

NASD
LETTER OF ACCEPTANCE, WAIVER AND CONSENT
NO. E01030510-02

TO: Department of Enforcement
NASD

RE: Wells Fargo Investments, L.L.C., Respondent
Member Firm
BD No. 10582

Pursuant to Rule 9216 of NASD's Code of Procedure, Respondent Wells Fargo Investments, L.L.C. ("WFI" or the "firm") submits this Letter of Acceptance, Waiver and Consent ("AWC") for the purpose of proposing a settlement of the alleged rule violations described in Part II below. This AWC is submitted on the condition that, if accepted, NASD will not bring any future actions against WFI alleging violations based on the same factual findings.

WFI understands that:

1. Submission of this AWC is voluntary and will not resolve this matter unless and until it has been reviewed and accepted by NASD's Department of Enforcement and National Adjudicatory Council ("NAC") Review Subcommittee or Office of Disciplinary Affairs ("ODA"), pursuant to NASD Rule 9216;
2. If this AWC is not accepted, its submission will not be used as evidence to prove any of the allegations against it; and
3. If accepted:
 - a. this AWC will become part of WFI's permanent disciplinary record and may be considered in any future actions brought by NASD or any other regulator against it;
 - b. this AWC will be made available through NASD's public disclosure program in response to public inquiries about WFI's disciplinary records;
 - c. NASD may make a public announcement concerning this agreement and the subject matter thereof in accordance with NASD Rule 8310 and IM-8310-2; and
 - d. WFI may not take any action or make or permit to be made any public statement, including in regulatory filings or otherwise, denying, directly or indirectly, any allegation in this AWC or create the impression that the AWC is without factual basis. Nothing in this provision affects WFI's testimonial obligations or right to take legal or factual positions in litigation or other legal proceeding in which NASD is not a party.

WFI also understands that its experience in the securities industry and disciplinary history may be factors that will be considered in deciding whether to accept this AWC. That experience and history are as follows:

WFI has been an NASD member since July 1, 1982. WFI's principal offices are located in San Francisco, California. The firm has not been the subject of any prior disciplinary action.

I.

WAIVER OF PROCEDURAL RIGHTS

WFI specifically and voluntarily waives the following rights granted under NASD's Code of Procedure:

- A. To have a Formal Complaint issued specifying the allegations against it;
- B. To be notified of the Formal Complaint and have the opportunity to answer the allegations in writing;
- C. To defend against the allegations in a disciplinary hearing before a hearing panel, to have a written record of the hearing made and to have a written decision issued; and
- D. To appeal any such decision to the NAC and then to the U.S. Securities and Exchange Commission ("SEC") and a U.S. Court of Appeals.

Further, WFI specifically and voluntarily waives any right to claim bias or prejudgment of the General Counsel, the NAC, or any member of the NAC, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including acceptance or rejection of this AWC.

WFI further specifically and voluntarily waives any right to claim that a person violated the ex parte prohibitions of Rule 9143 or the separation of functions prohibitions of Rule 9144, in connection with such person's or body's participation in discussions regarding the terms and conditions of this AWC, or other consideration of this AWC, including its acceptance or rejection.

II.

ACCEPTANCE AND CONSENT

A. Findings

WFI hereby accepts and consents, without admitting or denying the allegations or findings, and solely for the purposes of this proceeding and any other proceeding brought by or on behalf of NASD, or to which NASD is a party, prior to a hearing and without an adjudication of any issue of law or fact, to the entry of the following findings by NASD:

Summary

This matter arises from a review of WFI's sales of Class B and Class C shares of mutual funds¹ between January 1, 2002 and July 31, 2003 (the "review period"). Within the review period, WFI effected transactions where it made recommendations to clients to purchase Class B and Class C shares through its registered representatives, known as financial consultants ("FCs"). In connection with its recommendations, WFI did not uniformly consider or adequately disclose that an equal investment in Class A shares would generally have been more advantageous for certain clients. Accordingly, WFI will undertake a remediation plan that is expected to include more than 12,000 transactions involving at least 4,500 client households.

In particular, the firm did not always consider that large investments in Class A shares of mutual funds entitle clients to breakpoint discounts on sales charges, generally beginning at the \$50,000 investment level, which are not available for investments in Class B and Class C shares. In fact, clients may be entitled to breakpoints based upon a single mutual fund purchase, multiple purchases in the same "family of funds," and/or mutual fund investments held, at the time of the new purchase, by members of the client's "household," as that term is defined in the prospectus of the fund in which the shares are being purchased. Unlike Class A shares, Class B shares are also subject to contingent deferred sales charges ("CDSCs") for a period of time, generally six years, as well as higher ongoing Rule 12b-1 fees for as long as the Class B shares are held. The CDSCs and the higher ongoing Rule 12b-1 fees significantly affect the return on clients' mutual fund investments.

In addition, WFI's supervisory policies and procedures during the review period were not reasonably established, maintained and/or enforced so that the firm provided adequate disclosure of, or consideration to, on a uniform basis, the benefits of the various mutual fund share classes as they applied to individual clients.

As a result of the foregoing, WFI violated NASD Conduct Rules 2110, 2310, and 3010.

¹ For purposes of this matter, "mutual fund" is defined as an open-end investment company registered under the Investment Company Act of 1940.

Share Classes

1. WFI has an open architecture and sells hundreds of different mutual funds with different classes of shares representing interests in the same portfolio of securities, but differing in the structure and amount of sales charges paid directly by shareholders and continuous, asset-based fees assessed on each shareholder's investment.
2. For example, Class A shares are subject to a front-end load, or initial sales charge, when originally purchased, and have annual fund expenses, including Rule 12b-1 fees that are typically 0.25 percent. The majority of the front-end load is paid to the selling broker-dealer as a commission. The balance of the initial investment is paid for the fund's shares. Typically, the front-end load decreases as the size of the investment increases. This concept applies to both single purchases and to multiple purchases in the same family of funds that may be aggregated with the client's other investments, as well as investments by that client's household, as permitted by the funds' prospectuses. For most investments in which the total dollar amount invested in a fund family is \$1 million or more, the front-end load is generally waived.² These discounts are commonly referred to as "breakpoints" and the discounts typically increase at each of the \$50,000, \$100,000, \$250,000, \$500,000 and \$1 million levels.
3. Generally, Class A share investments that, when aggregated, fall below \$50,000 are subject to an initial sales charge that can range from 3.00 to 5.50 percent. However, for an investment: (i) between \$50,000 and \$99,999 the sales charge can range from 2.50 to 4.50 percent; (ii) between \$100,000 and \$249,999 the sales charge can range from 2.00 to 3.50 percent; (iii) between \$250,000 and \$499,999 the sales charge can range from 1.50 to 2.50 percent; (iv) between \$500,000 and \$999,999 the sales charge can range from 1.25 to 2.00 percent; and (v) \$1 million or more reduces the sales charge to zero. These breakpoints reduce the commissions paid to the selling broker-dealers by a corresponding amount. Clients can receive the benefits of breakpoint discounts by, among other ways, making a single investment, aggregating purchases, employing rights of accumulation or utilizing letters of intent.³
4. In contrast, Class B shares do not carry any front-end sales charge and breakpoint discounts are not available regardless of the size of the investment. Instead of a front-end sales charge, Class B shares have significantly higher annual Rule 12b-1 fees (typically 1.00 percent) than Class A shares (typically 0.25 percent) and may be subject to a CDSC if redeemed prior to the expiration of the holding period specified in the prospectus. The amount of the CDSC is generally calculated as a percentage of the lesser of the initial amount invested or the investment's value at the time of the

² A CDSC, generally totaling 1.00 percent, is typically charged for redemptions that occur within the first year following such an investment.

³ A right of accumulation permits a client or an eligible group of related clients (e.g., the client, the spouse and minor children) to "accumulate" or combine existing holdings of shares of a particular fund complex with additional purchases of shares of the same fund complex for the purpose of achieving breakpoints and associated discounts. Clients may also qualify for breakpoints by executing a letter of intent, which is an agreement to make multiple purchases of Class A shares issued by a fund family over a period of time, usually around 13 months, which, when aggregated, equal an amount that qualifies for a breakpoint discount.

sale and declines each year and eventually disappears entirely. Class B shares usually convert to Class A shares, at no cost to the client, after eight years.

5. Class C shares typically do not carry a front-end sales charge but may be subject to a 1.00 percent CDSC if the shares are redeemed within one year. In comparison to Class A shares, Class C shares generally have significantly higher annual Rule 12b-1 fees (typically 1.00 percent). Class C shares never convert to Class A shares, thereby subjecting clients to higher expenses as long as the clients hold the Class C shares. Class C shares are generally preferable for clients who do not intend to hold their shares for a long time.
6. The different sales charges, availability of breakpoints and the amount of ongoing fees and expenses, including Rule 12b-1 fees, associated with different share classes have a direct effect on a mutual fund investment's return. The significance of these differences is that, at certain dollar levels and over certain holding periods, an equal investment in Class A shares generally will yield a better return than a similar investment in Class B or Class C shares.
7. With Class B shares, the mutual fund distributor, which is generally an affiliate of the mutual fund, advances a commission to the selling broker-dealer. Broker-dealers and their representatives may receive greater commissions from the sale of Class B shares than from the sale of the same amount of Class A shares if the sale would qualify for breakpoint discounts. Mutual fund complexes, through their distributors, recoup the commissions they advance for Class B shares through the higher Rule 12b-1 fees and/or the CDSC. The different fee structures and characteristics of Class A, Class B and Class C shares, including the availability of breakpoint discounts with regard to purchases of Class A shares, are described in the mutual fund prospectuses and statements of additional information ("SAI").
8. On certain occasions during the review period, WFI recommended and sold to clients Class B and Class C shares of mutual funds when, depending upon among other things, the amount of the investment and contemplated holding period, they would have benefited had they purchased Class A shares instead. Specifically, these clients made purchases of Class B and/or Class C shares in various mutual funds which, had they purchased Class A shares, could have qualified for breakpoints, through single purchases, aggregating multiple purchases, employing rights of accumulation or utilizing letters of intent. In some instances, WFI received greater commissions, totaling approximately \$3.0 million, than it would have received had the clients purchased Class A shares of the same mutual funds instead.

Suitability Violations

9. NASD Conduct Rule 2310 requires that, before recommending a transaction, a member firm and its registered representatives shall have reasonable grounds for believing, on the basis of information furnished by the client, and after reasonable inquiry concerning the client's investment objectives, financial situation, and needs, that the recommended transaction is suitable for the client. Further, NASD has long held that in recommending share classes of a mutual fund, a registered representative has an obligation to avoid increasing the costs that his or her clients pay. Also, a registered representative's recommendations must be consistent with his or her client's best interests.
10. In recommending the purchase of mutual funds, a member firm and its registered representatives must determine the suitability of the class of shares to be purchased as well as the suitability of the particular mutual fund. Primary considerations include the investment amount, the expected term of the investment, the fees and expenses associated with each class of shares, and the client's personal and financial circumstances and investment objectives. These individual considerations must be balanced at the point of sale by the member firm.
11. In determining the suitability of a particular share class, a member firm and its registered representatives should, among other things, weigh the consequences of the class selection by considering the effect of the comparative sales loads and annual expenses, including any potential CDSC, over the client's contemplated duration of the investment.
12. In certain instances during the review period, WFI did not disclose at the point of purchase or adequately consider, on a consistent basis, the foregoing elements when making recommendations to clients to purchase Class B and Class C shares instead of Class A shares. In one instance, a WFI client invested a total of \$125,000 in Class B shares, as opposed to Class A shares, in an income fund. By purchasing Class B shares instead of Class A shares, the client did not receive the benefit of the breakpoint available with Class A shares, and was subjected to additional fees and expenses (Rule 12b-1 fees and CDSCs). A quantitative analysis at the point of sale would have revealed that if the client were to sell the Class B shares at any point during the first 3 years following the investment, the client, under the hypothetical setting,⁴ would be disadvantaged by more than \$1,400.⁵ The analysis also would have revealed that, assuming the client did not sell the initial investment, the disadvantage would increase over time, up through and following the date upon which the Class B shares would automatically convert to Class A shares.

⁴ The example assumes an annualized rate of return, before expenses, of 5.00 percent. Also, the example utilizes the breakpoints, annual expenses applicable for each class, including Rule 12b-1 fees, and the CDSC schedule applicable to Class B shares, which are set forth in the relevant fund prospectus and, where appropriate, the SAI for the fund.

⁵ The results could have been obtained by using either the "NASD Mutual Fund Expense Analyzer" or the "SEC Mutual Fund Cost Calculator," which have been available to the public since January 2002 and 2001, respectively.

13. In certain instances during the review period, WFI did not disclose or adequately consider, on a consistent basis, the foregoing elements when making recommendations to clients to purchase Class B and Class C shares instead of Class A shares.
14. By virtue of the aforementioned conduct, WFI violated NASD Conduct Rules 2110 and 2310.

**WFI's Supervisory Policies and Procedures
Regarding Class B and Class C Shares Were Inadequate**

15. In connection with the aforementioned findings, WFI failed to establish, maintain and enforce supervisory policies and procedures that were reasonably designed to achieve compliance with the NASD rules described above.
16. WFI had policies requiring FCs to disclose to clients specific information regarding Class B shares. For example, the firm's Compliance Manual required FCs to disclose, among other things: (i) types of sales charges and fees; and (ii) options for reduced or waived sales charges (including breakpoints, letters of intent, grouping of family orders and rights of accumulation). However, these policies and procedures were deficient because they were not designed to assure that supervisors consistently determined whether FCs made all of the required disclosures.
17. The Compliance Manual also stated that "Class B or back-end load funds may not be sold if the client is better off paying a reduced front-end sales charge due to breakpoints." However, the firm did not adequately address how FCs were to make such share class cost comparisons. Moreover, the procedures did not adequately instruct FCs and supervisors to ensure that mutual fund transactions were aggregated as permitted by the particular fund's prospectus, so that the FCs, supervisors and clients could make a "true" mutual fund share class cost comparison.
18. The policies and procedures were also deficient because at certain times during the review period they did not, among other things, adequately: (i) address mutual fund company limitations on Class B share purchases; (ii) address redemption procedures; (iii) explain how supervisors were to use WFI's reports to identify red flags with regard to suitability; (iv) provide a comprehensive set of disclosures for FCs to make to clients when recommending mutual fund share classes; or (v) provide supervisory reports that had adequate information to determine suitability of mutual fund share classes.
19. In addition, WFI on occasion failed to enforce certain of its policies and procedures regarding its mutual fund sales recommendations. For example, the Compliance Manual required that the FC, the Branch Office Manager and client sign a "Mutual Fund Share Class Acknowledgement" letter for every sale of any back-end load fund over \$150,000. However, there were instances in which (i) WFI did not use the letter for large Class B and Class C share transactions or (ii) an FC did not obtain Branch Manager Approval before executing large Class B and Class C share transactions.

Throughout the review period, WFI, on occasion, sold Class B and Class C shares where the client would have been “better-off” purchasing Class A shares.

20. In connection with the aforementioned conduct, WFI failed to establish, maintain and enforce supervisory policies and procedures that were reasonably designed to achieve compliance with NASD Conduct Rules 2110 and 2310, and therefore, violated NASD Conduct Rules 2110 and 3010.

B. Sanctions

WFI consents to the imposition, at a maximum, of the following sanctions:

1. A censure.
2. A fine of \$3.0 million.
3. WFI agrees to complete the following undertakings⁶:

QUALIFYING PURCHASES OF CLASS B AND CLASS C SHARES

- a. WFI shall create a list of clients who purchased through WFI (i) \$50,000 or more of Class B shares in any single fund family between January 1, 2002 and the effective date of this AWC (the “relevant time period”), which shall be aggregated by household⁷ and fund family in determining if the \$50,000 threshold was met; and (ii) Class C shares during the relevant time period which, when aggregated by client household and fund family, total \$1 million or more where no front-end load was paid. The list must include at least the client’s name(s) and contact information, a firm-designated household identification number, the trade date, fund name, fund symbol and number of shares purchased, and the gross principal amount invested for every purchase. Every purchase transaction on the list is deemed a “Qualifying Purchase.” When determining the list of Qualifying Purchases, WFI shall make such calculations based on the effective date of the AWC. However, Qualifying Purchases shall not include the following items i.-ii., and may not, at WFI’s option, include the following items iii.-ix.:
 - i. Purchases of Class B shares, which, when aggregated with other Class B share purchases at the firm by the same household in the same fund family during the relevant time period, total less than \$100,000, and involved a mutual fund that imposes a Class A share initial sales charge exceeding 4.00 percent for purchase amounts less than \$100,000;

⁶ Certain types of accounts, e.g., 401K Plan accounts for which WFI is the record keeper, and transactions involving mutual funds purchased in annuity contract sub accounts, are excluded from these undertakings based on the fact that they are subject to specific contractual pricing terms or the “point of purchase” occurred away from WFI. Moreover, customer initiated transactions effected through the firm’s on-line *WellsTrade* brokerage account system are excluded because customers self-direct such system-based trades, in connection with which WFI does not provide any recommendations or investment advice on any securities transactions or investment strategies.

⁷ “Household” includes all accounts that are related by at least two of the following three factors: (1) tax identification/social security numbers, (2) address, and (3) last or “key” name.

- ii. Purchases of Class B and Class C shares that were later cancelled at no cost to the client, or that were cancelled with cost, but WFI already reimbursed such costs;
 - iii. Purchases of Class B and Class C shares for which clients have previously settled and signed releases of claims against WFI;
 - iv. Purchases of Class B shares, which, when aggregated with other Class B share purchases at the firm by the same household in the same fund family during the relevant period, total less than \$100,000, and where the client (1) entered into a systematic withdrawal plan at the time of the Class B share purchase, and immediately began receiving systematic withdrawals from the Class B share purchase without incurring CDSCs, or (2) chose not to reinvest all capital gains and dividends from the Class B share purchase;
 - v. Purchases of Class B shares, which, assuming a 5.00 percent annual rate of return and considering all expenses, are projected to have a higher redemption value, determined as of the end of each year following the purchase date, in comparison to Class A shares in two or more years during the period beginning with the effective date of the AWC and ending on the date the Class B shares are scheduled to automatically convert to Class A shares under the terms of the fund prospectuses in effect at the time of the purchase;
 - vi. Purchases of Class B shares, which, assuming a 5.00 percent annual rate of return and considering all expenses, are projected, as of the date on which the Class B shares are scheduled to automatically convert to Class A shares, to have a value within \$100 of the projected value of Class A shares had the clients purchased Class A shares instead of Class B shares;
 - vii. Purchases of Class B and Class C shares where the gross principal amount invested was \$250 or less;
 - viii. Purchases of Class B shares in the mutual funds listed in "Schedule A" (attached) which, when aggregated by household and fund family during the relevant period, total \$99,999, or less; and
 - ix. Purchases of Class B shares in the mutual funds listed in "Schedule B" (attached) which, when aggregated by household and fund family during the relevant period, total \$249,999, or less.
- b. WFI may further remove Qualifying Purchases as long as it provides NASD with quantitative proof that the client could not materially benefit⁸ from having the

⁸ The Settlement Plan shall provide that WFI will not be required to offer a client conversion if the client would not materially benefit from an offer of conversion because either the annual expense differential between Class A shares and Class B and/or Class C shares, the CDSC schedule, and/or the conversion year quantitatively are such that Class B and/or Class C shares may be substantially equal, or more appropriate, compared to Class A shares of the same fund, at particular investment levels.

particular transaction converted to Class A shares and the removal of such Qualifying Purchase is not unacceptable to NASD.

- c. Within 120 days from the effective date of the AWC, WFI shall offer any client who made a Qualifying Purchase(s) and still holds all, or any portion of, such shares, the option of converting such Class B and/or Class C shares into Class A shares in such a manner that each client is placed in substantially the same financial position, based on actual fund performance, in which such client would have been with respect to the Qualifying Purchase(s) had the client purchased Class A shares instead of Class B and/or Class C shares.⁹
- d. Clients electing to convert any Qualifying Purchase shall receive:
 - i. an amount of Class A shares equal to what the client could have purchased on the date of the Qualifying Purchase utilizing the same amount of money, before application of any fees or expenses, invested in the Qualifying Purchase and applying the breakpoint sales charges associated with the Class A shares calculated as described herein; and
 - ii. an additional amount of Class A shares equal to the number of reinvestment shares (as of a trading day sufficiently preceding the conversion date to allow the execution of the necessary transactions) the client acquired in connection with the Qualifying Purchase, converted on a share-for-share basis.
- e. WFI shall pay cash to those clients who made a Qualifying Purchase(s) and sold some or all of their Class B and/or Class C shares comprising the Qualifying Purchase(s) to place them in substantially the same financial position, based on actual fund performance and redemption value in which such clients would have been had the clients purchased Class A shares instead of Class B and/or Class C shares. In the event that a client is entitled to a cash payment as specified in this sub-paragraph, and is also eligible to convert Class B shares that the client continues to hold, WFI shall specify in its communication to the client that the cash payment is not in lieu of the client's right to convert all remaining eligible Class B share holdings.
- f. In performing the undertakings set forth in d. and e., above, WFI clients shall be entitled to breakpoints calculated based on the total of all opening Class B share balances aggregated by household and fund family, plus the total of all Class B share purchases aggregated by household and fund family during the relevant time period, without respect to any fund family limitation as to time less than the full relevant time period. In calculating aggregation, WFI shall aggregate transactions by household and fund family during the relevant time period, including any pre-2002 purchases held as of the date of the first purchase within such period, to determine the household aggregate investment in a family of funds. WFI shall apply the breakpoint set forth in the applicable prospectus to each relevant investment within a particular

⁹ In addition to the Qualifying Purchase, any conversion will also take into account any shares acquired through reinvestment of distributions paid on the Qualifying Purchase.

fund family. WFI is not required to include purchases effected prior to January 1, 2002 in its remediation offer.

- g. In the event that any client who made a Qualifying Purchase(s) elects to convert any of those purchases to Class A shares from Class B or Class C shares, and WFI is unable to effectuate such conversion for any reason, WFI shall pay cash to such client in an amount that will place the client in substantially the same financial position, based on actual fund performance and liquidation value, that such client would have been in as of the effective date of the AWC had the client made his or her Qualifying Purchase(s) in Class A shares instead of Class B and/or Class C shares.
- h. When calculating the financial position of any client for purposes of conversion, WFI shall make such calculation based on the date of conversion or on such date immediately prior to the date of conversion sufficient to allow the execution of the necessary transactions. When calculating the financial position of any client for purposes of a cash payment, WFI shall, in the case of closed or partially closed positions, make such calculation as of the date the Qualifying Purchase was redeemed, or in the event that the cash payment is required as a substitute for conversion, as of the effective date of the AWC.
- i. Within 60 days from the effective date of the AWC, WFI shall submit to NASD for review a sample letter in plain English: (i) offering clients the opportunity to convert any or all of their Qualifying Purchases; (ii) explaining the economic advantages and disadvantages to the client of the options; and (iii) stating that the client should consult with a tax advisor to determine whether the conversion carries any federal, state, or local tax consequences. The letter shall not be unacceptable to NASD. In the event that a client is entitled to a cash payment, and is also eligible to convert Class B shares that the client continues to hold, WFI shall specify in its communication to the client that the cash payment is not in lieu of the client's right to convert all remaining eligible Class B and/or Class C share holdings. Clients shall have 60 days from the mailing of the letters to accept the offer and advise WFI of their decision to accept.
- j. Within 120 days from the effective date of the AWC, WFI shall create and staff a response center to field and respond to client inquiries in connection with this AWC and any offer made as a result thereof.
- k. Within 330 days following the effective date of the AWC, WFI shall file a report with NASD, through which it will identify and account for:
 - i. The Qualifying Purchases, including the client's name(s) and contact information, a firm-designated household identification number (for Qualifying Purchases), and client account number(s), the trade date, fund name, fund symbol, number of shares purchased, and the gross principal amount invested for each Qualifying Purchase;
 - ii. The transactions the firm removed from the lists of Qualifying Purchases and the specific basis for each removal;

- iii. Those transactions for which clients received a letter offering conversion;
- iv. Those transactions for which clients received a cash payment, including the amount paid. Any cash payments resulting from the firm's inability to effect conversion shall be duly noted;
- v. How the firm created and staffed a response center to field and respond to client inquiries, including the number of individuals used to staff the response center, how the response center staff members were trained to respond to client inquiries, how and by whom the response center was supervised, and what tools and information were used to respond to client inquiries;
- vi. Each client who had a Qualifying Purchase and contacted the firm concerning *remediation, and a statement to the effect that the firm maintained a record of each client inquiry;*
- vii. Each transaction for which the client accepted the firm's offer of conversion, including number of shares and value transferred; and
- viii. The total dollar amount of restitution provided to clients for Qualifying Purchases. This should include both cash payments made to clients and conversion costs incurred by WFI.

The firm's report must be submitted to NASD, certified to, and signed under penalty of perjury, by an officer of WFI who is currently registered with NASD. WFI shall preserve for a period of not less than three years from the effective date of the AWC and make available to NASD the records underlying the report.

- l. WFI shall retain, at its own expense, an Independent Examiner, who shall not be unacceptable to NASD, to examine the firm's performance of its obligations under the terms of the AWC as reflected in its certified report.
- m. WFI shall exclusively bear all costs, including compensation and expenses, associated with the retention and performance of the Independent Examiner. At the conclusion of the examination, but not later than 420 days following the effective date of the AWC, WFI shall require the Independent Examiner to submit a written Final Report to WFI and to NASD. The Final Report must recite the efforts the Independent Examiner undertook to examine WFI's execution of its undertakings as reflected in its report, which efforts may be limited to an examination of a statistically valid sample of Qualifying Purchases, as well as the Independent Examiner's assessment of WFI's performance of its obligations in connection with its report.
- n. To ensure the independence of the Independent Examiner, WFI: (i) shall not have the authority to terminate the Independent Examiner, without the prior written approval of NASD; (ii) shall compensate the Independent Examiner, and persons engaged to assist the Independent Examiner, for services rendered pursuant to the AWC at their reasonable and customary rates; and (iii) shall not have an attorney-client relationship

with the Independent Examiner and shall not seek to invoke any such privilege or similar privilege or doctrine between it and the Independent Examiner to prevent the Independent Examiner from transmitting any information, reports or documents to NASD.

- o. To further ensure the independence of the Independent Examiner, for the period of the engagement and for a period of two years from completion of the engagement, WFI, its present or former affiliates, directors, officers, employees, and agents acting in their capacity as representatives of WFI shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with the Independent Examiner. Further, WFI, its present or former affiliates, directors, officers, employees, and agents acting in their capacity as representatives of WFI shall not enter into any employment, consultant, attorney-client, auditing or other professional relationship with any firm with which the Independent Examiner, or agents acting in their capacity as representatives of the Independent Examiner, are affiliated in performance of their duties under the AWC for the period of the engagement and for a period of two years after the engagement without prior written consent of NASD.
- p. WFI shall cooperate fully with the Independent Examiner and shall provide the Independent Examiner with prompt access to WFI's files, books, records and personnel as the Independent Examiner reasonably deems necessary or appropriate in fulfilling any function or completing any task described in these undertakings.
- q. For good cause shown, and upon receipt of a timely request from WFI, NASD may extend any of the procedural dates set forth above.

III.

OTHER MATTERS

- A. WFI understands that it may attach to this AWC a Corrective Action Statement that is a statement of demonstrable corrective steps taken to prevent future misconduct. Respondent understands that in this Statement it may not deny the charges or make any statement that is inconsistent with the AWC. This Statement does not constitute factual or legal findings by NASD, nor does it reflect the views of NASD or its staff.
- B. WFI agrees to pay any monetary sanctions imposed on it within 30 days of notice that this AWC has been accepted.
- C. WFI specifically and voluntarily waives any right to claim that it is unable to pay now, or at any time hereafter, any monetary sanction imposed in this matter.

The undersigned certifies on behalf of WFI that I have read and understand all of the provisions of this AWC and have been given a full opportunity to ask questions about it, and that no offer, threat, inducement, or promise of any kind, other than the terms set forth herein, has been made to induce me to submit it.

Wells Fargo Investments, L.L.C.

11-29-05
Date

By:

Name: William P. Hayes

Title: Chief Compliance + Legal
Officer

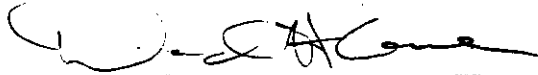
Reviewed by:

SIDLEY AUSTIN BROWN & WOOD LLP

Dennis C. Hensley, Esq.
Counsel for Wells Fargo Investments, L.L.C.

Accepted by NASD:

Signed on behalf of the
Director of ODA, by delegated authority

9.05


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