WELLS FARGO

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February 12, 2013

Jennifer J. Johnson
Secretary
Board of Governors of the Federal
Reserve System
20th Street and Constitution Ave N.W.
Washington, DC 20551
regs.comments@federalreserve.gov
Docket ID: R-1442
RIN: 7100-AD87

Robert E. Feldman
Executive Secretary
Attention: Comments/Legal ESS
Federal Deposit Insurance Corporation
550 17th Street N.W.
Washington, DC 20429
comments@FDIC.gov
RIN: 3064-AD95, 96 and 97

Office of the Comptroller of the Currency
250 E. Street S.W., Mail Stop 2-3
Washington, DC 20219
regs.comments@occ.treas.gov
Docket ID: OCC-2012-0008, 0009 and 0010
RIN: 1557-AD46

Re: Notice of Proposed Rulemakings: Regulatory Capital, Implementation of Basel III, Minimum Regulatory Capital Ratios, Capital Adequacy, Transition Provisions, and Prompt Corrective Action (the "Basel III NPR")

Ladies and Gentlemen:

By letter dated October 22, 2012, Wells Fargo & Company provided its comments and suggestions for improvements or revisions to the Basel III NPR (the "October Comment Letter"), which was jointly issued by the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System and the Federal Deposit Insurance Corporation (collectively, the "Agencies"). One of the topics we addressed was our concern with the proposed treatment of mortgage servicing assets ("MSAs"). Since the filing of our comments, it has come to our attention that the Agencies contemplated other changes to the treatment of MSAs in the Basel III NPR that were not evident to us from our review of the proposal. Specifically, we understand that the Agencies are proposing to revise the current approach banking organizations follow in applying the requirements of Section 475 of the Federal Deposit Insurance Corporation Improvement Act of 1991 ("FDICIA"), which provides that MSAs included in regulatory capital may not be valued at more than 90% of their fair value ("the FDICIA haircut") without joint agency action. We appreciate the opportunity afforded us to provide supplemental comments on this point.

In the Basel III NPR, the Agencies imposed threshold limits on MSAs (along with deferred tax assets and significant investments in unconsolidated financial institutions) of 10% and 15% of common equity tier 1, a position that is consistent with the "Basel III" rules published by the Basel Committee on Banking Supervision (the "BCBS"). The Agencies, however, also provided that if the amount of MSAs a banking organization deducts after the application of the 10% and 15% threshold deductions is less than 10% of the fair value of its MSAs, then the banking organization must deduct an additional amount of MSAs so that the total amount deducted is, at a minimum, 10% of the fair value of the MSAs. The Agencies indicated that inclusion of this provision continued to reflect the requirements of Section 475 of FDICIA. In our October Comment Letter, we outlined our concern with the Agencies' retention of the FDICIA haircut and detailed why it would no longer be necessary with the implementation of the final Basel III rules.

Since filing the October Comment Letter, however, we have learned that the Agencies were not merely retaining the FDICIA haircut but were also changing how the haircut is applied. The MSA deduction noted above is predicated on understanding the relationship between fair value and the amount recognized for GAAP purposes on a bank holding company's ("BHC") balance sheet. A BHC records MSAs on its balance sheet at the lower of cost or market value, and alternatively, may elect to use fair value. Under the current capital rules, a bank holding company compares 90% of the fair value of MSAs to book value. If 90% of the MSA's fair value is less than the BHC's recorded book value, then the difference in amount is deducted from capital. In contrast, no deduction would be required if 90% of the MSA's fair value is greater than book value. It is our understanding that the Agencies intended for the Basel III NPR to change this approach, modifying the current requirements set forth in satisfaction of Section 475 of FDICIA by applying a methodology that requires an across-the-board deduction equal to 10% of the fair value of MSAs, with no consideration of book value. We disagree with this proposed change in application of the MSA haircut as it does not take into account the risk profile of classes of MSAs measured under different, yet acceptable, accounting approaches.

We note that the Basel III NPR does not contain a mechanism for a banking organization to recognize additional regulatory capital if its MSAs are held at an amount less than fair value. The absence of this mechanism may be attributed to an assumption by the Agencies that all organizations hold MSAs at fair value. This assumption is not correct. Wells Fargo, for example, carries its commercial mortgage MSAs at the lower of cost or market value, an approach which does not allow for the recognition of unrealized gains,. In contrast, Wells Fargo has elected to carry its residential mortgage MSAs at fair value.

Because there are two methods of accounting for MSAs permitted under generally accepted accounting principles ("GAAP"), the Agencies' application of a mandatory 10% across-the-board fair value deduction has a punitive effect on those classes of MSAs carried at the lower of cost or market value, and therefore creates inconsistent capital treatment of MSAs. To illustrate our concerns, we provide the following example of two companies owning MSAs with a fair value of $10. Company A holds these MSAs at a book value of $1 using the lower of cost or market accounting approach, while Company B holds the MSAs at a $10 fair value accounting approach. Under the proposed change in the application of the FDICIA haircut, each company would deduct $1 from its regulatory capital. As a result of Company A's more conservative accounting treatment, it would effectively hold dollar-for-dollar capital against its existing MSA exposure while Company B is only required to deduct 10% of its existing MSA exposure.

Wells Fargo appreciates the opportunity to state the following positions with respect to the treatment of MSAs:

1) The current 10% FDICIA haircut should be eliminated given the increased capital requirements placed upon MSAs under the BCBS Basel III standards alone.
2) If the Agencies determine that the retention of the 10% FDICIA haircut is required, then the haircut should only be applied consistent with the current practice of a comparison to book value so that BHCs using more conservative accounting treatments are not unfairly penalized.

We would welcome the opportunity to answer any questions.

Very truly yours,

Paul R. Ackerman

Executive Vice President and Treasurer