[Urging City Departments to Sanction Wells Fargo]

Resolution setting policy to sanction Wells Fargo consistent with recommendations from the Controller, urging City Departments to require Wells Fargo to provide a redress plan for San Francisco customers before engaging in future business with Wells Fargo, urging the Retirement Board to terminate all financial dealings with Wells Fargo, urging the City Attorney and District Attorney to investigate the practices of Wells Fargo and the other big banks, urging the Treasurer-Tax Collector to provide advice on establishing a responsible banking ordinance, and urging the United States Office of the Comptroller of the Currency to explore if Wells Fargo’s national banking charter should be revoked.

WHEREAS, On July 12, 2012, Wells Fargo agreed to pay $175,000,000 to settle a racial discrimination probe by the U.S. Department of Justice, who found that Wells Fargo engaged in a pattern or practice of discrimination against qualified African-American and Hispanic borrowers in its mortgage lending from 2004-2009, who were steered into subprime mortgages or who paid higher fees and rates than white borrowers because of their race or national origin; and

WHEREAS, In 2012, Wells Fargo quietly mailed checks to roughly 10,000 homeowner customers as a refund for allegedly steering them into more costly Federal Housing Administration mortgages, with the letters only coming to light after a homeowner shared a copy of his letter from Wells Fargo with the Los Angeles Times and which letters apparently informed homeowners they could cash the check, but only if they agreed not to sue the bank; and

Supervisors Avalos; Kim, Campos, Cohen, Yee, Peskin, Mar
BOARD OF SUPERVISORS
WHEREAS, In April 2015, a federal judge found that Wells Fargo had failed to comply with the National Mortgage Settlement and failed to properly evaluate homeowner modification applications; and

WHEREAS, On April 8, 2016, the U.S. Department of Justice settled civil mortgage fraud claims against Wells Fargo Bank with Wells Fargo agreeing to pay $1,200,000,000 and admitted, acknowledged, and accepted responsibility for, among other things, that it did not disclose faulty mortgage loans to HUD; and

WHEREAS, On September 8, 2016, the Consumer Financial Protection Bureau ("CFPB"), working in conjunction with the Los Angeles City Attorney and the United States Office of the Comptroller of the Currency, filed a Consent Order ("CFPB Consent Order") that detailed how Wells Fargo Bank had been engaged in widespread, illegal activities related to their consumer banking business, fining Wells Fargo $185,000,000 including a $100,000,000 penalty from the CFPB, the largest such penalty the agency has issued; and

WHEREAS, On September 23, 2016, San Francisco Treasurer-Tax Collector José Cisneros announced that Wells Fargo has been suspended as a recommended bank from the San Francisco Office of Financial Empowerment's program "Bank On San Francisco" that connects low-income San Franciscans to safe, accessible, and low-fee accounts; and

WHEREAS, Although Wells Fargo Chief Executive Officer John Stumpf resigned on October 12, 2016, the new CEO, Tim Sloan, has been with the bank for 29 years and questions remain about his role in and knowledge of these illegal practices; and

WHEREAS, Wells Fargo also employs a significant staff and sales force dedicated to commercial and institutional customers, one of which is the City and County of San Francisco, and it is not yet known if the sales staff in the commercial or government banking divisions of Wells Fargo were similarly pressured to add products to customers; and
WHEREAS, While Wells Fargo has not been alone among major banks in its reckless and fraudulent practices, including predatory lending and illegal foreclosure activity, it is not yet known if other big banks engaged in similar illegal activity around opening accounts and providing products which the client did not request; and

WHEREAS, Transacting business with unethical financial institutions puts the city funds at risk; and

WHEREAS, In 2012, the Board of Supervisors passed a resolution supporting the Treasurer-Tax Collector’s efforts to integrate community reinvestment measures and social responsibility language into the City’s Cash Management Banking Services Request for Proposal (RFP), on file with the Clerk of the Board of Supervisors in File No. 120086, which is hereby declared to be a part of this resolution as if set forth fully herein; and

WHEREAS, This RFP produced valuable information from banks wishing to do business with the City and County of San Francisco on their socially responsible lending practices, and this information can be used to inform development of a Responsible Banking ordinance; and

WHEREAS, On December 7, 2016, the Controller’s Office issued a memo, “City Relationships with Wells Fargo Bank, N.A.” on file with the Clerk of the Board of Supervisors in File No. 161132, which is hereby declared to be a part of this resolution as if set forth fully herein, that inventoried the City’s financial dealings with Wells Fargo and recommended the City take the following actions:

(1) suspend for two years Wells Fargo’s provision of broker/dealer, commercial banking, and commercial paper dealer services to the City;

(2) remove Wells Fargo from consideration for two years for the provision of securities investments and counterparty/repurchasing agreements;
(3) monitor the numerous ongoing investigations as well as remediation efforts by Wells Fargo, and make additional recommendations as necessary; and

(4) work with the Treasurer and other City departments to more broadly explore and incorporate elements of the Treasurer's social responsibility requirements into other financial service procurement processes; and

WHEREAS, At the Budget and Finance subcommittee December 7, 2016 hearing on this resolution, Jim Foley, President of the Bay Area region for Wells Fargo stated that Wells Fargo “takes full responsibility for the fact that things went wrong” with the bank’s practice of fraudulently opening consumer accounts, but that statement is belied by the fact that Wells Fargo still has not responded to requests from the Treasurer's office for information on San Franciscans who had accounts opened under their names without their consent; now, therefore, be it

RESOLVED, That the Board of Supervisors of the City and County of San Francisco supports the Controller’s recommendations for sanctioning Wells Fargo and incorporating social responsibility requirements into the City’s financial service procurement processes; and, be it

FURTHER RESOLVED, That if Wells Fargo seeks to engage in business with any City department, the Board of Supervisors urges that department to require Wells Fargo to do all of the following:

(1) identify the specific “Improper Sales Practices” (CFPB Consent Order § III, 3 f (1)-(5)) that took place in San Francisco and on accounts held by San Francisco residents (“San Francisco Affected Customers”);

(2) identify all San Francisco Affected Customers who incurred fees or others charges as a result of Improper Sales Practices (Consent Order § VIII, 48);
(3) provide the Redress Plan for San Francisco Affected Customers, and evidence that all San Francisco Affected Customers have been repaid consistent with the Consent Order (Consent Order § VIII et seq. & § VIII, 51 (a)-(f));

(4) provide the Independent Consultant's Report and Compliance Plan, and evidence that it has been implemented as to San Francisco and San Francisco Affected Customers pursuant to terms of the Consent Order (Consent Order § VI et seq.); and

(5) provide any other requested evidence to verify its remedial actions, so the City department may determine whether Wells Fargo has or has not taken necessary steps sufficient remedy its past wrongs; and, be it

FURTHER RESOLVED, That the Board of Supervisors requests the Treasurer to submit to the Board of Supervisors by July 1, 2017 a report describing if Wells Fargo has provided any evidence of their having undertaken any of the remedial actions described above; and, be it

FURTHER RESOLVED, That if Wells Fargo is found to have not taken these remedial actions by July 1, 2017, the Board of Supervisors urges the Controller to place additional sanctions on Wells Fargo, such as suspending them from participation in the City's competitive bond sales or full debarment for up to five years as defined in Administrative Code Chapter 28; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Retirement Board of the San Francisco Employees Retirement System (SFERS) to terminate all financial dealings with Wells Fargo in a manner consistent with their fiduciary responsibilities; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the City Attorney to conduct an investigation to determine if other major financial institutions engage in similar practices; and, be it
FURTHER RESOLVED, That the Board of Supervisors urges the District Attorney to explore a possible criminal investigation of former CEO John Stumpf and other Wells Fargo executives; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Treasurer-Tax Collector to provide advice on establishing a Responsible Banking ordinance to help the City and County and its residents better understand how Wells Fargo and other financial institutions are harming or serving the credit needs of San Franciscans; and, be it

FURTHER RESOLVED, That the Board of Supervisors urges the Office of the United States Comptroller of the Currency to explore if Wells Fargo’s actions should lead to the OCC revoking Wells Fargo’s national banking charter.
Resolution setting policy to sanction Wells Fargo consistent with recommendations from the Controller, urging City Departments to require Wells Fargo to provide a redress plan for San Francisco customers before engaging in future business with Wells Fargo, urging the Retirement Board to terminate all financial dealings with Wells Fargo, urging the City Attorney and District Attorney to investigate the practices of Wells Fargo and the other big banks, urging the Treasurer-Tax Collector to provide advice on establishing a responsible banking ordinance, and urging the United States Office of the Comptroller of the Currency to explore if Wells Fargo’s national banking charter should be revoked.

December 07, 2016 Budget and Finance Committee - AMENDED, AN AMENDMENT OF THE WHOLE BEARING NEW TITLE

December 07, 2016 Budget and Finance Committee - RECOMMENDED AS AMENDED

December 13, 2016 Board of Supervisors - AMENDED, AN AMENDMENT OF THE WHOLE BEARING SAME TITLE

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8

December 13, 2016 Board of Supervisors - ADOPTED AS AMENDED

Ayes: 10 - Avalos, Breed, Campos, Cohen, Farrell, Kim, Mar, Peskin, Tang and Yee
Vacant: 1 - District 8
I hereby certify that the foregoing Resolution was ADOPTED AS AMENDED on 12/13/2016 by the Board of Supervisors of the City and County of San Francisco.

Peggy Newman
Clerk of the Board

Unsigned

Mayor

12/23/2016

Date Approved

I hereby certify that the foregoing resolution, not being signed by the Mayor within the time limit as set forth in Section 3.103 of the Charter, or time waived pursuant to Board Rule 2.14.2, became effective without his approval in accordance with the provision of said Section 3.103 of the Charter or Board Rule 2.14.2.

Angela Calvillo
Clerk of the Board

Date