

May 10, 2004

Ms. Jennifer J. Johnson, Secretary  
Board of Governors of the Federal Reserve System  
20th Street and Constitution Avenue, NW.  
Washington, DC 20551

Re: Docket No. R-1186  
Request for Comment on Revised Formats for Public Disclosure of Lending Data

Dear Ms. Johnson:

Wells Fargo & Company and its affiliates (“Wells Fargo”), including Wells Fargo Bank, N.A., Wells Fargo Home Mortgage and Wells Fargo Financial, Inc., appreciate the opportunity to comment on the Board’s proposed revisions. Wells Fargo is a financial services company that owns and operates national banks in 23 Western and Midwestern states, the nation’s leading retail mortgage lender, and one of the nation’s leading finance companies. We appreciate the Board’s consideration of our comments.

The Board’s proposed revisions were issued as a result of revisions to Regulation C requiring lending institutions to report new loan pricing and other data. In order to assist the public in understanding the new data, the Board should provide an explanation as to how the reporting thresholds for first (3%) and second (5%) mortgages were derived. The Board should clearly state that loans exceeding the reporting threshold are not necessarily high cost or abusive under federal, state or local law.

In addition, the Board should provide guidance to the public regarding interpretation of the rate information being presented. Since the rate information is collected pursuant to regulations issued by the Board, it would be helpful for the Board to specifically state to the public that interest rates are set based on factors other than those presented. In fact, lenders are specifically prohibited from taking certain of the factors (race, ethnicity and sex) into account when setting interest rates. Instead, interest rates are established based on risk factors such as the borrower’s credit history, the loan product selected, the loan-to-value ratio, the repayment period for the debt, etc.

It would also be helpful for the Board to recognize in writing on the same page as the charts other issues inherent in the data presented in order to help prevent the data from being used in litigation out of its proper context. For example, consumer loans are not typically priced to a treasury index so comparison to treasury rates may be less useful in such transactions. A

consumer may come to the conclusion he or she is being overcharged on a consumer loan based on a comparison to treasury rates when in fact the rate being offered is fully competitive within the marketplace. Also, the Board should point out that the dates and sources of information used to compare a loan's interest rate to the comparable treasury rate are different for purposes of HMDA and HOEPA. The interest rate lock date is used for HMDA while the application date is used for HOEPA. The table "Treasury Securities of Comparable Maturity on the FFIEC website is used to calculate the Rate Spread and the FRB H-15 Selected Interest Statistical Release on the Federal Reserve website is used to determine a HOEPA loan. Therefore, a loan's interest rate spread as reported under HMDA may exceed the HOEPA threshold without the loan being classified as a HOEPA loan. In addition, due to the points and fees component of the HOEPA definition, a loan may be a HOEPA loan even if its interest rate does not exceed the HMDA rate threshold. Other issues exist with the arbitrary timing requirements. The same loan might be in or out of the range based on the arbitrary comparison date of the 15<sup>th</sup> of the current or the prior month. The pricing of loans in the marketplace moves hourly not every 30 days.

In the revisions, the Board changed the definitions of refinance and home improvement loans. It would be useful to add a footnote to these categories regarding the change and advising the public that as a result year-to-year comparisons in these categories may not be valid. Finally, there seems to be a conflict between footnotes 11 and 12. Footnote 11 states that if two applicants report different ethnicities, they are grouped by the ethnicity of the first person listed. Footnote 12 states that such loans should be reported as "joint".

Thank you for the opportunity to comment on the Board's proposed revisions. We would be pleased to supplement our comments in response to future rulemakings resulting from this process or to discuss any of our comments with you. Please contact the undersigned if you have any questions.

Sincerely,

David L. Moskowitz  
SVP and WFHM General Counsel  
Wells Fargo & Co.