (31)(a) | Certification of principal executive officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.                 | Filed herewith. |
| (31)(b) | Certification of principal financial officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.                 | Filed herewith. |
| (32)(a) | Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. | Filed herewith. |
| (32)(b) | Certification pursuant to 18 U.S.C. Section 1350, as adopted Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. | Filed herewith. |

\* We agree to furnish to the SEC upon request, copies of the instruments, including indentures, defining the rights of the holders of our long-term debt and of our subsidiaries' long-term debt.

\*\* Except for those portions of the Annual Report that are expressly incorporated by reference in this Form 10-K, the Annual Report is furnished for the information of the SEC only and is not to be deemed filed as part of this Form 10-K.