

ADMINISTRATIVE PROCEEDING
BEFORE THE
MARYLAND SECURITIES COMMISSIONER

In the Matter of: * Securities Docket No. 2016-0833
Wells Fargo & Company *
Respondent *

* * * * *

CONSENT ORDER

WHEREAS, the Securities Division of the Maryland Attorney General’s Office (“Securities Division”) has conducted an investigation (the “Investigation”) of Wells Fargo & Company’s (“Wells Fargo”) current and former subsidiaries and/or their respective predecessors (collectively “Wells Fargo Affiliates”) regarding their creation, pooling structuring, sponsorship, arranging, forming, packaging, marketing, underwriting, sale or issuance of residential mortgage-backed securities (“RMBS”) between January 1, 2005 and January 1, 2009, including, but not limited to, those identified in Annex 1 attached hereto; and

WHEREAS, the Investigation included representations, disclosures, or non-disclosures to RMBS investors about, or made in connection with the RMBS activities set forth above, where the representation, disclosure, or non-disclosure involves information about or obtained during the process of originating, acquiring, securitizing, underwriting, or servicing residential mortgage loans in RMBS, including, but not limited to, those identified in Annex 1; and

WHEREAS, the Investigation did not include: (i) conduct relating to the origination of residential mortgages, except representation disclosures, or non-disclosures to investors in

RMBS about the origination of, or about information obtained in the course of originating, such loans; (ii) representations or nondisclosures made in connection with the trading of RMBS, except to the extent that the representations, disclosures, or non-disclosures are in the offering materials for underlying RMBS; or (iii) the servicing of residential mortgage loans, except representations or nondisclosures to investors in RMBS about servicing, or information obtained in the course of servicing, such loans; and

WHEREAS, based on the Investigation, the Securities Division believes that there are potential legal claims by the Securities Division against Wells Fargo and/or the Wells Fargo Affiliates for violations of the Maryland Securities Act, Title 11, Corps. & Ass'ns., Md. Code Ann. (2014 Repl. Vol & Supp. 2019) (the "Securities Act"); and

WHEREAS, Wells Fargo has reached a Settlement Agreement with the Securities Division; and

WHEREAS, Wells Fargo has agreed to make certain payments in accordance with the terms of this Order; and

WHEREAS, Wells Fargo elects to waive permanently any right to a hearing and appeal under § 11-704 of the Maryland Securities Act with respect to this Order; and

WHEREAS, Wells Fargo admits the jurisdiction of the Maryland Securities Commissioner (the "Securities Commissioner") in this matter for the purposes of settlement only; and

WHEREAS, solely for the purpose of terminating the Investigation and in settlement of the issues contained in this Order, and without admitting or denying any findings of fact or conclusions of law made herein by the Securities Commissioner of Maryland, Wells Fargo consents to the entry of this Order; and

NOW, THEREFORE, the Securities Commissioner has determined that it is in the public interest and appropriate for the protection of investors, IT IS HEREBY ORDERED:

I. FINDINGS OF FACT

Introduction

1. Between January 1, 2005 and January 1, 2009 (the “relevant period”), Wells Fargo issued 119 RMBS (“Wells Shelf Deals”). A list of RMBS issued by Wells Fargo is attached as Annex 1. The vast majority of the Wells Shelf Deals (100 out of 119) consisted of prime mortgages, with the remainder consisted of Alt-A and “non-prime” (*i.e.*, subprime) mortgages. In connection with the Wells Shelf Deals, Wells Fargo made numerous representations about the loans in the RMBS and the accuracy of information it provided about those loans (“Applicable Representations”). The Applicable Representations included assurances that the loans complied with Wells Fargo’s origination standards, or, if material exceptions existed, that sufficient compensating factors existed to justify the loans’ origination. Wells Fargo also made numerous material representations about borrowers’ debt-to-income (DTI) ratios and mortgages’ loan-to-value (LTV) ratios.

2. During the relevant period, Wells Fargo lowered its underwriting standards for residential mortgage loans. Though this fact was disclosed to investors, certain loans contained in the Wells Shelf Deals did not meet these lower standards. As described below, Wells Fargo received information (1) in connection with its stated income loan programs, and (2) in connection with due diligence conducted on RMBS issued by Wells Fargo, which meant that the Applicable Representations were inaccurate with respect to certain loans.

Wells Fargo Stated Income Loans

3. Wells Fargo engaged in the conduct regarding stated income loans described in paragraphs 4-16 below. This conduct was first described in the contentions included in the U.S. Department of Justice's settlement with Wells Fargo dated August 1, 2018.

4. As Wells Fargo saw its retail market share of loan origination decrease, it aimed to double its production of subprime and Alt-A loans from 2005 to 2006. Toward that end, Wells Fargo took a number of steps. First, it instituted a campaign in 2005 called "Courageous Underwriting," a philosophy that encouraged Wells Fargo's underwriters to take more chances, and be more aggressive, in approving loans that were outside of Wells Fargo's underwriting guidelines. Also, in 2005, Wells Fargo changed the way that certain of its credit risk professionals were compensated, adding new categories of compensation for "Market Share Growth" and "Competitive Positioning to Drive Volume."

5. Wells Fargo then sought to and did expand its stated income loan programs and loosened requirements for these loans, including allowing less money down, lower credit scores, blemished credit histories, higher debt-to-income ratios, and lower asset and reserve requirements, as well as offering an interest-only payment option.

6. A stated income loan, as the name suggests, is a loan on which a borrower states his or her income. The lender determines whether the income that the borrower states is reasonable, in light of the borrower's stated occupation, location, experience, and other factors. The lender, however, does not verify the income or require the borrower to provide supporting income documentation (*e.g.*, W2 forms, pay stubs) and instead relies on the income the borrower states. Stated income loans can take a variety of forms, including stated income verified asset ("SIVA") loans, on which the lender verifies the borrower's assets but not income, and stated income stated asset ("SISA") loans, on which the lender verifies neither the borrower's assets nor income.

7. In 2005, at the same time that the expansion of the stated income loan programs was occurring, the Risk Asset Review group ("RAR"), an independent risk group at Wells Fargo, warned Wells Fargo Home Mortgage ("WFHM") that its risk of loan defaults

was increasing substantially from its loosening of guideline requirements and its approval of more stated income loans.

8. In 2005, as a condition to expanding certain stated income programs, Wells Fargo's Corporate Consumer Credit Administration group ("Corporate Credit") required that WFHM's Quality Assurance group begin testing "[a] statistically valid sampling of filed 4506's" and then report the results back to Corporate Credit.

9. A 4506-T form is a government document signed by the borrower during the loan approval process that allows the lender to obtain the borrower's tax transcripts from the Internal Revenue Service ("IRS"). 4506-T testing involves comparing the tax transcripts of the borrower with the income stated on the loan application.

10. Wells Fargo implemented 4506-T testing on certain of its stated income loan programs. Between August 2005 and October 2007, Wells Fargo tested 1,211 stated income loans in two of its prime stated income loans programs (the SIVA and SISA programs) through the 4506-T testing process. For each of these loans, the 4506-T testing occurred after the loan funded, but often prior to the loan being securitized. According to Wells Fargo's monthly reports, more than 70% of these loans had an "unacceptable" variance, a greater than 20% discrepancy between the borrower's stated income and the income information reflected in the borrower's most recent tax returns filed with the IRS. The average variance was approximately 65% (*i.e.*, the borrower's stated income was 65% more than the income information for that borrower that was returned by the IRS).

11. For the loans that had an "unacceptable variance," Wells Fargo sought to identify the reason for the variance, and, for at least 45% of those loans, Wells Fargo found no "plausible" reason to explain the variance. Based on this testing, Wells Fargo knew that a substantial portion of its stated income loans contained income misrepresentations and/or materially inaccurate statements of income.

12. The results of the 4506-T testing were included in monthly reports that were widely distributed among Wells Fargo employees, including to one of WFHM's co-presidents and other executives. A risk manager at WFHM observed that the "4506T results

are astounding” yet “instead of reacting in a way consistent with what is being reported WF is expanding stated programs in all business lines.” Another manager asked his supervisor “[w]hat addition[al] responsible lending . . . risk is there knowing the results but not taking action”

13. When submitting the initial 4506-T results to Corporate Credit, as had been required as a condition of the stated income program expansion, WFHM misrepresented the number of loans that had “unacceptable” variances without any “plausible” explanation for the discrepancies in income, and, instead, represented to Corporate Credit that they had obtained “satisfactory quality assurance results.” This was done to allow Wells Fargo’s creation and sale of stated income loans to continue, and they did.

14. Even though Wells Fargo knew that stated income loans had false income information, Wells Fargo continued to report debt-to-income (“DTI”) ratios in RMBS based on those false incomes. Wells Fargo did not share its 4506-T testing or the results of that testing with RMBS investors.

15. Wells Fargo also took steps to protect itself. It screened out many of its stated income loans from its own portfolio of loans that it held for investment. And it changed a representation and warranty that it provided to investors on certain deals to carve out any liability related to the accuracy of stated income, thereby removing the investors’ ability to demand that Wells Fargo buy back loans with misrepresented stated incomes.

16. Wells Fargo also falsely stated in prospectus supplements that it had not verified borrower incomes in its stated income programs, even though Wells Fargo knew it was conducting 4506-T testing on certain of its stated income programs and was engaged in qualitative testing that revealed significant percentages of the sampled stated income loans contained both an “unacceptable” variance and no “plausible” reason to explain it.

17. A significant number of Wells Shelf Deals contained SIVA and SISA loans, and 43 of Wells Fargo’s 119 shelf deals

contained at least one loan with a negative 4506-T review.

Due Diligence Information

18. Virtually all of the Wells Shelf Deals were underwritten by unaffiliated investment banks hired by Wells Fargo. Those unaffiliated investment banks were responsible for performing due diligence on the RMBS offering, which included hiring third-party due diligence vendors (“Underwriters’ Due Diligence Vendors”) to test a sample of loans in the proposed loan pool for conformance with underwriting guidelines and collateral value, among other things. The Underwriters’ Due Diligence Vendors conducted this testing using information provided by Wells Fargo personnel based in Frederick, Maryland. During the course of the due diligence for each Wells Shelf Deal, the Underwriters’ Due Diligence Vendors identified a certain percentage of loans in the sample that the Underwriters’ Due Diligence Vendors concluded either did not materially conform to applicable underwriting guidelines and lacked sufficient compensating factors, or did not have sufficient collateral value. In some cases, the Underwriters’ Due Diligence Vendors identified around 10% of the sampled loans that did not meet these criteria.

19. Wells Fargo received information about these due diligence sampling results from their Underwriters’ Due Diligence Vendors. When notified about the final results of these reviews, Wells Fargo agreed to remove the loans identified by the Underwriters’ Due Diligence Vendors in the sample from the final loan pools. However, no process existed to search for or remove loans in the remainder of the pool that may be similar to those identified by the Underwriters’ Due Diligence Vendors.

20. The offering documents for Wells Shelf Deals did not disclose this due diligence process or the results on the tested samples. Based on the results of the tested samples, Wells Fargo had information that was inconsistent with the Applicable Representations – including those relating to the underwriting and underlying collateral value – for a certain number of loans.

II. CONCLUSIONS OF LAW

21. The Commissioner has jurisdiction over this matter pursuant to §11-801 of the Securities Act.

22. As explained in the foregoing facts, Wells Fargo made untrue statements of material fact and omitted to state material facts necessary in order to make the statements made, in light of the circumstances under which they are made, not misleading in violation of §11-301(2) of the Securities Act.

III. ORDER

23. This Order concludes the Investigation and any other action that the Commissioner could commence under applicable Maryland law and on behalf of Maryland as it relates to the substance of the Findings of Fact and Conclusions of Law herein, provided however, that excluded from and not covered by this paragraph are any claims by the Commissioner arising from or relating to Wells Fargo's failure to comply with the undertakings contained herein.

24. The Securities Division and Wells Fargo enter into this Consent Order without adjudication or finding of any issue of fact or law.

A. PAYMENT

25. Wells Fargo shall pay a total amount of \$20,000,000 to the State of Maryland to resolve potential legal claims in connection with the Investigation. Payment shall be made by electronic funds transfer within thirty (30) days of receiving written payment processing instructions from the State of Maryland, Office of the Attorney General. The payment to the State of Maryland shall be made to the Maryland Attorney General, which shall hold the monies and distribute them as directed by the Maryland Attorney General for restitution to certain investors, including state and local governmental entities, and for costs incurred in connection with restitution, with any remaining funds to be credited to the Mortgage Loan Servicing Practices

Settlement Fund to be used in accordance with Maryland law. The State of Maryland agrees that no portion of the funds in this paragraph is received as a civil penalty or fine.

B. JURISDICTION RETAINED, CONSTRUCTION AND DEFAULT

26. Jurisdiction shall be retained by the Securities Commissioner for such further orders and directions as may be necessary or appropriate for the construction or enforcement of the Consent Order.

27. If Wells Fargo fails to materially comply with any term of this Consent Order, the Securities Commissioner may institute administrative or judicial proceedings against Wells Fargo to seek to enforce this Consent Order, to sanction Wells Fargo for violating an Order of the Securities Commissioner or for making a misrepresentation of material fact upon which this Order was based, and may take any other action authorized under the Securities Act or under any other applicable law, including the issuance of fines or penalties as provided by the Securities Act. In any such proceeding in which, after an opportunity for a hearing, the Securities Commissioner or the court finds that Wells Fargo has violated this Consent Order or made any material misrepresentations in their dealings with the Division, the Division may also seek other sanctions for the potential violations that initiated this matter. Solely for the purpose of determining those sanctions, the Statement of Facts and violations of the Securities Act set forth in this Order shall be deemed admitted, and may be introduced into evidence against Wells Fargo.

28. In the event that judicial intervention in this matter is sought by the Securities Commissioner or Wells Fargo, subject matter jurisdiction will lie in the Circuit Court for Baltimore City pursuant to Section 11-702 of the Securities Act. Wells Fargo agrees that that Court will have personal jurisdiction over Wells Fargo for the purposes of this matter, and that venue will be properly in that Court.

29. The terms of this Consent Order may only be vacated or modified by a subsequent order issued by the Securities Commissioner, by agreement with Wells Fargo except as to any non-substantive matters.

30. This Order is entered solely for the purpose of resolving the referenced Investigation, and is not intended to be used for any other purpose. For any person or entity not a party to the Order, this Order does not limit or create any private rights or remedies against Wells Fargo, limit or create liability of Wells Fargo, or limit or create defenses of Wells Fargo, to any claims.

31. This Order is not intended to disqualify Wells Fargo (including any of the Wells Fargo Affiliates) or any current or former employees from any business that they otherwise are qualified or licensed to perform under applicable state or federal law, and this Order is not intended to subject Wells Fargo, including any of the Wells Fargo Affiliates, to any disqualifications, or form the basis for any statutory or discretionary disqualifications, contained in the federal securities laws (including but not limited to Section 3(a)(39) of the Securities Exchange Act of 1934 and Rule 506(d)(1) of Regulation D under the Securities Act of 1933), the federal commodities laws (including Section 8a of the Commodity Exchange Act), and the rules and regulations of self-regulatory organizations or various states' or U.S. Territories' (including Washington, D.C.) laws, including any disqualification from relying upon registration exemptions or safe harbor provisions in addition to those expressly noted herein.

32. This Order is not intended to state or imply willful, reckless, or fraudulent conduct by Wells Fargo, or its affiliates, directors, officers, employees, associated persons, or agents.

33. Wells Fargo enters into this Order voluntarily and represents that no threats, offers, promises, or inducements of any kind have been made by the Commissioner or any member, officer, employee, agent, or representative of the Commissioner to induce Wells Fargo to enter into this Order.

34. This Order shall be binding upon Wells Fargo and the Wells Fargo Affiliates and their successors and assigns with

respect to all conduct subject to the provisions above and all future obligations, responsibilities, undertakings, commitments, limitations, restrictions, events, and conditions.

DATE OF THIS ORDER:

June 15, 2020

CONSENTED TO:
Wells Fargo & Company

BY:

[Name]
[Title]

SO ORDERED:

**Commissioner's Signature on File
w/Original Documents**

Melanie Senter Lubin
Securities Commissioner

DATED:

ANNEX 1

WFMBS 2005-1	WFALT 2005-1	WFMBS 2006-AR10	WFMBS 2007-AR7
WFMBS 2005-2	WFALT 2005-2	WFMBS 2006-AR11	WFMBS 2007-AR8
WFMBS 2005-3	WFHET 2005-1	WFMBS 2006-AR12	WFMBS 2007-AR9
WFMBS 2005-4	WFHET 2005-2	WFMBS 2006-AR13	WFMBS 2007-AR10
WFMBS 2005-5	WFHET 2005-3	WFMBS 2006-AR14	WFALT 2007-PA1
WFMBS 2005-6	WFHET 2005-4	WFMBS 2006-AR15	WFALT 2007-PA2
WFMBS 2005-7	WFMBS 2006-1	WFMBS 2006-AR16	WFALT 2007-PA3
WFMBS 2005-8	WFMBS 2006-2	WFMBS 2006-AR17	WFALT 2007-PA4
WFMBS 2005-9	WFMBS 2006-3	WFMBS 2006-AR18	WFALT 2007-PA5
WFMBS 2005-10	WFMBS 2006-4	WFMBS 2006-AR19	WFALT 2007-PA6
WFMBS 2005-11	WFMBS 2006-5	WFHET 2006-1	WFHET 2007-1
WFMBS 2005-12	WFMBS 2006-6	WFHET 2006-2	WFHET 2007-2
WFMBS 2005-13	WFMBS 2006-7	WFHET 2006-3	WFHET 2007-M4
WFMBS 2005-14	WFMBS 2006-8	WFMBS 2007-1	WFHET 2007-M11
WFMBS 2005-15	WFMBS 2006-9	WFMBS 2007-2	WFMBS 2008-1
WFMBS 2005-16	WFMBS 2006-10	WFMBS 2007-3	WFMBS 2008-AR1
WFMBS 2005-17	WFMBS 2006-11	WFMBS 2007-4	WFMBS 2008-AR2
WFMBS 2005-18	WFMBS 2006-12	WFMBS 2007-5	
WFMBS 2005-AR1	WFMBS 2006-13	WFMBS 2007-6	
WFMBS 2005-AR2	WFMBS 2006-14	WFMBS 2007-7	
WFMBS 2005-AR3	WFMBS 2006-15	WFMBS 2007-8	
WFMBS 2005-AR4	WFMBS 2006-16	WFMBS 2007-9	
WFMBS 2005-AR5	WFMBS 2006-17	WFMBS 2007-10	
WFMBS 2005-AR6	WFMBS 2006-18	WFMBS 2007-11	
WFMBS 2005-AR7	WFMBS 2006-19	WFMBS 2007-12	
WFMBS 2005-AR8	WFMBS 2006-20	WFMBS 2007-13	
WFMBS 2005-AR9	WFMBS 2006-AR1	WFMBS 2007-14	
WFMBS 2005-AR10	WFMBS 2006-AR2	WFMBS 2007-15	
WFMBS 2005-AR11	WFMBS 2006-AR3	WFMBS 2007-16	
WFMBS 2005-AR12	WFMBS 2006-AR4	WFMBS 2007-17	
WFMBS 2005-AR13	WFMBS 2006-AR5	WFMBS 2007-AR3	
WFMBS 2005-AR14	WFMBS 2006-AR6	WFMBS 2007-AR4	
WFMBS 2005-AR15	WFMBS 2006-AR7	WFMBS 2007-AR5	
WFMBS 2005-AR16	WFMBS 2006-AR8	WFMBS 2007-AR6	

