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Via Electronic Mail

Board of Governors of the Federal Reserve System
20th Street and Constitution Avenue, N.W.
Washington, D.C. 20551
Attention: Jennifer J. Johnson, Secretary

Re: Docket No. R-1193, Notice of Proposed Rulemaking
Risk-Based Capital Standards: Trust Preferred Securities and the Definition of Capital

Ladies and Gentlemen:

Wells Fargo & Company (“Wells Fargo”) appreciates the opportunity to comment on the notice of proposed rulemaking (the “Notice”) of the Board of Governors of the Federal Reserve System (the “Board”) regarding the tier 1 capital treatment of trust preferred securities.

Wells Fargo supports the Board’s evaluation of trust preferred securities as not only a tax-efficient source of tier 1 capital, but as relatively simple, standard and well-understood instruments that are also issued by non-banking corporations. The tier 1 eligibility of trust preferred securities arose as an issue following issuance of Financial Accounting Standards Board Interpretation No. 46 (as revised, FIN 46R), and since that time, Wells Fargo, through its membership in The Clearing House Association, L.L.C., has urged the Board to preserve the tier 1 capital treatment of trust preferred securities consistent with reasoning set forth in the Notice.

Wells Fargo does have concerns with respect to the proposed quantitative limits set forth in the Notice. The Notice creates a new definition of “restricted core capital elements” that includes trust preferred securities, cumulative perpetual preferred stock and certain minority interests, and proposes that the risk based capital guidelines recite that the Federal Reserve “generally expects internationally active banking organizations to limit” restricted core capital elements included in tier 1 capital to 15% of core capital elements, net of goodwill. Currently, goodwill is not deducted from total core capital elements for determining the amount of allowable trust preferred securities. The combined effect of these new quantitative limits (reduction to 15% and subtraction of goodwill for computational purposes) on Wells Fargo will be significant and is unduly restrictive.

Wells Fargo has \$4.1 billion in trust preferred securities currently outstanding. Based on the proposed limits, Wells Fargo would only be permitted to include \$4.2 billion of trust preferred securities in tier 1 capital, thereby effectively precluding future issuances. Wells Fargo strongly urges the Board to reconsider the treatment of goodwill for computational purposes and to continue to permit bank holding companies to include trust preferred securities and other restricted core capital elements up to 15% of core capital elements prior to subtraction of goodwill. If the Board reconsidered the computational treatment of goodwill, Wells Fargo would have the ability to issue up to an additional \$1.6 billion of trust preferred securities.

The proposed guidelines are based on an unsupported premise that goodwill is substantially lacking in value. This premise is incorrect. Under FASB Statement No. 142, organizations are required to perform impairment testing of goodwill on at least an annual basis, which governs the amount of goodwill that may be carried on the balance sheet. The Board should permit well capitalized bank holding companies such as Wells Fargo, that have not unduly relied upon trust preferred securities, the flexibility to continue to issue such securities before deducting goodwill as part of its overall funding and capital management programs. In fact, Wells Fargo would continue to be well capitalized without inclusion of any trust preferred securities.

The Board has various means to ensure that bank holding companies are properly managed and not unduly relying upon trust preferred securities as part of core capital. It would seem more appropriate for the Board to use its routine supervisory oversight process to evaluate individual bank holding companies if there are specific concerns rather than adopt sweeping limitations that impact well capitalized organizations such as Wells Fargo. In addition, the Board has a long-established application process whereby proposed mergers and acquisitions and other transactions are subject to regulatory approval and at which time institution specific capital matters can be addressed.

As referenced above, the Notice refers to “internationally active banking organizations” in proposing the new 15% limitation, however this term is not defined. Institutions that are not internationally active could operate within a higher 25% limitation. Wells Fargo believes that introduction of an undefined term within the capital guidelines that creates a divergence in computations, would lead to potential confusion and a competitive disadvantage for larger organizations by limiting their access to tax-advantaged capital instruments for no apparent reason. Wells Fargo believes that all bank holding companies should be subject to the same capital guidelines and the Board drop the reference to internationally active banking organizations in the Notice.

Summary

We support the Board’s active involvement in clarifying the regulatory capital treatment of trust preferred securities. While we agree with the Board’s evaluation that trust preferred securities should continue to warrant tier 1 capital treatment, we respectfully disagree with the overly

punitive calculation used to determine the amount of trust preferred securities includable in tier 1 capital. While we would support a reduction from 25% to 15%, we would only support this limitation on the basis that goodwill is **not** subtracted from core capital in determining the amount of includable trust preferred securities. We would encourage the Board to reassess this computational approach since it would otherwise effectively preclude well capitalized bank holding companies such as Wells Fargo from issuing further such securities.

Questions concerning the information set forth in this letter may be directed to Jim Hanson, Manager – Financial Reporting/M&A at (612) 667-7768 or the undersigned at (415) 222-3119.

Very truly yours,

/s/ Richard D. Levy

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cc: Evan Wallitt, Federal Reserve Bank of San Francisco
Gail Haas, The Clearing House Association, L.L.C.
Donna Fisher, American Bankers Association