FEDERAL RESERVE SYSTEM

Wells Fargo & Company
San Francisco, California

Order Approving the Acquisition of a Bank Holding Company

Wells Fargo & Company ("Wells Fargo") has requested the Board's approval under section 3 of the Bank Holding Company Act ("BHC Act") (12 U.S.C. § 1842) to acquire all the voting shares of Pacific Northwest Bancorp ("Pacific Northwest") and thereby indirectly acquire Pacific Northwest Bank ("PN Bank"), both in Seattle, Washington.

Notice of the proposal, affording interested persons an opportunity to submit comments, has been published (66 Federal Register 39,563 (2003)). The time for filing comments has expired, and the Board has considered the proposal and all comments received in light of the factors set forth in section 3 of the BHC Act.

Wells Fargo, with total consolidated assets of approximately $363 billion, is the third largest commercial banking organization in the United States. Wells Fargo operates subsidiary depository institutions in Alaska, Arizona, California, Colorado, Idaho, Illinois, Iowa, Michigan, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oregon, South Dakota, Texas, Utah, Washington, Wisconsin, and Wyoming. In Washington, Wells Fargo controls insured deposits of approximately $3 billion, representing approximately 4 percent of total deposits of insured depository institutions in the state ("state deposits").[1] In Oregon, Wells

[1] Asset, deposit, and ranking data are as of June 30, 2002. In this context, depository institutions include commercial banks, savings banks, and savings associations.

Fargo controls insured deposits of approximately $4 billion, representing approximately 12 percent of state deposits.

Pacific Northwest, with total consolidated assets of approximately $3.1 billion, is the 139th largest commercial banking organization in the United States. Pacific Northwest also operates subsidiary depository institutions in Washington and Oregon. In Washington, Pacific Northwest controls insured deposits of approximately $1.8 billion, representing approximately 3 percent of state deposits. In Oregon, Pacific Northwest controls insured deposits of approximately $263 million, representing less than 1 percent of state deposits. On consummation of this proposal, Wells Fargo would become the fourth largest commercial banking organization in Washington, controlling deposits of approximately $5 billion, representing approximately 7 percent of state deposits; Wells Fargo would remain the third largest commercial banking organization in Oregon controlling deposits of $4 billion, representing, approximately 13 percent of state deposits.

Interstate Analysis

Section 3(d) of the BHC Act allows the Board to approve an application by a bank holding company to acquire control of a bank located in a state other than the home state of such bank holding company if certain conditions are met.[2] For purposes of the BHC Act, the home state of Wells Fargo is Minnesota, and Pacific Northwest is located in Washington and

[2] A bank holding company's home state is that state in which the total deposits of all banking subsidiaries of such company were the largest on the later of July 1, 1966, or the date on which the company became a bank holding company. 12 U.S.C. § 1841(o)(4)(C).

Oregon.[3] Based on a review of all the facts of record, including relevant state statutes, the Board finds that all the conditions for an interstate acquisition enumerated in section 3(d) are met in this case.[4] In light of all the facts of record, the Board is permitted to approve the proposal under section 3(d) of the BHC Act.

Competitive Considerations

Section 3 of the BHC Act prohibits the Board from approving a proposal that would result in a monopoly or would be in furtherance of any attempt to monopolize the business of banking in any relevant market. The BHC Act also prohibits the Board from approving a proposed bank acquisition that would substantially lessen competition in any relevant banking market unless the anticompetitive effects of the proposal are clearly outweighed in the public interest by the probable effect of the proposal in meeting the convenience and needs of the community to be served.[5]

Wells Fargo competes directly with Pacific Northwest in

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[3] For purposes of section 3(d) of the BHC Act, the Board considers a bank to be located in the states in which the bank is chartered, headquartered, or operates a branch.

[4] See 12 U.S.C. §§ 1842(d)(1)(A) and (B), 1842(d)(2)(A) and (B). Wells Fargo is adequately capitalized and adequately managed, as defined by applicable law. In addition, on consummation of the proposal, Wells Fargo would control less than 10 percent of the total amount of deposits of insured depository institutions in the United States and less than 30 percent of the total deposits of insured depository institutions in each of Oregon and Washington. Washington law prohibits the interstate acquisition of a Washington bank that has existed for fewer than 5 years. This transaction would meet the minimum age requirements imposed by Washington law. See Wash. Rev. Code Ann. § 30.04.232 (2003).

[5] 12 U.S.C. § 1842(c)(1).

eight banking markets in Washington and Oregon.[6] The Board has reviewed carefully the competitive effects of the proposal in each of these banking markets in light of all the facts of record. In particular, the Board has considered the number of competitors that would remain in the markets, the relative shares of total deposits in depository institutions in the markets ("market deposits") controlled by Wells Fargo and Pacific Northwest,[7] the concentration level of market deposits and the increase in this level as measured by the Herfindahl-Hirschman Index ("HHI") under the Department of Justice Merger Guidelines ("DOJ Guidelines"),[8] other

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[6] These banking markets, which are defined in Appendix A, are the Bremerton, Centralia, Kittitas County, Mount Vernon, Olympia, Seattle, and Yakima markets, all in Washington, and the Portland, Oregon, market.

[7] Market share data are as of June 30, 2003, and are based on calculations in which the deposits of thrift institutions are included at 50 percent. The Board previously has indicated that thrift institutions have become, or have the potential to become, significant competitors of commercial banks. See, e.g., Midwest Financial Group, 75 Federal Reserve Bulletin 386 (1989); National City Corporation, 70 Federal Reserve Board 743 (1984). Thus, the Board regularly has included thrift deposits in the market share calculation on a 50 percent weighted basis. See, e.g., First Hawaiian, Inc., 77 Federal Reserve Bulletin 52 (1991).

[8] Under the DOJ Guidelines, 49 Federal Register 26,823 (1984), a market is considered moderately concentrated if the post-merger HHI is between 1000 and 1800 and highly concentrated if the post-merger HHI is more than 1800. The Department of Justice has informed the Board that a bank merger or acquisition generally will not be challenged (in the absence of other factors indicating anticompetitive effects) unless the post-merger HHI is at least 1800 and the merger increases the HHI by more than 200 points. The Department of Justice has stated that the higher than normal HHI thresholds for screening bank mergers for anticompetitive effects implicitly recognize the competitive effects of limited-purpose lenders and other nondepository financial institutions.

characteristics of the markets, and commitments made by Wells Fargo to divest one branch.

A. Banking Market With Divestiture

In the Kittitas County banking market, Wells Fargo operates the sixth largest depository institution, controlling $27.5 million in deposits, representing 8.6 percent of market deposits. Pacific Northwest operates the largest depository institution in the market, controlling $72.1 million in deposits, representing 22.6 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the largest depository institution in the market, controlling deposits of $99.6 million, representing approximately 31.3 percent of market deposits.

To reduce the potential for adverse effects on competition in the Kittitas County banking market, Wells Fargo has committed to divest to an out-of-market commercial banking organization one branch with a specified level of deposits sufficient to make the proposal consistent with Board precedent and with the thresholds in the DOJ Guidelines.[9] After consummation, and taking into account the proposed divestiture, the Kittitas County banking market would remain moderately concentrated. Wells Fargo would become the fourth largest depository institution in the market,

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[9] With respect to this market, Wells Fargo will execute, before consummation of the proposal, a sales agreement for the proposed divestiture with a purchaser determined by the Board to be competitively suitable and to complete the divestiture within 180 days after consummation of the proposal. Wells Fargo also has committed that, if it is unsuccessful in completing any divestiture within 180 days after consummation, it will transfer the unsold branch to an independent trustee that is acceptable to the Board and will instruct the trustee to sell the branch promptly to one or more alternative purchasers acceptable to the Board. See BankAmerica Corporation, 78 Federal Reserve Bulletin 338 (1992); United New Mexico Financial Corporation, 77 Federal Reserve Bulletin 484 (1991).

controlling deposits of approximately $67.5 million, representing 21 percent of market deposits. The HHI would decrease by 36 points to 1541. In addition, at least eight competitors would remain in the banking market.

B. Banking Markets Without Divestitures

Consummation of the proposal without divestitures would be consistent with Board precedent and the DOJ Guidelines in all seven of the remaining banking markets in which Wells Fargo and Pacific Northwest compete directly.[10] After consummation of the proposal, the seven markets would remain moderately concentrated, as measured by the HHI, and changes in concentration would be modest in each of these markets. In addition, numerous competitors would remain in the markets.

C. Views of Other Agencies and Conclusion

The Department of Justice also has conducted a detailed review of the competitive effects of the proposal and has advised the Board that, in light of the proposed divestiture, consummation of the proposal would not have a significantly adverse effect on competition in any relevant banking market.

Based on all the facts of record, the Board concludes that consummation of the proposal would not have a significantly adverse effect on competition or on the concentration of banking resources in any of the banking markets in which Wells Fargo and Pacific Northwest compete or in any other relevant banking market. Accordingly, based on all the facts of record and subject to completion of the proposed divestiture, the Board has

[10] These markets are the Bremerton, Centralia, Mount Vernon, Olympia, Seattle, and Yakima markets in Washington and the Portland, Oregon, market. The effects of the proposal on the concentration of banking resources in these markets are described in Appendix B.

determined that competitive factors are consistent with approval of the proposal.

Financial, Managerial, and Other Supervisory Factors

Section 3 of the BHC Act requires the Board to consider the financial and managerial resources and future prospects of the companies and banks involved in the proposal and certain other supervisory factors. The Board has carefully considered these factors in light of all the facts of record, including reports of examination, other confidential supervisory information received from the primary federal banking agency that supervises each institution, and information provided by Wells Fargo. Based on all the facts of record, the Board has concluded that considerations relating to the financial and managerial resources and future prospects of Wells Fargo, Pacific Northwest, and PN Bank are consistent with approval, as are the other supervisory factors under the BHC Act.

Convenience and Needs Considerations

In acting on a proposal under section 3 of the BHC Act, the Board is required to consider the effects of the proposal on the convenience and needs of the communities to be served and to take into account the records of the relevant insured depository institutions under the Community Reinvestment Act ("CRA").[11] The CRA requires the federal financial supervisory agencies to encourage financial institutions to help meet the credit needs of local communities in which they operate, consistent with their safe and sound operation, and requires the appropriate federal financial supervisory agency to take into account an institution's record of meeting the credit needs of its entire community, including low- and

[11] 12 U.S.C. § 2901 et seq.

moderate-income ("LMI") neighborhoods, in evaluating bank expansionary proposals. The Board has carefully considered the convenience and needs factor and the CRA performance records of the subsidiary depository institutions of Wells Fargo and Pacific Northwest, including public comments on the effect the proposal would have on the communities to be served by the resulting organizations.

A. CRA Performance Evaluations

As provided in the CRA, the Board has evaluated the convenience and needs factor in light of examinations by the appropriate federal supervisors of the CRA performance records of the relevant insured depository institutions. An institution's most recent CRA performance evaluation is a particularly important consideration in the applications process because it represents a detailed, on-site evaluation of the institution's overall record of performance under the CRA by its appropriate federal supervisor.[12]

Wells Fargo's lead bank, Wells Fargo Bank, N.A., also in San Francisco ("WF Bank"), received an "outstanding" rating at its most recent CRA performance evaluation by the Office of the Comptroller of the Currency ("OCC"), as of October 1, 2001.[13] All other subsidiary banks of

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[12] See Interagency Questions and Answers Regarding Community Reinvestment, 66 Federal Register 36,620 and 36,639 (2001).

[13] The overall rating for WF Bank is a composite of its state/multistate ratings. WF Bank's performance in California was weighted more heavily than its performance in other areas in its overall rating by examiners because more than 98 percent of its deposits and more than 87 percent of its loans were in California during the evaluation period. Examiners rated WF Bank "outstanding" in California. At the time of the 2001 performance evaluation, WF Bank had 60 assessment areas in Arizona, California,

Wells Fargo received either "outstanding" or "satisfactory" ratings at their most recent CRA performance evaluations.[14] PN Bank received a "satisfactory" rating at its most recent CRA performance evaluation by the Federal Deposit Insurance Corporation ("FDIC"), as of November 23, 1999.

B. CRA Performance of WF Bank

1. Lending Test

In California, WF Bank received an "outstanding" rating under the lending test. Examiners noted that WF Bank's overall geographic distribution of loans was good, and they characterized the bank's lending performance in the San Francisco Metropolitan Statistical Area ("MSA") as excellent. In the assessment areas subject to a full-scope review,[15] WF Bank originated or purchased HMDA-reportable loans totaling $42.6 billion. In

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Colorado, Idaho, Minnesota, Nevada, Oregon, Utah, and Washington.

[14] See Appendix C for the CRA ratings of the other subsidiary banks of Wells Fargo. One commenter expressed concern that the performance of Wells Fargo HSBC Trade Bank, N.A., San Francisco ("Trade Bank"), was weak because its performance under the CRA was limited to qualified investments and community development services, which examiners characterized as not being "innovative or complex." As noted in Appendix C, Trade Bank received a "satisfactory" rating at its most recent CRA evaluation. As a wholesale bank, its CRA activities are limited to community development investments and services. Examiners described the community development investments and services provided by Trade Bank as being responsive to community needs.

[15] In California, examiners conducted full-scope reviews for the bank's Los Angeles-Long Beach, Oakland, Orange County, San Diego, San Francisco, and San Jose MSAs assessment areas. The review period for residential mortgage lending reportable under the Home Mortgage Disclosure Act ("HMDA") (12 U.S.C. § 2801 et seq.) and small business and small farm lending reportable under CRA was the last three quarters of 1998, calendar years 1999 and 2000, and the first three quarters of 2001.

the San Francisco and Orange County MSAs, examiners reported that the proportion of WF Bank's home purchase loans in low-income census tracts exceeded the proportion of owner-occupied units in those areas. In the San Francisco and San Jose MSAs, the proportion of WF Bank's home purchase loans in moderate-income census tracts also exceeded the proportion of owner-occupied housing units. Examiners reported that WF Bank enhanced its efforts to meet the credit needs of its assessment areas through lending programs, such as the "Easy-To-Own No Money Down," "Easy-To-Own California 1% Down," and "Easy-To-Own 3% Down," which have flexible underwriting standards, low credit-score approvals, high loan-to-value allowances, and a variety of downpayment options.

Wells Fargo has conducted a significant amount of mortgage lending since the latest CRA performance examination. In 2002, WF Bank originated and purchased HMDA-reportable loans totaling $88.6 billion, $7 billion of which were in LMI census tracts.[16] In the first six months of 2003, WF Bank originated and purchased HMDA-reportable loans totaling $57.2 billion, $4.8 billion of which were in LMI census tracts.[17]

Examiners reported that WF originated loans to small businesses in the assessment areas subject to a full-scope review totaling

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[16] One commenter recommended that Wells Fargo refer all qualified mortgage applicants from subprime affiliates to prime affiliates. Wells Fargo has a program for referring qualified borrowers from Wells Fargo Financial, Inc., Des Moines, Iowa ("WF Financial"), to Wells Fargo Home Mortgage, also in Des Moines ("WFHM").

[17] Commenters alleged that Wells Fargo aggressively markets subprime loans to LMI borrowers. The Board has considered WF Bank's record of lending to borrowers in LMI areas as well as Wells Fargo's efforts to market prime and subprime loans in LMI areas.

$6 billion during the evaluation period. Examiners described WF Bank's distribution of small loans to businesses in the Los Angeles-Long Beach, Oakland, Orange County, San Diego, and San Jose MSAs as excellent. In 2000, WF Bank had the largest market share of small loans to businesses in LMI census tracts in the assessment areas subject to a full-scope review. In the Orange County and Oakland MSAs, the portion of WF Bank's small loans to businesses in low-income tracts exceeded the proportion of all businesses in LMI tracts. In the San Francisco MSA, the portion of WF Bank's small loans to business in moderate-income census tracts also exceeded the proportion of businesses in such tracts.

Since its 2001 performance evaluation, WF Bank has offered Small Business Administration ("SBA") loans, such as SBA 7(a) and SBAExpress, that help small businesses obtain financing for which they would not otherwise qualify. WF Bank also offers "Community Express" loans through a pilot program developed by the SBA in collaboration with a national community group. To qualify for Community Express loans applicants must meet certain size standards and conduct business in specific geographic areas, usually LMI areas. In 2001, WF Bank introduced the Business Secured MasterCard. This credit card was designed to help establish credit for small businesses and has credit limits from $1,000 to $100,000 and the option to progress to a partially secured or unsecured card after a year. Since 2001, a total of 1,711 Business Secured MasterCard accounts have been opened in California.

Examiners reported that, through its community development lending, WF bank helped address a significant need for affordable housing. WF Bank made 84 community development loans for affordable housing in the assessment areas subject to a full-scope review, totaling $312 million.

These loans included a $20.8 million construction loan to build a 293-unit apartment complex in Anaheim, which will provide affordable housing to households earning between 45 and 50 percent of the average median income, and a $10.5 million construction loan that helped build an 80-unit multifamily housing complex for families of low-income farm workers in Half Moon Bay. WF Bank also extended loans in the amounts of $7.5 million and $1.7 million to finance the construction of 195 units of affordable housing for LMI individuals in San Jose.

WF Bank made 108 community development loans, totaling $658 million, to revitalize or stabilize LMI areas and to promote economic development. Wells Fargo has represented that, since the performance evaluation in 2001, the bank has extended 71 community development loans in California, totaling $122.2 million.

2. Investment Test

In California, WF Bank received an "outstanding" rating under the investment test. Examiners noted that WF Bank's investment and grant activities helped address essential identified needs in the full-scope assessment areas. Community development investments in those assessment areas subject to a full-scope review totaled $162.4 million and included a $25 million investment in limited partnerships that invest in apartment complexes in California that qualify for low-income housing tax credits, and a $9 million investment in a real estate equity fund that provides equity to underutilized industrial and retail sites in LMI communities in Los Angeles. WF Bank also provided $1.5 million in grants to The Accelerated School, a charter school in South Central Los Angeles.

Since the evaluation in 2001, WF Bank has continued to make community development investments and grants. In California in 2002, the bank's community development investments totaled $54.5 million, and its grants totaled $18 million. During the first six months of 2003, WF Bank's community development investments in California totaled $41 million, and its grants totaled $9 million.

3. Service Test

In California, WF Bank received an "outstanding" rating under the service test.[18] WF Bank's alternative delivery systems include ATMs, banking by phone or mail, and Internet banking. During the evaluation period, the bank operated 874 branch offices and 6,611 ATMs. In addition, the bank provides eBuses, which are mobile technology centers that primarily visit LMI areas; the Wellsfargo.com Bus, which provides consumer education and travels throughout the United States; and mobile branches for use in emergencies and when traditional branches are unable to function. Examiners found that WF Bank's banking services are accessible to essentially all portions of the assessment areas. During the evaluation period, WF Bank opened 28 branches and closed 199. Examiners reported that the bank's opening and closing activity had a neutral impact on LMI areas.

As of July 31, 2003, half of WF Bank's branches in California were in or within a mile of an LMI community. In 2001, WF Bank launched the Banking on Our Future program, a computer-based financial literacy

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[18] One commenter criticized the fees charged by Wells Fargo for cashing noncustomer checks and other services and for failing to verify whether a check is valid by telephone. Wells Fargo has represented that, along with many of its competitors, the verification of individual checks by telephone was terminated because of escalating account fraud. Although the Board has recognized that banks help serve the banking needs of their communities by making basic banking services available at a nominal or no charge, the CRA does not require that banks limit the fees charged for services.

program featuring instructions for young adult and adult residents in LMI areas. In May 2002, a Spanish language version of Banking on Our Future was introduced.

C. HMDA and Fair Lending Record

The Board also has carefully considered Wells Fargo's lending record in light of comments on HMDA data reported by its subsidiaries.[19] The HMDA data reflect certain disparities in the rates of loan applications, originations, and denials among members of different racial groups and persons at different income levels in certain local areas.[20] The 2001 and 2002 HMDA data indicate that Wells Fargo’s denial disparity ratios for African-American and Hispanic applicants generally were higher than the

[19] Commenters criticized Wells Fargo for not differentiating between prime and subprime loans when reporting data under HMDA. HMDA reporting requirements do not, however, distinguish between prime and subprime loans. Commenters also alleged, based on comparisons with county courthouse records, that Wells Fargo underreports loans under HMDA, in part by mischaracterizing some closed-end loans as open-end loans that do not have to be reported under HMDA. Wells Fargo asserts that it reports all mortgage lending activity in accordance with HMDA regulations, which provide a consistent disclosure format for all lenders, and acknowledges that although it occasionally uses an open-end deed of trust to secure a closed-end loan, such loans are in fact treated as closed-end loans. The Board notes that courthouse records would not necessarily correspond to reported HMDA data because not all lenders that record deeds of trust are subject to HMDA’s reporting requirements, and some transactions recorded in courthouse records are not subject to HMDA reporting.

[20] A commenter alleged that Wells Fargo failed to make enough loans to LMI individuals and minorities in California. Another commenter alleged that, based on 2001 HMDA data, WFHM denied home mortgage applications from African Americans and Hispanics more frequently than applications from whites in the Denver, Seattle, Albuquerque, Austin, and Houston MSAs.

denial disparity ratios for lenders in the aggregate for HMDA-reportable loans in the markets reviewed.[21] Wells Fargo's percentage of housing-related loan originations to borrowers in minority census tracts[22] generally was less than that of lenders in the aggregate in the markets.[23]

In 2002, however, Wells Fargo's housing-related loan originations to African-American individuals, as a percentage of its total HMDA-reportable lending, were equal to or exceeded that of the aggregate of all lenders in seven of the markets reviewed. Wells Fargo's housing-related loan originations to Hispanic individuals, as a percentage of its total HMDA-reportable lending, were also equal to or exceeded that of the aggregate of all lenders in five of the markets reviewed in 2002. Moreover,

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[21] The Board analyzed 2001 and 2002 HMDA data for Wells Fargo's lending affiliates in their assessment areas in California, Colorado, New Mexico, Texas, and Washington. The Board's review included the HMDA data for WF Bank; Wells Fargo Bank West, N.A., Denver, Colorado; Wells Fargo Bank New Mexico, N.A., Albuquerque, New Mexico; Wells Fargo Bank Texas, N.A., Houston, Texas; WFHM; Wells Fargo Funding, Minneapolis, Minnesota; and WF Financial.

[22] For purposes of this HMDA analysis, minority census tract means a census tract with a minority population of 80 percent or more.

[23] Several commenters expressed concern that low-income and minority communities have disproportionately high numbers of Wells Fargo subprime loans, but did not provide evidence to support this assertion. Commenters also alleged that the subprime lending subsidiaries of Wells Fargo, including WF Financial and Island Finance Credit Services, Inc., Des Moines, charge excessive interest rates. Commenters did not explain, however, how the rates charged by these entities are excessive or provide any evidence that rates charged by Wells Fargo do not reflect the customer's credit history, risk profile, or other appropriate factors. The Board has considered these allegations in light of Wells Fargo's policies and procedures for ensuring compliance with the fair lending laws.

the HMDA data generally do not indicate that Wells Fargo is excluding any race or income segment of the population or geographic areas on a prohibited basis.[24]

The Board is concerned when HMDA data for an institution indicates disparities in lending and believes that all banks are obligated to ensure that their lending practices are based on criteria that ensure not only safe and sound lending, but also equal access to credit by creditworthy applicants regardless of their race or income level. The Board recognizes, however, that HMDA data alone provide an incomplete measure of an institution's lending in its community because these data cover only a few categories of housing-related lending. HMDA data, moreover, provide only limited information about the covered loans. HMDA data, therefore, have limitations that make them an inadequate basis, absent other information, for concluding that an institution has not assisted adequately in meeting its community's credit needs or has engaged in illegal lending discrimination.

Because of the limitations of HMDA data, the Board has considered these data carefully in light of other information, including examination reports that provide an on-site evaluation of compliance by the subsidiary depository institutions of Wells Fargo with fair lending laws. Examiners found no evidence of prohibited discrimination or other illegal credit practices at any of the subsidiary depository institutions controlled by Wells Fargo. Examiners identified no substantive violations of applicable

[24] Other commenters alleged that Wells Fargo does not explain to borrowers that credit insurance is optional. Wells Fargo stated that it does, in fact, present credit insurance to its customers as optional. One commenter expressed concern that Wells Fargo sells single-premium credit life insurance. Wells Fargo represented that it does not offer single-premium credit insurance on real-estate-secured products.

fair lending laws and regulations at WF Bank. Examiners also identified no substantive violations of applicable fair lending laws and regulations at the other subsidiary banks of Wells Fargo in the performance evaluations listed in Appendix C.[25]

The record also indicates that Wells Fargo has taken steps to ensure compliance with fair lending laws.[26] Wells Fargo's corporate fair lending policy includes standards relating to advertising and marketing, pricing, underwriting, compliance with fair lending laws, and customer service. The corporate fair lending policy also requires each Wells Fargo business that extends or supports the extension of credit to adopt Wells Fargo's corporate fair lending policy and implement policies and procedures consistent with the corporate fair lending policy. Policies adopted by Wells Fargo businesses include comparative file analysis, a second review process,

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[25] One commenter criticized the business relationship between Wells Fargo Bank Minnesota, N.A., Minneapolis, Minnesota ("WF Minnesota"), and Delta Funding Corp. ("Delta"), Woodbury, New York, a subprime lender that was subject to government actions regarding its consumer lending practices. Wells Fargo stated that with respect to Delta Funding, WF Minnesota's role is limited to that of a trustee on bond issues secured by pools of mortgage loans that Delta originated. Wells Fargo represented that WF Minnesota has no role in the initial funding of the loans that are included in the mortgage pools or in the establishment of Delta's business practices.

[26] A commenter alleged that Wells Fargo does not accurately report information about borrowers to credit bureaus. Wells Fargo has represented that it has policies in place to ensure proper reporting to credit bureaus. In addition, in instances where an error occurs, Wells Fargo tries to work with the customer to rectify the error as quickly as possible and send correct information to the credit reporting agency.

and self-assessment audits for fair lending compliance.[27] In addition, Wells Fargo has implemented fair lending policy training for executive management, sales management, operations management, sales staff, operations staff, and consumer contact employees with loan origination responsibilities.

The Board has also considered the HMDA data in light of the programs described above and the overall performance of Wells Fargo's subsidiary banks under the CRA. These established efforts demonstrate that the banks are active in helping to meet the credit needs of their entire communities.

D. Branch Closings

One commenter expressed concern about the possible effect of branch closings resulting from this proposal and suggested that Wells Fargo refrain from closing branches in LMI census tracts or rural areas until it has discussed the proposed branch closure with local community groups. The Board has carefully considered the comment on potential branch closings in light of all the facts of record. Wells Fargo has represented that it intends to implement its current branch activity policy at Bank. The policy includes a review of branches proposed for relocation, closure, or consolidation in low-income communities or where the distance exceeds two miles to the nearest

[27] Some commenters have alleged that Wells Fargo uses deceptive marketing tactics, such as misleading monthly payment comparisons that do not include the costs of taxes and insurance. Commenters also alleged that Wells Fargo's practice of mailing unsolicited loan drafts is an abusive marketing tactic. Wells Fargo is required by the Federal Trade Commission Act (15 U.S.C. § 41 et seq.) to market products in a manner that is not unfair and deceptive. The Board has considered Wells Fargo's policies and procedures for ensuring that their marketing efforts are consistent with the law.

Wells Fargo branch.

The Board also has considered that federal banking law provides a specific mechanism for addressing branch closings.[28] Federal law requires an insured depository institution to provide notice to the public and the appropriate federal supervisory agency before closing a branch. In addition, the Board notes that the OCC and FDIC, as the appropriate federal supervisors of Wells Fargo's subsidiary banks, will continue to review the branch closing records of the banks in the course of conducting CRA performance examinations.

E. Conclusion on Convenience and Needs Considerations

In reviewing the effect of the proposal on the convenience and needs of the communities to be served, the Board has carefully considered the entire record, including comments received and responses to the comments, evaluations of the performance of the insured depository institution subsidiaries of Wells Fargo and Pacific Northwest under the CRA, and confidential supervisory information.[29] The Board also

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[28] Section 42 of the Federal Deposit Insurance Act (12 U.S.C. § 1831r-1), as implemented by the Joint Policy Statement Regarding Branch Closings (64 Federal Register 34,844 (1999)), requires that a bank provide the public with at least 30 days' notice and the appropriate federal supervisory agency with at least 90 days' notice before the date of the proposed branch closing. The bank also is required to provide reasons and other supporting data for the closure, consistent with the institution's written policy for branch closings.

[29] Commenters criticized Wells Fargo for funding unaffiliated payday lenders. Wells Fargo stated that its affiliates have provided credit facilities to payday lenders, often in conjunction with other major commercial lenders, and such lending represents an insignificant percentage of its commercial lending portfolio. Wells Fargo represented that it does not participate in the lending practices or credit review processes of payday

considered information submitted by Wells Fargo concerning WF Bank's performance under the CRA and its compliance with fair lending laws since its last CRA performance evaluation and the compliance of other Wells Fargo lending subsidiaries with fair lending, HMDA, and other applicable laws.

Based on all the facts of record, and for reasons discussed above, the Board concludes that considerations relating to the convenience and needs factors, including the CRA performance records of the relevant depository institutions, are consistent with approval of the proposal.

Conclusion

Based on the foregoing and in light of all the facts of record, the Board has determined that the application should be, and hereby is, approved.[30] In reaching this conclusion, the Board has considered all the

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lenders to which it extends credit. The Board notes that the OCC, as the primary federal supervisor of the subsidiary national banks of Wells Fargo engaged in providing credit to payday lenders, will continue to review the banks' lending activities in the course of conducting examinations.

[30] Several commenters requested that the Board hold a public hearing on the proposal. Section 3 of the BHC Act does not require the Board to hold a public hearing on an application unless the appropriate supervisory authority for any of the banks to be acquired makes a timely written recommendation of denial of the application. The Board has not received such a recommendation from the appropriate supervisory authority. Under its rules, the Board also may, in its discretion, hold a public meeting or hearing on an application to acquire a bank if a meeting or hearing is necessary or appropriate to clarify factual issues related to the application and to provide an opportunity for testimony. 12 C.F.R. 225.16(e). The Board has considered carefully the commenters' requests in light of all the facts of record. In the Board's view, the public has had ample opportunity to submit comments on the proposal, and in fact, the commenters have submitted written comments that the Board has considered carefully in acting on the

facts of record in light of the factors that it is required to consider under the BHC Act and other applicable statutes. The Board's approval is specifically conditioned on compliance by Wells Fargo with all the representations and commitments made in connection with the application, commitments referred to in this order, and the receipt of all other regulatory approvals. These representations, commitments, and conditions are deemed to be conditions imposed in writing by the Board in connection with its findings and decision and, as such, may be enforced in proceedings under applicable law.

The transaction shall not be consummated before the fifteenth calendar day after the effective date of this order, and the proposal may not be consummated later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of San Francisco, acting pursuant to delegated authority.

By order of the Board of Governors,[31] effective October 16, 2003.

(signed)

Robert deV. Frierson
Deputy Secretary of the Board

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proposal. The commenters' requests fail to demonstrate why their written comments do not present their views adequately or why a meeting or hearing otherwise would be necessary or appropriate. For these reasons, and based on all the facts of record, the Board has determined that a public hearing or meeting is not required or warranted in this case. Accordingly, the requests for a public hearing on the proposal are denied.

[31] Voting for this action: Chairman Greenspan, Vice Chairman Ferguson, and Governors Gramlich, Bies, Olson, Bernanke, and Kohn.

APPENDIX A

Banking Markets in which Wells Fargo and
Pacific Northwest Compete Directly

<u>Washington Banking Markets</u>

Bremerton

The Bremerton Ranally Metropolitan Area ("RMA"), Poulsbo, and Kingston.

Centralia

Western Lewis County, including Centralia, Chehalis, Morton, Pe Ell, Toledo, and Winlock.

Kittitas County

Kittitas County, including Cle Elum, Ellensburg, and Roslyn.

Mount Vernon

Skagit County and northern Whidbey Island, including Anacortes, Burlington, Concrete, Coupeville, La Conner, Mount Vernon, Oak Harbor, and Sedro Woolley.

Olympia

The Olympia RMA and Hoodsport.

Seattle

The Seattle RMA, Camano City, and Eatonville.

Yakima

The Yakima RMA.

<u>Oregon Banking Market</u>

Portland

The Portland RMA, Banks, Molalla, Mount Angel, Saint Helens, Scappoose, Vernonia, and Woodburn, Oregon; and Yacolt, Washington.

APPENDIX B

Certain Banking Markets Without Divestitures

Bremerton, Washington

Wells Fargo operates the eighth largest depository institution in the Bremerton banking market, controlling $55.5 million in deposits, representing 4.4 percent of market deposits. Pacific Northwest operates the sixth largest depository institution in the market, controlling $71.9 million in deposits, representing 5.7 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the fourth largest depository institution in the market, controlling deposits of $127.4 million, representing approximately 10 percent of market deposits. The HHI would increase 49 points to 1476. Fourteen competitors would remain in the market.

Centralia, Washington

Wells Fargo operates the seventh largest depository institution in the Centralia banking market, controlling $33 million in deposits, representing 5.7 percent of market deposits. Pacific Northwest operates the twelfth largest depository institution in the market, controlling $4.7 million in deposits, representing less than 1 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the seventh largest depository institution in the market, controlling deposits of $37.7 million, representing 6.6 percent of market deposits. The HHI would increase 9 points to 1732. Eleven competitors would remain in the market.

Mount Vernon, Washington

Wells Fargo operates the ninth largest depository institution in the Mount Vernon banking market, controlling $53.4 million in deposits, representing 3.2 percent of market deposits. Pacific Northwest operates the second largest depository institution in the market, controlling $313.2 million in deposits, representing 18.5 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the largest depository institution in the market, controlling deposits of $366.6 million, representing approximately 21.6 percent of market deposits. The HHI would increase 116 points to 1326. Twelve competitors would remain in the market.

Olympia

Wells Fargo operates the tenth largest depository institution in the Olympia banking market, controlling $49.2 million in deposits, representing 3 percent of market deposits. Pacific Northwest is the seventeenth largest depository institution in the market, controlling $6.9 million in deposits, representing less than 1 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the ninth largest depository institution in the market, controlling deposits of $56.1 million, representing approximately 3.4 percent of market deposits. The HHI would increase 2 points to 1042. Seventeen competitors would remain in the market.

Yakima, Washington

Wells Fargo operates the eighth largest depository institution in the Yakima banking market, controlling $52.1 million in deposits, representing 4.6 percent of market deposits. Pacific Northwest operates the seventh largest depository institution in the market, controlling $54.3 million in deposits, representing 4.8 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the fifth largest depository institution in the market, controlling deposits of $106.4 million, representing approximately 9.5 percent of market deposits. The HHI would increase 45 points to 1279. Eleven competitors would remain in the market.

Seattle, Washington

Wells Fargo operates the fifth largest depository institution in the Seattle banking market, controlling $2.4 billion in deposits, representing 6.3 percent of market deposits. Pacific Northwest operates the eighth largest depository institution in the market, controlling $784.7 million in deposits, representing 2.1 percent of market deposits. On consummation of the proposal, Wells Fargo would operate the fourth largest depository institution in the market, controlling deposits of $3.2 billion, representing approximately 8.4 percent of market deposits. The HHI would increase 26 points to 1468. Sixty-seven competitors would remain in the market.

Portland, Oregon

Wells Fargo operates the third largest depository institution in the Portland banking market, controlling $2.5 billion in deposits, representing

14.6 percent of market deposits. Pacific Northwest operates the tenth largest depository institution in the market, controlling $262.8 million in deposits, representing 1.5 percent of market deposits. On consummation of the proposal, Wells Fargo would remain the third largest depository institution in the market, controlling deposits of $2.8 billion, representing approximately 16.2 percent of market deposits. The HHI would increase 45 points to 1759. Thirty-two competitors would remain in the market.

APPENDIX C

CRA Performance Evaluations of Wells Fargo's Subsidiary Banks

Subsidiary Bank	**CRA Rating**	**Date**	**Agency**
Wells Fargo Bank Alaska, N.A., Anchorage, Alaska	Outstanding	March 8, 1999	OCC
Wells Fargo Bank Arizona, N.A., Phoenix, Arizona	Satisfactory	August 2, 1999	OCC
Wells Fargo Bank Illinois, N.A., Galesburg, Illinois	Satisfactory	June 12, 2000	OCC
Wells Fargo Bank Indiana, N.A., Fort Wayne, Indiana	Outstanding	June 12, 2000	OCC
Wells Fargo Bank Iowa, N.A., Des Moines, Iowa	Satisfactory	June 12, 2000	OCC
Wells Fargo Bank Michigan, N.A., Marquette, Michigan	Outstanding	April 19, 1999	OCC
Wells Fargo Bank Minnesota, N.A., Minneapolis, Minnesota	Outstanding	February 1, 2000	OCC
Wells Fargo Bank Montana, N.A., Billings, Montana	Satisfactory	March 13, 2000	OCC

Subsidiary Bank	CRA Rating	Date	Agency
Wells Fargo Bank Nebraska, N.A., Omaha, Nebraska	Satisfactory	June 12, 2000	OCC
Wells Fargo Bank Nevada, N.A., Las Vegas, Nevada	Satisfactory	August 2, 1999	OCC
Wells Fargo Bank New Mexico, N.A., Albuquerque, New Mexico	Satisfactory	March 13, 2000	OCC
Wells Fargo Bank North Dakota, N.A., Fargo, North Dakota	Satisfactory	March 13, 2000	OCC
Wells Fargo Bank Northwest, N.A., Salt Lake City, Utah	Outstanding	May 3, 1999	OCC
Wells Fargo Bank Ohio, N.A., Van Wert, Ohio	Outstanding	May 7, 2001	OCC
Wells Fargo Bank South Dakota, N.A., Sioux Falls, South Dakota	Outstanding	March 13, 2000	OCC
Wells Fargo Bank Texas, N.A., San Antonio, Texas	Satisfactory	Nov. 1, 1999	OCC
Wells Fargo Bank West, N.A., Denver, Colorado	Satisfactory	Nov. 1, 1999	OCC

Subsidiary Bank	CRA Rating	Date	Agency
Wells Fargo Bank Wisconsin, N.A., Milwaukee, Wisconsin	Satisfactory	June 12, 2000	OCC
Wells Fargo Bank Wyoming, N.A., Casper, Wyoming	Satisfactory	March 13, 2000	OCC
Wells Fargo Financial Bank, Sioux Falls, South Dakota	Outstanding	Nov. 28, 2001	FDIC
Wells Fargo Financial National Bank, Des Moines, Iowa (previously, Dial National Bank, Des Moines, Iowa)	Outstanding	March 21, 1997	OCC
Wells Fargo HSBC Trade Bank, N.A., San Francisco, California	Satisfactory	August 7, 2000	OCC