

1 [Urging City Departments to Sanction Wells Fargo]

2

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

12

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

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

25

1           WHEREAS, In April 2015, a federal judge found that Wells Fargo had failed to comply  
2 with the National Mortgage Settlement and failed to properly evaluate homeowner  
3 modification applications; and

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

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

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

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

21           WHEREAS, Wells Fargo also employs a significant staff and sales force dedicated to  
22 commercial and institutional customers, one of which is the City and County of San Francisco,  
23 and it is not yet known if the sales staff in the commercial or government banking divisions of  
24 Wells Fargo were similarly pressured to add products to customers; and

1           WHEREAS, While Wells Fargo has not been alone among major banks in its reckless  
2 and fraudulent practices, including predatory lending and illegal foreclosure activity, it is not  
3 yet known if other big banks engaged in similar illegal activity around opening accounts and  
4 providing products which the client did not request; and

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

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

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

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

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

23           (2) remove Wells Fargo from consideration for two years for the provision of securities  
24 investments and counterparty/repurchasing agreements;

25

1 (3) monitor the numerous ongoing investigations as well as remediation efforts by  
2 Wells Fargo, and make additional recommendations as necessary; and

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

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

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

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

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

23 (2) identify all San Francisco Affected Customers who incurred fees or others charges  
24 as a result of Improper Sales Practices (Consent Order § VIII, 48);

25

1 (3) provide the Redress Plan for San Francisco Affected Customers, and evidence that  
2 all San Francisco Affected Customers have been repaid consistent with the Consent Order  
3 (Consent Order § VIII et seq. & § VIII, 51 (a)-(f));

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

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

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

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

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

22 FURTHER RESOLVED, That the Board of Supervisors urges the City Attorney to  
23 conduct an investigation to determine if other major financial institutions engage in similar  
24 practices; and, be it

25

1           FURTHER RESOLVED, That the Board of Supervisors urges the District Attorney to  
2 explore a possible criminal investigation of former CEO John Stumpf and other Wells Fargo  
3 executives; and, be it

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

8           FURTHER RESOLVED, That the Board of Supervisors urges the Office of the United  
9 States Comptroller of the Currency to explore if Wells Fargo's actions should lead to the OCC  
10 revoking Wells Fargo's national banking charter.

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25