

**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549**

**Form 10-K**

Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934  
For the fiscal year ended December 31, 2019 Commission File Number 001-2979

**WELLS FARGO & COMPANY**

(Exact name of registrant as specified in its charter)

**Delaware** **No. 41-0449260**

(State of incorporation) (I.R.S. Employer Identification No.)

**420 Montgomery Street, San Francisco, California 94104**

(Address of principal executive offices) (Zip code)

Registrant's telephone number, including area code: **1-866-249-3302**

**Securities registered pursuant to Section 12(b) of the Act:**

Title of Each Class	Trading Symbol	Name of Each Exchange on Which Registered
Common Stock, par value \$1 -2/3	WFC	NYSE
7.5% Non-Cumulative Perpetual Convertible Class A Preferred Stock, Series L	WFC.PRL	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series N	WFC.PRN	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series O	WFC.PRO	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series P	WFC.PRP	NYSE
Depository Shares, each representing a 1/1000th interest in a share of 5.85% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series Q	WFC.PRQ	NYSE
Depository Shares, each representing a 1/1000th interest in a share of 6.625% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series R	WFC.PRR	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series T	WFC.PRT	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series V	WFC.PRV	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series W	WFC.PRW	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series X	WFC.PRX	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series Y	WFC.PRY	NYSE
Depository Shares, each representing a 1/1000th interest in a share of Non-Cumulative Perpetual Class A Preferred Stock, Series Z	WFC.PRZ	NYSE
Guarantee of 5.80% Fixed-to-Floating Rate Normal Wachovia Income Trust Securities of Wachovia Capital Trust III	WFC/TP	NYSE
Guarantee of Medium-Term Notes, Series A, due October 30, 2028 of Wells Fargo Finance LLC	WFC/28A	NYSE

**Securities registered pursuant to Section 12(g) of the Act:**

Dividend Equalization Preferred Shares, no par value

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. Yes  No

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§ 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit such files). Yes  No

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, a smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act.

Indicate by check mark whether the registrant is a shell Company (as defined in Rule 12b-2 of the Act). Yes  No

At June 28, 2019, the aggregate market value of common stock held by non-affiliates was approximately \$208.7 billion, based on a closing price of \$47.32. At February 18, 2020, 4,099,887,226 shares of common stock were outstanding.

**Documents Incorporated by Reference in Form 10-K**

Incorporated Documents

Where incorporated in Form 10-K

1. Portions of the Company's Annual Report to Shareholders for the year ended December 31, 2019 ("2019 Annual Report to Shareholders")

Part I – Items 1, 1A, 2 and 3; Part II – Items 5, 6, 7, 7A, 8 and 9A; and Part IV – Item 15.

2. Portions of the Company's Proxy Statement for the Annual Meeting of Shareholders to be held April 28, 2020 ("2020 Proxy Statement")

Part III – Items 10, 11, 12, 13 and 14

## PART I.

### ITEM 1. BUSINESS

Wells Fargo & Company is a corporation organized under the laws of Delaware and a financial holding company and a bank holding company registered under the Bank Holding Company Act of 1956, as amended (BHC Act). Its principal business is to act as a holding company for its subsidiaries. References in this report to “the Parent” mean the holding company. References to “we,” “our,” “us” or “the Company” mean the holding company and its subsidiaries that are consolidated for financial reporting purposes.

At December 31, 2019, we had assets of \$1.9 trillion, loans of \$962 billion, deposits of \$1.3 trillion and stockholders’ equity of \$187 billion. Based on assets, we were the fourth largest bank holding company in the United States. At December 31, 2019, Wells Fargo Bank, N.A. was the Company’s principal subsidiary with assets of \$1.7 trillion, or 89% of the Company’s assets.

At December 31, 2019, we had 259,800 active, full-time equivalent team members.

Our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, are available for free at [www.wellsfargo.com/about/investor-relations/filings](http://www.wellsfargo.com/about/investor-relations/filings) as soon as reasonably practicable after they are electronically filed with or furnished to the Securities and Exchange Commission (SEC). They are also available for free on the SEC’s website at [www.sec.gov](http://www.sec.gov).

## DESCRIPTION OF BUSINESS

### General

We are a diversified financial services company. We provide banking, investment and mortgage products and services, as well as consumer and commercial finance, through banking locations and offices, the internet ([www.wellsfargo.com](http://www.wellsfargo.com)) and other distribution channels to individuals, businesses and institutions in all 50 states, the District of Columbia and in countries outside the U.S. We provide consumer financial products and services including checking and savings accounts, credit and debit cards, and automobile, student, mortgage and home equity and small business lending. In addition, we offer financial planning, private banking, investment management, and fiduciary services. We also provide financial solutions to businesses through products and services including traditional commercial loans and lines of credit, letters of credit, asset-based lending, trade financing, treasury management, and investment banking services.

As of December 31, 2019, we had three operating segments for management reporting purposes: Community Banking; Wholesale Banking; and Wealth and Investment Management. The 2019 Annual Report to Shareholders includes financial information and descriptions of these operating segments.

### Competition

The financial services industry is highly competitive. Our subsidiaries compete with financial services providers such as banks, savings and loan associations, credit unions, finance companies, mortgage banking companies, insurance

companies, investment banks and mutual fund companies. They also face increased competition from nonbank institutions such as brokerage houses, private equity firms and online lending companies, as well as from financial services subsidiaries of commercial and manufacturing companies. Many of these competitors enjoy fewer regulatory constraints and some may have lower cost structures.

Securities firms and insurance companies that elect to become financial holding companies may acquire banks and other financial institutions. Combinations of this type could significantly change the competitive environment in which we conduct business. The financial services industry is also likely to become more competitive as further technological advances enable more companies to provide financial services. These technological advances may diminish the importance of depository institutions and other financial intermediaries in the transfer of funds between parties.

## REGULATION AND SUPERVISION

We describe below, and in Note 3 (Cash, Loan and Dividend Restrictions) and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements included in the 2019 Annual Report to Shareholders, the material elements of the regulatory framework applicable to us. Banking statutes, regulations and policies are continually under review by Congress and state legislatures and federal and state regulatory agencies, as well as non-U.S. governments and financial regulators, and a change in them, including changes in how they are interpreted or implemented, could have a material effect on our business. The regulatory framework applicable to bank holding companies is intended to protect depositors, federal deposit insurance funds, consumers and the banking system as a whole, and not necessarily investors in bank holding companies such as the Company.

Statutes, regulations and policies could restrict our ability to diversify into other areas of financial services, acquire depository institutions, and pay dividends on our capital stock. They may also require us to provide financial support to one or more of our subsidiary banks, maintain capital balances in excess of amounts desired by management, and pay higher deposit insurance premiums as a result of a general deterioration in the financial condition of depository institutions. See the “Regulatory Matters” and “Risk Factors” sections in the 2019 Annual Report to Shareholders for additional information.

### General

*Parent Bank Holding Company.* As a bank holding company, the Parent is subject to regulation under the BHC Act and to inspection, examination and supervision by its primary regulator, the Board of Governors of the Federal Reserve System (Federal Reserve Board or FRB). The Parent is also subject to the disclosure and regulatory requirements of the Securities Act of 1933, as amended, and the Securities Exchange Act of 1934, as amended, both as administered by the SEC. As a company with securities listed on the New York Stock Exchange (NYSE), the Parent is subject to the rules of the NYSE for listed companies.

*Subsidiary Banks.* Our subsidiary national banks, and their subsidiaries, are subject to regulation and examination primarily by the Office of the Comptroller of the Currency

(OCC) and also by the Federal Deposit Insurance Corporation (FDIC), the FRB, the Consumer Financial Protection Bureau (CFPB), the SEC and the Commodities Futures Trading Commission (CFTC). The non-U.S. branches and representative offices of our subsidiary national banks are subject to regulation and examination by their respective financial regulators as well as by the OCC and the FRB. Non-U.S. subsidiaries of our national bank subsidiaries may be subject to the laws and regulations of the countries in which they conduct business. Our state-chartered bank is subject to primary federal regulation and examination by the FDIC and, in addition, is regulated and examined by its state banking department.

*Nonbank Subsidiaries.* Many of our nonbank subsidiaries are also subject to regulation by the FRB and other applicable federal and state agencies. Our insurance subsidiaries are subject to regulation by applicable state insurance regulatory agencies, as well as the FRB. Our brokerage subsidiaries are regulated by the SEC, the Financial Industry Regulatory Authority (FINRA) and, in some cases, the CFTC and the Municipal Securities Rulemaking Board, and state securities regulators. Our other nonbank subsidiaries may be subject to the laws and regulations of the federal government and/or the various states as well as non-U.S. countries in which they conduct business.

#### **Parent Bank Holding Company Activities**

*“Financial in Nature” Requirement.* We became a financial holding company effective March 13, 2000. We continue to maintain our status as a bank holding company for purposes of other FRB regulations. As a bank holding company that has elected to become a financial holding company pursuant to the BHC Act, we may affiliate with securities firms and insurance companies and engage in other activities that are financial in nature or incidental or complementary to activities that are financial in nature. “Financial in nature” activities include securities underwriting, dealing and market making; sponsoring mutual funds and investment companies; insurance underwriting and agency; merchant banking; and activities that the FRB, in consultation with the Secretary of the U.S. Treasury, determines to be financial in nature or incidental to such financial activity. “Complementary activities” are activities that the FRB determines upon application to be complementary to a financial activity and do not pose a safety and soundness risk.

FRB approval is generally not required for us to acquire a company (other than a bank holding company, bank or savings association) engaged in activities that are financial in nature or incidental to activities that are financial in nature, as determined by the FRB. Prior notice to the FRB may be required, however, if the company to be acquired has total consolidated assets of \$10 billion or more. Prior FRB approval is required before we may acquire the beneficial ownership or control of more than 5% of the voting shares or substantially all of the assets of a bank holding company, bank or savings association. In addition, the FRB has implemented a final rule under the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) that also prohibits our ability to merge, acquire all or substantially all of the assets of, or acquire control of another company if our total resulting consolidated liabilities would exceed 10% of the aggregate consolidated liabilities of all financial companies.

Because we are a financial holding company, if any of our subsidiary banks receives a rating under the Community Reinvestment Act of 1977, as amended (CRA), of less than

satisfactory, we will be prohibited, until the rating is raised to satisfactory or better, from engaging in new activities or acquiring companies other than bank holding companies, banks or savings associations, except that we could engage in new activities, or acquire companies engaged in activities, that are closely related to banking under the BHC Act. In March 2017, we announced that the OCC had downgraded our most recent CRA rating, which covers the years 2009-2012, to “Needs to Improve” due to previously issued regulatory consent orders and, thus, we are subject to, among other things, the prohibitions noted above. In addition, if the FRB finds that the Company or any one of our subsidiary banks is not well capitalized or well managed, we would be required to enter into an agreement with the FRB to comply with all applicable capital and management requirements and which may contain additional limitations or conditions. Until corrected, we could be prohibited from engaging in any new activity or acquiring companies engaged in activities that are not closely related to banking under the BHC Act without prior FRB approval. If we fail to correct any such condition within a prescribed period, the FRB could order us to divest our banking subsidiaries or, in the alternative, to cease engaging in activities other than those closely related to banking under the BHC Act. For more information about our CRA rating, see the “Regulatory Matters” and “Risk Factors” sections of the 2019 Annual Report to Shareholders.

*Interstate Banking.* Under the Riegle-Neal Interstate Banking and Branching Act (Riegle-Neal Act), a bank holding company may acquire banks in states other than its home state, subject to any state requirement that the bank has been organized and operating for a minimum period of time, not to exceed five years, and the requirement that the bank holding company not control, prior to or following the proposed acquisition, more than 10% of the total amount of deposits of insured depository institutions nationwide or, unless the acquisition is the bank holding company’s initial entry into the state, more than 30% of such deposits in the state (or such lesser or greater amount set by the state). The Riegle-Neal Act also authorizes banks to merge across state lines, subject to the same deposit limits noted above, thereby creating interstate branches. Banks are also permitted to acquire and to establish new branches in other states.

*Regulatory Approval.* In determining whether to approve a proposed bank acquisition, federal banking regulators will consider, among other factors, the effect of the acquisition on competition, financial condition, and future prospects including current and projected capital ratios and levels, the competence, experience, and integrity of management and record of compliance with laws and regulations, the convenience and needs of the communities to be served, including the acquiring institution’s record of compliance under the CRA, the effectiveness of the acquiring institution in combating money laundering activities and the risk to the stability of the United States banking system.

#### **Dividend Restrictions**

The Parent is a legal entity separate and distinct from its subsidiary banks and other subsidiaries. A significant source of funds to pay dividends on our common and preferred stock and principal and interest on our debt is dividends from the Parent’s subsidiaries. Various federal and state statutory provisions and regulations limit the amount of dividends the Parent’s

subsidiary banks and certain other subsidiaries may pay without regulatory approval. Federal banking regulators have the authority to prohibit the Parent's subsidiary banks from engaging in unsafe or unsound practices in conducting their businesses. The payment of dividends, depending on the financial condition of the bank in question, could be deemed an unsafe or unsound practice. The ability of the Parent's subsidiary banks to pay dividends in the future is currently, and could be further, influenced by bank regulatory policies and capital guidelines. For information about the restrictions applicable to the Parent's subsidiary banks, see Note 3 (Cash, Loan and Dividend Restrictions) to Financial Statements included in the 2019 Annual Report to Shareholders.

Furthermore, under a Support Agreement dated June 28, 2017, as amended and restated on June 26, 2019 (the "Support Agreement"), among the Parent, WFC Holdings, LLC, an intermediate holding company and subsidiary of the Parent (the "IHC"), Wells Fargo Bank, N.A., Wells Fargo Securities, LLC, Wells Fargo Clearing Services, LLC, and certain other direct and indirect subsidiaries of the Parent designated as material entities for resolution planning purposes or identified as related support entities in our resolution plan, the IHC may be restricted from making dividend payments to the Parent if certain liquidity and/or capital metrics fall below defined triggers, or if the Parent's board of directors authorizes it to file a case under the U.S. Bankruptcy Code. Any such restriction could materially and adversely impact the Parent's liquidity and its ability to satisfy its debt and other obligations, as well as its ability to make dividend payments on its common and preferred stock. See the "Regulatory Matters" and "Risk Factors" sections of the 2019 Annual Report to Shareholders for additional information on the Support Agreement.

In addition to these restrictions on the ability of our subsidiary banks to pay dividends to us, the FRB requires large bank holding companies (BHCs), including Wells Fargo, to submit annual capital plans and to obtain regulatory approval before making capital distributions, such as the payment of dividends. The FRB also finalized rules implementing in the United States the Basel Committee on Banking Supervision's regulatory capital guidelines, including the reforms known as Basel III, which established various capital requirements for U.S. banking organizations. Moreover, federal banking regulators have finalized a rule that enhances the supplementary leverage ratio requirements for large BHCs, like Wells Fargo, and their insured depository institutions. We are also subject to the FRB's rule implementing an additional capital surcharge on those U.S. banking organizations, such as the Company, that are designated as global systemically important banks (G-SIBs). The failure to maintain any of these minimum capital ratios, leverage ratios or buffers could result in limitations or restrictions on our ability to make capital distributions.

In addition, the FRB's enhanced supervision regulations for large BHCs, like Wells Fargo, impose capital distribution restrictions, including on the payment of dividends, upon the occurrence of capital, stress test, risk management, or liquidity risk management triggers. For more information on regulations or arrangements that may impose capital distribution restrictions on the Company and its subsidiaries, see the "Capital Management," "Regulatory Matters" and "Risk Factors" sections of the 2019 Annual Report to Shareholders.

## Holding Company Structure

*Transfer of Funds from Subsidiary Banks.* The Parent's subsidiary banks are subject to restrictions under federal law that limit the transfer of funds or other items of value from such subsidiaries to the Parent and its nonbank subsidiaries (including affiliates) in so-called "covered transactions." In general, covered transactions include loans and other extensions of credit, investments and asset purchases, as well as certain other transactions involving the transfer of value from a subsidiary bank to an affiliate or for the benefit of an affiliate. Unless an exemption applies, covered transactions by a subsidiary bank with a single affiliate are limited to 10% of the subsidiary bank's capital and surplus and, with respect to all covered transactions with affiliates in the aggregate, to 20% of the subsidiary bank's capital and surplus. Also, loans and extensions of credit to affiliates generally are required to be secured by qualifying collateral. A bank's transactions with its nonbank affiliates are also generally required to be on arm's length terms. The Company is also subject to lending limits and qualitative requirements on loans to executive officers, directors and principal shareholders of the Parent and its subsidiary banks.

*Source of Strength.* The FRB has a policy that a BHC is expected to act as a source of financial and managerial strength to each of its subsidiary banks and, under appropriate circumstances, to commit resources to support each such subsidiary bank. This support may be required at times when the BHC may not have the resources to provide the support.

The OCC may order an assessment of the Parent if the capital of one of its national bank subsidiaries were to become impaired. If the Parent failed to pay the assessment within three months, the OCC could order the sale of the Parent's stock in the national bank to cover the deficiency.

*Depositor Preference.* In the event of the "liquidation or other resolution" of an insured depository institution, the claims of deposits payable in the United States (including the claims of the FDIC as subrogee of insured depositors) and certain claims for administrative expenses of the FDIC as a receiver will have priority over other general unsecured claims against the institution. If an insured depository institution fails, claims of insured and uninsured U.S. depositors, along with claims of the FDIC, will have priority in payment ahead of unsecured creditors, including the Parent, and depositors whose deposits are solely payable at such insured depository institution's non-U.S. offices.

*Liability of Commonly Controlled Institutions.* All of the Company's subsidiary banks in the U.S. are insured by the FDIC. FDIC-insured depository institutions can be held liable for any loss incurred, or reasonably expected to be incurred, by the FDIC due to the default of an FDIC-insured depository institution controlled by the same bank holding company, and for any assistance provided by the FDIC to an FDIC-insured depository institution that is in danger of default and that is controlled by the same bank holding company. "Default" means generally the appointment of a conservator or receiver. "In danger of default" means generally the existence of certain conditions indicating that a default is likely to occur in the absence of regulatory assistance.

## **Dodd-Frank Act**

The Dodd-Frank Act, enacted on July 21, 2010, has resulted in broad changes to the U.S. financial system and is the most significant financial reform legislation since the 1930s. The Dodd-Frank Act and the numerous rules to implement its provisions have resulted in enhanced regulation and supervision of large BHCs, such as Wells Fargo. This includes, among other things, rules to promote financial stability and prevent or mitigate the risks that may arise from the material distress or failure of a large BHC; enhance consumer protections; prohibit proprietary trading; and implement enhanced prudential requirements for large BHCs regarding risk-based capital and leverage, risk and liquidity management, stress testing, and recovery and resolution planning. The Dodd-Frank Act, including current and future rules implementing its provisions and the interpretation of those rules, has affected, and we expect will continue to affect, most of our businesses in some way, either directly through regulation of specific activities or indirectly through regulation of concentration risks, capital or liquidity. For more information about the Dodd-Frank Act and its effect on our business, see the "Regulatory Matters" and "Risk Factors" sections of the 2019 Annual Report to Shareholders.

## **Capital Requirements and Planning**

The Company and each of our insured depository institutions are subject to various regulatory capital adequacy requirements administered by federal banking regulators. These capital rules, among other things, establish required minimum ratios relating capital to different categories of assets and exposures. Federal banking regulators have also finalized rules to impose a supplementary leverage ratio on large BHCs, like Wells Fargo, and their insured depository institutions, and to implement a liquidity coverage ratio. The FRB has also finalized rules to address the amount of equity and unsecured long-term debt a G-SIB must hold to improve its resolvability and resiliency, often referred to as total loss absorbing capacity.

From time to time, the FRB and the Federal Financial Institutions Examination Council (FFIEC) propose changes and amendments to, and issue interpretations of, risk-based capital guidelines and related reporting instructions. In addition, the FRB closely monitors capital levels of the institutions it supervises and may require such institutions to modify capital levels based on FRB determinations. Such determinations, proposals or interpretations could, if implemented in the future, affect our reported capital ratios and net risk-adjusted assets.

As an additional means to identify problems in the financial management of depository institutions, the Federal Deposit Insurance Act (FDI Act) requires federal banking regulators to establish certain non-capital safety and soundness standards for institutions for which they are the primary federal regulator. The standards relate generally to operations and management, asset quality, interest rate exposure, executive compensation and risk management. The agencies are authorized to take action against institutions that fail to meet such standards.

The FDI Act requires federal banking regulators to take "prompt corrective action" with respect to FDIC-insured depository institutions that do not meet minimum capital requirements. A depository institution's treatment for purposes of the prompt corrective action provisions will depend upon how its capital levels compare to various capital

measures and certain other factors, as established by regulation.

In addition, the FRB's capital plan rule requires large BHCs to submit capital plans annually for review to determine if the FRB has any objections before making any capital distributions. The rule requires updates to capital plans in the event of material changes in a BHC's risk profile, including as a result of any significant acquisitions. Federal banking regulators also require stress tests to evaluate whether an institution has sufficient capital to continue to operate during periods of adverse economic and financial conditions.

For more information on our capital requirements and planning, see the "Capital Management" section of the 2019 Annual Report to Shareholders.

## **Deposit Insurance Assessments**

Our subsidiary banks in the U.S., including Wells Fargo Bank, N.A., are members of the Deposit Insurance Fund (DIF) maintained by the FDIC. Through the DIF, the FDIC insures the deposits of our banks up to prescribed limits for each depositor and funds the DIF through assessments on member banks. To maintain the DIF, member institutions are assessed an insurance premium based on an assessment base and an assessment rate.

The Dodd-Frank Act gave the FDIC greater discretion to manage the DIF, changed the assessment base from domestic deposits to consolidated average assets less average tangible equity, and mandated a minimum Designated Reserve Ratio (reserve ratio or DRR) of 1.35%. In addition to ensuring that the DIF reserve ratio reached the statutory minimum of 1.35% by September 30, 2020, the FDIC Board also finalized a comprehensive, long-range plan for DIF management, whereby the DRR has been targeted at 2%.

In addition to the base assessments and any surcharge to maintain the DIF, all FDIC-insured depository institutions were required to pay a quarterly assessment towards interest payments on bonds (commonly referred to as FICO bonds) issued by the Financing Corporation, a federal corporation chartered under the authority of the Federal Housing Finance Agency. In December 2018, the Federal Housing Finance Agency finalized a rule, which, among other things, determined that the final assessment on FICO bonds would be paid in March 2019, based on the second quarter assessment percentage. This assessment was 0.14% of the assessable deposit base for first quarter 2019 and 0.12% for second quarter 2019. For the year ended December 31, 2019, the Company's FDIC deposit insurance assessments, including FICO assessments, totaled \$526 million.

The FDIC may terminate a depository institution's deposit insurance upon a finding that the institution's financial condition is unsafe or unsound or that the institution has engaged in unsafe or unsound practices or has violated any applicable rule, regulation, order or condition enacted or imposed by the institution's regulatory agency. The termination of deposit insurance for one or more of our bank subsidiaries could have a material adverse effect on our earnings, depending on the collective size of the particular banks involved.

## **Fiscal and Monetary Policies**

Our business and earnings are affected significantly by the fiscal and monetary policies of the federal government and its agencies. We are particularly affected by the policies of the FRB, which regulates the supply of money and credit in the

United States. Among the instruments of monetary policy available to the FRB are (a) conducting open market operations in United States government securities, (b) changing the discount rates of borrowings of depository institutions, (c) imposing or changing reserve requirements against depository institutions' deposits, and (d) imposing or changing reserve requirements against certain borrowings by banks and their affiliates. These methods are used in varying degrees and combinations to directly affect the availability of bank loans and deposits, as well as the interest rates charged on loans and paid on deposits. The policies of the FRB may have a material effect on our business, results of operations and financial condition.

### **Privacy Provisions of the Gramm-Leach-Bliley Act and Restrictions on Affiliate Marketing**

Federal banking regulators, as required under the Gramm-Leach-Bliley Act (the GLB Act), have adopted rules limiting the ability of banks and other financial institutions to disclose nonpublic information about consumers to nonaffiliated third parties. The rules require disclosure of privacy policies to consumers and, in some circumstances, allow consumers to prevent disclosure of certain personal information to nonaffiliated third parties. The privacy provisions of the GLB Act affect how consumer information is transmitted through diversified financial services companies and conveyed to outside vendors. Federal financial regulators have issued regulations under the Fair and Accurate Credit Transactions Act that have the effect of increasing the length of the waiting period, after privacy disclosures are provided to new customers, before information can be shared among different affiliated companies for the purpose of marketing products and services by those affiliated companies.

### **Sarbanes-Oxley Act of 2002**

The Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley) implemented a broad range of corporate governance and accounting measures to increase corporate responsibility, to provide for enhanced penalties for accounting and auditing improprieties at publicly traded companies, and to protect investors by improving the accuracy and reliability of disclosures under federal securities laws. We are subject to Sarbanes-Oxley because we are required to file periodic reports with the SEC under the Securities Exchange Act of 1934. Among other things, Sarbanes-Oxley and/or its implementing regulations established membership requirements and additional responsibilities for our audit committee, imposed restrictions on the relationship between us and our outside auditors (including restrictions on the types of non-audit services our auditors may provide to us), imposed additional responsibilities for our external financial statements on our chief executive officer and chief financial officer, expanded the disclosure requirements for our corporate insiders, required our management to evaluate our disclosure controls and procedures and our internal control over financial reporting, and required our independent registered public accounting firm to issue a report on our internal control over financial reporting.

### **Patriot Act**

The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Patriot Act) is intended to strengthen

the ability of U.S. law enforcement agencies and intelligence communities to work together to combat terrorism on a variety of fronts. The Patriot Act has significant implications for depository institutions, brokers, dealers and other businesses involved in the transfer of money. The Patriot Act requires the implementation of policies and procedures relating to anti-money laundering, compliance, suspicious activities, and currency transaction reporting and due diligence on customers. The Patriot Act also requires federal banking regulators to evaluate the effectiveness of an applicant in combating money laundering in determining whether to approve a proposed bank acquisition.

### **Future Legislation or Regulation**

Economic, market and political conditions during the past few years have led to a significant amount of legislation and regulation in the U.S. and abroad affecting the financial services industry, as well as heightened expectations and scrutiny of financial services companies from banking regulators. Further legislative changes and additional regulations may change our operating environment in substantial and unpredictable ways. Such legislation and regulations could increase our cost of doing business, affect our compensation structure, restrict or expand the activities in which we may engage or affect the competitive balance among banks, savings associations, credit unions, and other financial institutions. We cannot predict whether future legislative proposals will be enacted and, if enacted, the effect that they, or any implementing regulations, would have on our business, results of operations or financial condition.

## **ADDITIONAL INFORMATION**

Additional information in response to this Item 1 can be found in the 2019 Annual Report to Shareholders under "Financial Review" and under "Financial Statements." That information is incorporated into this item by reference.

### **ITEM 1A. RISK FACTORS**

Information in response to this Item 1A can be found in this report under Item 1 and in the 2019 Annual Report to Shareholders under "Financial Review – Risk Factors." That information is incorporated into this item by reference.

### **ITEM 1B. UNRESOLVED STAFF COMMENTS**

Not applicable.

## ITEM 2. PROPERTIES

December 31, 2019	Approximate square footage (in millions)
We currently occupy properties in:	
United States	
San Francisco, California	
420 Montgomery Street (corporate headquarters)	0.4
All other San Francisco locations	3.7
Total San Francisco, California	4.1
Top 10 other U.S. locations:	
Charlotte-Concord-Gastonia, NC-SC	8.1
Minneapolis-St. Paul-Bloomington, MN-WI	5.7
New York-Newark-Jersey City, NY-NJ-PA	3.9
Los Angeles-Long Beach-Anaheim, CA	3.7
Phoenix-Mesa-Scottsdale, AZ	3.5
Des Moines-West Des Moines, IA	3.3
St. Louis, MO-IL	2.5
Philadelphia-Camden-Wilmington, PA-NJ-DE-MD	2.0
Dallas-Fort Worth-Arlington, TX	1.7
Miami-Fort Lauderdale-West Palm Beach, FL	1.6
All other U.S. locations	42.9
Total United States	83.0
Top 5 International locations:	
India	2.3
Philippines	0.9
United Kingdom	0.3
Canada	0.2
China	0.1
All other international locations	0.2
Total International	4.0
Total square footage property occupied	87.0

As of December 31, 2019, we provided banking, investment and mortgage products and services, as well as consumer and commercial finance, through approximately 7,400 locations under ownership and lease agreements. We continue to evaluate our owned and leased properties and may determine from time to time that certain of our properties are no longer necessary for our operations. There is no assurance that we will be able to dispose of any excess properties or that we will not incur charges in connection with such dispositions, which could be material to our operating results in a given period.

### ADDITIONAL INFORMATION

Additional information in response to this Item 2 can be found in the 2019 Annual Report to Shareholders under “Financial Statements – Notes to Financial Statements – Note 9 (Premises, Equipment and Other Assets).” That information is incorporated into this item by reference.

### ITEM 3. LEGAL PROCEEDINGS

Information in response to this Item 3 can be found in the 2019 Annual Report to Shareholders under “Financial Statements – Notes to Financial Statements – Note 17 (Legal Actions).” That information is incorporated into this item by reference.

### ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

## PART II

### ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

#### MARKET INFORMATION

The Company's common stock is listed on the NYSE (symbol "WFC"). The "Stock Performance" section of the 2019 Annual Report to Shareholders provides stockholder return comparisons and is incorporated herein by reference. At February 18, 2020, there were 293,506 holders of record of the Company's common stock.

#### DIVIDENDS

The dividend restrictions discussions in the "Regulation and Supervision – Dividend Restrictions" section under Item 1 of this report and in the 2019 Annual Report to Shareholders under "Financial Statements – Notes to Financial Statements – Note 3 (Cash, Loan and Dividend Restrictions)" are incorporated into this item by reference.

The following table shows Company repurchases of its common stock for each calendar month in the quarter ended December 31, 2019.

Calendar month	Total number of shares repurchased (1)	Weighted-average price paid per share	Maximum number of shares that may yet be repurchased under the authorizations
October	53,644,427	\$ 49.88	330,374,271
November	44,833,286	53.45	285,540,985
December	42,624,749	53.85	242,916,236
Total	141,102,462		

(1) All shares were repurchased under an authorization covering up to 350 million shares of common stock approved by the Board of Directors and publicly announced by the Company on October 23, 2018, or an authorization covering up to an additional 350 million shares of common stock approved by the Board of Directors and publicly announced by the Company on July 23, 2019. Unless modified or revoked by the Board, these authorizations do not expire.

## REPURCHASES OF EQUITY SECURITIES

In October 2018, our Board of Directors authorized the repurchase of 350 million shares of our common stock. In July 2019, our Board of Directors authorized the repurchase of an additional 350 million shares of our common stock. The authorizations cover shares repurchased to meet team member benefit plan requirements. The Company maintains a variety of retirement plans for its team members and typically is a net issuer of shares of common stock to these plans. From time to time, it also purchases shares of common stock from these plans to accommodate team member preferences. Share repurchases are subtracted from the Company's repurchase authority without offset for share issuances. Shares may be repurchased as part of employee stock option exercises, from the different benefit plans or in the open market, subject to regulatory approval.

The amount and timing of stock repurchases will be based on various factors, including our capital requirements, the number of shares we expect to issue for employee benefit plans and acquisitions, market conditions (including the trading price of our stock), and regulatory and legal considerations. See the "Capital Management" section in the 2019 Annual Report to Shareholders for additional information about our common stock repurchases.



**ITEM 6. SELECTED FINANCIAL DATA**

Information in response to this Item 6 can be found in the 2019 Annual Report to Shareholders under “Financial Review” in Table 1. That information is incorporated into this item by reference.

**ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

Information in response to this Item 7 can be found in the 2019 Annual Report to Shareholders under “Financial Review.” That information is incorporated into this item by reference.

**ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

Information in response to this Item 7A can be found in the 2019 Annual Report to Shareholders under “Financial Review – Risk Management – Asset/Liability Management.” That information is incorporated into this item by reference.

**ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

Information in response to this Item 8 can be found in the 2019 Annual Report to Shareholders under “Financial Statements,” under “Notes to Financial Statements” and under “Quarterly Financial Data.” That information is incorporated into this item by reference.

**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

Not applicable.

**ITEM 9A. CONTROLS AND PROCEDURES**

Information in response to this Item 9A can be found in the 2019 Annual Report to Shareholders under “Controls and Procedures.” That information is incorporated into this item by reference.

**ITEM 9B. OTHER INFORMATION**

Not applicable.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

#### INFORMATION ABOUT OUR EXECUTIVE OFFICERS

William M. Daley (age 71)

Vice Chairman of Public Affairs since November 2019;

Vice Chairman and a member of the Executive Committee at Bank of New York Mellon, a financial services company, from June 2019 to October 2019;

Managing Partner at Argentiere Capital, an investment management firm, from May 2014 to June 2019.

Mr. Daley has served with the Company for less than 1 year.

Douglas R. Edwards (age 62)

Executive Vice President and Acting General Counsel since February 2020;

Executive Vice President and Deputy General Counsel (Global Commercial & Securities) from October 2019 to February 2020;

Executive Vice President and Interim General Counsel from March 2019 to October 2019;

Executive Vice President and Deputy General Counsel (Global Commercial & Securities) from June 2014 to March 2019.

Mr. Edwards has served with the Company or its predecessors for 25 years.

Derek A. Flowers (age 48)

Senior Executive Vice President and Head of Strategic Execution and Operations since June 2019;

Executive Vice President and Chief Credit and Market Risk Officer from July 2016 to June 2019;

Executive Vice President and Chief Credit Officer from July 2014 to July 2016.

Mr. Flowers has served with the Company or its predecessors for 21 years.

David C. Galloreese (age 40)

Senior Executive Vice President since January 2019, Executive Vice President from July 2018 to January 2019, and Human Resources Director since July 2018;

Senior Vice President and Head of Talent at Walmart Inc., a multinational retailer, from October 2017 to June 2018;

Senior Vice President and Chief Human Resources Officer at Sam's Club (Walmart Inc.) from October 2016 to June 2018;

Vice President and Head of Human Resources at Medallia Inc., an international software company, from May 2012 to October 2016.

Mr. Galloreese has served with the Company for 2 years.

Richard D. Levy (age 62)

Executive Vice President and Chief Accounting Officer since January 2020;

Executive Vice President and Controller from February 2007 to January 2020.

Mr. Levy has served with the Company for 17 years.

Mary T. Mack (age 57)

Senior Executive Vice President, CEO of Consumer and Small Business Banking, and Interim CEO of Consumer Lending since February 2020;

Senior Executive Vice President (Consumer Banking), reflecting the renamed Consumer Banking organization which combined Community Banking and Consumer Lending, from April 2019 to February 2020;

Senior Executive Vice President (Consumer Lending) from December 2017 to April 2019 and Senior Executive Vice President (Community Banking) from November 2016 to April 2019;

Executive Vice President (Wells Fargo Clearing Services, LLC, f/k/a Wells Fargo Advisors, LLC) from December 2009 to November 2016.

Ms. Mack has served with the Company or its predecessors for 35 years.

Amanda G. Norton (age 53)

Senior Executive Vice President and Chief Risk Officer since June 2018;  
Chief Risk Officer of Consumer and Community Banking at JPMorgan Chase & Co., a financial services company, from November 2013 to June 2018.  
Ms. Norton has served with the Company for 2 years.

Perry G. Pelos (age 56)

Senior Executive Vice President and CEO of Commercial Banking since February 2020;  
Senior Executive Vice President (Wholesale Banking) from November 2016 to February 2020;  
Executive Vice President (Commercial Banking Services Group) from January 2016 to November 2016;  
Executive Vice President (Commercial Banking, f/k/a Middle Market Banking) from May 2009 to January 2016.  
Mr. Pelos has served with the Company or its predecessors for 32 years.

Scott E. Powell (age 57)

Senior Executive Vice President and Chief Operating Officer since December 2019;  
President and Chief Executive Officer of Santander Consumer USA Holdings Inc., a financial services company, from August 2017 to December 2019;  
Senior Executive Vice President of Santander Bank, N.A., a financial services company, from August 2017 to December 2019;  
Chief Executive Officer of Santander Bank, N.A. from July 2015 to August 2017;  
President and Chief Executive Officer of Santander Holdings USA Inc., a financial services company, from March 2015 to December 2019.  
Mr. Powell has served with the Company for less than 1 year.

Charles W. Scharf (age 54)

Chief Executive Officer and President since October 2019;  
Chief Executive Officer of Bank of New York Mellon, a financial services company, from July 2017 to September 2019;  
Chief Executive Officer of Visa, Inc., a financial services company, from November 2012 to December 2016.  
Mr. Scharf has served with the Company for less than 1 year.

John R. Shrewsberry (age 54)

Senior Executive Vice President and Chief Financial Officer since May 2014.  
Mr. Shrewsberry has served with the Company or its predecessors for 21 years.

Saul Van Beurden (age 50)

Senior Executive Vice President and Head of Technology since April 2019;  
Chief Information Officer of Consumer and Community Banking at JPMorgan Chase & Co., a financial services company, from August 2016 to January 2019;  
Chief Information Officer of Consumer and Business Banking at JPMorgan Chase & Co. from January 2016 to August 2016;  
Chief Information Officer of Consumer Lending and Mortgage Banking at JPMorgan Chase & Co. from April 2014 to January 2016.  
Mr. Van Beurden has served with the Company for less than 1 year.

Jonathan G. Weiss (age 62)

Senior Executive Vice President, CEO of Corporate and Investment Banking, and Interim CEO of Wealth and Investment Management since February 2020;  
Senior Executive Vice President (Wealth and Investment Management) from July 2017 to February 2020;  
President and Chief Executive Officer of Wells Fargo Securities, LLC from May 2014 to June 2017.  
Mr. Weiss has served with the Company for 14 years.

There is no family relationship between any of the Company's executive officers or directors. All executive officers serve at the pleasure of the Board of Directors.

## **AUDIT COMMITTEE INFORMATION**

The Audit Committee is a standing audit committee of the Board of Directors established in accordance with Section 3(a)(58)(A) of the Securities Exchange Act of 1934. The Committee has five members: John D. Baker II, Theodore F. Craver, Jr., Charles H. Noski, James H. Quigley (Chair), and Ronald L. Sargent. Each member is independent, as independence for audit committee members is defined by NYSE rules. The Board of Directors has determined, in its business judgment, that each member of the Audit Committee is financially literate, as required by NYSE rules, and that each qualifies as an “audit committee financial expert” as defined by SEC regulations.

## **CODE OF ETHICS AND BUSINESS CONDUCT**

The Company’s Code of Ethics and Business Conduct applicable to team members (including executive officers) as well as directors, the Company’s corporate governance guidelines, and the charters for the Audit, Governance and Nominating, Human Resources, Corporate Responsibility, Credit, Finance, and Risk Committees are available at [www.wellsfargo.com/about/corporate/governance](http://www.wellsfargo.com/about/corporate/governance).

## **ADDITIONAL INFORMATION**

Additional information in response to this Item 10 can be found in the Company’s 2020 Proxy Statement under “Corporate Governance – Item 1 – Election of Directors – Director Nominees for Election” and under “Corporate Governance – Director Election Standard and Nomination Process – Director Nomination Process.” That information is incorporated into this item by reference.

## **ITEM 11. EXECUTIVE COMPENSATION**

Information in response to this Item 11 can be found in the Company’s 2020 Proxy Statement under “Corporate Governance – Compensation Committee Interlocks and Insider Participation,” under “Corporate Governance – Director Compensation,” under “Information About Related Persons – Related Person Transactions,” and under “Executive Compensation – Compensation Committee Report,” “Executive Compensation – Compensation Discussion and Analysis,” “Executive Compensation – Executive Compensation Tables,” and “Human Capital Management – Performance Management and Compensation – Incentive Compensation Risk Management,” and “Human Capital Management – Our Workforce – CEO Pay Ratio and Median Annual Total Compensation.” That information is incorporated into this item by reference.

**ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS**

**EQUITY COMPENSATION PLAN INFORMATION**

The following table provides information about our equity compensation plans in effect on December 31, 2019, separately aggregated for plans approved by shareholders and for plans not approved by shareholders. A description of the material features of each equity compensation plan not approved by shareholders follows the table. All outstanding awards relate to shares of our common stock. Information is as of December 31, 2019, unless otherwise indicated.

Equity Compensation Plan Information				
Plan category	(a) # of shares to be issued upon exercise of outstanding options, warrants and rights	(2)	(b) Weighted-average exercise price of outstanding options, warrants and rights (1)	(c) # of shares remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	62,323,188		\$ 31.72	248,151,530 (3)
Equity compensation plans not approved by security holders	4,834,689	(4)	NA	3,746,048 (5)
<b>Total</b>	<b>67,157,877</b>		<b>31.72</b>	<b>251,897,578</b>

- (1) Does not reflect restricted share rights (RSRs), restricted share units (RSUs), performance share awards or deferred compensation benefits because they have no exercise price.  
(2) For the Long-Term Incentive Compensation Plan (LTICP), consists of 60,560 shares subject to options, 50,915,461 shares subject to RSRs, and a maximum of 8,971,975 performance shares. For the Supplemental 401(k) Plan, consists of 1,896,923 shares issuable upon distribution of benefits. For the Directors Stock Compensation and Deferral Plan (Directors Plan), consists of 255,613 shares issuable upon distribution of deferred stock awards, and 222,655 shares issuable upon distribution of deferred compensation benefits.  
(3) We could have issued the number of shares of our common stock indicated in the following table pursuant to any of the award types listed for the plan or, if indicated for the plan, pursuant to distributions of deferred compensation benefits. Each share of common stock issued under the LTICP pursuant to awards other than options or stock appreciation rights (SARs) counts as two shares.  
(4) This consists of shares of common stock issuable upon distribution of deferred compensation benefits and 4,760 shares issuable upon distribution related to the Norwest Corporation Directors' Formula Stock Award Plan.  
(5) We could have issued the number of shares of our common stock indicated in the following table pursuant to distributions of deferred compensation benefits. No information is provided for the Norwest Corporation Directors' Formula Stock Award Plan because no future awards or deferrals will be made under this plan and because column (a) reflects all shares issuable under those plans upon exercise or distribution of outstanding awards or deferred compensation benefits.

Plans approved by security holders	# of shares remaining available for future issuance under equity compensation plans	Award types
LTICP	245,964,204	Stock options, stock, SARs, restricted stock, RSRs, performance shares, performance units
Supplemental 401(k) Plan	1,812,033	Deferral distribution
Directors Plan	375,293	Stock options, deferral distribution
<b>Total</b>	<b>248,151,530</b>	

Plans not approved by security holders	# of shares remaining available for future issuance under equity compensation plans	Award types
Deferred Compensation Plan	3,573,157	Deferral distribution
Non-Qualified Deferred Compensation Plan for Independent Contractors	172,891	Deferral distribution
<b>Total</b>	<b>3,746,048</b>	

Material Features of Equity Compensation Plans Not Approved by Shareholders

Deferred Compensation Plan. Under the Deferred Compensation Plan, eligible team members may defer receipt of salary, bonuses and certain other compensation subject to the terms of the plan. Deferral elections are irrevocable once made except for limited re-deferral opportunities. We treat amounts deferred by a participant as if invested in the earnings options selected by the participant, and determine the deferred compensation benefit payable to the participant based on the performance of those earnings options. The plan offers a number of earnings options, including one based on our common stock with dividends reinvested. We generally distribute amounts allocated to the common stock option in shares of common stock. Participants have no direct interest in any of the earnings options and are general unsecured creditors of the Company with respect to their deferred compensation benefits under the plan.

Non-Qualified Deferred Compensation Plan for Independent Contractors. Under the Non-Qualified Deferred Compensation Plan for Independent Contractors participants who performed qualifying investment or other financial services for participating affiliates as independent contractors were able to defer all or part of their eligible compensation payable to them by the affiliate subject to the terms of the plan. Deferral elections were irrevocable once made. Amounts deferred by a participant were treated as if invested in the earnings options selected by the participant, which determine the deferred compensation benefit payable to the participant. The plan offered a number of earnings options, including one based on our common stock with dividends reinvested. We generally distribute amounts allocated to the common stock option in shares of common stock. No future deferrals may be made under this plan and participants may no longer reallocate their existing account balances under the plan among different investment options. Shares remaining available for issuance under the plan consist of shares issuable as a result of amounts credited to participant accounts denominated in our common stock to reflect cash dividends paid on the common stock. The plan is sponsored by a wholly owned subsidiary, WF Deferred Compensation Holdings, Inc. We have guaranteed its obligations under the plan. Participants have no direct interest in any of the earnings options and are general unsecured creditors of the plan sponsor and the Company with respect to their deferred compensation benefits under the plan.

Norwest Corporation Directors' Formula Stock Award Plan. Under the Norwest Corporation Directors' Formula Stock Award Plan we awarded shares of common stock to non-employee directors. The plan allowed participants to defer receipt of all or a portion of their awards, with dividends reinvested, until a future year or years as selected by the participants subject to the terms of the plan. Participants can elect one time to defer commencement of distribution of their deferral accounts if the election is made sufficiently in advance of the original distribution commencement date and the new distribution commencement date is sufficiently beyond the original distribution commencement date. Participants have no direct interest in the shares deferred under the plan and are general unsecured creditors of the Company with respect to payment of their deferred stock awards under the plan. No future stock awards or deferrals may be made under this plan.

## **ADDITIONAL INFORMATION**

Additional information in response to this Item 12 can be found in the Company's 2020 Proxy Statement under "Ownership of Our Common Stock – Directors and Executive Officers – Director and Executive Officer Stock Ownership Table" and "Ownership of Our Common Stock – Principal Shareholders." That information is incorporated into this item by reference.

### **ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE**

Information in response to this Item 13 can be found in the Company's 2020 Proxy Statement under "Corporate Governance – Item 1 – Election of Directors – Director Independence" and under "Information About Related Persons." That information is incorporated into this item by reference.

### **ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES**

Information in response to this Item 14 can be found in the Company's 2020 Proxy Statement under "Audit Matters – Item 3 – Ratify Appointment of Independent Registered Public Accounting Firm for 2020 – KPMG Fees" and "Audit Matters – Item 3 – Ratify Appointment of Independent Registered Public Accounting Firm for 2020 – Audit Committee Pre-Approval Policies and Procedures." That information is incorporated into this item by reference.

## **PART IV**

### **ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES**

#### **1. FINANCIAL STATEMENTS**

The Company's consolidated financial statements, including the notes thereto, and the report of the independent registered public accounting firm thereon, are set forth in the 2019 Annual Report to Shareholders, and are incorporated into this item by reference.

#### **2. FINANCIAL STATEMENT SCHEDULES**

All financial statement schedules for the Company have been included in the consolidated financial statements or the related footnotes, or are either inapplicable or not required.

### 3. EXHIBITS

A list of exhibits to this Form 10-K is set forth below. Shareholders may obtain a copy of any of the following exhibits, upon payment of a reasonable fee, by writing to Wells Fargo & Company, Office of the Corporate Secretary, MAC D1130-117, 301 S. Tryon Street, 11th Floor, Charlotte, North Carolina 28282.

The Company's SEC file number is 001-2979. On and before November 2, 1998, the Company filed documents with the SEC under the name Norwest Corporation. The former Wells Fargo & Company filed documents under SEC file number 001-6214. The former Wachovia Corporation filed documents under SEC file number 001-10000.

Exhibit Number	Description	Location
3(a)	<a href="#">Restated Certificate of Incorporation, as amended and in effect on the date hereof.</a>	Filed herewith.
3(b)	<a href="#">By-Laws.</a>	Incorporated by reference to Exhibit 3.1 to the Company's Current Report on Form 8-K filed March 1, 2018.
4(a)	See Exhibits 3(a) and 3(b).	
4(b)	The Company agrees to furnish upon request to the Commission a copy of each instrument defining the rights of holders of senior and subordinated debt of the Company.	
4(c)	<a href="#">Description of Securities.</a>	Filed herewith.
10(a)*	<a href="#">Long-Term Incentive Compensation Plan (as amended and restated on April 26, 2019).</a>	Incorporated by reference to Exhibit 10(b) to the Company's Current Report on Form 8-K filed April 26, 2019.
	<a href="#">Long-Term Incentive Compensation Plan (as amended and restated on April 23, 2013), which includes Performance-Based Compensation Policy.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Current Report on Form 8-K filed April 26, 2013
	<a href="#">Amendment to Long-Term Incentive Compensation Plan, effective January 1, 2016.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2015.
	<a href="#">Long-Term Incentive Compensation Plan.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2009
	Forms of Performance Share Award Agreement:	
	<a href="#">For grants on or after February 24, 2020;</a>	Filed herewith.
	<a href="#">For grants on or after February 26, 2019;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
	<a href="#">For grants on or after February 26, 2018;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.
	<a href="#">For grants on or after February 28, 2017;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2016.
	<a href="#">For grants on or after February 23, 2016;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2015.
	<a href="#">For grants on or after February 24, 2015;</a> and	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2014.
	<a href="#">For grants on or after February 26, 2013.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
	Forms of Restricted Share Rights Award Agreement:	
	<a href="#">For grants on or after February 24, 2020;</a>	Filed herewith.
	<a href="#">Restricted Share Rights Award Agreement for grant to Charles W. Scharf on October 21, 2019;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Current Report on Form 8-K filed October 25, 2019.

\* Management contract or compensatory plan or arrangement.



Exhibit Number	Description	Location
	<a href="#">For grants on or after April 7, 2019;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2019.
	<a href="#">For grants on or after February 26, 2019;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2019.
	<a href="#">For grants on or after December 14, 2017;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2017.
	<a href="#">For grants on or after February 28, 2017;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
	<a href="#">For grants on or after February 23, 2016;</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2015.
	<a href="#">For grants on or after February 24, 2015;</a> and	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2014.
	<a href="#">For grants on or after February 26, 2013.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
	<a href="#">Form of Non-Qualified Stock Option Agreement.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013.
10(b)*	<a href="#">Wells Fargo Bonus Plan, as amended effective January 1, 2020.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2019.
	<a href="#">Wells Fargo Bonus Plan, as amended effective January 1, 2019.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2019.
	<a href="#">Wells Fargo Bonus Plan, as amended effective January 1, 2018.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2018.
	<a href="#">Wells Fargo Bonus Plan, as amended effective January 1, 2017.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
10(c)*	<a href="#">Form of Cash Award Agreement for grants on or after February 26, 2019.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2019.
10(d)*	<a href="#">Deferred Compensation Plan, as amended and restated effective January 1, 2020.</a>	Filed herewith.
	<a href="#">Deferred Compensation Plan, as amended effective January 1, 2008.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2009.
	<a href="#">Amendment to Deferred Compensation Plan, effective December 31, 2018.</a>	Incorporated by reference to Exhibit 10(c) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
	<a href="#">Amendment to Deferred Compensation Plan, effective July 1, 2017.</a>	Incorporated by reference to Exhibit 10(c) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
	<a href="#">Amendment to Deferred Compensation Plan, effective January 1, 2017.</a>	Incorporated by reference to Exhibit 10(d) to the Company's Annual Report on Form 10-K for the year ended December 31, 2016.
	<a href="#">Amendments to Deferred Compensation Plan, effective August 1, 2016 and January 1, 2017.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2016.
	<a href="#">Amendment to Deferred Compensation Plan, effective January 1, 2016.</a>	Incorporated by reference to Exhibit 10(e) to the Company's Annual Report on Form 10-K for the year ended December 31, 2015.
	<a href="#">Amendment to Deferred Compensation Plan, effective January 1, 2015.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2014.

Exhibit Number	Description	Location
	<a href="#">Amendment to Deferred Compensation Plan, effective January 1, 2013.</a>	Incorporated by reference to Exhibit 10(e) to the Company's Annual Report on Form 10-K for the year ended December 31, 2012.
	<a href="#">Amendment to Deferred Compensation Plan, effective January 1, 2011.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2011.
	<a href="#">Amendment to Deferred Compensation Plan, effective December 1, 2009.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2009.
10(e)*	<a href="#">Directors Stock Compensation and Deferral Plan.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2007.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective April 1, 2013.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective January 1, 2013.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2013.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective January 24, 2012.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2011.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective January 25, 2011.</a>	Incorporated by reference to Exhibit 10(d) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2011.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective February 24, 2009.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2009.
	<a href="#">Amendments to Directors Stock Compensation and Deferral Plan, effective September 23, 2008.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008.
	<a href="#">Amendment to Directors Stock Compensation and Deferral Plan, effective January 22, 2008.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2007.
	<a href="#">Action of Governance and Nominating Committee Increasing Amount of Formula Stock and Option Awards Under Directors Stock Compensation and Deferral Plan, effective January 1, 2007.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 2006.
	<a href="#">Form of Non-Qualified Stock Option Agreement for grants to directors on or before April 29, 2008.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2013.
10(f)*	<a href="#">Deferral Plan for Directors of the former Wells Fargo.</a>	Incorporated by reference to Exhibit 10(b) to the former Wells Fargo's Annual Report on Form 10-K for the year ended December 31, 1997.
	<a href="#">Amendment to Deferral Plan, effective January 1, 2004.</a>	Incorporated by reference to Exhibit 10(d) to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2003.
10(g)*	<a href="#">Supplemental 401(k) Plan.</a>	Incorporated by reference to Exhibit 10(c) to the Company's Current Report on Form 8-K filed May 4, 2009.
	<a href="#">Amendment to Supplemental 401(k) Plan, effective December 31, 2018.</a>	Incorporated by reference to Exhibit 10(i) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
	<a href="#">Amendment to Supplemental 401(k) Plan, effective July 1, 2017.</a>	Incorporated by reference to Exhibit 10(d) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
	<a href="#">Amendment to Supplemental 401(k) Plan, effective January 1, 2015.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2014.
10(h)*	<a href="#">Supplemental Cash Balance Plan.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Current Report on Form 8-K filed May 4, 2009.

Exhibit Number	Description	Location
	<a href="#">Amendment to Supplemental Cash Balance Plan, effective February 1, 2019.</a>	Incorporated by reference to Exhibit 10(j) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
	<a href="#">Amendment to Supplemental Cash Balance Plan, effective December 31, 2018.</a>	Filed herewith.
	<a href="#">Amendment to Supplemental Cash Balance Plan, effective July 1, 2017.</a>	Incorporated by reference to Exhibit 10(e) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
10(i)*	Supplemental Long-Term Disability Plan.	Incorporated by reference to Exhibit 10(f) to the Company's Annual Report on Form 10-K for the year ended December 31, 1990.
	Amendment to Supplemental Long-Term Disability Plan.	Incorporated by reference to Exhibit 10(g) to the Company's Annual Report on Form 10-K for the year ended December 31, 1992.
10(j)*	<a href="#">Description of Relocation Program.</a>	Incorporated by reference to Exhibit 10(y) to the Company's Annual Report on Form 10-K for the year ended December 31, 2003.
10(k)*	<a href="#">Description of Chairman/CEO Post-Retirement Policy.</a>	Incorporated by reference to Exhibit 10(w) to the Company's Annual Report on Form 10-K for the year ended December 31, 2008.
10(l)*	<a href="#">Description of the Company's Non-Employee Director Equity Compensation Program, effective January 1, 2016.</a>	Incorporated by reference to Exhibit 10(q) to the Company's Annual Report on Form 10-K for the year ended December 31, 2015.
10(m)*	<a href="#">Description of Wells Fargo Bank, N.A. Director Compensation Program, effective January 1, 2015.</a>	Incorporated by reference to Exhibit 10(s) to the Company's Annual Report on Form 10-K for the year ended December 31, 2014.
10(n)*	<a href="#">Amended and Restated Wachovia Corporation Deferred Compensation Plan for Non-Employee Directors.</a>	Incorporated by reference to Exhibit (10)(f) to Wachovia Corporation's Current Report on Form 8-K filed December 29, 2008.
	<a href="#">Amendment to Amended and Restated Wachovia Corporation Deferred Compensation Plan for Non-Employee Directors, effective June 1, 2009.</a>	Incorporated by reference to Exhibit 10(aa) to the Company's Annual Report on Form 10-K for the year ended December 31, 2009.
10(o)*	<a href="#">Wachovia Corporation Executive Deferred Compensation Plan.</a>	Incorporated by reference to Exhibit (10)(d) to Wachovia Corporation's Annual Report on Form 10-K for the year ended December 31, 1997.
10(p)*	<a href="#">Wachovia Corporation Supplemental Executive Long-Term Disability Plan, as amended and restated.</a>	Incorporated by reference to Exhibit (99) to Wachovia Corporation's Current Report on Form 8-K filed January 5, 2005.
10(q)*	<a href="#">Amended and Restated Wachovia Corporation Savings Restoration Plan.</a>	Incorporated by reference to Exhibit 10(b) to Wachovia Corporation's Current Report on Form 8-K filed December 29, 2008.
	<a href="#">Wachovia Corporation Savings Restoration Plan.</a>	Incorporated by reference to Exhibit (10)(gg) to Wachovia Corporation's Annual Report on Form 10-K for the year ended December 31, 2002.
	<a href="#">Amendment to Wachovia Corporation Savings Restoration Plan, effective December 31, 2018.</a>	Incorporated by reference to Exhibit 10(s) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
	<a href="#">Amendment to Wachovia Corporation Savings Restoration Plan, effective July 1, 2017.</a>	Incorporated by reference to Exhibit 10(f) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
	<a href="#">Amendments to Wachovia Corporation Savings Restoration Plan, effective August 1, 2016.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2016.
	<a href="#">Amendment 2008-1 to Wachovia Corporation Savings Restoration Plan.</a>	Incorporated by reference to Exhibit (10)(c) to Wachovia Corporation's Current Report on Form 8-K filed December 29, 2008.
	<a href="#">Amendment 2007-1 to Wachovia Corporation Savings Restoration Plan.</a>	Incorporated by reference to Exhibit (10)(b) to Wachovia Corporation's Current Report on Form 8-K filed December 20, 2007.
10(r)*	<a href="#">Amended and Restated Wachovia Corporation 2003 Stock Incentive Plan.</a>	Incorporated by reference to Appendix E to Wachovia Corporation's Registration Statement on Form S-4 (Reg. No. 333-134656) filed on July 24, 2006.

Exhibit Number	Description	Location
	<a href="#">Amendment to Amended and Restated Wachovia Corporation 2003 Stock Incentive Plan, effective February 24, 2009.</a>	Incorporated by reference to Exhibit 10(b) to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2009.
	<a href="#">Form of stock award agreement for employees of Wachovia Corporation, including Jonathan Weiss.</a>	Incorporated by reference to Exhibit 10(g) to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2017.
10(s)*	<a href="#">Amended and Restated SouthTrust Corporation Additional Retirement Benefit Plan (Pension) effective July 15, 1992, Addendum thereto dated April 20, 1994, and Amendment 2008-1 thereto dated December 29, 2008.</a>	Incorporated by reference to Exhibit 10(bb) to the Company's Annual Report on Form 10-K for the year ended December 31, 2014.
10(t)*	<a href="#">Key/Specified Employee Policy.</a>	Incorporated by reference to Exhibit 10(v) to the Company's Annual Report on Form 10-K for the year ended December 31, 2018.
10(u)*	<a href="#">Offer Letter to Charles W. Scharf, dated September 26, 2019.</a>	Incorporated by reference to Exhibit 10(a) to the Company's Current Report on Form 8-K filed September 27, 2019.
13	<a href="#">2019 Annual Report to Shareholders.</a>	Filed herewith.
21	<a href="#">Subsidiaries of the Company.</a>	Filed herewith.
23	<a href="#">Consent of Independent Registered Public Accounting Firm.</a>	Filed herewith.
24	<a href="#">Powers of Attorney.</a>	Filed herewith.
31(a)	<a href="#">Certification of principal executive officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>	Filed herewith.
31(b)	<a href="#">Certification of principal financial officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.</a>	Filed herewith.
32(a)	<a href="#">Certification of Periodic Financial Report by Chief Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and 18 U.S.C. § 1350.</a>	Furnished herewith.
32(b)	<a href="#">Certification of Periodic Financial Report by Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and 18 U.S.C. § 1350.</a>	Furnished herewith.
99	<a href="#">Description of Replacement Capital Covenants of Wells Fargo and Wachovia.</a>	Incorporated by reference to Exhibit 99 to the Company's Annual Report on Form 10-K for the year ended December 31, 2013.
101.SCH	XBRL Taxonomy Extension Schema Document.	Filed herewith.
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document.	Filed herewith.
101.LAB	XBRL Taxonomy Extension Label Linkbase Document.	Filed herewith.
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document.	Filed herewith.
101.DEF	XBRL Taxonomy Extension Definitions Linkbase Document.	Filed herewith.
104	Cover Page Interactive Data File.	Formatted as Inline XBRL and contained in Exhibit 101.

## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on February 26, 2020.

### WELLS FARGO & COMPANY

By: /s/ CHARLES W. SCHARF  
Charles W. Scharf  
President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

By: /s/ CHARLES W. SCHARF  
Charles W. Scharf  
President and Chief Executive Officer  
(Principal Executive Officer)  
February 26, 2020

By: /s/ JOHN R. SHREWSBERRY  
John R. Shrewsberry  
Senior Executive Vice President and Chief Financial Officer  
(Principal Financial Officer)  
February 26, 2020

By: /s/ RICHARD D. LEVY  
Richard D. Levy  
Executive Vice President and Chief Accounting Officer  
(Principal Accounting Officer)  
February 26, 2020

The Directors of Wells Fargo & Company listed below have duly executed powers of attorney empowering James H. Quigley to sign this document on their behalf.

John D. Baker II	Wayne M. Hewett	Richard B. Payne, Jr.	Ronald L. Sargent
Celeste A. Clark	Donald M. James	Juan A. Pujadas	Charles W. Scharf
Theodore F. Craver, Jr.	Maria R. Morris	James H. Quigley	Suzanne M. Vautrinot
Elizabeth A. Duke	Charles H. Noski		

By: /s/ JAMES H. QUIGLEY  
James H. Quigley  
Director and Attorney-in-fact  
February 26, 2020

**Exhibit 3(a)**

**RESTATED CERTIFICATE OF INCORPORATION**

**OF**

**WELLS FARGO & COMPANY**

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**Pursuant to Section 245 of the  
General Corporation Law of the State of Delaware**

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Wells Fargo & Company, a corporation organized and existing under the General Corporation Law of the State of Delaware, hereby certifies as follows:

1. The present name of the corporation is Wells Fargo & Company.
2. The corporation was originally incorporated under the name Northwest Bancorporation, and its original Certificate of Incorporation was filed with the Secretary of State of the State of Delaware on January 24, 1929. On April 26, 1983 the corporation filed an amendment to its Certificate of Incorporation to change its name from Northwest Bancorporation to Norwest Corporation effective April 29, 1983, and on November 2, 1998 the corporation filed an amendment to its Certificate of Incorporation to change its name from Norwest Corporation to Wells Fargo & Company.
3. The corporation's Board of Directors has duly adopted this Restated Certificate of Incorporation in accordance with the provisions of Section 245 of the General Corporation Law of the State of Delaware. This Restated Certificate of Incorporation only restates and integrates and does not further amend the provisions of the corporation's Certificate of Incorporation, as theretofore amended or supplemented or restated, and there is no discrepancy between those provisions and the provisions of this Restated Certificate of Incorporation.
4. The text of the corporation's Certificate of Incorporation, as heretofore amended or supplemented or restated, is hereby restated to read in its entirety as follows:

FIRST: The name of this corporation is Wells Fargo & Company.

SECOND: Its registered office in the State of Delaware is located in the City of Wilmington, County of New Castle. The name and address of its registered agent is Corporation Service Company, 2711 Centerville Road, Suite 400, Wilmington, New Castle County, Delaware 19808.

THIRD: The nature of the business, or objects or purposes to be transacted, promoted or carried on, are:

To acquire by purchase, subscription or otherwise, and to own and hold, for investment purposes, the capital stock, scrip or any voting trust certificates in respect of the shares of

capital stock issued or created by any moneyed, financial or investment corporation or association created and organized, or to be created and organized, under the laws of the United States of America or of any State or territory thereof; and to issue in exchange therefor shares of the capital stock of this corporation; and while the holder or owner of any such shares of capital stock, scrip or voting trust certificates, to possess and exercise in respect thereof any and all rights, powers and privileges of ownership, including the right to vote thereon;

To loan money to any aforesaid corporation or association, any of whose shares of capital stock, scrip or voting trust certificates aforesaid shall be owned at the time of such loan by this corporation, and to do any and all lawful things designed to protect, preserve, improve or enhance the value of any such shares, scrip or voting trust certificates;

In addition to and not in limitation of any of the aforesaid powers, to invest temporarily any of its capital or surplus funds in bonds, mortgages or evidences of indebtedness and any other securities issued or created by any individual, copartnership or other corporation, joint stock company or association, public or private, or of the Government of the United States of America, or of any Foreign Government, or of any State, territory, municipality or other political subdivision or of any governmental agency;

To acquire, hold, sell, reissue or cancel any shares of its own capital stock; provided, however, that this corporation may not use any of its funds or property for the purchase of its own shares of capital stock when such use would cause any impairment of the capital of this corporation, and provided further that the shares of its own capital stock belonging to this corporation shall not be voted, directly or indirectly;

To organize, incorporate and reorganize subsidiary corporations for all lawful purposes;

To conduct all or any part of its operations and business without restriction or limit as to amount in the State of Delaware or in any or all other States, territories, districts, colonies and dependencies of the United States of America;

To have and to exercise any and all powers and privileges now or hereafter conferred by the laws of the State of Delaware upon corporations formed under the Acts hereinafter referred to, or under any Act amendatory thereof or supplemental thereto or substituted therefor;

The foregoing clauses shall be construed both as objects and powers; and it is hereby expressly provided that the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the powers of this corporation.

**FOURTH:** The total number of shares of all classes of stock which the corporation shall have authority to issue is Six Billion Twenty-Four Million (6,024,000,000), consisting of Twenty Million (20,000,000) shares of Preferred Stock without par value, Four Million (4,000,000) shares of Preference Stock without par value, and Six Billion (6,000,000,000) shares of Common Stock of the par value of \$1-2/3 per share.\*

\*On April 29, 2010, Wells Fargo & Company filed a Certificate of Amendment Amending Article Fourth to increase the authorized common stock to 9,000,000,000 shares.

The designations and the voting powers, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, of the Preferred Stock, the Preference Stock and the Common Stock which are fixed by the Certificate of Incorporation and the express grant of authority to the Board of Directors of the corporation (hereinafter referred to as the "Board of Directors") to fix by resolution or resolutions the designations and the voting powers, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof, of the Preferred Stock and the Preference Stock which are not fixed by the Certificate of Incorporation are as follows:

1. The Preferred Stock may be issued at any time or from time to time in any amount, provided not more than 20,000,000 shares thereof shall be outstanding at any one time, as Preferred Stock of one or more series, as hereinafter provided. Each share of any one series of Preferred Stock shall be identical in all respects except as to the date from which dividends thereon may be cumulative, each series of Preferred Stock shall be distinctly designated by letter or descriptive words, and all series of Preferred Stock shall rank equally and be identical in all respects except as permitted by the provisions of Section 2 of this Article FOURTH. Shares of Preferred Stock shall be issued only as fully paid and non-assessable shares.

The Preference Stock may be issued at any time or from time to time in any amount, provided not more than 4,000,000 shares thereof shall be outstanding at any one time, as Preference Stock of one or more series, as hereinafter provided. Each share of any one series of Preference Stock shall be identical in all respects except as to the date from which dividends thereon may be cumulative, each series of Preference Stock shall be distinctly designated by letter or descriptive words, and all series of Preference Stock shall rank equally and be identical in all respects except as permitted by the provisions of Section 2 of this Article FOURTH. Shares of Preference Stock shall be issued only as fully paid and non-assessable shares.

2. Authority is hereby expressly granted to and vested in the Board of Directors at any time or from time to time to issue the Preferred Stock as Preferred Stock of any series and the Preference Stock as Preference Stock of any series and, in connection with the creation of each such series, to fix by resolution or resolutions providing for the issue of shares thereof the designations and the voting powers, preferences and relative, participating, optional or other special rights, and the qualifications, limitations or restrictions thereof, of such series so far as not inconsistent with the provisions of this Article FOURTH applicable to all series of Preferred Stock or Preference Stock, respectively, and to the full extent now or hereafter permitted by the laws of the State of Delaware, including the following:

(a) The distinctive designation of such series and the number of shares which shall constitute such series, which number may be increased (except where otherwise provided by the Board of Directors in creating such series) or decreased (but not below the number of shares thereof then outstanding) from time to time by like action of the Board of Directors;

(b) The annual rate or rates of dividends payable on shares of such series, whether dividends shall be cumulative and, if so, the date or dates from which dividends shall be cumulative on the shares of such series, the preferences, restrictions, limitations and conditions upon the payment of dividends, and the dates on which dividends, if declared, shall be payable;

(c) Whether shares of such series shall be redeemable and, if so, the terms and conditions of such redemption, including the date or dates upon or after which they shall be



redeemable, and the amount per share payable in case of redemption, which amount may vary under different conditions and at different redemption dates;

(d) The rights of the shares of such series in the event of voluntary or involuntary liquidation, dissolution or winding up of the corporation, and the relative rights of priority, if any, of payment of shares of such series;

(e) Whether shares of such series shall have a purchase, retirement or sinking fund for the purchase, retirement, or redemption of shares of such series and, if so, the terms and provisions thereof;

(f) Whether shares of such series shall have conversion privileges and, if so, the terms and provisions thereof, including provision for adjustment of the conversion rate in such events as the Board of Directors shall determine;

(g) Whether shares of such series shall have voting rights, in addition to voting rights provided by law, and, if so, the terms and provisions thereof; and

(h) Any other preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof.

3. The holders of the Preferred Stock of each series and the holders of the Preference Stock of each series, respectively, shall be entitled to receive such dividends, when and as declared by the Board of Directors, out of funds legally available therefor, as they may be entitled to in accordance with the resolution or resolutions adopted by the Board of Directors providing for the issue of such series, payable on such dates as may be fixed in such resolution or resolutions. So long as there shall be outstanding any shares of Preferred Stock of any series or any shares of Preference Stock of any series entitled to cumulative dividends pursuant to the resolution or resolutions providing for the issue of such series, no dividend, whether in cash or property, shall be paid or declared, nor shall any distribution be made, on the Common Stock, nor shall any shares of Common Stock be purchased, redeemed or otherwise acquired for value by the corporation, if at the time of making such payment, declaration, distribution, purchase, redemption or acquisition the corporation shall be in default with respect to any dividend payable on, or obligation to maintain a purchase, retirement or sinking fund with respect to or to redeem, shares of Preferred Stock of any series or shares of Preference Stock of any series. The foregoing provisions of this Section 3 shall not, however, apply to a dividend payable in Common Stock or to the acquisition of shares of Common Stock in exchange for, or through application of the proceeds of the sale of, shares of Common Stock.

Subject to the foregoing and to any further limitations prescribed in accordance with the provisions of Section 2 of this Article FOURTH, the Board of Directors may declare, out of any funds legally available therefor, dividends upon the then outstanding shares of Common Stock, and shares of Preferred Stock of any series and shares of Preference Stock of any series shall not be entitled to participate therein.

4. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the corporation, the holders of the Preferred Stock of each series and the holders of the Preference Stock of each series shall be entitled to receive, out of the assets of the corporation available for distribution to its stockholders, before any distribution of assets shall be made to

the holders of the Common Stock, the amount per share fixed by the Board of Directors pursuant to Section 2 of this Article FOURTH, plus in each such case an amount equal to any cumulative dividends thereon to the date of final distribution to the holders of the Preferred Stock or to the holders of the Preference Stock, respectively; and the holders of the Common Stock shall be entitled, to the exclusion of the holders of the Preferred Stock of any and all series and the holders of the Preference Stock of any and all series, respectively, to participate ratably in all the assets of the corporation then remaining in accordance with their respective rights and preferences. If upon any liquidation, dissolution or winding up of the corporation the assets available for distribution shall be insufficient to pay the holders of all outstanding shares of Preferred Stock or the holders of all outstanding shares of Preference Stock the full amounts to which they respectively shall be entitled, the holders of shares of Preferred Stock of all series and the holders of shares of Preference Stock of all series, respectively, shall participate ratably in any distribution of assets according to the respective amounts which would be payable in respect of the shares of Preferred Stock or shares of Preference Stock held by them upon such distribution if all amounts payable in respect of the Preferred Stock of all series or the Preference Stock of all series, respectively, were paid in full. Neither the statutory merger nor consolidation of the corporation into or with any other corporation, nor the statutory merger or consolidation of any other corporation into or with the corporation, nor a sale, transfer or lease of all or any part of the assets of the corporation, shall be deemed to be a liquidation, dissolution or winding up of the corporation within the meaning of this Section 4.

5. The corporation, at the option of the Board of Directors, may redeem the whole or any part of the Preferred Stock of any series or of the Preference Stock of any series at the price or prices and on the terms and conditions provided in the resolution or resolutions adopted by the Board of Directors providing for the issue of such series.

6. Anything herein or in any resolution or resolutions adopted by the Board of Directors providing for the issue of any series of Preferred Stock or any series of Preference Stock contained to the contrary notwithstanding, the rights of the holders of all classes of stock of the corporation in respect of dividends and purchase, retirement or sinking funds, if any, shall at all times be subject to the power of the Board of Directors from time to time to set aside such reserves and to make such other provisions, if any, as the Board of Directors shall deem to be necessary or advisable for working capital, for expansion of the corporation's business (including the acquisition of real and personal property for that purpose) and for any other purpose of the corporation.

7. Except as otherwise provided by the statutes of the State of Delaware or by the Certificate of Incorporation or by the resolution or resolutions adopted by the Board of Directors providing for the issue of any series of Preferred Stock or any series of Preference Stock, the holders of the Preferred Stock and the holders of the Preference Stock shall have no right to vote. The holders of the Preferred Stock and the holders of the Preference Stock shall not be entitled to receive notice of any meeting of stockholders at which they are not entitled to vote or consent. The holders of shares of Preference Stock shall not be entitled to more than one vote per share.

8. Except as otherwise provided by the statutes of the State of Delaware or by the Certificate of Incorporation or by the resolution or resolutions adopted by the Board of Directors providing for the issue of any series of Preferred Stock or any series of Preference Stock, the vote of the holders of all or any portion of any class of stock, as a class, shall not be required for

any action whatsoever to be taken or authorized by the stockholders of the corporation, including any amendment of the Certificate of Incorporation.

9. No holder of shares of the corporation of any class or of any security or obligation convertible into, or of any warrant, option or right to subscribe for, purchase or otherwise acquire, shares of the corporation of any class, whether now or hereafter authorized, shall, as such holder, have any preemptive right whatsoever to subscribe for, purchase or otherwise acquire shares of the corporation of any class or any security or obligation convertible into, or any warrant, option or right to subscribe for, purchase or otherwise acquire, shares of the corporation of any class, whether now or hereafter authorized.

10. If it deems it desirable so to do, the Board of Directors may from time to time issue scrip for fractional shares of stock. Such scrip shall not confer upon the holder any voting or other rights of a stockholder of the corporation, but the corporation shall from time to time, within such time as the Board of Directors may determine, issue one whole share of stock upon the surrender of scrip for fractional shares aggregating one whole share, properly endorsed if in registered form.

Pursuant to the authority conferred by this Article FOURTH, the following series of Preferred Stock have been designated, each such series consisting of such number of shares, with such voting powers, designations, preferences and relative, participating, optional or other special rights, and qualifications, limitations or restrictions thereof as are stated and expressed in the exhibit with respect to such series attached hereto as specified below and incorporated herein by reference:

Exhibit A	<del>1997 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit B	<del>1998 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit C	<del>1999 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit D	<del>2000 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit E	<del>2001 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit F	<del>2002 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit G	<del>2003 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit H	<del>2004 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit I	<del>2005 ESOP Cumulative Convertible Preferred Stock*</del>
Exhibit J	<del>2006 ESOP Cumulative Convertible Preferred Stock*</del>

\*Wells Fargo & Company has filed Certificates Eliminating the Certificates of Designations for each of Wells Fargo's 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004, 2005 and 2006 ESOP Cumulative Convertible Preferred Stock (Exhibits A through J above)

FIFTH: The amount of capital with which this corporation will commence business is One Thousand Dollars (\$1,000.00), being twenty (20) shares of the par value of Fifty Dollars (\$50.00) each.

SIXTH: The names and places of residence of the subscribers to the capital stock and the number of shares subscribed for by each are as follows:

<u>Name</u>	<u>Residence</u>	<u>No. of Shares</u>
A. V. Lane	Wilmington, Delaware	18
C. S. Peabbles	Wilmington, Delaware	1
L. E. Gray	Wilmington, Delaware	1

SEVENTH: This corporation is to have perpetual existence.

EIGHTH: The private property of the stockholders shall not be subject to the payment of corporate debts to any extent whatever.

NINTH: The number of Directors of the corporation shall be as specified in the By-Laws, and such number may from time to time be increased or decreased in such manner as may be prescribed in the By-Laws, provided the number of Directors of the corporation shall not be less than three (3). In case of any increase in the number of Directors, the additional Directors may be elected by the Board of Directors to hold office until the next annual meeting of the stockholders and until their successors are elected and qualified. In case of a vacancy in the Board of Directors, a majority of the remaining members of the Board may elect Directors to fill such vacancy.

Directors shall be stockholders.

TENTH: In furtherance and not in limitation of the powers conferred by the laws of the State of Delaware, the Board of Directors is expressly authorized:

To make, alter, amend or repeal the By-Laws of the corporation, except as otherwise provided in said By-Laws;

To determine from time to time whether and to what extent and at what times and places and under what conditions and regulations the accounts and books of the corporation, or any of them, shall be open to the inspection of the stockholders; and no stockholder shall have any right to inspect any account or book or document of the corporation except as conferred by the laws of the State of Delaware, unless and until authorized so to do by resolution of the Board of Directors, or of the stockholders.

To set apart out of any funds of the corporation available for dividends a reserve or reserves for working capital or for any other lawful purpose, and also to abolish any such reserve in the same manner in which it was created;

If the By-Laws so provide, to designate two or more of its number to constitute an Executive Committee, which Committee shall for the time being, as provided in said resolution or in the By-Laws of this corporation, have and exercise any or all of the powers of the Board of Directors in the management of the business and affairs of this corporation and have power to authorize the seal of this corporation to be affixed to all papers which may require it.

This corporation may in its By-Laws confer powers upon its Directors in addition to the foregoing and in addition to the powers and authorities expressly conferred upon them by the Statute.

Both stockholders and Directors shall have power, if the By-Laws so provide, to hold their meetings and to have one or more offices within or without the State of Delaware and to keep the books of this corporation (subject to the provisions of the Statutes) outside of the State of Delaware at such places as may be from time to time designated by the Board of Directors.

ELEVENTH: In the absence of fraud, no contract or transaction between this corporation and any other association or corporation shall be affected by the fact that any of the Directors or officers of this corporation are interested in or are Directors or officers of such other association or corporation, and any Director or officer of this corporation individually may be a party to or may be interested in any such contract or transaction of this corporation; and no such contract or transaction of this corporation with any person or persons, firm, association or corporation shall be affected by the fact that any Director or officer of this corporation is a party to or interested in such contract or transaction in any way connected with such person or persons, firm, association or corporation; provided that such contract or other transaction shall be authorized or ratified by the vote of a majority of the Directors of this corporation not so interested; and each and every person who may become a Director or officer of this corporation is hereby relieved from any liability that might otherwise exist from thus contracting with this corporation for the benefit of himself or any person, firm, association or corporation in which he may be in anywise interested.

TWELFTH: This corporation reserves the right to amend, alter, change or repeal any provision contained in this Certificate of Incorporation in the manner now or hereafter prescribed by Statute, and all rights conferred upon stockholders herein are granted subject to this reservation.

THIRTEENTH: The Board of Directors is expressly authorized:

- (i) to adopt, and from time to time to amend, one or more pension, profit sharing, retirement, and benefit plans benefiting any or all officers and employees and former officers and employees of this corporation and affiliated banks and companies;
- (ii) to adopt, and from time to time to amend, one or more stock option, stock purchase, stock bonus, incentive, and compensation plans benefiting any or all officers and employees of this corporation and affiliated banks and corporations; and
- (iii) to authorize affiliated banks and companies, on behalf of this corporation as a stockholder therein, to adopt, and from time to time to amend, any of said types of plans enumerated in clause (i) of this Article THIRTEENTH benefiting any or all officers and employees and former officers and employees thereof and any of said types of plans enumerated in clause (ii) of this Article THIRTEENTH benefiting any or all officers and employees thereof.

No action shall be taken under this Article except by the affirmative vote of a majority of the directors in office at the time such action is taken, and such majority shall not include any director who is a salaried officer of the corporation or of any affiliated bank or company.

FOURTEENTH: (a) Elimination of Certain Liability of Directors. A director of the corporation shall not be personally liable to the corporation or its stockholders for monetary damages for breach of fiduciary duty as a director, except for liability (i) for any breach of the director's duty of loyalty to the corporation or its stockholders, (ii) for acts or omissions not in

good faith or which involve intentional misconduct or a knowing violation of law, (iii) under Section 174 of the Delaware General Corporation Law, or (iv) for any transaction from which the director derived an improper personal benefit.

(b)(1) Right to Indemnification. Each person who was or is made a party or is threatened to be a made a party to or is involved in any action, suit or proceeding, whether civil, criminal, administrative or investigative (hereinafter a “proceeding”), by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a director or officer of the corporation or is or was serving at the request of the corporation as a director, officer, employee or agent of another corporation or of a partnership, joint venture, trust or other enterprise, including service with respect to employee benefit plans, whether the basis of such proceeding is alleged action or inaction in an official capacity as a director, officer, employee or agent or in any other capacity while serving as a director, officer, employee or agent, shall be indemnified and held harmless by the corporation to the fullest extent authorized by the Delaware General Corporation Law, as the same exists or may hereafter be amended (but, in the case of any such amendment, only to the extent that such amendment permits the corporation to provide broader indemnification rights than said law permitted the corporation to provide prior to such amendment), against all expense, liability and loss (including attorneys' fees, judgments, fines, ERISA excise taxes or penalties and amounts paid or to be paid in settlement) reasonably incurred or suffered by such person in connection therewith and such indemnification shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his or her heirs, executors and administrators; provided, however, that, except as provided in subparagraph (b)(2), the corporation shall indemnify any such person seeking indemnification in connection with a proceeding (or part thereof) initiated by such person only if such proceeding (or part thereof) was authorized by the Board of Directors of the corporation. The right to indemnification conferred in this paragraph (b) shall be a contract right and shall include the right to be paid by the corporation the expenses incurred in defending any such proceeding in advance of its final disposition; provided, however, that, if the Delaware General Corporation Law requires, the payment of such expenses incurred by a director or officer in his or her capacity as a director or officer (and not in any other capacity in which service was or is rendered by such person while a director or officer, including, without limitation, service to an employee benefit plan) in advance of the final disposition of a proceeding, shall be made only upon delivery to the corporation of an undertaking, by or on behalf of such director or officer, to repay all amounts so advanced if it shall ultimately be determined that such director or officer is not entitled to be indemnified under this paragraph (b) or otherwise. The corporation may, by action of its Board of Directors, provide indemnification to employees and agents of the corporation with the same scope and effect as the foregoing indemnification of directors and officers.

(2) Right of Claimant to Bring Suit. If a claim under subparagraph (b)(1) is not paid in full by the corporation within 30 days after a written claim has been received by the corporation, the claimant may at any time thereafter bring suit against the corporation to recover the unpaid amount of the claim and, if successful in whole or in part, the claimant shall be entitled to be paid also the expense of prosecuting such claim. It shall be a defense to any such action (other than an action brought to enforce a claim for expenses incurred in defending any proceeding in advance of its final disposition where the required undertaking, if any is required, has been tendered to the corporation) that the claimant has not met the standards of conduct which make it permissible under the Delaware General Corporation Law for the corporation to indemnify the claimant for the amount claimed, but the burden of proving such defense shall be

on the corporation. Neither the failure of the corporation (including its Board of Directors, independent legal counsel, or its stockholders) to have made a determination prior to the commencement of such action that indemnification of the claimant is proper in the circumstances because he or she has met the applicable standard of conduct set forth in the Delaware General Corporation Law, nor an actual determination by the corporation (including its Board of Directors, independent legal counsel, or its stockholders) that the claimant has not met such applicable standard of conduct, shall be a defense to the action or create a presumption that the claimant has not met the applicable standard of conduct.

(3) Non-Exclusivity of Rights. The right to indemnification and the payment of expenses incurred in defending a proceeding in advance of its final disposition conferred in this paragraph (b) shall not be exclusive of any other right which any person may have or hereafter acquire under any statute, provision of the Certificate of Incorporation, by-law, agreement, vote of stockholders or disinterested directors or otherwise.

(4) Insurance. The corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the corporation or another corporation, partnership, joint venture, trust or other enterprise against any such expense, liability or loss, whether or not the corporation would have the power to indemnify such person against such expense, liability or loss under the Delaware General Corporation Law.

IN WITNESS WHEREOF, this Restated Certificate of Incorporation is executed on behalf of the corporation by its Chairman and attested by its Secretary this 28<sup>th</sup> day of September, 2006.

/s/ Richard M. Kovacevich  
Richard M. Kovacevich, Chairman

Attest: /s/ Laurel A. Holschuh  
Laurel A. Holschuh, Secretary

[As filed with the Delaware Secretary of State on September 28, 2006.]

**WELLS FARGO & COMPANY**  
**CERTIFICATE OF DESIGNATIONS**  
**Pursuant to Section 151(g) of the**  
**General Corporation Law**  
**of the State of Delaware**

**DIVIDEND EQUALIZATION PREFERRED SHARES**  
**(Without Par Value)**

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "Board of Directors") by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the "Committee") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "General Corporation Law"), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on November 20, 2008, in accordance with Section 141(f) of the General Corporation Law:

RESOLVED, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 2, 2008, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

1. Designation.

(a) The shares of such series of Preferred Stock shall be designated Dividend Equalization Preferred Shares ("DEPs"), and the number of shares constituting such series shall be 97,000.

(b) DEPs redeemed, purchased or otherwise acquired by the Corporation or any of its subsidiaries (other than in a bona fide fiduciary capacity) shall be cancelled and may not be reissued. DEPs may be issued in fractional shares which are whole number multiples of one one-millionth of a share, which fractional shares shall entitle the holder, in proportion to such holder's fractional share, to all rights of a holder of a whole share of DEPs.

(c) DEPs shall, with respect to distributions upon the liquidation, winding-up and dissolution of the Corporation, rank (x) senior to the Common Stock for the Liquidation Preference stated and defined in Section 3(a) below and (y) junior to each class or series of preferred stock issued in exchange for preferred stock of Wachovia Corporation established by the board of directors of Wachovia Corporation after September 1, 2001 and each class or series of preferred stock established by the Board of Directors after the date hereof.



2. Dividends. DEPs shall not entitle the holders thereof to any dividends, whether payable in cash, property, stock or otherwise.

3. Liquidation.

(a) In the event of any liquidation, dissolution or winding up of the affairs of the Corporation, whether voluntary or involuntary, the holders of full and fractional DEPs shall be entitled, before any distribution or payment is made on any date to the holders of the Common Stock or any other stock of the Corporation ranking junior to the DEPs upon liquidation, to be paid in full an amount per whole share of DEPs equal to \$10.00 (the "Liquidation Preference"), together with accrued dividends to such distribution or payment date, whether or not earned or declared. If such payment shall have been made in full to all holders of DEPs, the holders of DEPs as such shall have no right or claim to any of the remaining assets of the Corporation.

(b) In the event the assets of the Corporation available for distribution to the holders of DEPs upon any liquidation, dissolution or winding up of the Corporation, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to Section 3(a), no such distribution shall be made on account of any shares of any other class or series of Preferred Stock ranking on a parity with the DEPs upon such liquidation, dissolution or winding up unless proportionate distributive amounts shall be paid on account of the DEPs, ratably in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such liquidation, dissolution or winding up.

(c) Upon the liquidation, dissolution or winding up of the Corporation, the holders of DEPs then outstanding shall be entitled to be paid out of assets of the Corporation available for distribution to its shareholders all amounts to which such holders are entitled pursuant to the first paragraph of this Section 3 before any payment shall be made to the holders of Common Stock or any other stock of the Corporation ranking junior upon liquidation to the DEPs.

(d) For the purposes of this Section 3, the consolidation or merger of, or binding statutory share exchange by, the Corporation with any other corporation shall not be deemed to constitute a liquidation, dissolution or winding up of the Corporation.

4. Redemption, Conversion, Exchange.

(a) The DEPs shall not be convertible or exchangeable. Other than as described in the next sentence, the DEPs shall not be redeemable. The DEPs shall be redeemable by the Corporation, at the Corporation's option and in its sole discretion, for an amount in cash equal to the Liquidation Preference per share of DEPs, after December 31, 2021.

(b) In case of redemption of less than all of the DEPs at the time outstanding, the shares to be redeemed shall be selected pro rata or by lot as determined by the Corporation in its sole discretion, provided that the Corporation may redeem all shares held by holders of fewer than 0.100 DEPs (or by holders that would hold fewer than 0.100 DEPs following such redemption) prior to its redemption of other DEPs.

(c) Notice of any redemption shall be sent by or on behalf of the Corporation no less than 30 nor more than 60 days prior to the date specified for redemption in such notice (the "Redemption Date"), by first class mail, postage prepaid, to all holders of record of the DEPs at their last addresses as they appear on the books of the Corporation; provided, however, that no failure to give such notice or any defect therein or in the mailing thereof shall affect the validity of the proceedings for the redemption of any DEPs except as to the holder to whom the Corporation has failed to give notice or except as to the holder to whom notice was defective. In addition to any information required by applicable law or regulation or the rules of any exchange upon which the DEPs may be listed or admitted to trading, such notice shall state (1) that such redemption is being made pursuant to the redemption provisions of this Section 5, (2) the Redemption Date, (3) the redemption price, (4) the total number of DEPs to be redeemed and, if less than all shares held by such holder are to be redeemed, the number of such shares to be redeemed, and (5) the place or places where certificates for such shares are to be surrendered for payment of the redemption price, including any procedures applicable to redemption to be accomplished through book-entry transfers. Upon the mailing of any such notice of redemption, the Corporation shall become obligated to redeem, on the Redemption Date, all shares called for redemption.

5. Voting Rights. Except as otherwise required by applicable law or regulation or the rules of a securities exchange upon which the DEPs may be listed or quoted, holders of the DEPs shall have no voting rights.

**IN WITNESS WHEREOF, WELLS FARGO & COMPANY** has caused this Certificate of Designations to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Laurel A. Holschuh, its Secretary, this 30<sup>th</sup> day of December, 2008.

WELLS FARGO & COMPANY

By:           /s/ Barbara S. Brett          

Barbara S. Brett, Senior Vice President  
and Assistant Treasurer

          /s/ Laurel A. Holschuh            
Laurel A. Holschuh, Secretary

[As filed with the Delaware Secretary of State on December 30, 2008.]

**WELLS FARGO & COMPANY**  
**CERTIFICATE OF DESIGNATIONS**  
**Pursuant to Section 151(g) of the**  
**General Corporation Law**  
**of the State of Delaware**

**CLASS A PREFERRED STOCK, SERIES I**  
**(Without Par Value)**

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "Board of Directors") by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the "Committee") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "General Corporation Law"), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on November 20, 2008, in accordance with Section 141(f) of the General Corporation Law:

RESOLVED, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 2, 2008, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Section 1. Designation. The shares of such series of Preferred Stock shall be designated Class A Preferred Stock, Series I, with no par value and a liquidation preference of \$100,000 per share (hereinafter referred to as the "Series I Preferred Stock"). Each share of Series I Preferred Stock shall be identical in all respects to every other share of Series I Preferred Stock. Series I Preferred Stock will rank equally with Parity Stock, if any, and will rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

Section 2. Number of Shares. The number of shares of Series I Preferred Stock shall be 25,010. Such number may from time to time be increased (but not in excess of the total number of authorized shares of preferred stock) or decreased (but not below the number of shares of Series I Preferred Stock then outstanding) by the board of directors. Shares of Series I Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation shall be cancelled and shall revert to authorized but unissued shares of preferred stock undesignated as to series. The Corporation shall have the authority to issue fractional shares of Series I Preferred Stock.

Section 3. Definitions. As used herein with respect to Series I Preferred Stock:

"Business Day" means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions in Charlotte, North Carolina or New York, New York are not authorized or obligated by law, regulation or executive order to close.

"Depository Company" shall have the meaning set forth in Section 6(d).

“Dividend Payment Date” shall have the meaning set forth in Section 4(a).

“Dividend Period” shall have the meaning set forth in Section 4(a).

“DTC” means The Depository Trust Company, together with its successors and assigns.

“Junior Stock” means the Corporation’s common stock and any other class or series of stock of the Corporation hereafter authorized over which Series I Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

“London Banking Day” means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.

“Parity Stock” means any other class or series of stock of the Corporation that ranks on a par with Series I Preferred Stock in the payment of dividends or in the distribution of assets on any liquidation, dissolution or winding up of the Corporation.

“Series I Preferred Stock” shall have the meaning set forth in Section 1.

“Telerate Page 3750” means the display page so designated on the Moneyline/Telerate Service (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to London Interbank Offered Rate for U.S. dollar deposits).

“Three-Month LIBOR” means, with respect to any Dividend Period, the rate (expressed as a percentage *per annum*) for deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period that appears on Telerate Page 3750 as of 11:00 a.m. (London time) on the second London Banking Day preceding the first day of that Dividend Period. If such rate does not appear on Telerate Page 3750, Three-Month LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than \$1,000,000 are offered to prime banks in the London interbank market by four major banks in the London interbank market selected by the Corporation, at approximately 11:00 a.m., London time on the second London Banking Day preceding the first day of that Dividend Period. Wachovia Bank, National Association, as calculation agent for the Preferred Stock, will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York City selected by the calculation agent, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period commencing on the first day of that Dividend Period and in a principal amount of not less than \$1,000,000. However, if the banks selected by the calculation agent to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had Series I Preferred Stock been outstanding. The calculation agent’s establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period will be on file at the principal offices of the Corporation, will be made available to any holder of Series I Preferred Stock upon request and will be final and binding in the absence of manifest error.

#### Section 4. Dividends.

(a) Rate. Holders of Series I Preferred Stock shall be entitled to receive, when, as and if declared by the board of directors, but only out of funds legally available therefor, non-cumulative cash dividends on the liquidation preference of \$100,000 per share of Series I Preferred Stock, and no more, payable: (1) if the Series I Preferred Stock is issued prior to March 15, 2011, semi-annually in arrears on each March 15 and September 15 through March 15, 2011 and (2) from and including the later of March 15, 2011 and the date of issuance, quarterly in arrears on each March 15, June 15, September 15 and December 15. If any date prior to March 15, 2011 specified pursuant to the preceding sentence is not a Business Day, then dividends will be payable on the first Business Day following such date, without accrual to the actual payment date; if any date on or after March 15, 2011 specified pursuant the preceding sentence is not a Business Day, then dividends will be payable on the first Business Day following such date and dividends shall accrue to the actual payment date. The term "Dividend Payment Date" means each of the following dates occurring after the date of issuance of the Series I Preferred Stock: (i) each March 15 and September 15 through September 15, 2010 and (ii) each March 15, June 15, September 15 and December 15, or if any such day in the case of this clause (ii) is not a Business Day, the next Business Day. The term "Dividend Period" means each period from and including a Dividend Payment Date (or the date of issuance of the Series I Preferred Stock for the first Dividend Payment Date) to but excluding the next Dividend Payment Date. For any Dividend Period ending prior to the Dividend Payment Date in March 2011 dividends will accrue at a rate per annum equal to 5.80%, and for any Dividend Period ending after the Dividend Payment Date in March 2011, dividends will accrue at a rate per annum equal to the greater of (x) Three-Month LIBOR for the related Dividend Period plus 0.93% and (y) 5.56975%. The amount of dividends payable for any Dividend Period (1) ending prior to the Dividend Payment Date in March 2011 shall be computed on the basis of a 360-day year consisting of twelve 30-day months and (2) beginning on or after the Dividend Payment Date in March 2011 shall be computed on the basis of a 360-day year and the actual number of days elapsed.

(b) Non-Cumulative Dividends. Dividends on shares of Series I Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series I Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable and the Corporation shall have no obligation to pay, and the holders of Series I Preferred Stock shall have no right to receive, dividends accrued for the Dividend Period ending immediately prior to such Dividend Payment Date after such Dividend Payment Date or to pay interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series I Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation. Holders of Series I Preferred Stock shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends for each Dividend Period on the Series I Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any Dividend Payment or Dividend Payments or failure to make any Dividend Payment or Dividend Payments.

(c) Priority of Dividends. So long as any share of Series I Preferred Stock remains outstanding, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in Junior Stock, (ii) no shares of Junior Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock,

and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such securities by the Corporation, and (iii) no shares of Parity Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series I Preferred Stock and such Parity Stock except by conversion into or exchange for Junior Stock, unless full dividends on all outstanding shares of Series I Preferred Stock for the then-current Dividend Period have been paid in full or declared and set aside for payment. The foregoing shall not restrict the ability of the Corporation, or any affiliate of the Corporation, to engage in any market-making transactions in the Junior Stock or Parity Stock in the ordinary course of business. When dividends are not paid in full upon the shares of Series I Preferred Stock and any Parity Stock, all dividends declared upon shares of Series I Preferred Stock and any Parity Stock shall be declared on a proportional basis so that the amount of dividends declared per share will bear to each other the same ratio that accrued dividends for the then-current Dividend Period per share on Series I Preferred Stock, and accrued dividends, including any accumulations on Parity Stock, bear to each other. No interest will be payable in respect of any dividend payment on such offered stock that may be in arrears. If the board of directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of the Series I Preferred Stock prior to such date. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the board of directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series I Preferred Stock shall not be entitled to participate in any such dividend.

#### Section 5. Liquidation Rights.

(a) Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series I Preferred Stock shall be entitled, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series I Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidation preference in an amount equal to \$100,000 per share, plus an amount equal to all accrued and unpaid dividends for the then-current Dividend Period to the date of liquidation. The holder of Series I Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

(b) Partial Payment. If the assets of the Corporation are not sufficient to pay in full the liquidation preference to all holders of Series I Preferred Stock and the liquidation preferences of any Parity Stock to all holders of such Parity Stock, the amounts paid to the holders of Series I Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences of Series I Preferred Stock and all such Parity Stock.

(c) Residual Distributions. If the liquidation preference has been paid in full to all holders of Series I Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the

affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

Section 6. Redemption.

(a) Optional Redemption. So long as full dividends for all outstanding shares of Series I Preferred Stock for the then-current Dividend Period have been paid or declared and a sum sufficient for the payment thereof set aside, the Corporation, at the option of the board of directors, may redeem in whole or in part the shares of Series I Preferred Stock at the time outstanding, at any time on or after the later of March 15, 2011 and the date of original issuance of the Series I Preferred Stock, upon notice given as provided in Subsection (b) below, at the redemption price in effect at the redemption date as provided in this Section 6. The redemption price for shares of Series I Preferred Stock shall be \$100,000 per share plus dividends that have been declared but not paid plus accrued and unpaid dividends for the then-current Dividend Period to the redemption date.

(b) Notice of Redemption. Notice of every redemption of shares of Series I Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Notwithstanding the foregoing, if the Series I Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC. Any notice mailed as provided in this Subsection shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series I Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series I Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series I Preferred Stock to be redeemed; (iii) the redemption price; (iv) the place or places where the Series I Preferred Stock are to be redeemed; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date.

(c) Partial Redemption. In case of any redemption of only part of the shares of Series I Preferred Stock at the time outstanding, the shares of Series I Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series I Preferred Stock in proportion to the number of Series I Preferred Stock held by such holders or by lot or in such other manner as the board of directors may determine to be fair and equitable. Subject to the provisions hereof, the board of directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series I Preferred Stock shall be redeemed from time to time.

(d) Effectiveness of Redemption. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other funds, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the board of directors (the "Depository Company") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease

to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

Section 7. Voting Rights. The holders of Series I Preferred Stock will have no voting rights and will not be entitled to elect any directors, except as expressly provided by law.

Section 8. Conversion. The holders of Series I Preferred Stock shall not have any rights to convert such Series I Preferred Stock into shares of any other class of capital stock of the Corporation.

Section 9. Rank. Notwithstanding anything set forth in the Restated Certificate of Incorporation of the Corporation or this Certificate of Designations to the contrary, the board of directors, without the vote of the holders of the Series I Preferred Stock, may authorize and issue additional shares of Junior Stock, Parity Stock or any class of securities ranking senior to the Series I Preferred Stock as to dividends and upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

Section 10. Repurchase. Subject to the limitations imposed herein, the Corporation may purchase and sell Series I Preferred Stock from time to time to such extent, in such manner, and upon such terms as the board of directors may determine; provided, however, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

Section 11. Unissued or Reacquired Shares. Shares of Series I Preferred Stock not issued or which have been issued and converted, redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

Section 12. No Sinking Fund. Shares of Series I Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF, WELLS FARGO & COMPANY** has caused this Certificate of Designations to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Laurel A. Holschuh, its Secretary, this 30<sup>th</sup> day of December, 2008.

WELLS FARGO & COMPANY

By:           /s/ Barbara S. Brett            
Barbara S. Brett, Senior Vice President



and Assistant Treasurer

/s/ Laurel A. Holschuh  
Laurel A. Holschuh, Secretary

[As filed with the Delaware Secretary of State on December 30, 2008.]

**WELLS FARGO & COMPANY  
CERTIFICATE OF DESIGNATIONS  
Pursuant to Section 151(g) of the  
General Corporation Law**

**of the State of Delaware**

**FIXED-TO-FLOATING RATE NON-CUMULATIVE PERPETUAL CLASS A PREFERRED  
STOCK, SERIES K  
(Without Par Value)**

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "Board of Directors") by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the "Committee") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "General Corporation Law"), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on November 20, 2008, in accordance with Section 141(f) of the General Corporation Law:

RESOLVED, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 2, 2008, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Section 1. Designation. The shares of such series of Preferred Stock shall be designated Fixed-to-Floating Rate non Cumulative Perpetual Class A Preferred Stock, Series K, with no par value and a liquidation preference of \$1,000 per share (hereinafter referred to as the "Series K Preferred Stock"). Each share of Series K Preferred Stock shall be identical in all respects to every other share of Series K Preferred Stock. Series K Preferred Stock will rank equally with Parity Stock, if any, and will rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

Section 2. Number of Shares. The number of shares of Series K Preferred Stock shall be 3,500,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series K Preferred Stock then outstanding) by the board of directors. Shares of Series K Preferred Stock that are redeemed, purchased or otherwise acquired by the Corporation shall be cancelled and shall revert to authorized but unissued shares of Preferred Stock undesignated as to series. The Corporation shall have the authority to issue fractional shares of Series K Preferred Stock.

Section 3. Definitions. As used herein with respect to Series K Preferred Stock:

“Business Day” means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions in Charlotte, North Carolina or New York, New York are not authorized or obligated by law, regulation or executive order to close.

“Depository Company” shall have the meaning set forth in Section 6(d).

“Dividend Payment Date” shall have the meaning set forth in Section 4(a).

“Dividend Period” shall have the meaning set forth in Section 4(a).

“DTC” means The Depository Trust Company, together with its successors and assigns.

“Fixed Rate Period” shall have the meaning set forth in Section 4(a).

“Floating Rate Period” shall have the meaning set forth in Section 4(a).

“Junior Stock” means the Corporation’s common stock and any other class or series of stock of the Corporation hereafter authorized over which Series K Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“London Banking Day” means any day on which commercial banks are open for general business (including dealings in deposits in U.S. dollars) in London.

“Nonpayment Event” shall have the meaning set forth in Section 7(a).

“Parity Stock” means any other class or series of stock of the Corporation that ranks on a par with Series K Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“Preferred Stock Directors” shall have the meaning set forth in Section 7(a).

“Reuters Screen LIBOR01 page” means the display page so designated on Reuters (or such other page as may replace that page on that service, or such other service as may be nominated as the information vendor, for the purpose of displaying rates or prices comparable to London Interbank Offered Rate for U.S. dollar deposits).

“Series K Preferred Stock” shall have the meaning set forth in Section 1.

“Three-Month LIBOR” means, with respect to any Dividend Period beginning on or after March 15, 2018, the rate for deposits in U.S. dollars for a three-month period that appears on Reuters Screen LIBOR01 page as of 11:00 a.m. (London time) on the second London Banking Day preceding the first day of that Dividend Period. If the rate described above does not appear on Reuters Screen LIBOR01 page, Three-Month LIBOR will be determined on the basis of the rates at which deposits in U.S. dollars for a three-month period and in a principal amount of not less than \$1,000,000 are offered to prime banks in the London interbank market by four major

banks in the London interbank market selected by us, at approximately 11:00 a.m., London time on the second London Banking Day preceding the first day of that Dividend Period. Wachovia Bank, National Association, as calculation agent for the Preferred Stock, will request the principal London office of each of such banks to provide a quotation of its rate. If at least two such quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of such quotations. If fewer than two quotations are provided, Three-Month LIBOR with respect to that Dividend Period will be the arithmetic mean (rounded upward if necessary to the nearest .00001 of 1%) of the rates quoted by three major banks in New York, New York, selected by the calculation agent, at approximately 11:00 a.m., New York City time, on the first day of that Dividend Period for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount of not less than \$1,000,000. However, if the banks selected by the calculation agent to provide quotations are not quoting as described above, Three-Month LIBOR for that Dividend Period will be the same as Three-Month LIBOR as determined for the previous Dividend Period, or in the case of the first Dividend Period, the most recent rate that could have been determined in accordance with the first sentence of this paragraph had the Preferred Stock been outstanding. The calculation agent's establishment of Three-Month LIBOR and calculation of the amount of dividends for each Dividend Period will be on file at our principal offices, will be made available to any holder of Preferred Stock upon request and will be final and binding in the absence of manifest error.

"Voting Parity Stock" means any Parity Stock having similar voting rights as the Series K Preferred Stock.

#### Section 4. Dividends.

(a) Rate. Holders of Series K Preferred Stock shall be entitled to receive, when, as and if declared by the board of directors, but only out of funds legally available therefor, non-cumulative cash dividends on the liquidation preference of \$1,000 per share of Series K Preferred Stock, and no more, from the date of issuance to, but excluding March 15, 2018 at a rate of 7.98% per annum (the "Fixed Rate Period") payable semi-annually in arrears on each March 15 and September 15, beginning on September 15, 2008. Thereafter, declared dividends will be at a floating rate equal to Three-Month LIBOR plus 3.77% per annum, payable quarterly in arrears, on March 15, June 15, September 15 and December 15 of each year, beginning on June 15, 2018 (the "Floating Rate Period"). If any date specified pursuant to the preceding sentence is not a Business Day, then dividends will be payable on the first Business Day following such date and dividends shall accrue to the actual payment date. The term "Dividend Payment Date" means, with respect to the Fixed Rate Period, March 15 and September 15, and with respect to the Floating Rate Period, March 15, June 15, September 15 and December 15, or if any such day in the case of this clause is not a Business Day, the next Business Day. The term "Dividend Period" means each period from and including a Dividend Payment Date (or the date of issuance of the Series K Preferred Stock for the first Dividend Payment Date) to but excluding the next Dividend Payment Date; provided that the first Dividend Period shall be deemed to have commenced on December 15, 2008. The amount of dividends payable for any Dividend Period during the Fixed Rate Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months. The amount of dividends payable for any Dividend Period during the Floating Rate Period shall be computed on the basis of actual number of days in a Dividend Period and a 360-day year.

(b) Non-Cumulative Dividends. Dividends on shares of Series K Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series K Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to accrue and be payable and the Corporation shall have no obligation to pay, and the holders of Series K Preferred Stock shall have no right to receive, dividends accrued for the Dividend Period ending immediately prior to such Dividend Payment Date after such Dividend Payment Date, whether or not dividends are declared for any subsequent Dividend Period with respect to Series K Preferred Stock, Parity Stock, Junior Stock or any other class or series of authorized preferred stock of the Corporation. Holders of Series K Preferred Stock shall not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends for each Dividend Period on the Series K Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any Dividend Payment or Dividend Payments or failure to make any Dividend Payment or Dividend Payments.

(c) Priority of Dividends. So long as any share of Series K Preferred Stock remains outstanding, unless full dividends on all outstanding shares of Series K Preferred Stock for the then-current Dividend Period have been paid in full or declared and set aside for payment, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on any Junior Stock, other than a dividend payable solely in Junior Stock, (ii) no shares of Junior Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Junior Stock for or into Junior Stock, or the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such securities by the Corporation, and (iii) no shares of Parity Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than as a result of a reclassification of Parity Stock for or into Parity Stock or Junior Stock, or the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or for or into Junior Stock, and other than through the use of the proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such securities by the Corporation, otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series K Preferred Stock and such Parity Stock. The foregoing shall not restrict the ability of the Corporation, or any affiliate of the Corporation, to engage in any market-making transactions in the Junior Stock or Parity Stock in the ordinary course of business. When dividends are not paid in full upon the shares of Series K Preferred Stock and any Parity Stock, all dividends declared upon shares of Series K Preferred Stock and any Parity Stock shall be declared on a proportional basis so that the amount of dividends declared per share will bear to each other the same ratio that accrued dividends for the then-current Dividend Period per share on Series K Preferred Stock, and accrued dividends, including any accumulations, on Parity Stock, bear to each other. No interest will be payable in respect of any dividend payment on such Parity Stock that may be in arrears. If the board of directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of the Series K Preferred Stock prior to such date. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the board of directors may be declared and paid on any Junior Stock from time to time out of any

funds legally available therefor, and the shares of Series K Preferred Stock shall not be entitled to participate in any such dividend.

Section 5. Liquidation Rights.

(a) Liquidation. In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series K Preferred Stock shall be entitled, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with Series K Preferred Stock upon liquidation and the rights of the Corporation's depositors and other creditors, to receive in full a liquidation preference in an amount equal to \$1,000 per share, plus an amount equal to all declared and unpaid dividends for the then-current Dividend Period to the date of liquidation. The holder of Series K Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

(b) Partial Payment. If the assets of the Corporation are not sufficient to pay in full the liquidation preference to all holders of Series K Preferred Stock and the liquidation preferences of any Parity Stock to all holders of such Parity Stock, the amounts paid to the holders of Series K Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences of Series K Preferred Stock and all such Parity Stock.

(c) Residual Distributions. If the liquidation preference has been paid in full to all holders of Series K Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

Section 6. Redemption.

(a) Optional Redemption. So long as full dividends for all outstanding shares of Series K Preferred Stock and Parity Stock for the then-current Dividend Period have been paid or declared and a sum sufficient for the payment thereof set aside, and subject to applicable regulatory approvals, the Corporation, at the option of the board of directors, may redeem in whole or in part the shares of Series K Preferred Stock at the time outstanding, on any Dividend Payment Date on or after March 15, 2018 upon notice given as provided in Subsection (b) below, at the redemption price in effect at the redemption date as provided in this Section 6. The

redemption price for shares of Series K Preferred Stock shall be \$1,000 per share plus declared and unpaid dividends for the then-current Dividend Period, without interest.

(b) Notice of Redemption. Notice of every redemption of shares of Series K Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of the shares to be redeemed at their respective last addresses appearing on the books of the Corporation. Such mailing shall be at least 30 days and not more than 60 days before the date fixed for redemption. Notwithstanding the foregoing, if the Series K Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC. Any notice mailed as provided in this Subsection shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series K Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series K Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series K Preferred Stock to be redeemed; (iii) the redemption price; and (iv) the place or places where the Series K Preferred Stock are to be redeemed.

(c) Partial Redemption. In case of any redemption of only part of the shares of Series K Preferred Stock at the time outstanding, the shares of Series K Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series K Preferred Stock in proportion to the number of Series K Preferred Stock held by such holders or by lot or in such other manner as the board of directors may determine to be fair and equitable. Subject to the provisions hereof, the board of directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series K Preferred Stock shall be redeemed from time to time.

(d) Effectiveness of Redemption. If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been set aside by the Corporation, separate and apart from its other funds, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the board of directors (the "Depository Company") in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from such bank or trust company at any time after the redemption date the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of three years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, and in the event of such repayment to the Corporation, the holders of record of the shares so called for redemption shall be deemed to be unsecured creditors of the Corporation for an amount equivalent to the amount deposited as stated above for the redemption of such shares and so repaid to the Corporation, but shall in no event be entitled to any interest.

Section 7. Voting Rights. The holders of Series K Preferred Stock shall not have any voting rights except as set forth below or as otherwise from time to time required by applicable law.

(a) Right To Elect Two Directors Upon Nonpayment Events. If and whenever the dividends on the Series K Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to full dividends for at least six Dividend Periods or their equivalent (whether or not consecutive) (a “Nonpayment Event”), the number of directors then constituting the board of directors shall automatically be increased by two and the holders of Series K Preferred Stock, voting together as a single and separate class with the holders of any outstanding shares of Voting Parity Stock, shall be entitled to elect the two additional directors (the “Preferred Stock Directors”) by a plurality of the votes cast, *provided* that it shall be a qualification for election for any such Preferred Stock Director that the election of such director shall not cause the Corporation to violate the corporate governance requirement of the New York Stock Exchange (or any other securities exchange or other trading facility on which securities of the Corporation may then be listed or traded) that listed or traded companies must have a majority of independent directors, and *provided further* that the board of directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights).

In the event that the holders of Series K Preferred Stock and such other holders of Voting Parity Stock shall be entitled to vote for the election of the Preferred Stock Directors following a Nonpayment Event, such directors shall be initially elected following such Nonpayment Event at the Corporation’s next annual meeting of shareholders, and, except as provided below, at each subsequent annual meeting of shareholders of the Corporation.

When dividends have been paid in full on the Series K Preferred Stock and any and all Voting Parity Stock for at least four consecutive Dividend Periods or their equivalent after a Nonpayment Event, then the right of the holders of Series K Preferred Stock to elect the Preferred Stock Directors shall cease (but subject always to re-vesting of such voting rights in the case of any future Nonpayment Event), and, if and when all rights of holders of Series K Preferred Stock and Voting Parity Stock to elect the Preferred Stock Directors shall have ceased, the terms of office of all the Preferred Stock Directors shall forthwith terminate and the number of directors constituting the board of directors shall automatically be reduced accordingly.

Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series K Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a single and separate class). In case any vacancy shall occur among the Preferred Stock Directors, a successor shall be elected by a plurality of the votes cast by the holders of Series K Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a single and separate class. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the board of directors for a vote.

(b) Other Voting Rights. So long as any shares of Series K Preferred Stock are outstanding, in addition to any other vote or consent of shareholders required by law or by the certificate of incorporation, the vote or consent of the holders of at least 66 2/3% of the shares



of Series K Preferred Stock at the time outstanding and entitled to vote thereon, voting separately as a single class with all other series of preferred stock ranking equally with the Series K Preferred Stock and entitled to vote thereon, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating any of the following actions, whether or not such approval is required by Delaware law:

(i) Issuance of Senior Stock. The issuance of any class or series of preferred stock of the Corporation ranking senior to the Series K Preferred Stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;

(ii) Amendment Affecting Series K Preferred Stock. Any amendment, alteration or repeal of any provision of the certificate of incorporation or bylaws so as to adversely affect the rights, preferences, privileges or voting powers of the Series K Preferred Stock;

(iii) Authorization of Senior Stock. Any amendment or alteration of any provision of the certificate of incorporation or bylaws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of capital stock of the Corporation ranking senior to the Series K Preferred Stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation;  
or

(iv) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series K Preferred Stock, or of a merger or consolidation of the Corporation with another corporation or other entity, unless in each case (x) the shares of Series K Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting corporation, are converted into or exchanged for preference securities of the surviving or resulting corporation or a corporation controlling such corporation, and (y) such Series K Preferred Stock shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series K Preferred Stock, taken as a whole;  
*provided, however,* that any amendment of the certificate of incorporation to authorize or create or to increase the authorized amount of any Junior Stock or any class or series or any securities convertible into shares of any class or series of Parity Stock or Junior Stock will not be deemed to adversely affect the rights, preferences, privileges or voting powers of the Series K Preferred Stock, and the Series K Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 7(b) would adversely affect one or more but not all series of voting preferred stock (including the Series K Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a single class (in lieu of all other series of preferred stock).

(c) Changes for Clarification. Without the consent of the holders of Series K Preferred Stock, so long as such action does not adversely affect the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of the Series K Preferred Stock, the Corporation may amend, alter, supplement or repeal any terms of the Series K Preferred Stock:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in this Certificate of Designations that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Series K Preferred Stock that is not inconsistent with the provisions of this Certificate of Designations.

(d) Changes after Provision for Redemption. No vote or consent of the holders of Series K Preferred Stock shall be required pursuant to this Section 7 if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding shares of Series K Preferred Stock shall have been redeemed, or shall have been called for redemption upon proper notice and sufficient funds shall have been set aside for such redemption, in each case pursuant to Section 6.

(e) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Series K Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the board of directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the certificate of incorporation, the bylaws, applicable law and any national securities exchange or other trading facility in which the Series K Preferred Stock is listed or traded at the time. Whether the vote or consent of the holders of a plurality, majority or other portion of the shares of Series K Preferred Stock and any Voting Parity Stock has been cast or given on any matter on which the holders of shares of Series K Preferred Stock are entitled to vote shall be determined by the Corporation by reference to the specified liquidation amounts of the shares voted or covered by the consent.

For purposes of determining the voting rights of the holders of Series K Preferred Stock under this Section 7, each holder will be entitled to one vote for each \$1,000 of liquidation preference to which his or her shares are entitled. Holders of shares of Series K Preferred Stock will be entitled to one vote for each such share of Series K Preferred Stock held by them.

Section 8. Conversion. The holders of Series K Preferred Stock shall not have any rights to convert such Series K Preferred Stock into shares of any other class of capital stock of the Corporation.

Section 9. Rank. Notwithstanding anything set forth in the certificate of incorporation or this Certificate of Designations to the contrary, the board of directors, without the vote of the holders of the Series K Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

Section 10. Repurchase. Subject to the limitations imposed herein, the Corporation may purchase and sell Series K Preferred Stock from time to time to such extent, in such manner,

and upon such terms as the board of directors may determine; *provided, however*, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

Section 11. Unissued or Reacquired Shares. Shares of Series K Preferred Stock not issued or which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

Section 12. No Sinking Fund. Shares of Series K Preferred Stock are not subject to the operation of a sinking fund.

**IN WITNESS WHEREOF, WELLS FARGO & COMPANY** has caused this Certificate of Designations to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Laurel A. Holschuh, its Secretary, this 30<sup>th</sup> day of December, 2008.

WELLS FARGO & COMPANY

By:           /s/ Barbara S. Brett            
Barbara S. Brett, Senior Vice President  
and Assistant Treasurer

          /s/ Laurel A. Holschuh            
Laurel A. Holschuh, Secretary

[As filed with the Delaware Secretary of State on December 30, 2008.]

**WELLS FARGO & COMPANY**  
**CERTIFICATE OF DESIGNATIONS**  
**Pursuant to Section 151(g) of the**  
**General Corporation Law**  
**of the State of Delaware**

**7.50% NON-CUMULATIVE PERPETUAL CONVERTIBLE**  
**CLASS A PREFERRED STOCK, SERIES L**  
**(Without Par Value)**

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "Corporation"), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "Board of Directors") by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the "Committee") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "General Corporation Law"), the following resolutions were duly adopted by the Committee pursuant to the written consent of the Committee duly adopted on November 20, 2008, in accordance with Section 141(f) of the General Corporation Law:

RESOLVED, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 2, 2008, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

Section 1. Designation. The shares of such series of Preferred Stock shall be designated 7.50% Non-Cumulative Perpetual Convertible Class A Preferred Stock, Series L, with no par value and a liquidation preference of \$1,000 per share (hereinafter referred to as the "Series L Preferred Stock"). Each share of Series L Preferred Stock shall be identical in all respects to every other share of Series L Preferred Stock. Series L Preferred Stock will rank equally with Parity Stock, if any, and will rank senior to Junior Stock with respect to the payment of dividends and the distribution of assets in the event of any voluntary or involuntary dissolution, winding-up and liquidation of the Corporation.

Section 2. Number of Shares. The authorized number of shares of Series L Preferred Stock shall be 4,025,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series L Preferred Stock then outstanding) by the board of directors. Shares of Series L Preferred Stock that are converted in accordance with the terms hereof, purchased or otherwise acquired by the Corporation shall be cancelled and shall revert to authorized but unissued shares of Preferred Stock undesignated as to series. The Corporation shall have the authority to issue fractional shares of Series L Preferred Stock.

Section 3. Definitions. As used herein with respect to Series L Preferred Stock:

“Applicable Conversion Price” at any given time means, for each share of Series L Preferred Stock, the price equal to \$1,000 divided by the Applicable Conversion Rate in effect at such time.

“Applicable Conversion Rate” means the Conversion Rate in effect at any given time.

“Base Price” has the meaning set forth in Section 13(d)(i).

“Business Day” means each Monday, Tuesday, Wednesday, Thursday or Friday on which banking institutions in Charlotte, North Carolina or New York, New York are not authorized or obligated by law, regulation or executive order to close.

“Capital Stock” of any Person means any and all shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, including any preferred stock, excluding any debt securities convertible into such equity.

“Closing Price” of the Common Stock on any date of determination means the closing sale price or, if no closing sale price is reported, the last reported sale price of the shares of the Common Stock on the New York Stock Exchange on that date. If the Common Stock is not traded on the New York Stock Exchange on any date of determination, the Closing Price of the Common Stock on such date of determination means the closing sale price as reported in the composite transactions for the principal U.S. national or regional securities exchange or securities exchange in the European Economic Area on which the Common Stock is so listed or quoted, or, if no closing sale price is reported, the last reported sale price on the principal U.S. national or regional securities exchange or securities exchange in the European Economic Area on which the Common Stock is so listed or quoted, or if the Common Stock is not so listed or quoted on a U.S. national or regional securities exchange or securities exchange in the European Economic Area, the last quoted bid price for the Common Stock in the over-the-counter market as reported by Pink Sheets LLC or a similar organization, or, if that bid price is not available, the market price of the Common Stock on that date as determined by a nationally recognized independent investment banking firm (unaffiliated with the Corporation) retained by the Corporation for this purpose. The “Closing Price” for any other share of Capital Stock shall be determined on a comparable basis, *mutatis mutandis*.

For purposes of this Certificate of Designations, all references herein to the “Closing Price” and “last reported sale price” of the Common Stock on the New York Stock Exchange shall be such closing sale price and last reported sale price as reflected on the website of the New York Stock Exchange (<http://www.nyse.com>) and as reported by Bloomberg Professional Service; provided that in the event that there is a discrepancy between the closing sale price or last reported sale price as reflected on the website of the New York Stock Exchange and as reported by Bloomberg Professional Service, the closing sale price and last reported sale price on the website of the New York Stock Exchange will govern.

For purposes of calculating the Closing Price, if a Reorganization Event has occurred and (1) the Exchange Property consists only of shares of common securities, the Closing Price shall be based on the Closing Price of such common securities; (2) the Exchange

Property consists only of cash, the Closing Price shall be the cash amount paid per share; and (3) the Exchange Property consists of securities, cash and/or other property, the Closing Price shall be based on the sum, as applicable, of (x) the Closing Price of such common securities, (y) the cash amount paid per share of Common Stock and (z) the value (as determined by the board of directors from time-to-time) of any other securities or property paid to holders of Common Stock in connection with the Reorganization Event.

“Common Stock” means the common stock, \$1-2/3 par value per share, of the Corporation.

“Conversion Agent” means American Stock Transfer & Trust Company acting in its capacity as conversion agent for the Series L Preferred Stock, and its successors and assigns or any other conversion agent appointed by the Corporation.

“Conversion Date” has the meaning set forth in Section 13(a)(iv)(B).

“Conversion Rate” means for each share of Series L Preferred Stock, 6.3814 shares of Common Stock, plus cash in lieu of fractional shares, subject to adjustment as set forth herein.

“Current Market Price” per share of Common Stock on any date of determination means the average of the VWAP per share of Common Stock on each of the 10 consecutive VWAP Trading Days ending on the earlier of the day in question and the day before the Ex-Date or other specified date with respect to the issuance or distribution requiring such computation, appropriately adjusted to take into account the occurrence during such period of any event described in Section 14(a)(i) through (v).

“Depository” means DTC or its nominee or any successor depository appointed by the Corporation.

“Dividend Payment Date” has the meaning set forth in Section 4(a).

“Dividend Period” has the meaning set forth in Section 4(a).

“Dividend Threshold Amount” has the meaning set forth in Section 14(a)(iv).

“DTC” means The Depository Trust Company, together with its successors and assigns.

“Exchange Act” means the Securities Exchange Act of 1934, as amended.

“Exchange Property” has the meaning set forth in Section 15(a).

“Ex-Date” when used with respect to any issuance or distribution, means the first date on which such shares of Common Stock or other securities trade without the right to receive an issuance or distribution with respect thereto.

“Expiration Time” has the meaning set forth in Section 12(a)(v).

“Expiration Date” has the meaning set forth in Section 14(a)(v).

“Fiscal Quarter” means, with respect to the Corporation, the fiscal quarter publicly disclosed by the Corporation.

“Fundamental Change” has the meaning set forth in Section 13(d)(i).

“Holder” means the Person in whose name the shares of Series L Preferred Stock are registered, which may be treated by the Corporation, Transfer Agent, Registrar, paying agent and Conversion Agent as the absolute owner of the shares of Series L Preferred Stock for the purpose of making payment and settling conversions and for all other purposes.

“Junior Stock” means the Common Stock and any other class or series of stock of the Corporation hereafter authorized over which Series L Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets in the event of any voluntary or involuntary dissolution, liquidation or winding-up of the affairs of the Corporation.

“Make-Whole Acquisition” means the occurrence, prior to any Conversion Date, of one of the following:

(a) “person” or “group” within the meaning of Section 13(d) of the Exchange Act files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect ultimate “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of common equity of the Corporation representing more than 50% of the voting power of the Common Stock; or

(b) consummation of any consolidation or merger of the Corporation or similar transaction or any sale, lease or other transfer in one transaction or a series of related transactions of all or substantially all of the consolidated assets of the Corporation and its subsidiaries, taken as a whole, to any Person other than one of the Corporation’s subsidiaries, in each case, pursuant to which the Common Stock will be converted into cash, securities, or other property, other than pursuant to a transaction in which the Persons that “beneficially owned” (as defined in Rule 13d-3 under the Exchange Act) directly or indirectly, Voting Shares immediately prior to such transaction beneficially own, directly or indirectly, Voting Shares representing a majority of the total voting power of all outstanding classes of Voting Shares of the continuing or surviving Person immediately after the transaction; *provided, however* that a Make-Whole Acquisition will not be deemed to have occurred if at least 90% of the consideration received by holders of the Common Stock in the transaction or transactions (as determined by the board of directors) consists of shares of common securities of a Person or American Depositary Receipts in respect of such common securities that are traded on a U.S. national securities exchange or a securities exchange in the European Economic Area or that will be traded on a U.S. national securities exchange or a securities exchange in the European Economic Area when issued or exchanged in connection with a Make-Whole Acquisition.

“Make-Whole Acquisition Conversion” has the meaning set forth in Section 13(c)(i).

“Make-Whole Acquisition Conversion Period” has the meaning set forth in Section 13(c)(i).

“Make-Whole Acquisition Effective Date” has the meaning set forth in Section 13(c)(i).

“Make-Whole Acquisition Stock Price” means the price paid per share of Common Stock in the event of a Make-Whole Acquisition. If the holders of shares of Common Stock receive only cash in the Make-Whole Acquisition in a single per-share amount, other than with respect to appraisal and similar rights, the Make-Whole Acquisition Stock Price shall be the cash amount paid per share of Common Stock. For purposes of the preceding sentence as applied to a Make-Whole Acquisition of the type set forth in clause (a) of the definition Make-Whole Acquisition, a single price per share of Common Stock shall be deemed to have been paid only if the transaction or transactions that caused the Make-Whole Acquisition to occur was a tender offer for more than 50% of the then-outstanding Common Stock. Otherwise, the Make-Whole Acquisition Stock Price shall be the average of the Closing Price per share of Common Stock on the ten Trading Days up to, but not including, the Make-Whole Acquisition Effective Date.

“Make-Whole Shares” has the meaning set forth in Section 13(c)(i).

“Mandatory Conversion Date” has the meaning set forth in Section 13(b)(iii).

“Market Disruption Event” means any of the following events that has occurred:

(a) change or quotation system on which the VWAP is determined pursuant to the definition of the VWAP Trading Day (a “Relevant Exchange”) during the one-hour period prior to the close of trading for the regular trading session on the Relevant Exchange (or for purposes of determining the VWAP per share of Common Stock any period or periods aggregating one half-hour or longer during the regular trading session on the relevant day) and whether by reason of movements in price exceeding limits permitted by the Relevant Exchange, or otherwise relating to Common Stock or in futures or options contracts relating to the Common Stock on the Relevant Exchange;

(b) any event (other than an event described in clause (c)) that disrupts or impairs (as determined by the Corporation in its reasonable discretion) the ability of market participants during the one-hour period prior to the close of trading for the regular trading session on the Relevant Exchange (or for purposes of determining the VWAP per share of Common Stock any period or periods aggregating one half-hour or longer during the regular trading session on the relevant day) in general to effect transactions in, or obtain market values for, the Common Stock on the Relevant Exchange or to effect transactions in, or obtain market values for, futures or options contracts relating to the Common Stock on the Relevant Exchange; or

(c) the failure to open of the Relevant Exchange on which futures or options contracts relating to the Common Stock, are traded or the closure of such Relevant Exchange prior to its respective scheduled closing time for the regular trading session on such day (without regard to after hours or any other trading outside of the regular trading session hours) unless such earlier closing time is announced by such Relevant Exchange at least one hour prior to the earlier of the actual closing time for the regular trading session on such day and the submission deadline for orders to be entered into such Relevant Exchange for execution at the actual closing time on such day.



“Nonpayment Event” has the meaning set forth in Section 7(a).

“Notice of Mandatory Conversion” has the meaning set forth in Section 13(b)(iii).

“Parity Stock” means any other class or series of stock of the Corporation that ranks on a par with Series L Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary dissolution, winding-up and liquidation of the Corporation.

“Person” means a legal person, including any individual, corporation, estate, partnership, joint venture, association, joint-stock company, limited liability company or trust.

“Preferred Stock Directors” has the meaning set forth in Section 7(a).

“Purchased Shares” has the meaning set forth in Section 12(a)(v).

“Record Date” has the meaning set forth in Section 12(d), except for purposes of Section 14.

“Reference Price” means the applicable Make-Whole Acquisition Stock Price.

“Registrar” means American Stock Transfer & Trust Company acting in its capacity as registrar for the Series L Preferred Stock, and its successors and assigns or any other registrar appointed by the Corporation.

“Relevant Exchange” has the meaning set forth above in the definition of Market Disruption Event.

“Reorganization Event” has the meaning set forth in Section 15(a).

“Series L Preferred Stock” has the meaning set forth in Section 1.

“Trading Day” means a day on which the shares of Common Stock:

(a) are not suspended from trading on any national or regional securities exchange or association or over-the-counter market at the close of business; and

(b) have traded at least once on the national or regional securities exchange or association or over-the-counter market that is the primary market for the trading of the Common Stock.

“Transfer Agent” shall mean American Stock Transfer & Trust Company acting in its capacity as transfer agent for the Series L Preferred Stock, and its successors and assigns or any other transfer agent appointed by the Corporation.

“Voting Parity Stock” means any Parity Stock having similar voting rights as the Series L Preferred Stock.

“Voting Shares” of a Person means shares of all classes of Capital Stock of such Person then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of the board of directors of such Person.

“VWAP” per share of the Common Stock on any VWAP Trading Day means the per share volume-weighted average price as displayed under the heading Bloomberg VWAP on Bloomberg page WFC<equity>AQR (or its equivalent successor if such page is not available) in respect of the period from the open of trading on the relevant VWAP Trading Day until the close of trading on the relevant VWAP Trading Day (or if such volume-weighted average price is unavailable, the market price of one share of Common Stock on such VWAP Trading Days determined, using a volume-weighted average method, by a nationally recognized investment banking firm (unaffiliated with the Corporation) retained for this purpose by the Corporation). The VWAP for any other share of Capital Stock shall be determined on a comparable basis,*mutatis mutandis*.

“VWAP Trading Day” means, for purposes of determining a VWAP per share of Common Stock, a Business Day on which the Relevant Exchange (as defined in the definition of Market Disruption Event) is scheduled to be open for business and on which there has not occurred or does not exist a Market Disruption Event.

#### Section 4. Dividends.

(a) Rate. Holders of Series L Preferred Stock shall be entitled to receive, if, as and when declared by the board of directors, but only out of funds legally available therefor, non-cumulative cash dividends on the liquidation preference of \$1,000 per share of Series L Preferred Stock, and no more, from the date of issuance at a rate *per annum* equal to 7.50%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15, commencing June 15, 2008. The term “Dividend Payment Date” means March 15, June 15, September 15 and December 15. If any date specified pursuant the preceding sentence is not a Business Day, then dividends will be payable on the first Business Day following such date and dividends shall be payable to the actual payment date and no interest or other payment shall be paid with respect of such delay. The term “Dividend Period” means each period from and including a Dividend Payment Date (or the date of issuance of the Series L Preferred Stock for the first Dividend Payment Date) to but excluding the next Dividend Payment Date;provided that the first Dividend Period shall be deemed to have commenced on December 15, 2008. The amount of dividends payable for any Dividend Period shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

(b) Non-Cumulative Dividends. Dividends on shares of Series L Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series L Preferred Stock on any Dividend Payment Date are not declared and paid, in full or otherwise, on such Dividend Payment Date, then such unpaid dividends shall not cumulate and shall cease to be payable and the Corporation shall have no obligation to pay, and the holders of Series L Preferred Stock shall have no right to receive, dividends payable in respect of the Dividend Period ending immediately prior to such Dividend Payment Date after such Dividend Payment Date, whether or not dividends are declared for any subsequent Dividend Period with respect to the Series L Preferred Stock, any Parity Stock, any Junior Stock or any other class or series of authorized preferred stock of the Corporation. Holders of Series L Preferred Stock shall

not be entitled to any dividends, whether payable in cash, property or stock, in excess of full dividends for each Dividend Period on the Series L Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any Dividend Payment or Dividend Payments or failure to make any Dividend Payment or Dividend Payments.

(c) Priority of Dividends. So long as any share of Series L Preferred Stock remains outstanding and, as to any Junior Stock or Parity Stock then outstanding, unless full dividends on all outstanding shares of Series L Preferred Stock for the Dividend Period ending on or immediately prior to the dividend payment date or other payment date for such Junior Stock or Parity Stock have been paid in full or declared and set aside for payment, (i) no dividend shall be declared or paid or set aside for payment and no distribution shall be declared or made or set aside for payment on such Junior Stock (other than a dividend payable solely in Junior Stock) or on such Parity Stock, subject to the immediately following paragraph in the case of Parity Stock, (ii) no shares of Junior Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than (1) as a result of a reclassification of Junior Stock for or into Junior Stock, (2) the exchange or conversion of one share of Junior Stock for or into another share of Junior Stock, (3) through the use of the proceeds of a substantially contemporaneous sale of other shares of Junior Stock or (4) in connection with the satisfaction of the Corporation's obligations pursuant to any contract entered into in the ordinary course prior to the beginning of such Dividend Period), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such securities by the Corporation, and (iii) no shares of Parity Stock shall be purchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly (other than (1) as a result of a reclassification of Parity Stock for or into Parity Stock or Junior Stock, (2) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or for or into Junior Stock, (3) through the use of the proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock or (4) in connection with the satisfaction of the Corporation's obligations pursuant to any contract entered into in the ordinary course prior to the beginning of such Dividend Period), nor shall any monies be paid to or made available for a sinking fund for the redemption of any such securities by the Corporation (other than through the use of the proceeds of a substantially contemporaneous sale described in clause (ii)(3) or (iii) (3) above), otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series L Preferred Stock and such Parity Stock.

When dividends are not paid in full upon the Series L Preferred Stock and any Parity Stock, dividends upon shares of the Series L Preferred Stock and such Parity Stock will be declared on a proportional basis, based upon the ratio of the amount of dividends declared on the Series L Preferred Stock and such Parity Stock to the amount that, if declared, would be full dividends (including accrued and unpaid dividends as to any Parity Stock that bears dividends on a cumulative basis) on the Series L Preferred Stock and such Parity Stock through the next succeeding applicable dividend payment date. If the board of directors determines not to pay any dividend or a full dividend on a Dividend Payment Date, the Corporation will provide written notice to the holders of the Series L Preferred Stock prior to such date. Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the board of directors may be declared and paid on any Junior Stock from time to time out of any funds legally available therefor, and the shares of Series L Preferred Stock shall not be entitled to participate in any such dividend.

#### Section 5. Liquidation Rights.

(a) Liquidation. In the event of any voluntary or involuntary dissolution, winding-up and liquidation of the Corporation, holders of Series L Preferred Stock shall be entitled, before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of any Junior Stock and subject to the rights of the holders of any Parity Stock or class or series of securities ranking senior to or on parity with the Series L Preferred Stock upon liquidation and the rights of the Corporation's creditors, to receive in full a liquidation preference in an amount equal to \$1,000 per share, plus an amount equal to all declared and unpaid dividends for the then-current Dividend Period to the date of liquidation. The holder of Series L Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary dissolution, winding-up and liquidation of the Corporation other than what is expressly provided for in this Section 5.

(b) Partial Payment. If the assets of the Corporation are not sufficient to pay in full the liquidation preference to all holders of Series L Preferred Stock and the liquidation preferences of any Parity Stock to all holders of such Parity Stock, the amounts paid to the holders of Series L Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preferences of Series L Preferred Stock and all such Parity Stock.

(c) Residual Distributions. If the applicable liquidation preference has been paid in full to all holders of Series L Preferred Stock and all holders of any Parity Stock, the holders of Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

(d) Merger, Consolidation and Sale of Assets Not Liquidation. For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding-up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding-up of the affairs of the Corporation.

Section 6. Redemption. The shares of Series L Preferred Stock shall not be redeemable.

Section 7. Voting Rights. The holders of Series L Preferred Stock shall not have any voting rights except as set forth below or as otherwise from time to time required by applicable law.

(a) Right To Elect Two Directors Upon Nonpayment Events. If after the issuance of the Series L Preferred Stock the Corporation fails to pay, or declare and set aside for payment, full dividends on the Series L Preferred Stock or any class or series of Voting Parity Stock for six Dividend Periods or their equivalent (whether or not consecutive) (a "Nonpayment Event"), the number of directors then constituting the board of directors shall automatically be increased by two and the holders of Series L Preferred Stock, voting together as a single and separate class with the holders of all outstanding shares of Voting Parity Stock, shall be entitled

to elect the two additional directors (the “Preferred Stock Directors”) by a plurality of the votes cast; provided that it shall be a qualification for election for any such Preferred Stock Director that the election of such director shall not cause the Corporation to violate the corporate governance requirement of the New York Stock Exchange (or any other securities exchange or other trading facility on which securities of the Corporation may then be listed or traded) that listed or traded companies must have a majority of independent directors; and provided further that the board of directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights).

In the event that the holders of Series L Preferred Stock and such other holders of Voting Parity Stock shall be entitled to vote for the election of the Preferred Stock Directors following a Nonpayment Event, such directors shall be initially elected following such Nonpayment Event at the Corporation’s next annual meeting of shareholders, and, except as provided below, at each subsequent annual meeting of shareholders of the Corporation.

When dividends have been paid in full on the Series L Preferred Stock and any and all Voting Parity Stock for at least four consecutive Dividend Periods or their equivalent after a Nonpayment Event, then the right of then holders of Series L Preferred Stock to elect the Preferred Stock Directors shall cease (but subject always to reversion of such rights in the case of any future Nonpayment Event), and, if and when all rights of holders of Series L Preferred Stock and Voting Parity Stock to elect the Preferred Stock Directors shall have ceased, the terms of office of all the Preferred Stock Directors shall forthwith terminate and the number of directors constituting the board of directors shall automatically be reduced accordingly.

Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series L Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a single and separate class). In case any vacancy shall occur among the Preferred Stock Directors, a successor shall be elected by a plurality of the votes cast by the holders of Series L Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a single and separate class. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the board of directors for a vote.

(b) Other Voting Rights. So long as any shares of Series L Preferred Stock are outstanding, the vote or consent of the holders of at least 66 2/3 % of the shares of Series L Preferred Stock at the time outstanding and entitled to vote thereon, voting separately as a single class with all other classes or series of preferred stock ranking equally with the Series L Preferred Stock and entitled to vote thereon, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, shall be necessary for effecting or validating any of the following actions, whether or not such approval is required by Delaware law:

(i) Amendment Affecting Series L Preferred Stock. Any amendment, alteration or repeal of any provision of the certificate of incorporation or bylaws so as to adversely affect the rights, preferences, privileges or voting powers of the Series L Preferred Stock.

(ii) Authorization or Issuance of Senior Stock. Any amendment or alteration of any provision of the certificate of incorporation or bylaws to authorize, create or increase the authorized amount of, or any issuance of, any shares of, or any securities convertible into shares of, any class or series of Capital Stock of the Corporation ranking senior to the Series L Preferred Stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary dissolution, winding-up and liquidation of the affairs of the Corporation; or

(iii) Share Exchanges, Reclassifications, Mergers and Consolidations. Any consummation of a binding share exchange or reclassification involving the Series L Preferred Stock, or of a merger or consolidation of the Corporation with another Person, unless in each case (x) the shares of Series L Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting Person, are converted into or exchanged for preference securities of the surviving or resulting Person or a Person controlling such Person, and (y) such Series L Preferred Stock shares remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series L Preferred Stock, taken as a whole; *provided, however,* that any authorization, creation or increase in the authorized amount of or issuance of Series L Preferred Stock or any class or series of Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series L Preferred Stock, and holders of the Series L Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, share exchange, reclassification, merger or consolidation specified in this Section 7(b) would adversely affect one or more but not all series of voting preferred stock (including the Series L Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a single class (in lieu of all other series of preferred stock).

(c) Changes for Clarification. Without the consent of the holders of Series L Preferred Stock, so long as such action does not adversely affect the rights, preferences, privileges and voting powers, and limitations and restrictions thereof, of the Series L Preferred Stock, the Corporation may amend, alter, supplement or repeal any terms of the Series L Preferred Stock:

(i) to cure any ambiguity, or to cure, correct or supplement any provision contained in this Certificate of Designations that may be defective or inconsistent; or

(ii) to make any provision with respect to matters or questions arising with respect to the Series L Preferred Stock that is not inconsistent with the provisions of this Certificate of Designations.

(d) Procedures for Voting and Consents. The rules and procedures for calling and conducting any meeting of the holders of Series L Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard

to such a meeting or such consents shall be governed by any rules the board of directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the certificate of incorporation, the bylaws, applicable law and any national securities exchange or other trading facility in which the Series L Preferred Stock is listed or traded at the time. Whether the vote or consent of the holders of a plurality, majority or other portion of the shares of Series L Preferred Stock and any Voting Parity Stock has been cast or given on any matter on which the holders of shares of Series L Preferred Stock are entitled to vote shall be determined by the Corporation by reference to the specified liquidation amounts of the shares voted or covered by the consent.

For purposes of determining the voting rights of the holders of Series L Preferred Stock under this Section 7, each holder will be entitled to one vote for each \$1,000 of liquidation preference to which his or her shares are entitled. Holders of shares of Series L Preferred Stock will be entitled to one vote for each such share of Series L Preferred Stock held by them.

Section 8. Rank. Notwithstanding anything set forth in the certificate of incorporation or this Certificate of Designations to the contrary, the board of directors, without the vote of the holders of the Series L Preferred Stock, may authorize and issue additional shares of Junior Stock or Parity Stock.

Section 9. Repurchase. Subject to the limitations imposed herein, the Corporation may purchase and sell Series L Preferred Stock from time to time to such extent, in such manner, and upon such terms as the board of directors may determine; *provided, however*, that the Corporation shall not use any of its funds for any such purchase when there are reasonable grounds to believe that the Corporation is, or by such purchase would be, rendered insolvent.

Section 10. Unissued or Recquired Shares. Shares of Series L Preferred Stock not issued or which have been issued and converted in accordance with the terms hereof or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

Section 11. No Sinking Fund. Shares of Series L Preferred Stock are not subject to the operation of a sinking fund.

Section 12. Right to Convert. Each Holder shall have the right, at such Holder's option, at any time, to convert all or any portion of such Holder's Series L Preferred Stock into shares of Common Stock at the Applicable Conversion Rate (subject to the conversion procedures set forth in Section 13 herein) plus cash in lieu of fractional shares.

Section 13. Conversion.

(a) Conversion Procedures.

(i) Effective immediately prior to the close of business on the Mandatory Conversion Date or any applicable Conversion Date, dividends shall no longer be declared on any converted shares of Series L Preferred Stock and such shares of Series L Preferred Stock shall cease to be outstanding, in each case, subject to the right of Holders to receive any declared and unpaid dividends on such shares and any other payments to which they

are otherwise entitled pursuant to Section 12, Section 13(b), Section 13(c), Section 13(d), Section 15 or Section 16, as applicable.

(ii) Prior to the close of business on the Mandatory Conversion Date or any applicable Conversion Date, shares of Common Stock issuable upon conversion of, or other securities issuable upon conversion of, any shares of Series L Preferred Stock shall not be deemed outstanding for any purpose, and Holders shall have no rights with respect to the Common Stock or other securities issuable upon conversion (including voting rights, rights to respond to tender offers for the Common Stock and rights to receive any dividends or other distributions on the Common Stock and/or other securities issuable upon conversion), by virtue of holding shares of Series L Preferred Stock.

(iii) The Person or Persons entitled to receive the Common Stock and/or other securities issuable upon conversion of Series L Preferred Stock shall be treated for all purposes as the record holder(s) of such shares of Common Stock and/or such other securities as of the close of business on the Mandatory Conversion Date or any applicable Conversion Date except to the extent that all or a portion of such Common Stock is subject to the limitations set forth in Section 18. In the event that a Holder shall not by written notice designate the name in which shares of Common Stock and/or cash, other securities or other property (including payments of cash in lieu of fractional shares) to be issued or paid upon conversion of shares of Series L Preferred Stock should be registered or paid or the manner in which such shares should be delivered, the Corporation shall be entitled to register and deliver such shares, and make such payment, in the name of the Holder and in the manner shown on the records of the Corporation through book-entry transfer through the Depository.

(iv) Conversion into shares of Common Stock will occur on the Mandatory Conversion Date or any applicable Conversion Date as follows:

(A) On the Mandatory Conversion Date or applicable Conversion Date, certificates or evidence of shares in book-entry form representing shares of Common Stock shall be issued and delivered to Holders or their designee upon presentation and surrender of the certificate evidencing the Series L Preferred Stock to the Conversion Agent if shares of the Series L Preferred Stock are held in certificated form, and, if required, the furnishing of appropriate endorsements and transfer documents and the payment of all transfer and similar taxes. If a Holder's interest is a beneficial interest in a global certificate representing Series L Preferred Stock, a book-entry transfer through the Depository will be made by the Conversion Agent upon compliance with the Depository's procedures for converting a beneficial interest in a global security.

(B) On the date of any conversion at the option of Holders pursuant to Section 12, Section 13(c) or Section 13(d), if a Holder's interest is in certificated form, a Holder must do each of the following in order to convert:

(1) complete and manually sign the conversion notice provided by the Conversion Agent, or a facsimile of the conversion notice, and deliver this irrevocable notice to the Conversion Agent;

(2) surrender the shares of Series L Preferred Stock to the Conversion Agent;



endorsements and transfer documents; (3) if required, furnish appropriate

and (4) if required, pay all transfer or similar taxes;

and unpaid dividend payable on the next Dividend Payment Date. (5) if required, pay funds equal to any declared

If a Holder's interest is a beneficial interest in a global certificate representing Series L Preferred Stock, in order to convert a Holder must comply with clauses (3) through (5) listed above and comply with the Depository's procedures for converting a beneficial interest in a global security.

The date on which a Holder complies with the procedures in this clause (v) is the "Conversion Date."

(C) Conversion Agent shall, on a Holder's behalf, convert the Series L Preferred Stock into shares of Common Stock and/or cash, other securities or other property (involving payments of cash in lieu of fractional shares), in accordance with the terms of the notice delivered by such Holder described in clause (B) above. If a Conversion Date on which a Holder elects to convert Series L Preferred Stock is prior to the Record Date relating to any declared dividend for the Dividend Period, such Holder will not have the right to receive any declared dividends for that Dividend Period. If a Conversion Date on which a Holder elects to convert Series L Preferred Stock or the Mandatory Conversion Date is after the Record Date for any declared dividend and prior to the Dividend Payment Date, such Holder shall receive that dividend on the relevant Dividend Payment Date if such Holder was the Holder of record on the Record Date for that dividend. Notwithstanding the preceding sentence, if the Conversion Date is after the Record Date and prior to the Dividend Payment Date, whether or not such Holder was the Holder of record on the Record Date, the Holder must pay to the Conversion Agent upon conversion of the shares of Series L Preferred Stock an amount in cash equal to the full dividend actually paid on the Dividend Payment Date for the then-current Dividend Period on the shares of Series L Preferred Stock being converted, unless the Holder's shares of Series L Preferred Stock are being converted pursuant to Section 13(b), Section 13(c) or Section 13(d).

(b) Mandatory Conversion at the Corporation's Option.

(i) On or after March 15, 2013, the Corporation may, at its option, at any time or from time to time, cause some or all of the Series L Preferred Stock to be converted into shares of Common Stock at the Applicable Conversion Rate if, for 20 Trading Days during any period of 30 consecutive Trading Days, including the last Trading Day of such period, the Closing Price of the Common Stock exceeds 130% of the Applicable Conversion Price of the Series L Preferred Stock. The Corporation will provide Notice of Mandatory Conversion as set forth in Section 13(b)(iii) within three Trading Days after the end of the 30 consecutive Trading Day period.

(ii) If the Corporation elects to cause less than all of the Series L Preferred Stock to be converted under clause (i) above, the Conversion Agent will select the

Series L Preferred Stock to be converted by lot, or on a *pro rata* basis or by another method the Conversion Agent considers fair and appropriate, including any method required by the Depository (so long as such method is not prohibited by the rules of any stock exchange or quotation association on which the Series L Preferred Stock is then traded or quoted). If the Conversion Agent selects a portion of a Holder's Series L Preferred Stock for partial conversion at the Corporation's option and such Holder converts a portion of its shares of Series L Preferred Stock at the same time, the portion converted at such Holder's option will reduce the portion selected for conversion at the Corporation's option under this Section 13(b).

(iii) If the Corporation exercises the optional conversion right described in this Section 13(b), the Corporation shall give notice (such notice a "Notice of Mandatory Conversion") by (i) providing a notice of such conversion by first class mail to each Holder of record for the shares of Series L Preferred Stock to be converted or (ii) issuing a press release and making this information available on its website. The Conversion Date shall be a date selected by the Corporation (the "Mandatory Conversion Date"), not less than 10 days, and not more than 20 days, after the date on which the Corporation provides the Notice of Mandatory Conversion. In addition to any information required by applicable law or regulation, the Notice of Mandatory Conversion shall state, as appropriate:

(A) the Mandatory Conversion Date;

(B) the number of shares of Common Stock to be issued upon conversion of each share of Series L Preferred Stock; and

(C) the aggregate number of shares of Series L Preferred Stock to be converted.

(c) Conversion upon Make-Whole Acquisition.

(i) In the event of a Make-Whole Acquisition occurring prior to a Mandatory Conversion Date or Conversion Date, each Holder shall have the option to convert its shares of Series L Preferred Stock (a "Make-Whole Acquisition Conversion") during the period (the "Make-Whole Acquisition Conversion Period") beginning on the effective date of the Make-Whole Acquisition (the "Make-Whole Acquisition Effective Date") and ending on the date that is 30 days after the Make-Whole Acquisition Effective Date and receive an additional number of shares of Common Stock (the "Make-Whole Shares") as set forth in clause (ii) below.

(ii) The number of Make-Whole Shares per share of Series L Preferred Stock shall be determined by reference to the table below for the applicable Make-Whole Acquisition Effective Date and the applicable Make-Whole Acquisition Stock Price:

**Make-Whole Acquisition Stock Price**

<u>Effective Date</u>	<u>\$20.54</u>	<u>\$125.57</u>	<u>\$38.12</u>	<u>\$50.68</u>	<u>\$156.71</u>	<u>\$175.79</u>	<u>\$ 203.72</u>	<u>\$226.02</u>	<u>\$51.13</u>	<u>\$01.36</u>	<u>\$01.81</u>	<u>\$502.26</u>
<b>April 17, 2008.....</b>	1.9153	1.8855	1.5191	1.1110	0.9497	0.6471	0.3962	0.2847	0.2091	0.1354	0.0757	<b>0.0458</b>
<b>March 15, 2009.....</b>	1.9153	1.8775	1.5052	1.0951	0.9437	0.6331	0.3763	0.2588	0.1852	0.1175	0.0697	<b>0.0438</b>
<b>March 15, 2010.....</b>	1.9153	1.8397	1.4913	1.0871	0.9378	0.6073	0.3365	0.2210	0.1533	0.0956	0.0577	<b>0.0358</b>
<b>March 15, 2011.....</b>	1.9153	1.7899	1.4694	1.0731	0.9238	0.5794	0.2887	0.1712	0.1075	0.0657	0.0398	<b>0.0259</b>
<b>March 15, 2012.....</b>	1.9153	1.7561	1.4355	1.0652	0.9139	0.5356	0.2051	0.0896	0.0458	0.0299	0.0199	<b>0.0119</b>
<b>March 15, 2013.....</b>	1.9153	1.6704	1.4275	1.0592	0.9119	0.5097	0.0916	0.0000	0.0000	0.0000	0.0000	<b>0.0000</b>
<b>Thereafter..</b>	<b>1.9153</b>	<b>1.6704</b>	<b>1.4275</b>	<b>1.0592</b>	<b>0.9119</b>	<b>0.5097</b>	<b>0.0916</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>

(A) The exact Make-Whole Acquisition Stock Prices and Make-Whole Acquisition Effective Dates may not be set forth in the table, in which case:

(1) if the Make-Whole Acquisition Stock Price is between two Make-Whole Acquisition Stock Price amounts in the table or the Make-Whole Acquisition Effective Date is between two dates in the table, the number of Make-Whole Shares will be determined by straight-line interpolation between the number of Make-Whole Shares set forth for the higher and lower Make-Whole Acquisition Stock Price amounts and the two Make-Whole Acquisition Effective Dates, as applicable, based on a 365-day year;

(2) if the Make-Whole Acquisition Stock Price is in excess of \$502.26 per share (subject to adjustment pursuant to Section 14), no Make-Whole Shares will be issued upon conversion of the Series L Preferred Stock; and

(3) if the Make-Whole Acquisition Stock Price is less than \$120.54 per share (subject to adjustment pursuant to Section 14), no Make-Whole Shares will be issued upon conversion of the Series L Preferred Stock.

(B) The Make-Whole Acquisition Stock Prices set forth in the table above are subject to adjustment pursuant to Section 14 hereof and shall be adjusted as of any date the Conversion Rate is adjusted. The adjusted Make-Whole Acquisition Stock Prices will equal the Make-Whole Acquisition Stock Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Make-Whole Acquisition Stock Prices adjustment and the denominator of which is the Conversion Rate as so adjusted. Each of the number of Make-Whole Shares in the table shall also be subject to adjustment in the same manner as the Conversion Rate pursuant to Section 14.

(iii) On or before the twentieth day prior to the date the Corporation anticipates being the effective date for the Make-Whole Acquisition or within two business days of becoming aware of a Make-Whole Acquisition of the type set forth in clause (a) of the definition Make-Whole Acquisition, a written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the anticipated effective date or effective date of the Make-Whole Acquisition; and

(B) the date, which shall be 30 days after the Make-Whole Acquisition Effective Date, by which a Make-Whole Acquisition Conversion must be exercised.

(iv) On the Make-Whole Acquisition Effective Date or as soon as practicable thereafter, another written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the date that shall be 30 days after the Make-Whole Acquisition Effective Date;

(B) the number of Make-Whole Shares;

(C) the amount of cash, securities and other consideration receivable by a Holder of Series L Preferred Stock upon conversion; and

(D) the instructions a Holder must follow to exercise its conversion option in connection with such Make-Whole Acquisition.

(v) To exercise a Make-Whole Acquisition Conversion option, a Holder must, no later than 5:00 p.m., New York City time on or before the date by which the Make-Whole Acquisition Conversion option must be exercised as specified in the notice delivered under clause (iv) above, comply with the procedures set forth in Section 13(a)(iv)(B).

(vi) If a Holder does not elect to exercise the Make-Whole Acquisition Conversion option in accordance with the provisions specified in this Section 13(c), the shares of Series L Preferred Stock or successor security held by it shall remain outstanding (unless otherwise converted as provided herein), and the Holder will not be eligible to receive Make-Whole Shares.

(vii) Upon a Make-Whole Acquisition Conversion, the Conversion Agent shall, except as otherwise provided in the instructions provided by the Holder thereof in the written notice provided to the Corporation or its successor as set forth in Section 13(a)(iv) above, deliver to the Holder such cash, securities or other property as are issuable with respect to Make-Whole Shares in the Make-Whole Acquisition.

(viii) In the event that a Make-Whole Acquisition Conversion is effected with respect to shares of Series L Preferred Stock or a successor security representing less than all the shares of Series L Preferred Stock or a successor security held by a Holder, upon such Make-Whole Acquisition Conversion the Corporation or its successor shall execute and the Conversion Agent shall, unless otherwise instructed in writing, countersign and deliver to the Holder thereof, at the expense of the Corporation or its successors, a certificate evidencing the shares of Series L Preferred Stock or such successor security held by the Holder as to which a Make-Whole Acquisition Conversion was not effected.

(d) Conversion Upon Fundamental Change.

(i) If the Reference Price in connection with a Make-Whole Acquisition is less than \$120.54 (a “Fundamental Change”), a Holder may elect to convert each share of Series L Preferred Stock during the period beginning on the effective date of the Fundamental Change and ending on the date that is 30 days after the effective date of such Fundamental Change at an adjusted conversion price equal to the greater of (1) the Reference Price and (2) \$60.27, subject to adjustment as described in clause (ii) below (the “Base Price”). If the Reference Price is less than the Base Price, Holders will receive a maximum of 16.5916 shares of Common Stock per share of Series L Preferred Stock converted, subject to adjustment as a result of any adjustment to the Base Price described in clause (ii) below.

(ii) The Base Price shall be adjusted as of any date the Conversion Rate of the Series L Preferred Stock is adjusted pursuant to Section 14. The adjusted Base Price shall equal the Base Price applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the Conversion Rate adjustment and the denominator of which is the Conversion Rate as so adjusted.

(iii) In lieu of issuing Common Stock upon conversion in the event of a Fundamental Change, the Corporation may at its option, and if it obtains any necessary regulatory approval, pay an amount in cash (computed to the nearest cent) equal to the Reference Price for each share of Common Stock otherwise issuable upon conversion.

(iv) On or before the twentieth day prior to the date the Corporation anticipates being the effective date for the Fundamental Change or within two business days of becoming aware of the Fundamental Change if it is a Make-Whole Acquisition of the type set forth in clause (a) of the definition Make-Whole Acquisition, a written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the anticipated effective date of the Fundamental Change; and

(B) the date, which shall be 30 days after the anticipated effective date of a Fundamental Change, by which a Fundamental Change conversion must be exercised.

(v) On the effective date of a Fundamental Change or as soon as practicable thereafter, another written notice shall be sent by or on behalf of the Corporation, by first-class mail, postage prepaid, to the Holders as they appear in the records of the Corporation. Such notice shall contain:

(A) the date that shall be 30 days after the effective date of the Fundamental Change;

(B) the adjusted conversion price following the Fundamental Change;

(C) the amount of cash, securities and other consideration received by a Holder of Series L Preferred Stock upon conversion; and

(D) the instructions a Holder must follow to exercise its conversion option in connection with such Fundamental Change.

(vi) To exercise its conversion option upon a Fundamental Change, a Holder must, no later than 5:00 p.m., New York City time on or before the date by which the conversion option upon the Fundamental Change must be exercised as specified in the notice delivered under clause (v) above, comply with the procedures set forth in Section 13 (a)(v) (B) and indicate that it is exercising the Fundamental Change conversion option.

(vii) If a Holder does not elect to exercise its conversion option upon a Fundamental Change in accordance with the provisions specified in this Section 13(d), the shares of Series L Preferred Stock or successor security held by it shall remain outstanding (unless otherwise converted as provided herein) and the Holder will not be eligible to convert its shares pursuant to this Section 13(d).

(viii) Upon a conversion upon a Fundamental Change, the Conversion Agent shall, except as otherwise provided in the instructions provided by the Holder thereof in the written notice provided to the Corporation or its successor as set forth in Section 13(a)(iv), deliver to the Holder such cash, securities or other property as are issuable with respect to the adjusted conversion price following the Fundamental Change.

(ix) In the event that a conversion upon a Fundamental Change is effected with respect to shares of Series L Preferred Stock or a successor security representing less than all the shares of Series L Preferred Stock or a successor security held by a Holder, upon such conversion the Corporation or its successor shall execute and the Conversion Agent shall, unless otherwise instructed in writing, countersign and deliver to the Holder thereof, at the expense of the Corporation, a certificate evidencing the shares of Series L Preferred Stock or such successor security held by the Holder as to which a conversion upon a Fundamental Change was not effected.

#### Section 14. Anti-Dilution Adjustments.

(a) Adjustments. The Conversion Rate will be subject to adjustment, without duplication, under the following circumstances:

(i) The issuance of Common Stock as a dividend or distribution to all holders of Common Stock or a subdivision or combination of Common Stock (other than in connection with a Reorganization Event), in which event the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times (OS_1 / OS_0)$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Record Date

$CR_1$  = the Conversion Rate in effect immediately after the Record Date  
 $OS_0$  = the number of shares of Common Stock outstanding at the close of business on the Record Date prior to giving effect to such event  
 $OS_1$  = the number of shares of Common Stock that would be outstanding immediately after, and solely as a result of, such event

Notwithstanding the foregoing, (1) no adjustment will be made for the issuance of Common Stock as a dividend or distribution to all holders of Common Stock that is made in lieu of a quarterly or annual cash dividend or distribution to such holders, to the extent such dividend or distribution does not exceed the applicable Dividend Threshold Amount (with the amount of any such dividend or distribution equaling the number of such shares being issued multiplied by the average of the VWAP of the Common Stock over each of the five consecutive VWAP Trading Days prior to the Ex-Date for such dividend or distribution) and (2) in the event any dividend, distribution, subdivision or combination that is the subject of this Section 14(a)(i) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the board of directors publicly announces its decision not to pay or make such dividend or distribution or effect such subdivision or combination, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared or such subdivision or combination had not been announced.

(ii) The issuance to all holders of Common Stock of certain rights or warrants (other than rights issued pursuant to a shareholder rights plan or rights or warrants issued in connection with a Reorganization Event) entitling them for a period expiring 60 days or less from the date of issuance of such rights or warrants to purchase shares of Common Stock (or securities convertible into Common Stock) at less than (or having a conversion price per share less than) the Current Market Price as of the Record Date, in which event each Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times [(OS_0 + X) / (OS_0 + Y)]$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Record Date  
 $CR_1$  = the Conversion Rate in effect immediately after the Record Date  
 $OS_0$  = the number of shares of Common Stock outstanding at the close of business on the Record Date  
 $X$  = the total number of shares of Common Stock issuable pursuant to such rights or warrants (or upon conversion of such securities)  
 $Y$  = the number of shares equal to the quotient of the aggregate price payable to exercise such rights or warrants (or the conversion price for such securities paid upon conversion) divided by the average of the VWAP of the Common Stock over each of the ten consecutive VWAP Trading Days prior to the Business Day immediately preceding the announcement of the issuance of such rights or warrants

Notwithstanding the foregoing, (1) in the event that such rights or warrants described in this Section 14(a)(ii) are not so issued, the Conversion Rate shall be immediately readjusted, effective as of the date the board of directors publicly announces its decision not to issue such rights or warrants, to the Conversion Rate that would then be in effect if such issuance had not been declared and (2) to the extent that such rights or warrants are not

exercised prior to their expiration or shares of the Common Stock are otherwise not delivered pursuant to such rights or warrants upon the exercise of such rights or warrants, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights or warrants been made on the basis of delivery of only the number of shares of Common Stock actually delivered.

In determining the aggregate price payable for such shares of the Common Stock, there shall be taken into account any consideration received by the Corporation for such rights or warrants and the value of such consideration (if other than cash, to be determined by the board of directors). If an adjustment to the Conversion Rate may be required pursuant to this Section 14(a)(ii), delivery of any additional shares of Common Stock that may be deliverable upon conversion as a result of an adjustment required pursuant to this Section 14(a)(ii) shall be delayed to the extent necessary in order to complete the calculations provided for in this Section 14(a)(ii).

(iii) The dividend or other distribution to all holders of Common Stock of shares of capital stock of the Corporation (other than Common Stock) or evidences of its indebtedness or its assets (excluding any dividend, distribution or issuance covered by clauses (a)(i) or (a)(ii) above or (a)(iv) below, any dividend or distribution in connection with a Reorganization Event or any spin-off to which the provisions set forth below in this clause (a)(iii) apply) in which event the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times [SP_0 / (SP_0 - FMV)]$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Record Date  
 $CR_1$  = the Conversion Rate in effect immediately after the Record Date  
 $SP_0$  = the Current Market Price as of the Record Date  
 $FMV$  = the fair market value (as determined by the board of directors) on the Record Date of the shares of capital stock of the Corporation, evidences of indebtedness or assets so distributed, applicable to one share of Common Stock

However, if the transaction that gives rise to an adjustment pursuant to this clause (iii) is one pursuant to which the payment of a dividend or other distribution on Common Stock consists of shares of capital stock of the Corporation of, or similar equity interests in, a subsidiary or other business unit of the Corporation (*i.e.*, a spin-off) that are, or, when issued, will be, traded on the New York Stock Exchange, the Nasdaq Stock Market or any other national or regional securities exchange or market, then the Conversion Rate will instead be adjusted based on the following formula:

$$CR_1 = CR_0 \times [(FMV_0 + MP_0) / MP_0]$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Record Date  
 $CR_1$  = the Conversion Rate in effect immediately after the Record Date  
 $FMV_0$  = the average of the VWAP of the Capital Stock distributed to holders of Common Stock applicable to one share of Common Stock over each of the 10 consecutive



VWAP Trading Days commencing on and including the third VWAP Trading Day after the date on which “ex-distribution trading” commences for such dividend or distribution on the NYSE or such other national or regional exchange or association or over-the-counter market, or, if not so traded or quoted, the fair market value of the capital stock or similar equity interests distributed to holders of Common Stock applicable to one share of Common Stock as determined by the board of directors

$MP_0$  = the average of the VWAP of the Common Stock over each of the 10 consecutive VWAP Trading Days commencing on and including the third VWAP Trading Day after the date on which “ex-distribution trading” commences for such dividend or distribution on the NYSE or such other national or regional exchange or association or over-the-counter market on which Common Stock is then traded or quoted

Notwithstanding the foregoing, (1) if any dividend or distribution of the type described in this Section 14(a)(iii) is declared but not so paid or made, the Conversion Rate shall be immediately readjusted, effective as of the date the board of directors publicly announces its decision not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared. If an adjustment to the Conversion Rate may be required under this Section 14(a)(iii), delivery of any additional shares of Common Stock that may be deliverable upon conversion as a result of an adjustment required under this Section 14(a)(iii) shall be delayed to the extent necessary in order to complete the calculations provided for in this Section 14(a)(iii).

(iv) The Corporation makes a distribution consisting exclusively of cash to all holders of Common Stock, excluding (a) any regular cash dividend on Common Stock to the extent that the aggregate cash dividend per share of Common Stock does not exceed \$1.8835 in any fiscal quarter (the “Dividend Threshold Amount”) and (b) any consideration payable in connection with a tender or exchange offer made by the Corporation or any its subsidiaries referred to in clause (v) below, in which event, the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times [SP_0 / (SP_0 - C)]$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Record Date  
 $CR_1$  = the Conversion Rate in effect immediately after the Record Date  
 $SP_0$  = the Current Market Price as of the Record Date  
 $C$  = the amount in cash per share equal to (1) in the case of a regular quarterly dividend, the amount the Corporation distributes to holders or pays, less the Dividend Threshold Amount or (2) in any other case, the amount the Corporation distributes to holders or pays

The Dividend Threshold Amount is subject to adjustment on an inversely proportional basis whenever the Conversion Rate is adjusted; provided that no adjustment will be made to the Dividend Threshold Amount for any adjustment made to the Conversion Rate pursuant to this clause (iv).

Notwithstanding the foregoing, if any dividend or distribution of the type described in this Section 14(a)(iv) is declared but not so paid or made, the Conversion Rate shall

be immediately readjusted, effective as of the date the board of directors publicly announces its decision not to pay such dividend or distribution, to the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(v) The Corporation or one or more of its subsidiaries make purchases of Common Stock pursuant to a tender offer or exchange offer by the Corporation or a subsidiary of the Corporation for Common Stock to the extent that the cash and value (as determined by the board of directors) of any other consideration included in the payment per share of Common Stock validly tendered or exchanged exceeds the VWAP per share of Common Stock on the VWAP Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the “Expiration Date”), in which event the Conversion Rate will be adjusted based on the following formula:

$$CR_1 = CR_0 \times [(FMV + (SP_1 \times OS_1)) / (SP_1 \times OS_0)]$$

where,

$CR_0$  = the Conversion Rate in effect at the close of business on the Expiration Date

$CR_1$  = the Conversion Rate in effect immediately after the Expiration Date

$FMV$  = the fair market value (as determined by the board of directors), on the Expiration Date, of the aggregate value of all cash and any other consideration paid or payable for shares validly tendered or exchanged and not withdrawn as of the Expiration Date (the “Purchased Shares”)

$OS_1$  = the number of shares of Common Stock outstanding as of the last time tenders or exchanges may be made pursuant to such tender or exchange offer (the “Expiration Time”) less any Purchased Shares

$OS_0$  = the number of shares of Common Stock outstanding at the Expiration Time, including any Purchased Shares

$SP_1$  = the average of the VWAP of the Common Stock over each of the ten consecutive VWAP Trading Days commencing with the VWAP Trading Day immediately after the Expiration Date.

Notwithstanding the foregoing, if the Corporation, or one of its subsidiaries, is obligated to purchase shares of Common Stock pursuant to any such tender or exchange offer, but the Corporation or such subsidiary is permanently prevented by applicable law from effecting any such purchases, or all such purchases are rescinded, then the Conversion Rate shall be readjusted to be the Conversion Rate that would then be in effect if such tender or exchange offer had not been made. If an adjustment to the Conversion Rate may be required under this Section 14(a)(v), delivery of any additional shares of Common Stock that may be deliverable upon conversion as a result of an adjustment required under this Section 14(a)(v) shall be delayed to the extent necessary in order to complete the calculations provided for in this Section 14(a)(v).

(b) Calculation of Adjustments. All adjustments to the Conversion Rate shall be calculated by the Corporation to the nearest 1/10,000th of one share of Common Stock (or if there is not a nearest 1/10,000th of a share, to the next lower 1/10,000th of a share). No adjustment to the Conversion Rate will be required unless such adjustment would require an increase or decrease of at least one percent; *provided, however*, that any such minor adjustments

that are not required to be made will be carried forward and taken into account in any subsequent adjustment, and provided further that any such adjustment of less than one percent that has not been made will be made prior to any conversion pursuant to Section 13(b), Section 13(c) or Section 13(d).

(c) When No Adjustment Required.

(i) Except as otherwise provided in this Section 14, the Conversion Rate will not be adjusted for the issuance of Common Stock or any securities convertible into or exchangeable for Common Stock or carrying the right to purchase any of the foregoing or for the repurchase of Common Stock.

(ii) Rights Plans. To the extent that the Corporation has a stockholders' rights plan in effect upon conversion of the Series L Preferred Stock into Common Stock, Holders will receive, in addition to any of Common Stock deliverable and in lieu of any adjustment to the Conversion Rate, the rights under the stockholders' rights plan, unless prior to any conversion, the rights have separated from Common Stock, in which case the Conversion Rate will be adjusted at the time of separation as if we distributed to all holders of Common Stock, shares of the Corporation's Capital Stock, evidences of indebtedness or assets as described in Section 14(a)(iii). A further adjustment will occur as described in Section 14(a)(iii), if such rights become exercisable to purchase different securities, evidences of indebtedness or assets, subject to readjustment in the event of the expiration, termination or redemption of such rights.

(iii) No adjustment to the Conversion Rate need be made:

(A) upon the issuance of any shares of Common Stock pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on securities of the Corporation and the investment of additional optional amounts in Common Stock under any plan;

(B) upon the issuance of any shares of Common Stock or options or rights to purchase those shares pursuant to any present or future employee, director or consultant benefit plan or program of or assumed by the Corporation or any of its subsidiaries; or

(C) upon the issuance of any shares of Common Stock pursuant to any option, warrant, right, or exercisable, exchangeable or convertible security outstanding as of the date the Series L Preferred Stock was first issued.

(iv) No adjustment to the Conversion Rate need be made for a transaction referred to in Section 14(a)(i) through (v) if Holders may participate in the transaction on a basis and with notice that the board of directors determines to be fair and appropriate in light of the basis and notice on which holders of Common Stock participate in the transaction.

(v) No adjustment to the Conversion Rate need be made for a change in the par value or no par value of the Common Stock.

(vi) No adjustment to the Conversion Rate will be made to the extent that such adjustment would result in the Conversion Price being less than the par value of the Common Stock.

(d) Record Date. For purposes of this Section 14, “Record Date” means, with respect to any dividend, distribution or other transaction or event in which the holders of the Common Stock have the right to receive any cash, securities or other property or in which the Common Stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of the Common Stock entitled to receive such cash, securities or other property (whether such date is fixed by the board of directors or by statute, contract or otherwise).

(e) Successive Adjustments. After an adjustment to the Conversion Rate under this Section 14, any subsequent event requiring an adjustment under this Section 14 shall cause an adjustment to such Conversion Rate as so adjusted.

(f) Multiple Adjustments. For the avoidance of doubt, if an event occurs that would trigger an adjustment to the Conversion Rate pursuant to this Section 14 under more than one subsection hereof, such event, to the extent fully taken into account in a single adjustment, shall not result in multiple adjustments hereunder.

(g) Other Adjustments. The Corporation may (but is not required to) make such increases in the Conversion Rate, in addition to those required by Section 14(a)(i) through (v), as the board of directors considers to be advisable to avoid or diminish any income tax to holders of Common Stock resulting from any dividend or distribution of stock (or rights to acquire stock) or from any event treated as such for income tax purposes.

In addition to the foregoing, to the extent permitted by applicable law and subject to the applicable rules of the New York Stock Exchange, the Corporation from time to time may increase the Conversion Rate by any amount for any period of time if the period is at least 20 business days, the increase is irrevocable during the period and the board of directors shall have made a determination that such increase would be in the best interests of the Corporation, which determination shall be conclusive.

(h) Notice of Adjustments. Whenever a Conversion Rate is adjusted as provided under Section 14, the Corporation shall within 10 Business Days following the occurrence of an event that requires such adjustment (or if the Corporation is not aware of such occurrence, as soon as reasonably practicable after becoming so aware) or within 15 calendar days of the date the Corporation makes an adjustment pursuant to Section 14(g):

(i) compute the adjusted applicable Conversion Rate in accordance with Section 14 and prepare and transmit to the Conversion Agent an Officers’ Certificate setting forth the applicable Conversion Rate, as the case may be, the method of calculation thereof in reasonable detail, and the facts requiring such adjustment and upon which such adjustment is based; and

(ii) provide a written notice to the Holders of the occurrence of such event and a statement in reasonable detail setting forth the method by which the

adjustment to the applicable Conversion Rate was determined and setting forth the adjusted applicable Conversion Rate.

(i) Conversion Agent. The Conversion Agent shall not at any time be under any duty or responsibility to any Holder to determine whether any facts exist that may require any adjustment of the applicable Conversion Rate or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed in making the same. The Conversion Agent shall be fully authorized and protected in relying on any Officers' Certificate delivered pursuant to Section 14(h) and any adjustment contained therein and the Conversion Agent shall not be deemed to have knowledge of any adjustment unless and until it has received such certificate. The Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any shares of Common Stock, or of any securities or property, that may at the time be issued or delivered with respect to any of the Series L Preferred Stock; and the Conversion Agent makes no representation with respect thereto. The Conversion Agent shall not be responsible for any failure of the Corporation to issue, transfer or deliver any shares of Common Stock pursuant to a the conversion of the Series L Preferred Stock or to comply with any of the duties, responsibilities or covenants of the Corporation contained in this Section 14.

#### Section 15. Reorganization Events.

(a) In the event of:

(i) any consolidation or merger of the Corporation with or into another Person, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property of the Corporation or another Person;

(ii) any sale, transfer, lease, or conveyance to another Person of all or substantially all of the consolidated assets of the Corporation and its subsidiaries, taken as a whole, in each case pursuant to which the Common Stock will be converted into cash, securities, or other property; or

(iii) any reclassification of the Common Stock into securities, including securities other than the Common Stock; or

(iv) any statutory exchange of the Corporation's securities with another Person (other than in connection with a merger or acquisition); (any such event specified in this Section 15(a), a "Reorganization Event"); each share of Series L Preferred Stock outstanding immediately prior to such Reorganization Event shall, without the consent of Holders, become convertible into the types and amounts of securities, cash, and other property that is or was receivable in such Reorganization Event by a holder of the shares of Common Stock that was not the counterparty to the Reorganization Event or an affiliate of such other party in exchange for such Common Stock (such securities, cash, and other property, the "Exchange Property").

(b) In the event that holders of the shares of the Common Stock have the opportunity to elect the form of consideration to be received in such transaction, the consideration that the Holders are entitled to receive upon conversion shall be deemed to be the types and amounts of consideration received by the majority of the holders of the shares of the

Common Stock that affirmatively make an election (or of all such holders if none make an election). On each Conversion Date following a Reorganization Event, the Conversion Rate then in effect will be applied to the value on such Conversion Date of the securities, cash, or other property received per share of Common Stock, determined as set forth above. The amount of Exchange Property receivable upon conversion of any Series L Preferred Stock in accordance with Section 12, Section 13(b), Section 13(c) or Section 13(d) hereof shall be determined based upon the then Applicable Conversion Rate.

(c) The above provisions of this Section 15 shall similarly apply to successive Reorganization Events and the provisions of Section 14 shall apply to any shares of Capital Stock of the Corporation (or any successor) received by the holders of the Common Stock in any such Reorganization Event.

(d) The Corporation (or any successor) shall, within 20 days of the occurrence of any Reorganization Event, provide written notice to the Holders of such occurrence of such event and of the type and amount of the cash, securities or other property that constitutes the Exchange Property. Failure to deliver such notice shall not affect the operation of this Section 15.

#### Section 16. Fractional Shares.

(a) No fractional shares of Common Stock will be issued as a result of any conversion of shares of Series L Preferred Stock.

(b) In lieu of any fractional share of Common Stock otherwise issuable in respect of any conversion at the Corporation's option pursuant to Section 13(b) hereof or any conversion at the option of the Holder pursuant to Section 12, Section 13(c) or Section 13(d) hereof, the Corporation shall pay an amount in cash (computed to the nearest cent) equal to the same fraction of the Closing Price of the Common Stock determined as of the second Trading Day immediately preceding the effective date of conversion.

(c) If more than one share of the Series L Preferred Stock is surrendered for conversion at one time by or for the same Holder, the number of full shares of Common Stock issuable upon conversion thereof shall be computed on the basis of the aggregate number of shares of the Series L Preferred Stock so surrendered.

#### Section 17. Reservation of Common Stock.

(a) The Corporation shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of Series L Preferred Stock as provided in this Certificate of Designations, free from any preemptive or other similar rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of Series L Preferred Stock then outstanding, calculated assuming the Applicable Conversion Price equals the Base Price, subject to adjustment as described under Section 14. For purposes of this Section 17(a), the number of shares of Common Stock that shall be deliverable upon the conversion of all outstanding shares of Series L Preferred Stock shall be computed as if at the time of computation all such outstanding shares were held by a single Holder.

(b) All shares of Common Stock delivered upon conversion of the Series L Preferred Stock shall be duly authorized, validly issued, fully paid and non-assessable, free and clear of all liens, claims, security interests and other encumbrances (other than liens, charges, security interests and other encumbrances created by the Holders).

(c) Prior to the delivery of any securities that the Corporation shall be obligated to deliver upon conversion of the Series L Preferred Stock, the Corporation shall use its reasonable best efforts to comply with all federal and state laws and regulations thereunder requiring the registration of such securities with, or any approval of or consent to the delivery thereof by, any governmental authority.

(d) The Corporation hereby covenants and agrees that, so long as the Common Stock shall be listed on the New York Stock Exchange or any other national securities exchange or automated quotation system, the Corporation will, if permitted by the rules of such exchange or automated quotation system, list and keep listed all the Common Stock issuable upon conversion of the Series L Preferred Stock; *provided, however*, that if the rules of such exchange or automated quotation system permit the Corporation to defer the listing of such Common Stock until the first conversion of Series L Preferred Stock into Common Stock in accordance with the provisions hereof, the Corporation covenants to list such Common Stock issuable upon conversion of the Series L Preferred Stock in accordance with the requirements of such exchange or automated quotation system at such time.

Section 18. Limitations on Beneficial Ownership. Notwithstanding anything to the contrary contained herein, and subject to the last sentence of this Section 18, no holder of Series L Preferred Stock will be entitled to receive shares of Common Stock upon conversion pursuant to Section 12 and Section 13 hereof to the extent, but only to the extent, that such receipt would cause such converting holder to become, directly or indirectly, a “beneficial owner” (within the meaning of Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) of more than 9.9% of the shares of Common Stock outstanding at such time. Any delivery of shares of Common Stock upon a purported conversion of Series L Preferred Stock shall be void and have no effect and such shares shall for all purposes continue to represent outstanding shares of Series L Preferred Stock to the extent (but only to the extent) that such delivery would result in the converting holder becoming the beneficial owner of more than 9.9% of the shares of Common Stock outstanding at such time. If any delivery of shares of Common Stock owed to a holder upon conversion of Series L Preferred Stock is not made, in whole or in part, as a result of this limitation, the Corporation’s obligation to make such delivery shall not be extinguished and the Corporation shall deliver such shares as promptly as practicable after any such converting holder gives notice to the Corporation that such delivery would not result in it being the beneficial owner of more than 9.9% of the shares of Common Stock outstanding at such time. Notwithstanding anything in this paragraph to the contrary, these limitations on beneficial ownership shall not be applicable to or limit the number of shares of Series L Preferred Stock to be converted as a result of a mandatory conversion by the Corporation pursuant to Section 13(b).

Section 19. Preemptive or Subscription Rights. The Holders of Series L Preferred Stock shall not have any preemptive or subscription rights.

**IN WITNESS WHEREOF, WELLS FARGO & COMPANY** has caused this Certificate of Designations to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Laurel A. Holschuh, its Secretary, this 30<sup>th</sup> day of December, 2008.

WELLS FARGO & COMPANY

By:           /s/ Barbara S. Brett            
Barbara S. Brett, Senior Vice President  
and Assistant Treasurer

          /s/ Laurel A. Holschuh            
Laurel A. Holschuh, Secretary

[As filed with the Delaware Secretary of State on December 30, 2008.]



WELLS FARGO & COMPANY

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CERTIFICATE OF AMENDMENT  
OF  
CERTIFICATE OF INCORPORATION

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Pursuant to Section 242 of the  
General Corporation Law of the State of Delaware

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Laurel A. Holschuh, Senior Vice President, and Rachelle M. Graham, Assistant Secretary, of Wells Fargo & Company, a corporation organized and existing under and by virtue of the General Corporation Law of the State of Delaware (the "Company"), do hereby certify:

FIRST: That at a meeting of the Board of Directors of the Company duly held on February 23, 2010, a resolution was duly adopted setting forth a proposed amendment of the Restated Certificate of Incorporation of the Company, declaring the advisability of the amendment, and directing that the amendment be presented to stockholders of the Company for their consideration at the next annual meeting of the stockholders to be held on April 27, 2010. The resolution setting forth the proposed amendment is as follows:

RESOLVED that an amendment to ARTICLE FOURTH of the Company's Restated Certificate of Incorporation, as amended, to increase the authorized common stock to 9,000,000,000 shares is hereby proposed and declared advisable, and the following amendment to the first sentence of ARTICLE FOURTH is hereby directed to be presented to the stockholders of the Company for consideration at the annual meeting of stockholders to be held on April 27, 2010:

FOURTH: The total number of shares of all classes of stock which the corporation shall have authority to issue is Nine Billion Twenty-Four Million (9,024,000,000), consisting of Twenty Million (20,000,000) shares of Preferred Stock without par value, Four Million (4,000,000) shares of Preference Stock without par value, and Nine Billion (9,000,000,000) shares of Common Stock of the par value of \$1 2/3 per share.

SECOND: That at such annual meeting of stockholders, duly called and held upon notice in accordance with Section 222 of the General Corporation Law of the State of Delaware, which notice set forth in full the proposed amendment, a majority of the outstanding shares of common stock of the Company were voted in favor of the amendment.

THIRD: That the amendment was duly adopted in accordance with the provisions of Section 242 of the General Corporation Law of the State of Delaware.

IN WITNESS WHEREOF, WELLS FARGO & COMPANY has caused this Certificate to be signed by Laurel A. Holschuh, its Senior Vice President, and attested by Rachelle M. Graham, its Assistant Secretary, this 29<sup>th</sup> day of April, 2010.

WELLS FARGO & COMPANY:

(Corporate Seal)

By: /s/ Laurel A. Holschuh  
Senior Vice President

ATTEST:

By: /s/ Rachelle M. Graham  
Assistant Secretary

[As filed with the Delaware Secretary of State on April 29, 2010.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATIONS  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2011 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000 and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on March 15, 2011, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolutions (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

3. On March 15, 2011, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions, the ESOP Committee adopted the following resolutions by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

## 2011 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2011 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2011 ESOP Preferred Stock”) and the number of authorized shares constituting the 2011 ESOP Preferred Stock is 1,200,000, based on an offering price for the 2011 ESOP Preferred Stock of \$1,085.00 per share. Each share of 2011 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2011 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2011 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2011 ESOP Preferred Stock shall not be increased. All shares of the 2011 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2011 ESOP Preferred Stock.

(b) Shares of 2011 ESOP Preferred Stock shall be issued only to a trustee (the “Trustee”) acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the “Plan”). All references to the holder of shares of 2011 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2011 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2011 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the “Common Stock”) on the terms otherwise provided for the conversion of the shares of 2011 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2011 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2011 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2011 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2011 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2011 ESOP Preferred Stock may be certificated or uncertificated, at the Company’s option. Certificates representing shares of 2011 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2011 ESOP Preferred Stock, the transfer

agent for the 2011 ESOP Preferred Stock shall note the foregoing provisions on each 2011 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2011 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2011 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2011 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2011 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2011 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2011 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more other series of Preferred Stock ranking on a parity with the shares of 2011 ESOP Preferred Stock, either as to dividends or on the distribution of assets upon liquidation, dissolution or winding up, and upon which like voting rights have been conferred and are exercisable, to elect two directors of the Company at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders. At elections for such directors, each holder of the shares of 2011 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any other series of Preferred Stock ranking on such a parity being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2011 ESOP Preferred Stock (together with the holders of shares of any one or more other series of Preferred Stock ranking on such a parity and upon which like voting rights have been conferred and are exercisable) as herein set forth. The right of such holders of such shares of 2011 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Preferred Stock ranking on such a parity and upon which like voting rights have been conferred and are exercisable) to elect members of the Board as aforesaid shall continue until such time as all dividends accumulated on such shares of 2011 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2011 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to reversion in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of Preferred Stock entitled to vote for directors as herein provided, the term of office of all directors then in office elected by such holders voting as a class shall terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders may choose a successor to fill such vacancy, which such successor shall hold office for the unexpired term in respect of which such vacancy occurred.

Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this resolution.

(c) So long as any shares of 2011 ESOP Preferred Stock remain outstanding, the consent of the holders of the outstanding shares of 2011 ESOP Preferred Stock and outstanding shares of all other series of Preferred Stock ranking on a parity with such shares of 2011 ESOP Preferred Stock either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable, by a vote of at least two-thirds of all such outstanding shares of 2011 ESOP Preferred Stock and such other series of Preferred Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2011 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designations designating shares of 2011 ESOP Preferred Stock and the preferences and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2011 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2011 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2011 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been deposited in trust to effect such redemption.

3. Dividends. (a)(i) Holders of shares of 2011 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$90.00 (the "Base Dividend") per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2012 and on each December 1 thereafter until December 1, 2020, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter

defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2011 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$95.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2011 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$100.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2011 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

**Dividend Adjustment Table**

<b><u>Closing Price on 11/30</u></b>	<b><u>First Target Price</u></b>	<b><u>Second Target Price</u></b>
2012	38.559	45.346
2013	42.705	55.095
2014	47.295	66.941
2015	52.380	81.333
2016	58.010	98.820
2017	64.247	120.066
2018	71.153	145.880
2019	78.802	177.244
2020	87.273	215.352

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2012, the Current Market Price of one share of Common Stock is \$40.00, then the cash dividend payable for the immediately following twelve month period per share of 2011 ESOP Preferred Stock would equal \$95.00, with the first quarterly payment of such \$95.00 dividend to be made on March 1, 2013. If on November 30, 2013, the Current Market Price of one share of Common Stock is \$60.00, then the cash dividend payable for the immediately following twelve month period per share of 2011 ESOP Preferred Stock would equal \$100.00, with the first quarterly payment of such \$100.00 dividend to be made on March 1, 2014. If on November 30, 2014, the Current Market Price of one share of Common Stock is \$40.00, then the cash dividend payable for the immediately following twelve month period per share of 2011 ESOP Preferred Stock would equal \$90.00, with the first quarterly payment of such \$90.00 dividend to be made on March 1, 2015.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2011 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing June 1, 2011. Dividends on shares of the 2011 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2011 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2011 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2011 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2011 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2011 ESOP Preferred Stock, all dividends declared upon shares of 2011 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2011 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2011 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2011 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2011 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2011 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2011 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2011 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2011 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other



distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2011 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2011 ESOP Preferred Stock as to dividends or upon liquidation be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of the Company ranking junior to 2011 ESOP Preferred Stock as to dividends or upon liquidation), unless, in each case, the full cumulative dividends on all outstanding shares of 2011 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2011 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2011 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2011 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the "Release Date"), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2011 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2011 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2011 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2011 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The "Average Current Market Price" per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the "Purchase Offer" is made (as that term is defined in Section 6(d) hereof).

(ii) A "Business Day" means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2011 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the "Conversion Price" for such shares of 2011 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2011 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2011 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2011 ESOP Preferred Stock or by any agent for conversion of the 2011 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2011 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2011 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2011 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2011 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designations or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2011 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2011 ESOP

Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2011 ESOP Preferred Stock by the Company or the transfer agent for the 2011 ESOP Preferred Stock, which notice shall be accompanied by (a) in the case of certificated 2011 ESOP Preferred Stock, the certificate or certificates representing the shares of 2011 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2011 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2011 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2011 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2011 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2011 ESOP Preferred Stock, for any shares of 2011 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2011 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2011 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2011 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2011 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2011 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2011 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2011 ESOP

Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2011 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2011 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2011 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2011 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2011 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2011 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2011 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2011 ESOP Preferred Stock shall be redeemable, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2011 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2011 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2011 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2011 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2011 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2011 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2011 ESOP Preferred Stock by hand

delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2011 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2011 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2011 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2011 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2011 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2011 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2011 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) "Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The "Fair Market Value" of any security which is not publicly traded (other than the 2011 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The "Fair Market Value" of the 2011 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2011 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of

Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2011 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2011 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2011 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2011 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about March 18, 2011 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2011 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2011 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2011 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2011 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2011 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2011 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2011 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2011 ESOP Preferred Stock could have been converted at such time so that each share of 2011 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other

property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2011 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction, which election cannot practicably be made by the holders of the 2011 ESOP Preferred Stock, then the shares of 2011 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2011 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2011 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2011 ESOP Preferred Stock, a cash payment per share of 2011 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2011 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2011 ESOP Preferred Stock shall have the right to convert shares of 2011 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2011 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock or any other class of stock ranking junior to 2011 ESOP Preferred Stock upon liquidation, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger or consolidation of the Company into or with any other corporation, nor the merger or consolidation of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2011 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2011 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2011 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2011 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2011 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on a parity with or prior to the shares of 2011 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2011 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or



class or classes of stock ranking junior to the shares of 2011 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2011 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2011 ESOP Preferred Stock, either as to dividends or upon liquidation, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2011 ESOP Preferred Stock;

(b) on a parity with shares of 2011 ESOP Preferred Stock, either as to dividends or upon liquidation, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2011 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2011 ESOP Preferred Stock; and

(c) junior to shares of 2011 ESOP Preferred Stock, either as to dividends or upon liquidation, if such class shall be Common Stock or if the holders of shares of 2011 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2011 ESOP Preferred Stock. The shares of 2011 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2002 ESOP Cumulative Convertible Preferred Stock, its 2003 ESOP Cumulative Convertible Preferred Stock, its 2004 ESOP Cumulative Convertible Preferred Stock, its 2005 ESOP Cumulative Convertible Preferred Stock, its 2006 ESOP Cumulative Convertible Preferred Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible Preferred Stock and its 2010 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be signed by John G. Stumpf, its Chairman, President and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, whereby such President and Chief Executive Officer affirms, under penalties of perjury, that this Certificate of Designations is the act and deed of the Company and that the facts stated herein are true, this 17th day of March, 2011.

WELLS FARGO & COMPANY

By     /s/ John G. Stumpf      
John G. Stumpf  
Chairman, President and  
Chief Executive Officer

Attest:

    /s/ Jeannine E. Zahn      
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on March 17, 2011.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATIONS  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2012 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorizes the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000 and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 9, 2012, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolutions (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

3. On January 9, 2012, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions, the ESOP Committee adopted the following resolutions by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

## 2012 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2012 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2012 ESOP Preferred Stock”) and the number of authorized shares constituting the 2012 ESOP Preferred Stock is 940,000, based on an offering price for the 2012 ESOP Preferred Stock of \$1,094.00 per share. Each share of 2012 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2012 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2012 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2012 ESOP Preferred Stock shall not be increased. All shares of the 2012 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2012 ESOP Preferred Stock.

(b) Shares of 2012 ESOP Preferred Stock shall be issued only to a trustee (the “Trustee”) acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the “Plan”). All references to the holder of shares of 2012 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2012 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2012 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the “Common Stock”) on the terms otherwise provided for the conversion of the shares of 2012 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2012 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2012 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2012 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2012 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2012 ESOP Preferred Stock may be certificated or uncertificated, at the Company’s option. Certificates representing shares of 2012 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2012 ESOP Preferred Stock, the transfer

agent for the 2012 ESOP Preferred Stock shall note the foregoing provisions on each 2012 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2012 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2012 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2012 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2012 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2012 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2012 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more other series of Preferred Stock ranking on a parity with the shares of 2012 ESOP Preferred Stock, either as to dividends or on the distribution of assets upon liquidation, dissolution or winding up, and upon which like voting rights have been conferred and are exercisable, to elect two directors of the Company at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders. At elections for such directors, each holder of the shares of 2012 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any other series of Preferred Stock ranking on such a parity being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2012 ESOP Preferred Stock (together with the holders of shares of any one or more other series of Preferred Stock ranking on such a parity and upon which like voting rights have been conferred and are exercisable) as herein set forth. The right of such holders of such shares of 2012 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Preferred Stock ranking on such a parity and upon which like voting rights have been conferred and are exercisable) to elect members of the Board as aforesaid shall continue until such time as all dividends accumulated on such shares of 2012 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2012 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to reversion in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of Preferred Stock entitled to vote for directors as herein provided, the term of office of all directors then in office elected by such holders voting as a class shall terminate immediately. If the office of any director elected by such holders voting as a class becomes vacant by reason of death, resignation, retirement, disqualification, removal from office or otherwise, the remaining director elected by such holders may choose a successor to fill such vacancy, which such successor shall hold office for the unexpired term in respect of which such vacancy occurred.

Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this resolution.

(c) So long as any shares of 2012 ESOP Preferred Stock remain outstanding, the consent of the holders of the outstanding shares of 2012 ESOP Preferred Stock and outstanding shares of all other series of Preferred Stock ranking on a parity with such shares of 2012 ESOP Preferred Stock either as to dividends or the distribution of assets upon liquidation, dissolution or winding up and upon which like voting rights have been conferred and are exercisable, by a vote of at least two-thirds of all such outstanding shares of 2012 ESOP Preferred Stock and such other series of Preferred Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2012 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designations designating shares of 2012 ESOP Preferred Stock and the preferences and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2012 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2012 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2012 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been deposited in trust to effect such redemption.

3. Dividends. (a)(i) Holders of shares of 2012 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$100.00 (the "Base Dividend") per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2013 and on each December 1 thereafter until December 1, 2021, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter

defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2012 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$105.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2012 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$110.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2012 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

**Dividend Adjustment Table**

<b><u>Closing Price on 11/30</u></b>	<b><u>First Target Price</u></b>	<b><u>Second Target Price</u></b>
2013	28.424	30.617
2014	31.124	34.980
2015	34.081	39.964
2016	37.319	45.659
2017	40.864	52.166
2018	44.746	59.599
2019	48.997	68.092
2020	53.652	77.795

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2013, the Current Market Price of one share of Common Stock is \$30.00, then the cash dividend payable for the immediately following twelve month period per share of 2012 ESOP Preferred Stock would equal \$105.00, with the first quarterly payment of such \$105.00 dividend to be made on March 1, 2014. If on November 30, 2014, the Current Market Price of one share of Common Stock is \$40.00, then the cash dividend payable for the immediately following twelve month period per share of 2012 ESOP Preferred Stock would equal \$110.00, with the first quarterly payment of such \$110.00 dividend to be made on March 1, 2015. If on November 30, 2015, the Current Market Price of one share of Common Stock is \$30.00, then the cash dividend payable for the immediately following twelve month period per share of 2012 ESOP Preferred Stock would equal \$100.00, with the first quarterly payment of such \$100.00 dividend to be made on March 1, 2016.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2012 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2012. Dividends on shares of the 2012 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2012 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2012 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2012 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2012 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2012 ESOP Preferred Stock, all dividends declared upon shares of 2012 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2012 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2012 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2012 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2012 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2012 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2012 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2012 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2012 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other



distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2012 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2012 ESOP Preferred Stock as to dividends or upon liquidation be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of the Company ranking junior to 2012 ESOP Preferred Stock as to dividends or upon liquidation), unless, in each case, the full cumulative dividends on all outstanding shares of 2012 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2012 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2012 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2012 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the "Release Date"), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2012 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2012 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2012 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2012 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The "Average Current Market Price" per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the "Purchase Offer" is made (as that term is defined in Section 6(d) hereof).

(ii) A "Business Day" means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2012 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the "Conversion Price" for such shares of 2012 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2012 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2012 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2012 ESOP Preferred Stock or by any agent for conversion of the 2012 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2012 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2012 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2012 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2012 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designations or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2012 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2012 ESOP Preferred Stock or such office or offices in the continental United States of an agent for

conversion as may from time to time be designated by notice to the holders of the 2012 ESOP Preferred Stock by the Company or the transfer agent for the 2012 ESOP Preferred Stock, which notice shall be accompanied by (a) in the case of certificated 2012 ESOP Preferred Stock, the certificate or certificates representing the shares of 2012 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2012 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2012 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2012 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2012 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2012 ESOP Preferred Stock, for any shares of 2012 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2012 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2012 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2012 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2012 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2012 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2012 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2012 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2012 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2012 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2012 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2012 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2012 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2012 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2012 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2012 ESOP Preferred Stock shall be redeemable, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2012 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2012 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2012 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2012 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2012 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2012 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2012 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more

than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2012 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2012 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2012 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2012 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2012 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2012 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2012 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) "Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The "Fair Market Value" of any security which is not publicly traded (other than the 2012 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The "Fair Market Value" of the 2012 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2012 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2012 ESOP Preferred Stock, the independent appraiser shall assume (i) that

all dividends on the 2012 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2012 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2012 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about January 12, 2012 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2012 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2012 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2012 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2012 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2012 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2012 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2012 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2012 ESOP Preferred Stock could have been converted at such time so that each share of 2012 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2012 ESOP Preferred Stock could have been converted immediately

prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction, which election cannot practicably be made by the holders of the 2012 ESOP Preferred Stock, then the shares of 2012 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2012 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2012 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2012 ESOP Preferred Stock, a cash payment per share of 2012 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2012 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2012 ESOP Preferred Stock shall have the right to convert shares of 2012 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2012 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on the Common Stock or any other class of stock ranking junior to 2012 ESOP Preferred Stock upon liquidation, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger or consolidation of the Company into or with any other corporation, nor the merger or consolidation of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2012 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2012 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2012 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2012 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2012 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on a parity with or prior to the shares of 2012 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2012 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2012 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be



entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2012 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2012 ESOP Preferred Stock, either as to dividends or upon liquidation, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2012 ESOP Preferred Stock;

(b) on a parity with shares of 2012 ESOP Preferred Stock, either as to dividends or upon liquidation, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2012 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2012 ESOP Preferred Stock; and

(c) junior to shares of 2012 ESOP Preferred Stock, either as to dividends or upon liquidation, if such class shall be Common Stock or if the holders of shares of 2012 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2012 ESOP Preferred Stock. The shares of 2012 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2003 ESOP Cumulative Convertible Preferred Stock, its 2004 ESOP Cumulative Convertible Preferred Stock, its 2005 ESOP Cumulative Convertible Preferred Stock, its 2006 ESOP Cumulative Convertible Preferred Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock and its 2011 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be signed by John G. Stumpf, its Chairman, President and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, whereby such President and Chief Executive Officer affirms, under penalties of perjury, that this Certificate of Designations is the act and deed of the Company and that the facts stated herein are true, this 10th day of January, 2012.

WELLS FARGO & COMPANY

By     /s/ John G. Stumpf      
John G. Stumpf  
Chairman, President and  
Chief Executive Officer

Attest:

    /s/ Jeannine E. Zahn      
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on January 10, 2012.]

WELLS FARGO & COMPANY

CERTIFICATE OF DESIGNATION  
Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES N

(Without Par Value)

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on August 14, 2012, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series N, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series N Preferred Stock*”). Each share of Series N Preferred Stock shall be identical in all respects to every other share of Series N Preferred Stock except with respect to the date from which dividends may accrue. Series N Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series N Preferred Stock shall be 30,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series N Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series N Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series N Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series N Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series N Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series N Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series N Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective after the initial issuance of any shares of Series N Preferred Stock; (ii) proposed change in those laws or regulations that is announced or becomes effective after the initial issuance of any shares of Series N Preferred Stock; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced after the initial issuance of any shares of Series N Preferred Stock, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series N Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series N Preferred Stock is outstanding.

“*Series N Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series N Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series N Preferred Stock will not be mandatory. Holders of Series N Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series N Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on December 15, 2012); provided, however, if any such day is not a Business Day, then payment of any

dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, August 16, 2012 to, but excluding, December 15, 2012. Dividends on each share of Series N Preferred Stock will accrue at a rate *per annum* equal to 5.20%. The record date for payment of dividends on the Series N Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series N Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series N Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series N Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series N Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series N Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation

(other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after August 9, 2012, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to pro rata offers to purchase all, or a pro rata portion, of the Series N Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after August 9, 2012, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series N Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series N Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment

on any Parity Stock for any period unless full dividends on all outstanding shares of Series N Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series N Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series N Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series N Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series N Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series N Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the "*Liquidation Preference*"). The holders of Series N Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series N Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series N Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series N Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series N Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.



**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series N Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after September 15, 2017, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series N Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series N Preferred Stock at the time outstanding, prior to September 15, 2017, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series N Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series N Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series N Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series N Preferred Stock. Each

notice shall state (i) the redemption date; (ii) the number of shares of Series N Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series N Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series N Preferred Stock at the time outstanding, the shares of Series N Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series N Preferred Stock in proportion to the number of Series N Preferred Stock held by such holders or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series N Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series N Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series N Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series N Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series N Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series N Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series N Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series N Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series N Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series N Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series N Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the

term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series N Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series N Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series N Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series N Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series N Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series N Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series N Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series N Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series N Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series N Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series N Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series N Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series N Preferred Stock, and holders of the Series N Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series N Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series N Preferred Stock will have 25 votes per share on any matter on which holders of the Series N Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

(1) **(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series N Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series N Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series N Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series N Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series N Preferred Stock shall not have any rights of preemption or rights to convert such Series N Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series N Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series N Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee

of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series N Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series N Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series N Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 14<sup>th</sup> day of August, 2012.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett

**Barbara S. Brett, Senior Vice  
President and Assistant Treasurer**

/s/ Jeannine E. Zahn

Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on August 15, 2012.]

**WELLS FARGO & COMPANY**

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**CERTIFICATE OF DESIGNATION**

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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**NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES O  
(Without Par Value)**

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on November 16, 2012, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series O, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series O Preferred Stock*”). Each share of Series O Preferred Stock shall be identical in all respects to every other share of Series O Preferred Stock except with respect to the date from which dividends may accrue. Series O Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of

dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series O Preferred Stock shall be 27,600. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series O Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series O Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series O Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series O Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series O Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).



“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series O Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series O Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after November 13, 2012; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after November 13, 2012; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after November 13, 2012, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series O Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series O Preferred Stock is outstanding.

“*Series O Preferred Stock*” has the meaning set forth in Section 1 hereof.

v) “*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series O Preferred Stock.

**vi) Section 4. Dividends.**

**(a) Rate.** Dividends on the Series O Preferred Stock will not be mandatory. Holders of Series O Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series O Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on March 15, 2013); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a

Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, November 20, 2012 to, but excluding, March 15, 2013. Dividends on each share of Series O Preferred Stock will accrue at a rate *per annum* equal to 5.125%. The record date for payment of dividends on the Series O Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series O Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series O Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series O Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series O Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series O Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in

connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after November 13, 2012, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series O Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after November 13, 2012, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series O Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series O Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series

O Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series O Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series O Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series O Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series O Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series O Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series O Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series O Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series O Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series O Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series O Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series O Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after December 15, 2017, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series O Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series O Preferred Stock at the time outstanding, prior to December 15, 2017, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series O Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series O Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series O Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series O Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series O Preferred

Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series O Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series O Preferred Stock at the time outstanding, the shares of Series O Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series O Preferred Stock in proportion to the number of Series O Preferred Stock held by such holders or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series O Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series O Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series O Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series O Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series O Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series O Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series O Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series O Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series O Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series O Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series O Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the

term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series O Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series O Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series O Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series O Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series O Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series O Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series O Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series O Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series O Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series O Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series O Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series O Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series O Preferred Stock, and holders of the Series O Preferred Stock shall have no right to vote thereon.



If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series O Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series O Preferred Stock will have 25 votes per share on any matter on which holders of the Series O Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

(1) **(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series O Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series O Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series O Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series O Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series O Preferred Stock shall not have any rights of preemption or rights to convert such Series O Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series O Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series O Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee

of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series O Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series O Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series O Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

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**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 19<sup>th</sup> day of November, 2012.

**Wells Fargo & Company**

**By:** /s/ Barbara S. Brett  
**Barbara S. Brett, Senior Vice President  
and Assistant Treasurer**

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on November 19, 2012.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2013 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 7, 2013, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the [ESOP Board Resolutions] under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the [ESOP Board Resolutions] are hereby further amended to delete “Appendix A – Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

4. On January 7, 2013, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2013 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2013 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2013 ESOP Preferred Stock”) and the number of authorized shares constituting the 2013 ESOP Preferred Stock is 1,200,000, based on an offering price for the 2013 ESOP Preferred Stock of \$1,090.00 per share. Each share of 2013 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2013 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2013 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2013 ESOP Preferred Stock shall not be increased. All shares of the 2013 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized

but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2013 ESOP Preferred Stock.

(b) Shares of 2013 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2013 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2013 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2013 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise provided for the conversion of the shares of 2013 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2013 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2013 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2013 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2013 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2013 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2013 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2013 ESOP Preferred Stock, the transfer agent for the 2013 ESOP Preferred Stock shall note the foregoing provisions on each 2013 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2013 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2013 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2013 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2013 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2013 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall

in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2013 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2013 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2013 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2013 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2013 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2013 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to re-vesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2013 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2013 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2013 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2013 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2013 ESOP Preferred Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2013 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2013 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2013 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2013 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2013 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2013 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2013 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2013 ESOP Preferred Stock.



3. **Dividends.** (a)(i) Holders of shares of 2013 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$85.00 (the “Base Dividend”) per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2014 and on each December 1 thereafter until December 1, 2021, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2013 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$90.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2013 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$95.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2013 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

**Dividend Adjustment Table**

<b><u>Closing Price on 11/30</u></b>	<b><u>First Target Price</u></b>	<b><u>Second Target Price</u></b>
2014	\$36.562	\$39.174
2015	\$39.761	\$44.316
2016	\$43.240	\$50.132
2017	\$47.023	\$56.712
2018	\$51.138	\$64.156
2019	\$55.612	\$72.576
2020	\$60.479	\$82.102
2021	\$65.770	\$92.878

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2014, the Current Market Price of one share of Common Stock is \$37.00, then the cash dividend payable for the immediately following twelve month period per share of 2013 ESOP Preferred Stock would equal \$90.00, with the first quarterly payment of such \$90.00 dividend to be made on March 1, 2015. If on November 30, 2015, the Current Market Price of one share of Common Stock is \$45.00, then the cash dividend payable for the immediately following twelve month period per share of 2013 ESOP Preferred Stock would equal \$95.00, with the first quarterly payment of such \$95.00 dividend to be made on March 1, 2016. If on November 30, 2016, the Current Market Price of one share of Common Stock is \$40.00, then the cash dividend payable for the immediately following twelve month period per share of 2013 ESOP Preferred Stock would equal \$85.00, with the first quarterly payment of such \$85.00 dividend to be made on March 1, 2017.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2013 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2013. Dividends on shares of the 2013 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2013 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2013 ESOP Preferred Stock for any period unless full cumulative dividends have been or

contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2013 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2013 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2013 ESOP Preferred Stock, all dividends declared upon shares of 2013 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2013 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2013 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2013 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2013 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2013 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2013 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2013 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2013 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2013 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2013 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of the Company ranking junior to 2013 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2013 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2013 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2013 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2013 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2013 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2013 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2013 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2013 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2013 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2013 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2013 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2013 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2013 ESOP Preferred Stock or by any agent for conversion of the 2013 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2013 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as

defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2013 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2013 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2013 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2013 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2013 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by

notice to the holders of the 2013 ESOP Preferred Stock by the Company or the transfer agent for the 2013 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2013 ESOP Preferred Stock, the certificate or certificates representing the shares of 2013 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2013 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2013 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2013 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2013 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2013 ESOP Preferred Stock, for any shares of 2013 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2013 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2013 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2013 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2013 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2013 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2013 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the

Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2013 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2013 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2013 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2013 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2013 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2013 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2013 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2013 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2013 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2013 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2013 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2013 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company

shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2013 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2013 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2013 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2013 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2013 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2013 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2013 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2013 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2013 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2013 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2013 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:



(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) "Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The "Fair Market Value" of any security which is not publicly traded (other than the 2013 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The "Fair Market Value" of the 2013 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2013 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2013 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2013 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2013 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2013 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about January 10, 2013 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting corporation (including the Company) that constitutes "qualifying employer securities" with respect to a holder of 2013 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2013 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2013

ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2013 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2013 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2013 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2013 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2013 ESOP Preferred Stock could have been converted at such time so that each share of 2013 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2013 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction, which election cannot practicably be made by the holders of the 2013 ESOP Preferred Stock, then the shares of 2013 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2013 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property

receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2013 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2013 ESOP Preferred Stock, a cash payment per share of 2013 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2013 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2013 ESOP Preferred Stock shall have the right to convert shares of 2013 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2013 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2013 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2013 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2013 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2013 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2013 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2013 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2013 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2013 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or

winding up of the Company, after payment shall have been made in full to the holders of the shares of 2013 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2013 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2013 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2013 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2013 ESOP Preferred Stock;

(b) on a parity with shares of 2013 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2013 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2013 ESOP Preferred Stock; and

(c) junior to shares of 2013 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2013 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2013 ESOP Preferred Stock. The shares of 2013 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2004 ESOP Cumulative Convertible Preferred Stock, its 2005 ESOP Cumulative Convertible Preferred Stock, its 2006 ESOP Cumulative Convertible Preferred Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, and its 2012 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by John G. Stumpf, its Chairman, President and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 9th day of January, 2013.

WELLS FARGO & COMPANY

By     /s/ John G. Stumpf      
John G. Stumpf  
Chairman, President and  
Chief Executive Officer

Attest:

    /s/ Jeannine E. Zahn      
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on January 9, 2013.]

## WELLS FARGO & COMPANY

### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES P (Without Par Value)

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on March 19, 2013, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series P, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series P Preferred Stock*”). Each share of Series P Preferred Stock shall be identical in all respects to every other share of Series P Preferred Stock except with respect to the date from which dividends may accrue. Series P Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of

dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series P Preferred Stock shall be 26,400. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series P Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series P Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series P Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series P Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series P Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).



“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series P Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series P Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after March 15, 2013; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after March 15, 2013; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after March 15, 2013, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series P Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series P Preferred Stock is outstanding.

“*Series P Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series P Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series P Preferred Stock will not be mandatory. Holders of Series P Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series P Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on June 15, 2013); provided, however, if any such day is not a Business Day, then payment of any dividend

otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, March 22, 2013 to, but excluding, June 15, 2013. Dividends on each share of Series P Preferred Stock will accrue at a rate *per annum* equal to 5.25%. The record date for payment of dividends on the Series P Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series P Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series P Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series P Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series P Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series P Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by

the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after March 15, 2013, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series P Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after March 15, 2013, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series P Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series P Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series P Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series P Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series P Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series P Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series P Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series P Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series P Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series P Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series P Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series P Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series P Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled

to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series P Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after June 15, 2018, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series P Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series P Preferred Stock at the time outstanding, prior to June 15, 2018, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series P Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series P Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of

Series P Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series P Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series P Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series P Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series P Preferred Stock at the time outstanding, the shares of Series P Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series P Preferred Stock in proportion to the number of Series P Preferred Stock held by such holders or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series P Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series P Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series P Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series P Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series P Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series P Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series P Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series P Preferred Stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series P Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series P Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series P Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled.

The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series P Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series P Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series P Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series P Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series P Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series P Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series P Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series P Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series P Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series P Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series P Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series P Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights,



preferences, privileges or voting powers of the Series P Preferred Stock, and holders of the Series P Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series P Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series P Preferred Stock will have 25 votes per share on any matter on which holders of the Series P Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series P Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series P Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series P Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series P Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series P Preferred Stock shall not have any rights of preemption or rights to convert such Series P Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series P Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series P Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series P Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series P Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series P Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 21<sup>st</sup> day of March, 2013.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice  
President and Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on March 21, 2013.]

## WELLS FARGO & COMPANY

### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

#### **5.85% FIXED-TO-FLOATING RATE NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES Q (Without Par Value)**

WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the "*Corporation*"), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the "*Board of Directors*") by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the "*Committee*") in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the "*General Corporation Law*"), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on July 19, 2013, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

#### **RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated 5.85% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series Q, with no par value and a liquidation preference amount of \$25,000 per share (the "*Series Q Preferred Stock*"). Each share of Series Q Preferred Stock shall be identical in all respects to every other share of Series Q Preferred Stock except with respect to the date from which dividends may accrue. Series Q Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the

payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series Q Preferred Stock shall be 69,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series Q Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series Q Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series Q Preferred Stock:

*“Business Day”* means for dividends payable for the Fixed Rate Period (as defined below) any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York, and for dividends payable for the Floating Rate Period (as defined below), it means any date that would be considered a Business Day during the Fixed Rate Period that is also a London Banking Day (as defined below).

*“Calculation Agent”* means Wells Fargo Bank, N.A. or any other successor appointed by the Corporation, acting as Calculation Agent.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series Q Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1<sup>2</sup>/<sub>3</sub> per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Designated LIBOR Page”* means the display on Reuters, or any successor service, on page LIBOR01, or any other page as may replace that page on that service, for the purpose of displaying the London interbank rates for U.S. dollars.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

“*Fixed Rate Period*” has the meaning set forth in Section 4(a) hereof.

“*Floating Rate Period*” has the meaning set forth in Section 4(a) hereof.

“*Junior Stock*” means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series Q Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*LIBOR Determination Date*” means the second London Banking Day immediately preceding the first day of the relevant Dividend Period.

“*Liquidation Preference*” has the meaning set forth in Section 5(a) hereof.

“*London Banking Day*” means any day on which commercial banks and foreign exchange markets settle payments in London.

“*Nonpayment Event*” shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series Q Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series Q Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after July 15, 2013; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after July 15, 2013; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after July 15, 2013, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series Q

Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series Q Preferred Stock is outstanding.

“*Series Q Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Three-month LIBOR*” means, for any LIBOR Determination Date, the arithmetic mean of the offered rates for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date that appear on the Designated LIBOR Page as of 11:00 a.m., London time, on that LIBOR Determination Date, if at least two offered rates appear on the Designated LIBOR Page, provided that if the specified Designated LIBOR Page by its terms provides only for a single rate, that single rate will be used. If (i) fewer than two offered rates appear or (ii) no rate appears and the Designated LIBOR Page by its terms provides only for a single rate, then the Calculation Agent will request the principal London offices of each of four major banks in the London interbank market, as selected by the Calculation Agent, to provide the Calculation Agent with its offered quotation for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that LIBOR Determination Date and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If at least two quotations are provided, Three-month LIBOR determined on that LIBOR Determination Date will be the arithmetic mean of those quotations. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted at approximately 11:00 a.m., New York City time, on that LIBOR Determination Date by three major banks in New York City selected by the Calculation Agent for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If the banks so selected by the Calculation Agent are not quoting as set forth above, Three-month LIBOR for that LIBOR Determination Date will remain Three-month LIBOR for the immediately preceding Dividend Period or, in the case of the Dividend Period beginning September 15, 2023, 5.85%. All percentages used in or resulting from any calculation of Three-month LIBOR will be rounded, if necessary, to the nearest one hundred-thousandth of a percentages point, with .000005% rounded up to .00001%. The determination of Three-month LIBOR for each relevant Dividend Period by the Calculation Agent will (in the absence of manifest error) be final and binding.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series Q Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series Q Preferred Stock will not be mandatory. Holders of Series Q Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series Q Preferred Stock, payable quarterly in arrears on the 15<sup>th</sup> day of March, June, September and December, commencing September 15, 2013. From July 22, 2013 to, but excluding, September 15, 2023 (the “*Fixed Rate Period*”), dividends will accrue at an annual rate of 5.85%, and from, and including, September 15, 2023 (the “*Floating Rate Period*”), dividends will accrue at an annual rate equal to Three-month LIBOR plus 3.09%. Notwithstanding the foregoing, if any date on or prior to September 15, 2023 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay, and if any date after September 15, 2023 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding Business Day unless that day falls in the next calendar month, in which case payment of any dividend otherwise payable on that date will be the immediately preceding Business Day, and dividends will accrue to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, July 22, 2013 to, but excluding, September 15, 2013. The record date for payment of dividends on the Series Q Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable for the Fixed Rate Period shall be computed on the basis of a 360-day year of twelve 30-day months. The amount of dividends payable for the Floating Rate Period shall be computed on the basis of a 360-day year and the actual number of days elapsed. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward. The Calculation Agent’s determination of any dividend rate, and its calculation of the amount of dividends payable for the Floating Rate Period, will be maintained on file at the Calculation Agent’s principal offices.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series Q Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series Q Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series Q Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series Q Preferred Stock or



any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series Q Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after July 15, 2013, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series Q Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after July 15, 2013, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series Q Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series Q Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series Q Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series Q Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series Q Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series Q Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series Q Preferred

Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series Q Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series Q Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series Q Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series Q Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series Q Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series Q Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series Q Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after September 15, 2023, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Q Preferred Stock shall be \$25,000 per share plus

an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series Q Preferred Stock at the time outstanding, prior to September 15, 2023, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Q Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series Q Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series Q Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series Q Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series Q Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series Q Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series Q Preferred Stock at the time outstanding, the shares of Series Q Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series Q Preferred Stock in proportion to the number of Series Q Preferred Stock held by such holders or in such other manner as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series Q Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series Q Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series Q Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series Q Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Q Preferred

Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series Q Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Q Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series Q Preferred Stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series Q Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series Q Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series Q Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series Q Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series Q Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series Q Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series Q Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series

Q Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series Q Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series Q Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series Q Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series Q Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series Q Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Q Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series Q Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series Q Preferred Stock, and holders of the Series Q Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series Q Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series Q Preferred Stock will have 25 votes per share on any matter on which holders of the Series Q Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series Q Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series Q Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series Q Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series Q Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series Q Preferred Stock shall not have any rights of preemption or rights to convert such Series Q Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series Q Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series Q Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series Q Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series Q Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series Q Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.



**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 19th day of July, 2013.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President  
and Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on July 19, 2013.]

**WELLS FARGO & COMPANY**

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**CERTIFICATE OF DESIGNATION**  
Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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**6.625% FIXED-TO-FLOATING RATE NON-CUMULATIVE PERPETUAL  
CLASS A PREFERRED STOCK, SERIES R  
(Without Par Value)**

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on December 11, 2013, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated 6.625% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series R, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series R Preferred Stock*”). Each share of Series R Preferred Stock shall be identical in all respects to every other share of Series R Preferred Stock except with respect to the date from which dividends may accrue. Series R Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the

payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series R Preferred Stock shall be 34,500. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series R Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series R Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series R Preferred Stock:

*“Business Day”* means for dividends payable for the Fixed Rate Period (as defined below) any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York, and for dividends payable for the Floating Rate Period (as defined below), it means any date that would be considered a Business Day during the Fixed Rate Period that is also a London Banking Day (as defined below).

*“Calculation Agent”* means Wells Fargo Bank, N.A. or any other successor appointed by the Corporation, acting as Calculation Agent.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series R Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1<sup>2</sup>/<sub>3</sub> per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Designated LIBOR Page”* means the display on Reuters, or any successor service, on page LIBOR01, or any other page as may replace that page on that service, for the purpose of displaying the London interbank rates for U.S. dollars.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

“*Fixed Rate Period*” has the meaning set forth in Section 4(a) hereof.

“*Floating Rate Period*” has the meaning set forth in Section 4(a) hereof.

“*Junior Stock*” means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series R Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*LIBOR Determination Date*” means the second London Banking Day immediately preceding the first day of the relevant Dividend Period.

“*Liquidation Preference*” has the meaning set forth in Section 5(a) hereof.

“*London Banking Day*” means any day on which commercial banks and foreign exchange markets settle payments in London.

“*Nonpayment Event*” shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series R Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series R Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after December 11, 2013; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after December 11, 2013; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after December 11, 2013, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all

shares of Series R Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series R Preferred Stock is outstanding.

“*Series R Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Three-month LIBOR*” means, for any LIBOR Determination Date, the arithmetic mean of the offered rates for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date that appear on the Designated LIBOR Page as of 11:00 a.m., London time, on that LIBOR Determination Date, if at least two offered rates appear on the Designated LIBOR Page, provided that if the specified Designated LIBOR Page by its terms provides only for a single rate, that single rate will be used. If (i) fewer than two offered rates appear or (ii) no rate appears and the Designated LIBOR Page by its terms provides only for a single rate, then the Calculation Agent will request the principal London offices of each of four major banks in the London interbank market, as selected by the Calculation Agent, to provide the Calculation Agent with its offered quotation for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that LIBOR Determination Date and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If at least two quotations are provided, Three-month LIBOR determined on that LIBOR Determination Date will be the arithmetic mean of those quotations. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted at approximately 11:00 a.m., New York City time, on that LIBOR Determination Date by three major banks in New York City selected by the Calculation Agent for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If the banks so selected by the Calculation Agent are not quoting as set forth above, Three-month LIBOR for that LIBOR Determination Date will remain Three-month LIBOR for the immediately preceding Dividend Period or, in the case of the Dividend Period beginning March 15, 2024, 6.625%. All percentages used in or resulting from any calculation of Three-month LIBOR will be rounded, if necessary, to the nearest one hundred-thousandth of a percentages point, with .000005% rounded up to .00001%. The determination of Three-month LIBOR for each relevant Dividend Period by the Calculation Agent will (in the absence of manifest error) be final and binding.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series R Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series R Preferred Stock will not be mandatory. Holders of Series R Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series R Preferred Stock, payable quarterly in arrears on the 15<sup>th</sup> day of March, June, September and December, commencing March 15, 2014, From December 18, 2013 to, but excluding, March 15, 2024 (the “*Fixed Rate Period*”), dividends will accrue at an annual rate of 6.625%, and from, and including, March 15, 2024 (the “*Floating Rate Period*”), dividends will accrue at an annual rate equal to Three-month LIBOR plus 3.69%. Notwithstanding the foregoing, if any date on or prior to March 15, 2024 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay, and if any date after March 15, 2024 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding Business Day unless that day falls in the next calendar month, in which case payment of any dividend otherwise payable on that date will be the immediately preceding Business Day, and dividends will accrue to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, December 18, 2013 to, but excluding, March 15, 2014. The record date for payment of dividends on the Series R Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable for the Fixed Rate Period shall be computed on the basis of a 360-day year of twelve 30-day months. The amount of dividends payable for the Floating Rate Period shall be computed on the basis of a 360-day year and the actual number of days elapsed. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward. The Calculation Agent’s determination of any dividend rate, and its calculation of the amount of dividends payable for the Floating Rate Period, will be maintained on file at the Calculation Agent’s principal offices.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series R Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series R Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series R Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series R Preferred Stock or

any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series R Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after December 11, 2013, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series R Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after December 11, 2013, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series R Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series R Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series R Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series R Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series R Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series R Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series R Preferred



Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series R Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series R Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series R Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series R Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series R Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series R Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series R Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after March 15, 2024, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series R Preferred Stock shall be \$25,000 per share plus an amount

equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series R Preferred Stock at the time outstanding, prior to March 15, 2024, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series R Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series R Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series R Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series R Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series R Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series R Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series R Preferred Stock at the time outstanding, the shares of Series R Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series R Preferred Stock in proportion to the number of Series R Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series R Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series R Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series R Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series R Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series R Preferred

Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series R Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series R Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series R Preferred Stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series R Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series R Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series R Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series R Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series R Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series R Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series R Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series

R Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series R Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series R Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series R Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series R Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series R Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series R Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series R Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series R Preferred Stock, and holders of the Series R Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series R Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series R Preferred Stock will have 25 votes per share on any matter on which holders of the Series R Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series R Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series R Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series R Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series R Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series R Preferred Stock shall not have any rights of preemption or rights to convert such Series R Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series R Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series R Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series R Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series R Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series R Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

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**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 17<sup>th</sup> day of December, 2013.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President  
and Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on December 17, 2013.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2014 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 7, 2014, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.



2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the [ESOP Board Resolutions] under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the [ESOP Board Resolutions] are hereby further amended to delete “Appendix A – Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

4. On January 7, 2014, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2014 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2014 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2014 ESOP Preferred Stock”) and the number of authorized shares constituting the 2014 ESOP Preferred Stock is 1,217,000, based on an offering price for the 2014 ESOP Preferred Stock of \$1,089.00 per share. Each share of 2014 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2014 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2014 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2014 ESOP Preferred Stock shall not be increased. All shares of the 2014 ESOP Preferred Stock purchased, redeemed, or converted by the

Company shall be retired and canceled and shall be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2014 ESOP Preferred Stock.

(b) Shares of 2014 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2014 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2014 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2014 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise provided for the conversion of the shares of 2014 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2014 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2014 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2014 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2014 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2014 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2014 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2014 ESOP Preferred Stock, the transfer agent for the 2014 ESOP Preferred Stock shall note the foregoing provisions on each 2014 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2014 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2014 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2014 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2014 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2014 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2014 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2014 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2014 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2014 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2014 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2014 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to re-vesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2014 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2014 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2014 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be

provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2014 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2014 ESOP Preferred Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2014 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2014 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2014 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2014 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2014 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2014 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2014 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event

of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2014 ESOP Preferred Stock.

3. Dividends. (a)(i) Holders of shares of 2014 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$87.00 (the “Base Dividend”) per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2015 and on each December 1 thereafter until December 1, 2022, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2014 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$92.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2014 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$97.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2014 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

#### **Dividend Adjustment Table**

<u>Closing Price on 11/30</u>	<u>First Target Price</u>	<u>Second Target Price</u>
2015	\$50.366	\$53.676
2016	\$54.396	\$60.117
2017	\$58.747	\$67.331
2018	\$63.447	\$75.411
2019	\$68.523	\$84.461
2020	\$74.005	\$94.596
2021	\$79.925	\$105.947
2022	\$86.319	\$118.661

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2015, the Current Market Price of one share of Common Stock is \$51.00, then the cash dividend payable for the immediately following twelve month period per share of 2014 ESOP Preferred Stock would equal \$92.00, with the first quarterly payment of such \$92.00 dividend to be made on March 1, 2016. If on November 30, 2016, the Current Market Price of one share of Common Stock is \$61.00, then the cash dividend payable for the immediately following twelve month period per share of 2014 ESOP Preferred Stock would equal \$97.00, with the first quarterly payment of such \$97.00 dividend to be made on March 1, 2017. If on November 30, 2017, the Current Market Price of one share of Common Stock is \$55.00, then the cash dividend payable for the immediately following twelve month period per share of 2014 ESOP Preferred Stock would equal \$87.00, with the first quarterly payment of such \$87.00 dividend to be made on March 1, 2018.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2014 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2014. Dividends on shares of the 2014 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2014 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than

15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2014 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2014 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2014 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2014 ESOP Preferred Stock, all dividends declared upon shares of 2014 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2014 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2014 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2014 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2014 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2014 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2014 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2014 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2014 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2014 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2014 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of the Company ranking junior to 2014 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2014 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2014 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2014 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2014 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2014 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2014 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2014 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2014 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2014 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2014 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2014 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2014 ESOP



Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2014 ESOP Preferred Stock or by any agent for conversion of the 2014 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2014 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2014 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2014 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2014 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock

is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2014 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the "Conversion Notice") shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2014 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2014 ESOP Preferred Stock by the Company or the transfer agent for the 2014 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2014 ESOP Preferred Stock, the certificate or certificates representing the shares of 2014 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2014 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2014 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2014 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2014 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2014 ESOP Preferred Stock, for any shares of 2014 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2014 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2014 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2014 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2014 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2014 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of

the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2014 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2014 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2014 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2014 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2014 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2014 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2014 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2014 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2014 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2014 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2014

ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2014 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2014 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2014 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2014 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2014 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2014 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2014 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2014 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2014 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2014 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2014 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as

defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2014 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2014 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) “Adjustment Period” shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) “Fair Market Value” shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The “Fair Market Value” of any security which is not publicly traded (other than the 2014 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The “Fair Market Value” of the 2014 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2014 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2014 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2014 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2014 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2014 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about January 10, 2014 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2014 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor

provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2014 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2014 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2014 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2014 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2014 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2014 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2014 ESOP Preferred Stock could have been converted at such time so that each share of 2014 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2014 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction, which election cannot practicably be made by the holders of the 2014 ESOP Preferred Stock, then the shares of 2014 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into

which such shares of 2014 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2014 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2014 ESOP Preferred Stock, a cash payment per share of 2014 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2014 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2014 ESOP Preferred Stock shall have the right to convert shares of 2014 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2014 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2014 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2014 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2014 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2014 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2014 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2014 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2014 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which



holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2014 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2014 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2014 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2014 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2014 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2014 ESOP Preferred Stock;

(b) on a parity with shares of 2014 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2014 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2014 ESOP Preferred Stock; and

(c) junior to shares of 2014 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2014 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2014 ESOP Preferred Stock. The shares of 2014 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2005 ESOP Cumulative Convertible Preferred Stock, its 2006 ESOP Cumulative Convertible Preferred Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible

Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, its 2012 ESOP Cumulative Convertible Preferred Stock, and its 2013 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by John G. Stumpf, its Chairman, President and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 8th day of January, 2014.

WELLS FARGO & COMPANY

By     /s/ John G. Stumpf      
John G. Stumpf  
Chairman, President and  
Chief Executive Officer

Attest:

    /s/ Jeannine E. Zahn      
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on January 8, 2014.]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### **5.90% FIXED-TO-FLOATING RATE NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES S (Without Par Value)**

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on April 17, 2014, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated January 27, 2009, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### **RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated 5.90% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series S, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series S Preferred Stock*”). Each share of Series S Preferred Stock shall be identical in all respects to every other share of Series S Preferred Stock except with

respect to the date from which dividends may accrue. Series S Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series S Preferred Stock shall be 80,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series S Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series S Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series S Preferred Stock:

*“Business Day”* means for dividends payable for the Fixed Rate Period (as defined below) any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York, and for dividends payable for the Floating Rate Period (as defined below), it means any date that would be considered a Business Day during the Fixed Rate Period that is also a London Banking Day (as defined below).

*“Calculation Agent”* means Wells Fargo Securities, LLC or any other successor appointed by the Corporation, acting as Calculation Agent.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series S Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Designated LIBOR Page”* means the display on Reuters, or any successor service, on page LIBOR01, or any other page as may replace that page on that service, for the purpose of displaying the London interbank rates for U.S. dollars.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

“DTC” means The Depository Trust Company, together with its successors and assigns.

“Fixed Rate Period” has the meaning set forth in Section 4(a) hereof.

“Floating Rate Period” has the meaning set forth in Section 4(a) hereof.

“Junior Stock” means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series S Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“LIBOR Determination Date” means the second London Banking Day immediately preceding the first day of the relevant Dividend Period.

“Liquidation Preference” has the meaning set forth in Section 5(a) hereof.

“London Banking Day” means any day on which commercial banks and foreign exchange markets settle payments in London.

“Nonpayment Event” shall have the meaning set forth in Section 7(b).

“Parity Stock” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series S Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“Preference Stock” means any and all series of preference stock, having no par value, of the Corporation.

“Preferred Stock” means any and all series of preferred stock, having no par value, of the Corporation, including the Series S Preferred Stock.

“Preferred Stock Directors” shall have the meaning set forth in Section 7(b).

“Regulatory Capital Treatment Event” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after April 14, 2014; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after April 14, 2014; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after April 14, 2014, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series S

Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series S Preferred Stock is outstanding.

“*Series S Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Three-month LIBOR*” means, for any LIBOR Determination Date, the arithmetic mean of the offered rates for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date that appear on the Designated LIBOR Page as of 11:00 a.m., London time, on that LIBOR Determination Date, if at least two offered rates appear on the Designated LIBOR Page, provided that if the specified Designated LIBOR Page by its terms provides only for a single rate, that single rate will be used. If (i) fewer than two offered rates appear or (ii) no rate appears and the Designated LIBOR Page by its terms provides only for a single rate, then the Calculation Agent will request the principal London offices of each of four major banks in the London interbank market, as selected by the Calculation Agent, to provide the Calculation Agent with its offered quotation for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that LIBOR Determination Date and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If at least two quotations are provided, Three-month LIBOR determined on that LIBOR Determination Date will be the arithmetic mean of those quotations. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted at approximately 11:00 a.m., New York City time, on that LIBOR Determination Date by three major banks in New York City selected by the Calculation Agent for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If the banks so selected by the Calculation Agent are not quoting as set forth above, Three-month LIBOR for that LIBOR Determination Date will remain Three-month LIBOR for the immediately preceding Dividend Period or, in the case of the Dividend Period beginning June 15, 2024, 5.90%. All percentages used in or resulting from any calculation of Three-month LIBOR will be rounded, if necessary, to the nearest one hundred-thousandth of a percentages point, with .000005% rounded up to .00001%. The determination of Three-month LIBOR for each relevant Dividend Period by the Calculation Agent will (in the absence of manifest error) be final and binding.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series S Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series S Preferred Stock will not be mandatory. Holders of Series S Preferred Stock shall be entitled to receive, when, as and if declared

by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series S Preferred Stock, payable (i) from April 22, 2014 to, but excluding, June 15, 2024 (the “Fixed Rate Period”), semi-annually in arrears on the 15<sup>th</sup> day of each June and December, commencing December 15, 2014 at an annual rate of 5.90%, and (ii) from, and including, June 15, 2024 (the “Floating Rate Period”), quarterly in arrears on the 15<sup>th</sup> day of each March, June, September and December, commencing September 15, 2024, at an annual rate equal to Three-month LIBOR plus 3.11%. Notwithstanding the foregoing, if any date on or prior to June 15, 2024 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay, and if any date after June 15, 2024 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding Business Day unless that day falls in the next calendar month, in which case payment of any dividend otherwise payable on that date will be the immediately preceding Business Day, and dividends will accrue to the actual payment date (each such day on which dividends are payable a “Dividend Payment Date”). A “Dividend Period” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, April 22, 2014 to, but excluding, December 15, 2014. The record date for payment of dividends on the Series S Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable for the Fixed Rate Period shall be computed on the basis of a 360-day year of twelve 30-day months. The amount of dividends payable for the Floating Rate Period shall be computed on the basis of a 360-day year and the actual number of days elapsed. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward. The Calculation Agent’s determination of any dividend rate, and its calculation of the amount of dividends payable for the Floating Rate Period, will be maintained on file at the Calculation Agent’s principal offices.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series S Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series S Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series S Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series S Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.



**(c) Priority of Dividends.** So long as any shares of Series S Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after April 14, 2014, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series S Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for

or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after April 14, 2014, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series S Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series S Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series S Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series S Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series S Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series S Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series S Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the

Corporation ranking senior to the Series S Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series S Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series S Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series S Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series S Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series S Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series S Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after June 15, 2024, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series S Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation’s good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation,

at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series S Preferred Stock at the time outstanding, prior to June 15, 2024, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series S Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series S Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series S Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series S Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series S Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series S Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series S Preferred Stock at the time outstanding, the shares of Series S Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series S Preferred Stock in proportion to the number of Series S Preferred Stock held by such holders as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series S Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the

Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

#### **Section 7. Voting Rights.**

**(a) General.** The holders of Series S Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series S Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least three semi-annual Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series S Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series S Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series S Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series S Preferred Stock (voting together as a class with the holders of shares of any one

or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least two semi-annual Dividend Periods or their equivalent, at which time such right with respect to the Series S Preferred Stock shall terminate, except as provided by law, and subject to reverting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series S Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series S Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series S Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series S Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series S Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series S Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series S Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series S Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series S Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary

liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series S Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series S Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series S Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series S Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series S Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series S Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series S Preferred Stock, and holders of the Series S Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series S Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series S Preferred Stock will have 25 votes per share on any matter on which holders of the Series S Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series S Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series S Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series S Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which

rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws and applicable law.

**Section 8. Preemption and Conversion.** The holders of Series S Preferred Stock shall not have any rights of preemption or rights to convert such Series S Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Recquired Shares.** Shares of Series S Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series S Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series S Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series S Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series S Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.



**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 17<sup>th</sup> day of April, 2014.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President and  
Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on April 21, 2014.]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES T (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on July 18, 2014, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated April 29, 2014, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series T, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series T Preferred Stock*”). Each share of Series T Preferred Stock shall be identical in all respects to every other share of Series T Preferred Stock except with respect to the date from which dividends may accrue. Series T Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the

Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series T Preferred Stock shall be 32,200. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series T Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series T Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series T Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series T Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series T Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series T Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series T Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after July 14, 2014; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after July 14, 2014; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after July 14, 2014, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series T Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series T Preferred Stock is outstanding.

“*Series T Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series T Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series T Preferred Stock will not be mandatory. Holders of Series T Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series T Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on September 15, 2014); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each

such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, July 21, 2014 to, but excluding, September 15, 2014. Dividends on each share of Series T Preferred Stock will accrue at a rate *per annum* equal to 6.00%. The record date for payment of dividends on the Series T Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series T Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series T Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series T Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series T Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series T Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the

redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after July 14, 2014, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series T Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after July 14, 2014, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business), unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series T Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series T Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for

payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series T Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series T Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series T Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series T Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series T Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series T Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series T Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series T Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series T Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series T Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series T Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series T Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after September 15, 2019, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series T Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series T Preferred Stock at the time outstanding, prior to September 15, 2019, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series T Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series T Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series T Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series T Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series T Preferred



Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series T Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series T Preferred Stock at the time outstanding, the shares of Series T Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series T Preferred Stock in proportion to the number of Series T Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series T Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series T Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series T Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series T Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series T Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series T Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series T Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series T Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series T Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series T Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series T Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of

office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series T Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series T Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series T Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series T Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series T Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series T Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series T Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series T Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series T Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series T Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series T Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series T Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series T Preferred Stock, and holders of the Series T Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series T Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series T Preferred Stock will have 25 votes per share on any matter on which holders of the Series T Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series T Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series T Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series T Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series T Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series T Preferred Stock shall not have any rights of preemption or rights to convert such Series T Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series T Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series T Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series T Preferred Stock, may authorize and issue additional shares of Junior Stock and

Parity Stock and (ii) with the requisite vote of the holders of the Series T Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series T Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

US.54547103.01

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 18th day of July, 2014.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President and  
Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on July 18, 2014.]

**WELLS FARGO & COMPANY**

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**CERTIFICATE OF DESIGNATION**

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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**5.875% FIXED-TO-FLOATING RATE NON-CUMULATIVE PERPETUAL  
CLASS A PREFERRED STOCK, SERIES U  
(Without Par Value)**

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on January 22, 2015, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated April 29, 2014, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

**RIGHTS AND PREFERENCES**

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated 5.875% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred

Stock, Series U, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series U Preferred Stock*”). Each share of Series U Preferred Stock shall be identical in all respects to every other share of Series U Preferred Stock except with respect to the date from which dividends may accrue. Series U Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series U Preferred Stock shall be 80,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series U Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series U Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series U Preferred Stock:

“*Business Day*” means for dividends payable for the Fixed Rate Period (as defined below) any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York, and for dividends payable for the Floating Rate Period (as defined below), it means any date that would be considered a Business Day during the Fixed Rate Period that is also a London Banking Day (as defined below).

“*Calculation Agent*” means Wells Fargo Securities, LLC or any other successor appointed by the Corporation, acting as Calculation Agent.

“*Certificate of Designation*” means this Certificate of Designation relating to the Series U Preferred Stock, as it may be amended from time to time.

“*Common Stock*” means the common stock of the Corporation, par value \$1<sup>2</sup>/<sub>3</sub> per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

“*Depository Company*” has the meaning set forth in Section 6(d) hereof.

“*Designated LIBOR Page*” means the display on Reuters, or any successor service, on page LIBOR01, or any other page as may replace that page on that service, for the purpose of displaying the London interbank rates for U.S. dollars.

“*Dividend Payment Date*” has the meaning set forth in Section 4(a) hereof.



*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Fixed Rate Period”* has the meaning set forth in Section 4(a) hereof.

*“Floating Rate Period”* has the meaning set forth in Section 4(a) hereof.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series U Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“LIBOR Determination Date”* means the second London Banking Day immediately preceding the first day of the relevant Dividend Period.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“London Banking Day”* means any day on which commercial banks and foreign exchange markets settle payments in London.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

*“Parity Stock”* means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series U Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Preference Stock”* means any and all series of preference stock, having no par value, of the Corporation.

*“Preferred Stock”* means any and all series of preferred stock, having no par value, of the Corporation, including the Series U Preferred Stock.

*“Preferred Stock Directors”* shall have the meaning set forth in Section 7(b).

*“Regulatory Capital Treatment Event”* means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after January 15, 2015; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after January 15, 2015; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on

or after January 15, 2015, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series U Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series U Preferred Stock is outstanding.

“*Series U Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Three-month LIBOR*” means, for any LIBOR Determination Date, the arithmetic mean of the offered rates for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date that appear on the Designated LIBOR Page as of 11:00 a.m., London time, on that LIBOR Determination Date, if at least two offered rates appear on the Designated LIBOR Page, provided that if the specified Designated LIBOR Page by its terms provides only for a single rate, that single rate will be used. If (i) fewer than two offered rates appear or (ii) no rate appears and the Designated LIBOR Page by its terms provides only for a single rate, then the Calculation Agent will request the principal London offices of each of four major banks in the London interbank market, as selected by the Calculation Agent, to provide the Calculation Agent with its offered quotation for deposits in U.S. dollars for a three-month period commencing on the second London Banking Day immediately following that LIBOR Determination Date to prime banks in the London interbank market at approximately 11:00 a.m., London time, on that LIBOR Determination Date and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If at least two quotations are provided, Three-month LIBOR determined on that LIBOR Determination Date will be the arithmetic mean of those quotations. If fewer than two quotations are provided, Three-month LIBOR will be the arithmetic mean of the rates quoted at approximately 11:00 a.m., New York City time, on that LIBOR Determination Date by three major banks in New York City selected by the Calculation Agent for loans in U.S. dollars to leading European banks for a three-month period and in a principal amount that is representative of a single transaction in U.S. dollars in that market at that time. If the banks so selected by the Calculation Agent are not quoting as set forth above, Three-month LIBOR for that LIBOR Determination Date will remain Three-month LIBOR for the immediately preceding Dividend Period or, in the case of the Dividend Period beginning June 15, 2025, 5.875%. All percentages used in or resulting from any calculation of Three-month LIBOR will be rounded, if necessary, to the nearest one hundred-thousandth of a percentages point, with .000005% rounded up to .00001%. The determination of Three-month LIBOR for each relevant Dividend Period by the Calculation Agent will (in the absence of manifest error) be final and binding.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series U Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series U Preferred Stock will not be mandatory. Holders of Series U Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series U Preferred Stock, payable (i) from January 23, 2015 to, but excluding, June 15, 2025 (the “*Fixed Rate Period*”), semi-annually in arrears on the 15<sup>th</sup> day of each June and December, commencing June 15, 2015 at an annual rate of 5.875%, and (ii) from, and including, June 15, 2025 (the “*Floating Rate Period*”), quarterly in arrears on the 15<sup>th</sup> day of each March, June, September and December, commencing September 15, 2025, at an annual rate equal to Three-month LIBOR plus 3.99%. Notwithstanding the foregoing, if any date on or prior to June 15, 2025 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay, and if any date after June 15, 2025 on which dividends otherwise would be payable is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding Business Day unless that day falls in the next calendar month, in which case payment of any dividend otherwise payable on that date will be the immediately preceding Business Day, and dividends will accrue to the actual payment date (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, January 23, 2015 to, but excluding, June 15, 2015. The record date for payment of dividends on the Series U Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable for the Fixed Rate Period shall be computed on the basis of a 360-day year of twelve 30-day months. The amount of dividends payable for the Floating Rate Period shall be computed on the basis of a 360-day year and the actual number of days elapsed. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward. The Calculation Agent’s determination of any dividend rate, and its calculation of the amount of dividends payable for the Floating Rate Period, will be maintained on file at the Calculation Agent’s principal offices.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series U Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series U Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series U Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series U Preferred Stock or

any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series U Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 15, 2015, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series U Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 15, 2015, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series U Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series U Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series U Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series U Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series U Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series U Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series U Preferred

Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series U Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series U Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series U Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series U Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series U Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series U Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series U Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after June 15, 2025, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series U Preferred Stock shall be \$25,000 per share plus

an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series U Preferred Stock at the time outstanding, prior to June 15, 2025, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series U Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series U Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series U Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series U Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series U Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series U Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series U Preferred Stock at the time outstanding, the shares of Series U Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series U Preferred Stock in proportion to the number of Series U Preferred Stock held by such holders as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series U Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series U Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series U Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least three semi-annual Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series U Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series U



Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series U Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series U Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least two semi-annual Dividend Periods or their equivalent, at which time such right with respect to the Series U Preferred Stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series U Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series U Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series U Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series U Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series U Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series U Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series U Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series

U Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series U Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series U Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series U Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series U Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series U Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series U Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series U Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series U Preferred Stock, and holders of the Series U Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series U Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series U Preferred Stock will have 25 votes per share on any matter on which holders of the Series U Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series U Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series U Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series U Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws and applicable law.

**Section 8. Preemption and Conversion.** The holders of Series U Preferred Stock shall not have any rights of preemption or rights to convert such Series U Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series U Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series U Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series U Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series U Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series U Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 22<sup>nd</sup> day of January, 2015.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President and  
Assistant Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on January 22, 2015.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2015 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on March 20, 2015, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its

discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the ESOP Board Resolutions under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the ESOP Board Resolutions are hereby further amended to delete “Appendix A - Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

4. On March 20, 2015, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2015 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2015 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2015 ESOP Preferred Stock”) and the number of authorized shares constituting the 2015 ESOP Preferred Stock is 826,598, based on an offering price for the 2015 ESOP Preferred Stock of \$1,088.80 per share. Each share of 2015 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2015 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2015 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2015 ESOP Preferred Stock shall not be increased. All

shares of the 2015 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2015 ESOP Preferred Stock.

(b) Shares of 2015 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2015 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2015 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2015 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise provided for the conversion of the shares of 2015 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2015 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2015 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2015 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2015 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2015 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2015 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2015 ESOP Preferred Stock, the transfer agent for the 2015 ESOP Preferred Stock shall note the foregoing provisions on each 2015 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2015 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2015 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2015 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2015 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:



(a) Whenever, at any time or times, dividends payable on shares of 2015 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2015 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2015 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2015 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2015 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2015 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2015 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to re-vesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2015 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2015 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2015 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be

provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2015 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2015 ESOP Preferred Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2015 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2015 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2015 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2015 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2015 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2015 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2015 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2015 ESOP Preferred Stock.

3. Dividends. (a)(i) Holders of shares of 2015 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee

thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$89.00 (the “Base Dividend”) per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2016 and on each December 1 thereafter until December 1, 2023, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2015 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$94.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2015 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$99.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2015 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

### **Dividend Adjustment Table**

<b><u>Closing Price on 11/30</u></b>	<b><u>First Target Price</u></b>	<b><u>Second Target Price</u></b>
2016	\$61.50	\$64.98
2017	\$65.80	\$71.80
2018	\$70.41	\$79.34
2019	\$75.34	\$87.67
2020	\$80.61	\$96.87
2021	\$86.25	\$107.04
2022	\$92.29	\$118.28
2023	\$98.75	\$130.70

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2016, the Current Market Price of one share of Common Stock is \$62.00, then the cash dividend payable for the immediately following twelve month period per share of 2015 ESOP Preferred Stock would equal \$94.00, with the first quarterly payment of such \$94.00 dividend to be made on March 1, 2017. If on November 30, 2017, the Current Market Price of one share of Common Stock is \$72.00, then the cash dividend payable for the immediately following twelve month period per share of 2015 ESOP Preferred Stock would equal \$99.00, with the first quarterly payment of such \$99.00 dividend to be made on March 1, 2018. If on November 30, 2018, the Current Market Price of one share of Common Stock is \$65.00, then the cash dividend payable for the immediately following twelve month period per share of 2015 ESOP Preferred Stock would equal \$89.00, with the first quarterly payment of such \$89.00 dividend to be made on March 1, 2019.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2015 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year,

commencing June 1, 2015. Dividends on shares of the 2015 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2015 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2015 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2015 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2015 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2015 ESOP Preferred Stock, all dividends declared upon shares of 2015 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2015 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2015 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2015 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2015 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2015 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2015 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2015 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2015 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2015 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2015 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of

the Company ranking junior to 2015 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2015 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2015 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2015 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2015 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2015 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2015 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2015 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2015 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2015 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2015 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2015 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2015 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2015 ESOP Preferred Stock or by any agent for conversion of the 2015 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2015 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2015 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2015 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2015 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2015 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2015 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2015 ESOP Preferred Stock by the Company or the transfer agent for the 2015 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2015 ESOP Preferred Stock, the certificate or certificates representing the shares of 2015 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2015 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2015 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2015 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2015 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2015 ESOP Preferred Stock, for any shares of 2015 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2015 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder’s designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2015 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder’s designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2015 ESOP Preferred Stock which shall not have been converted.



(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2015 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2015 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2015 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2015 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2015 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2015 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2015 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2015 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2015 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2015 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2015 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2015 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2015 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2015 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2015 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2015 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2015 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2015 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2015 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2015 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2015 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2015 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2015 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2015 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2015 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2015 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) "Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The "Fair Market Value" of any security which is not publicly traded (other than the 2015 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The "Fair Market Value" of the 2015 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2015 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2015 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2015 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2015 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2015 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about March 26, 2015 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting

corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2015 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2015 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2015 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2015 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2015 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2015 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2015 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2015 ESOP Preferred Stock could have been converted at such time so that each share of 2015 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2015 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction,

which election cannot practicably be made by the holders of the 2015 ESOP Preferred Stock, then the shares of 2015 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2015 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2015 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2015 ESOP Preferred Stock, a cash payment per share of 2015 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2015 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2015 ESOP Preferred Stock shall have the right to convert shares of 2015 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice

of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2015 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2015 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2015 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2015 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2015 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2015 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series

of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2015 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2015 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2015 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2015 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2015 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2015 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2015 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2015 ESOP Preferred Stock;

(b) on a parity with shares of 2015 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2015 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2015 ESOP Preferred Stock; and

(c) junior to shares of 2015 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2015 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2015 ESOP Preferred Stock. The shares of 2015 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2006 ESOP Cumulative Convertible Preferred

Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, its 2012 ESOP Cumulative Convertible Preferred Stock, its 2013 ESOP Cumulative Convertible Preferred Stock, and its 2014 ESOP Cumulative Convertible Preferred Stock.



IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by John G. Stumpf, its Chairman, President and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 20th day of March, 2015.

WELLS FARGO & COMPANY

By /s/ John G. Stumpf  
John G. Stumpf  
Chairman, President and  
Chief Executive Officer

Attest:

/s/ Jeannine E. Zahn  
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on March 25, 2015.]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES V (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on September 10, 2015, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated April 29, 2014, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series V, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series V Preferred Stock*”). Each share of Series V Preferred Stock shall be identical in all respects to every other share of Series V Preferred Stock except with respect to the date from which dividends may accrue. Series V Preferred Stock will rank equally with Parity Stock with

respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series V Preferred Stock shall be 40,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series V Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series V Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series V Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series V Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series V Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

“*Nonpayment Event*” shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series V Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series V Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after September 8, 2015; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after September 8, 2015; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after September 8, 2015, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series V Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series V Preferred Stock is outstanding.

“*Series V Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series V Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series V Preferred Stock will not be mandatory. Holders of Series V Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series V Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on December 15, 2015); provided, however, if any such day is not a Business Day, then payment of any

dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, September 15, 2015 to, but excluding, December 15, 2015. Dividends on each share of Series V Preferred Stock will accrue at a rate *per annum* equal to 6.00%. The record date for payment of dividends on the Series V Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series V Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series V Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series V Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series V Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series V Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by

the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after September 8, 2015, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series V Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after September 8, 2015, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series V Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series V Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series V Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series V Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series V Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series V Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series V Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series V Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series V Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series V Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series V Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series V Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series V Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled

to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series V Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after December 15, 2020, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series V Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series V Preferred Stock at the time outstanding, prior to December 15, 2020, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series V Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series V Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series V Preferred Stock designated for redemption shall not affect the validity of the



proceedings for the redemption of any other shares of Series V Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series V Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series V Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series V Preferred Stock at the time outstanding, the shares of Series V Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series V Preferred Stock in proportion to the number of Series V Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series V Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series V Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series V Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series V Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series V Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series V Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series V Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series V Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series V Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series V Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series V Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already

been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series V Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series V Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series V Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series V Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series V Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series V Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series V Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series V Preferred Stock will have no right to vote under this section 7(c)(iv) if in each case (a) the shares of Series V Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series V Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series V Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series V Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights,

preferences, privileges or voting powers of the Series V Preferred Stock, and holders of the Series V Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series V Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series V Preferred Stock will have 25 votes per share on any matter on which holders of the Series V Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series V Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series V Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series V Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series V Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series V Preferred Stock shall not have any rights of preemption or rights to convert such Series V Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series V Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series V Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee

of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series V Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series V Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series V Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*[Signature Page Follows]*

US.98639891.01

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 10<sup>th</sup> day of September, 2015.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett

Barbara S. Brett, Senior Vice President and  
Assistant Treasurer

/s/ Jeannine E. Zahn

Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on September 11, 2015.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2016 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and February 24, 2009, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 4, 2016, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the ESOP Board Resolutions under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the ESOP Board Resolutions are hereby further amended to delete “Appendix A - Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on February 24, 2009, the Board designated John G. Stumpf as the sole member of the ESOP Committee, effective April 29, 2009.

4. On January 4, 2016, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2016 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2016 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2016 ESOP Preferred Stock”) and the number of authorized shares constituting the 2016 ESOP Preferred Stock is 1,150,000, based on an offering price for the 2016 ESOP Preferred Stock of \$1,086.00 per share. Each share of 2016 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2016 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized; provided, however, that the authorized number of shares of 2016 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2016 ESOP Preferred Stock shall not be increased. All shares of the 2016 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2016 ESOP Preferred Stock.



(b) Shares of 2016 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2016 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2016 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2016 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise providing for the conversion of the shares of 2016 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2016 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2016 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2016 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2016 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2016 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2016 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2016 ESOP Preferred Stock, the transfer agent for the 2016 ESOP Preferred Stock shall note the foregoing provisions on each 2016 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2016 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2016 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2016 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2016 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2016 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2016 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in

paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2016 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by a vote of the holders of such outstanding shares of 2016 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2016 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2016 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2016 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2016 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2016 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2016 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2016 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2016 ESOP Preferred

Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2016 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2016 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2016 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2016 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2016 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2016 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2016 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2016 ESOP Preferred Stock.

3. Dividends. (a)(i) Holders of shares of 2016 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$93.00 (the "Base Dividend") per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2017 and on each December 1 thereafter until December 1, 2024, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2016 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$98.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2016 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$103.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2016 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

**Dividend Adjustment Table**

<b><u>Closing Price on 11/30</u></b>	<b><u>First Target Price</u></b>	<b><u>Second Target Price</u></b>
2017	\$63.00	\$66.74
2018	\$67.10	\$73.25
2019	\$71.46	\$80.39
2020	\$76.10	\$88.23
2021	\$81.05	\$96.83
2022	\$86.32	\$106.27
2023	\$91.93	\$116.63
2024	\$97.91	\$128.00

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2017, the Current Market Price of one share of Common Stock is \$64.00, then the cash dividend

payable for the immediately following twelve month period per share of 2016 ESOP Preferred Stock would equal \$98.00, with the first quarterly payment of such \$98.00 dividend to be made on March 1, 2018. If on November 30, 2018, the Current Market Price of one share of Common Stock is \$74.00, then the cash dividend payable for the immediately following twelve month period per share of 2016 ESOP Preferred Stock would equal \$103.00, with the first quarterly payment of such \$103.00 dividend to be made on March 1, 2019. If on November 30, 2019, the Current Market Price of one share of Common Stock is \$68.00, then the cash dividend payable for the immediately following twelve month period per share of 2016 ESOP Preferred Stock would equal \$93.00, with the first quarterly payment of such \$93.00 dividend to be made on March 1, 2020.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2016 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year, commencing March 1, 2016. Dividends on shares of the 2016 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2016 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2016 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the

payment thereof has been set apart for such payment on shares of 2016 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2016 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2016 ESOP Preferred Stock, all dividends declared upon shares of 2016 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2016 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2016 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2016 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2016 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2016 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2016 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2016 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2016 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2016 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2016 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of the Company ranking junior to 2016 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2016 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2016 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2016 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2016 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be

automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2016 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2016 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2016 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2016 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2016 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2016 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2016 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2016 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2016 ESOP Preferred Stock or by any agent for conversion of the 2016 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2016 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2016 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2016 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2016 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2016 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2016 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2016 ESOP Preferred Stock by the Company or the transfer agent for the 2016 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2016 ESOP Preferred Stock, the certificate or certificates representing the shares of 2016 ESOP Preferred Stock being



converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2016 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2016 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2016 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2016 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2016 ESOP Preferred Stock, for any shares of 2016 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2016 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder's designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2016 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder's designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2016 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2016 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2016 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2016 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in

respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2016 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2016 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2016 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2016 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2016 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2016 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2016 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2016 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption at the Option of the Company. (a) The 2016 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2016 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2016 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2016 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment,

on all outstanding shares of 2016 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2016 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2016 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2016 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2016 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2016 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2016 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2016 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2016 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2016 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2016 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) “Fair Market Value” shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The “Fair Market Value” of any security which is not publicly traded (other than the 2016 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The “Fair Market Value” of the 2016 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2016 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2016 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2016 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2016 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2016 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about January 7, 2016 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2016 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2016 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2016 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2016 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by

Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2016 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2016 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2016 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2016 ESOP Preferred Stock could have been converted at such time so that each share of 2016 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2016 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction, which election cannot practicably be made by the holders of the 2016 ESOP Preferred Stock, then the shares of 2016 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2016 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b)

of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2016 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2016 ESOP Preferred Stock, a cash payment per share of 2016 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2016 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2016 ESOP Preferred Stock shall have the right to convert shares of 2016 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire

Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2016 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2016 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2016 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2016 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2016 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2016 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2016 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2016 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2016 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2016 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2016 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets

remaining to be paid or distributed, and the holders of the shares of 2016 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2016 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2016 ESOP Preferred Stock;

(b) on a parity with shares of 2016 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2016 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2016 ESOP Preferred Stock; and

(c) junior to shares of 2016 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2016 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2016 ESOP Preferred Stock. The shares of 2016 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets upon liquidation, with the Company's 2006 ESOP Cumulative Preferred Stock, its 2007 ESOP Cumulative Convertible Preferred Stock, its 2008 ESOP Cumulative Convertible Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, its 2012 ESOP Cumulative Convertible Preferred Stock, its 2013 ESOP Cumulative Convertible Preferred Stock, its 2014 ESOP Cumulative Convertible Preferred Stock, and its 2015 ESOP Cumulative Convertible Preferred Stock.



IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by John G. Stumpf, its Chairman and Chief Executive Officer, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 4th day of January, 2016.

WELLS FARGO & COMPANY

By /s/ John G. Stumpf  
John G. Stumpf  
Chairman and  
Chief Executive Officer

Attest:

/s/ Jeannine E. Zahn  
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on January 5, 2016.]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES W (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on January 27, 2016, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated April 29, 2014, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series W, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series W Preferred Stock*”). Each share of Series W Preferred Stock shall be identical in all respects to every other share of Series W Preferred Stock except with respect to the date from which dividends may accrue. Series W Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the

Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series W Preferred Stock shall be 40,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series W Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series W Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series W Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series W Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series W Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series W Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series W Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after January 19, 2016; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after January 19, 2016; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after January 19, 2016, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series W Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series W Preferred Stock is outstanding.

“*Series W Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series W Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series W Preferred Stock will not be mandatory. Holders of Series W Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series W Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on March 15, 2016); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such

day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, January 29, 2016 to, but excluding, March 15, 2016. Dividends on each share of Series W Preferred Stock will accrue at a rate *per annum* equal to 5.70%. The record date for payment of dividends on the Series W Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series W Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series W Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series W Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series W Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series W Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the

redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 19, 2016, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series W Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 19, 2016, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series W Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series W Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series W Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series W Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series W Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series W Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series W Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series W Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the "*Liquidation Preference*"). The holders of Series W Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series W Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series W Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series W Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series W Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock

shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series W Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after March 15, 2021, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series W Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series W Preferred Stock at the time outstanding, prior to March 15, 2021, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series W Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series W Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series W Preferred Stock designated for redemption shall not affect the validity of the



proceedings for the redemption of any other shares of Series W Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series W Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series W Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series W Preferred Stock at the time outstanding, the shares of Series W Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series W Preferred Stock in proportion to the number of Series W Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series W Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series W Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series W Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series W Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series W Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series W Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series W Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series W Preferred Stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series W Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series W Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series W Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already

been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series W Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series W Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series W Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series W Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the Bylaws that would adversely affect the rights, preferences, privileges or voting powers of the Series W Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or Bylaws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series W Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series W Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series W Preferred Stock will have no right to vote under this Section 7(c)(iv) if in each case (a) the shares of Series W Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series W Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series W Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series W Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series W

Preferred Stock, and holders of the Series W Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series W Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series W Preferred Stock will have 25 votes per share on any matter on which holders of the Series W Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series W Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series W Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series W Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the Bylaws, applicable law and any national securities exchange or other trading facility in which the Series W Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series W Preferred Stock shall not have any rights of preemption or rights to convert such Series W Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series W Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series W Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee

of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series W Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series W Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series W Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*[Signature Page Follows]*

US.103920609.06

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 28th day of January, 2016.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett

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Barbara S. Brett, Senior Vice President and  
Assistant Treasurer

/s/ Jeannine E. Zahn \_\_\_\_\_

Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on January 28, 2016.]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES X (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on June 14, 2016, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated April 29, 2014, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series X, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series X Preferred Stock*”). Each share of Series X Preferred Stock shall be identical in all respects to every other share of Series X Preferred Stock except with respect to the date from which dividends may accrue. Series X Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the

Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series X Preferred Stock shall be 46,000. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series X Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series X Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series X Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series X Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series X Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).



“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series X Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series X Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after June 8, 2016; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after June 8, 2016; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after June 8, 2016, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series X Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series X Preferred Stock is outstanding.

“*Series X Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series X Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series X Preferred Stock will not be mandatory. Holders of Series X Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series X Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on September 15, 2016); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the

next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, June 15, 2016 to, but excluding, September 15, 2016. Dividends on each share of Series X Preferred Stock will accrue at a rate *per annum* equal to 5.50%. The record date for payment of dividends on the Series X Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation's Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series X Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series X Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series X Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series X Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series X Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior

Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after June 8, 2016, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of

the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series X Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after June 8, 2016, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series X Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series X Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series X Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares

dividends on the Series X Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series X Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series X Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series X Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series X Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the "*Liquidation Preference*"). The holders of Series X Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series X Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series X Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series X Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series X Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of

the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series X Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after September 15, 2021, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series X Preferred Stock

shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series X Preferred Stock at the time outstanding, prior to September 15, 2021, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series X Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series X Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series X Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series X Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series X Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii)

the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series X Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series X Preferred Stock at the time outstanding, the shares of Series X Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series X Preferred Stock in proportion to the number of Series X Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series X Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and

continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series X Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series X Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series X Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series X Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series X Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series X Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series X Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series X Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series X Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series X Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled.

The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series X Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series X Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series X Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series X Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the By-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series X Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or By-laws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series X Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series X Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series X Preferred Stock will have no right to vote under this Section 7(c)(iv) if in each case (a) the shares of Series X Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series X Preferred Stock remaining outstanding or such preference

securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series X Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series X Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-



cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series X Preferred Stock, and holders of the Series X Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series X Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series X Preferred Stock will have 25 votes per share on any matter on which holders of the Series X Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series X Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series X Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series X Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the By-laws, applicable law and any national securities exchange or other trading facility in which the Series X Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series X Preferred Stock shall not have any rights of preemption or rights to convert such Series X Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series X Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series X Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series X Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series X Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series X Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*[Signature Page Follows]*

US.106566229.03

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 14th day of June, 2016.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President and Assistant  
Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on June 14, 2016.]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2017 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and October 12, 2016, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 31, 2017, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the ESOP Board Resolutions under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the ESOP Board Resolutions are hereby further amended to delete “Appendix A - Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on October 12, 2016, the Board designated Timothy J. Sloan as the sole member of the ESOP Committee, effective October 12, 2016.

4. On January 31, 2017, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2017 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2017 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2017 ESOP Preferred Stock”) and the number of authorized shares constituting the 2017 ESOP Preferred Stock is 950,000, based on an offering price for the 2017 ESOP Preferred Stock of \$1,033.00 per share. Each share of 2017 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2017 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2017 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2017 ESOP Preferred Stock shall not be increased. All shares of the 2017 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized

but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2017 ESOP Preferred Stock.

(b) Shares of 2017 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2017 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2017 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2017 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise provided for the conversion of the shares of 2017 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2017 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2017 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2017 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2017 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2017 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2017 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2017 ESOP Preferred Stock, the transfer agent for the 2017 ESOP Preferred Stock shall note the foregoing provisions on each 2017 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2017 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2017 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2017 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2017 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2017 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2017 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2017 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2017 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2017 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2017 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2017 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to re-vesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2017 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2017 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2017 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be

provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2017 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2017 ESOP Preferred Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2017 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2017 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2017 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2017 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2017 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2017 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2017 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2017 ESOP Preferred Stock.



3. Dividends. (a)(i) Holders of shares of 2017 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$70.00 (the “Base Dividend”) per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2018 and on each December 1 thereafter until December 1, 2025, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2017 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$75.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2017 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$80.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2017 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

#### **Dividend Adjustment Table**

<u>Closing Price on 11/30</u>	<u>First Target Price</u>	<u>Second Target Price</u>
2018	\$62.09	\$66.02
2019	\$66.59	\$73.20
2020	\$71.41	\$81.16
2021	\$76.59	\$89.98
2022	\$82.14	\$99.77
2023	\$88.10	\$110.62
2024	\$94.49	\$122.65
2025	\$101.34	\$135.99

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2018, the Current Market Price of one share of Common Stock is \$63.00, then the cash dividend payable for the immediately following twelve month period per share of 2017 ESOP Preferred Stock would equal \$75.00, with the first quarterly payment of such \$75.00 dividend to be made on March 1, 2019. If on November 30, 2019, the Current Market Price of one share of Common Stock is \$74.00, then the cash dividend payable for the immediately following twelve month period per share of 2017 ESOP Preferred Stock would equal \$80.00, with the first quarterly payment of such \$80.00 dividend to be made on March 1, 2020. If on November 30, 2020, the Current Market Price of one share of Common Stock is \$68.00, then the cash dividend payable for the immediately following twelve month period per share of 2017 ESOP Preferred Stock would equal \$70.00, with the first quarterly payment of such \$70.00 dividend to be made on March 1, 2021.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2017 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year,

commencing June 1, 2017. Dividends on shares of the 2017 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2017 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2017 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2017 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2017 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2017 ESOP Preferred Stock, all dividends declared upon shares of 2017 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2017 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2017 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2017 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2017 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2017 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2017 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2017 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2017 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2017 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2017 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of

the Company ranking junior to 2017 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2017 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2017 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2017 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2017 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2017 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2017 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2017 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2017 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2017 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2017 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2017 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2017 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2017 ESOP Preferred Stock or by any agent for conversion of the 2017 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2017 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2017 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2017 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2017 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2017 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2017 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2017 ESOP Preferred Stock by the Company or the transfer agent for the 2017 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2017 ESOP Preferred Stock, the certificate or certificates representing the shares of 2017 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2017 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2017 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2017 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2017 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2017 ESOP Preferred Stock, for any shares of 2017 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2017 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder’s designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2017 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder’s designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2017 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2017 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2017 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2017 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2017 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2017 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2017 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2017 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2017 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2017 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2017 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2017 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.

5. Redemption At the Option of the Company. (a) The 2017 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2017 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2017 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2017 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2017 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2017 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2017 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2017 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2017 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2017 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2017 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2017 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).



(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2017 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2017 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2017 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) "Adjustment Period" shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) "Fair Market Value" shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The "Fair Market Value" of any security which is not publicly traded (other than the 2017 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The "Fair Market Value" of the 2017 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2017 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2017 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2017 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2017 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2017 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about February 2, 2017 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting

corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2017 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2017 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2017 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2017 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2017 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2017 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2017 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2017 ESOP Preferred Stock could have been converted at such time so that each share of 2017 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2017 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction,

which election cannot practicably be made by the holders of the 2017 ESOP Preferred Stock, then the shares of 2017 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2017 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2017 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2017 ESOP Preferred Stock, a cash payment per share of 2017 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2017 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2017 ESOP Preferred Stock shall have the right to convert shares of 2017 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice

of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2017 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2017 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2017 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2017 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2017 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2017 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series

of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2017 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2017 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2017 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2017 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2017 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2017 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2017 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2017 ESOP Preferred Stock;

(b) on a parity with shares of 2017 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2017 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2017 ESOP Preferred Stock; and

(c) junior to shares of 2017 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2017 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2017 ESOP Preferred Stock. The shares of 2017 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets

upon liquidation, with the Company's 2008 ESOP Cumulative Convertible Preferred Stock, its 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, its 2012 ESOP Cumulative Convertible Preferred Stock, its 2013 ESOP Cumulative Convertible Preferred Stock, its 2014 ESOP Cumulative Convertible Preferred Stock, its 2015 ESOP Cumulative Convertible Preferred Stock, and its 2016 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by Timothy J. Sloan, its Chief Executive Officer and President, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 31st day of January, 2017.

WELLS FARGO & COMPANY

By /s/ Timothy J. Sloan  
Timothy J. Sloan  
President and  
Chief Executive Officer

Attest:

/s/ Jeannine E. Zahn  
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on February 1, 2017]

## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, SERIES Y (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “*Corporation*”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the “*Board of Directors*”) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the “*Committee*”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “*General Corporation Law*”), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on April 21, 2017, in accordance with Section 141(f) of the General Corporation Law:

**Resolved**, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 25, 2016, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series Y, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series Y Preferred Stock*”). Each share of Series Y Preferred Stock shall be identical in all respects to every other share of Series Y Preferred Stock except with respect to the date from which dividends may accrue. Series Y Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the



Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series Y Preferred Stock shall be 27,600. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series Y Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series Y Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series Y Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series Y Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series Y Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

“*Parity Stock*” means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series Y Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series Y Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after April 17, 2017; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after April 17, 2017; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after April 17, 2017, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series Y Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series Y Preferred Stock is outstanding.

“*Series Y Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series Y Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series Y Preferred Stock will not be mandatory. Holders of Series Y Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series Y Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on June 15, 2017); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such

day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will be the period from, and including, April 24, 2017 to, but excluding, June 15, 2017. Dividends on each share of Series Y Preferred Stock will accrue at a rate *per annum* equal to 5.625%. The record date for payment of dividends on the Series Y Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation’s Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series Y Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series Y Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series Y Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series Y Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series Y Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the

redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after April 17, 2017, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series Y Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after April 17, 2017, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series Y Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series Y Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series Y Preferred Stock for the then-current Dividend Period have been paid in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series Y Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series Y Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series Y Preferred Stock shall not be entitled to participate in any such dividends.

#### **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series Y Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series Y Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the “*Liquidation Preference*”). The holders of Series Y Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series Y Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series Y Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series Y Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series Y Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled

to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock, securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series Y Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after June 15, 2022, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Y Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series Y Preferred Stock at the time outstanding, prior to June 15, 2022, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Y Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series Y Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series Y Preferred Stock designated for redemption shall not affect the validity of the

proceedings for the redemption of any other shares of Series Y Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series Y Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series Y Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series Y Preferred Stock at the time outstanding, the shares of Series Y Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series Y Preferred Stock in proportion to the number of Series Y Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series Y Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.

## **Section 7. Voting Rights.**

**(a) General.** The holders of Series Y Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series Y Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series Y Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Y Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series Y Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Y Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series Y Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series Y Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series Y Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series Y Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled.



The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series Y Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series Y Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series Y Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series Y Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the By-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series Y Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or By-laws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series Y Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series Y Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series Y Preferred Stock will have no right to vote under this Section 7(c)(iv) if in each case (a) the shares of Series Y Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series Y Preferred Stock remaining outstanding or such preference

securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Y Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series Y Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-

cumulative) or Junior Stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series Y Preferred Stock, and holders of the Series Y Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series Y Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series Y Preferred Stock will have 25 votes per share on any matter on which holders of the Series Y Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series Y Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series Y Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series Y Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the By-laws, applicable law and any national securities exchange or other trading facility in which the Series Y Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series Y Preferred Stock shall not have any rights of preemption or rights to convert such Series Y Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series Y Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series Y Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation

to the contrary, the Board of Directors of the Corporation, or any authorized committee of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series Y Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series Y Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series Y Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*[Signature Page Follows]*

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Barbara S. Brett, its Senior Vice President and Assistant Treasurer, and Jeannine E. Zahn, its Assistant Secretary, this 21<sup>st</sup> day of April, 2017.

**Wells Fargo & Company**

By: /s/ Barbara S. Brett  
Barbara S. Brett, Senior Vice President and Assistant  
Treasurer

/s/ Jeannine E. Zahn  
Jeannine E. Zahn, Assistant Secretary

[As filed with the Delaware Secretary of State on April 27, 2017]

WELLS FARGO & COMPANY

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CERTIFICATE OF DESIGNATION  
Pursuant to Section 151 of the  
General Corporation Law of the State of Delaware

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2018 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK  
(Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the “Company”), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Company (the “Board”) by the provisions of the Restated Certificate of Incorporation of the Company, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value (the “Preferred Stock”), and pursuant to authority conferred upon the ESOP Preferred Stock Committee I of the Board (the “ESOP Committee”) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the “General Corporation Law”) and by the resolutions of the Board set forth herein, the following resolutions were duly adopted by the Board at meetings of the Board duly held on January 25, 2000, January 27, 2009, and October 12, 2016, and by the ESOP Committee pursuant to the written consent of the ESOP Committee duly adopted on January 23, 2018, in accordance with Section 141(f) of the General Corporation Law:

1. On January 25, 2000, the Board adopted the following resolution (the “ESOP Board Resolutions”) appointing the ESOP Committee and delegating to the ESOP Committee the full powers of the Board, subject to the ESOP Board Resolutions, in all matters relating to issuance of one or more series of Preferred Stock (“ESOP Preferred Stock”) to the trustee on behalf of the Company’s 401(k) Plan hereinafter referred to:

RESOLVED that a committee of one member of the Board of the Company is hereby appointed by the Board as the ESOP Preferred Stock Committee I (the “First Committee”), which shall have and may exercise the full powers of the Board, subject to these resolutions, to issue from time to time one or more series of ESOP Preferred Stock, including any shares of Company common stock (\$1 2/3 par value) issuable upon conversion of ESOP Preferred Stock, and in connection therewith, to fix the designations, voting powers, preferences, and all other rights, qualifications and restrictions of such ESOP Preferred Stock, to sell such ESOP Preferred Stock to the Plan on such terms and conditions and for such purchase price as the First Committee in its discretion shall approve, and to take any and all actions as the First Committee shall deem necessary or appropriate.

2. On January 27, 2009, the Board adopted the following resolutions (the “January 2009 Resolutions”) amending the ESOP Board Resolutions to allow the ESOP Committee to establish the voting rights of any series of ESOP Preferred Stock:

RESOLVED that the resolution set forth in the ESOP Board Resolutions under the caption “Voting Rights of ESOP Preferred Stock” is hereby deleted in its entirety.

RESOLVED that the ESOP Board Resolutions are hereby further amended to delete “Appendix A - Voting Rights” in its entirety.

3. Pursuant to resolutions adopted on October 12, 2016, the Board designated Timothy J. Sloan as the sole member of the ESOP Committee, effective October 12, 2016.

4. On January 23, 2018, pursuant to authority conferred upon it by the Board in the ESOP Board Resolutions as amended by the January 2009 Resolutions, the ESOP Committee adopted the following resolution by written consent in accordance with Section 141(f) of the General Corporation Law:

RESOLVED that the issuance of a series of Preferred Stock, without par value, of the Company is hereby authorized and the designation, voting powers, preferences, and relative, participating, optional, and other special rights, and qualifications, limitations and restrictions thereof, in addition to those set forth in the Restated Certificate of Incorporation of the Company, as amended, are hereby fixed as follows:

#### 2018 ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK

##### 1. Designation and Number of Shares; Restricted Issue.

(a) The designation of the series of Preferred Stock, without par value, provided for herein shall be “2018 ESOP Cumulative Convertible Preferred Stock” (hereinafter referred to as the “2018 ESOP Preferred Stock”) and the number of authorized shares constituting the 2018 ESOP Preferred Stock is 1,100,000, based on an offering price for the 2018 ESOP Preferred Stock of \$1,039.00 per share. Each share of 2018 ESOP Preferred Stock shall have a stated value of \$1,000.00 per share. The number of authorized shares of 2018 ESOP Preferred Stock may be reduced by further resolution duly adopted by the Board or the Securities Committee and by the filing of a certificate pursuant to the provisions of the General Corporation Law of the State of Delaware stating that such reduction has been so authorized, provided, however, that the authorized number of shares of 2018 ESOP Preferred Stock shall not be decreased below the then outstanding number of such shares, and provided further that the number of authorized shares of 2018 ESOP Preferred Stock shall not be increased. All shares of the 2018 ESOP Preferred Stock purchased, redeemed, or converted by the Company shall be retired and canceled and shall be restored to the status of authorized

but unissued shares of Preferred Stock, without designation as to series, and may thereafter be issued, but not as shares of 2018 ESOP Preferred Stock.

(b) Shares of 2018 ESOP Preferred Stock shall be issued only to a trustee (the "Trustee") acting on behalf of the Wells Fargo & Company 401(k) Plan, or any successor to such plan (the "Plan"). All references to the holder of shares of 2018 ESOP Preferred Stock shall mean the Trustee or any company with which or into which the Trustee may merge or any successor trustee under the trust agreement with respect to the Plan. In the event of any transfer of record ownership of shares of 2018 ESOP Preferred Stock to any person other than any successor trustee under the Plan, the shares of 2018 ESOP Preferred Stock so transferred, upon such transfer and without any further action by the Company or the holder thereof, shall be automatically converted into shares of the common stock, par value \$1-2/3 per share, of the Company (the "Common Stock") on the terms otherwise provided for the conversion of the shares of 2018 ESOP Preferred Stock into shares of Common Stock pursuant to paragraph (a) of Section 4 hereof, and no such transferee shall have any of the voting powers, preferences, and relative, participating, optional or special rights ascribed to shares of 2018 ESOP Preferred Stock hereunder but, rather, only the powers and rights pertaining to the Common Stock into which such shares of 2018 ESOP Preferred Stock shall be so converted. In the event of such a conversion, the transferee of the shares of 2018 ESOP Preferred Stock shall be treated for all purposes as the record holder of the shares of Common Stock into which such shares of 2018 ESOP Preferred Stock have been automatically converted as of the date of such transfer. Shares of 2018 ESOP Preferred Stock may be certificated or uncertificated, at the Company's option. Certificates representing shares of 2018 ESOP Preferred Stock shall bear a legend to reflect the foregoing provisions. In the case of uncertificated 2018 ESOP Preferred Stock, the transfer agent for the 2018 ESOP Preferred Stock shall note the foregoing provisions on each 2018 ESOP Preferred Stock book entry account. The Company may require that, as a condition to transferring record ownership of any uncertificated 2018 ESOP Preferred Stock, the proposed transferee acknowledge in writing that the shares of 2018 ESOP Preferred Stock are subject to the foregoing provisions. Notwithstanding the foregoing provisions of this paragraph (b) of Section 1, shares of 2018 ESOP Preferred Stock (i)(A) shall be converted into shares of Common Stock as provided in paragraph (a) of Section 4 hereof, and (B) may be converted into shares of Common Stock as provided by paragraph (b) of Section 4 hereof and the shares of Common Stock issued upon such conversion may be transferred by the holder thereof as permitted by law and (ii) shall be redeemable by the Company upon the terms and conditions provided in Sections 5 and 6(c) hereof.

2. Voting Rights. No shares of 2018 ESOP Preferred Stock shall have voting rights except such voting rights as may from time to time be required by law and as set forth in this Section 2, as follows:

(a) Whenever, at any time or times, dividends payable on shares of 2018 ESOP Preferred Stock shall be in arrears for such number of dividend periods which shall in the aggregate contain not less than 540 days, the holders of the outstanding shares of 2018 ESOP Preferred Stock shall have the exclusive right, voting together as a class with holders of shares of any one or more series of Voting Parity Stock, as defined in paragraph (e) of this Section 2, whose voting rights are exercisable, to elect two directors of the Company's Board at the Company's next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the "Preferred Stock Directors") by a plurality of the votes cast; provided that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). At elections for such directors, each holder of the shares of 2018 ESOP Preferred Stock shall be entitled to one vote for each share held (the holders of shares of any series of Voting Parity Stock being entitled to such number of votes, if any, for each share of Preferred Stock held as may be granted to them). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of such outstanding shares of 2018 ESOP Preferred Stock (together with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) as herein set forth. The right of such holders of such shares of 2018 ESOP Preferred Stock (voting together as a class with the holders of shares of any one or more series of Voting Parity Stock whose voting rights are exercisable) to elect Preferred Stock Directors as aforesaid shall continue until such time as all dividends accumulated on such shares of 2018 ESOP Preferred Stock shall have been paid in full, at which time such right with respect to such shares of 2018 ESOP Preferred Stock shall terminate, except as herein or by law expressly provided, subject to revesting in the event of each and every subsequent default of the character above mentioned.

(b) Upon any termination of the right of the holders of all shares of 2018 ESOP Preferred Stock and Voting Parity Stock entitled to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by such holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of 2018 ESOP Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of 2018 ESOP Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled. The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this resolution shall have expired, the number of directors shall be such number as may be



provided for in the By-Laws of the Company irrespective of any increase made pursuant to the provisions of this Section 2(b).

(c) In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of 2018 ESOP Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of 2018 ESOP Preferred Stock and outstanding shares of all series of Voting Parity Stock entitled to vote on the matter, by a vote of at least two-thirds in voting power of all such outstanding shares of 2018 ESOP Preferred Stock and such series of Voting Parity Stock voting together as a class, given in person or by proxy, either in writing or at any special or annual meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following whether or not such approval is required by Delaware law:

(i) the authorization, creation or issuance, or any increase in the authorized or issued amount, of any class or series of stock ranking prior to shares of 2018 ESOP Preferred Stock with respect to payment of dividends or the distribution of assets on the Company's voluntary or involuntary liquidation, dissolution or winding up, or

(ii) the amendment, alteration or repeal, whether by merger, consolidation or otherwise, of any of the provisions of the Restated Certificate of Incorporation or of the resolutions set forth in a Certificate of Designation designating shares of 2018 ESOP Preferred Stock and the preferences, powers and relative, participating, optional and other special rights and qualifications, limitations and restrictions thereof which would materially and adversely affect any right, preference, privilege or voting power of the shares of 2018 ESOP Preferred Stock or of the holders thereof; provided, however, that any increase in the amount of authorized Preferred Stock, or the creation and issuance of other series of Preferred Stock, or any increase in the amount of authorized shares of any series of Preferred Stock, in each case ranking on a parity with or junior to the shares of 2018 ESOP Preferred Stock with respect to the payment of dividends and the distribution of assets upon liquidation, dissolution or winding up, shall not be deemed to materially and adversely affect such rights, preferences, privileges or voting powers.

(d) The foregoing voting provisions shall not apply if, at or prior to the time when the act with respect to which such vote would otherwise be required shall be effected, all outstanding shares of 2018 ESOP Preferred Stock shall have been redeemed or sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

(e) As used in this Section 2, "Voting Parity Stock" means any other class or series of stock of the Company now existing or hereafter authorized that ranks on par with the 2018 ESOP Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Company and having similar voting rights as the 2018 ESOP Preferred Stock.

3. Dividends. (a)(i) Holders of shares of 2018 ESOP Preferred Stock will be entitled to receive, when and as declared by the Board or a duly authorized committee thereof, out of assets of the Company legally available for payment, an annual cash dividend of \$70.00 (the “Base Dividend”) per share, which Base Dividend shall be subject to adjustment from time to time as provided in this Section 3.

(ii) The Base Dividend shall be adjusted, effective on December 1, 2019 and on each December 1 thereafter until December 1, 2026, as follows:

(1) If the Current Market Price (as hereinafter defined) of one share of Common Stock on November 30 (or the next preceding Trading Day (as hereinafter defined) if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the First Target Price but less than the Second Target Price shown opposite that year in such table, then holders of shares of the 2018 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$75.00 per share (the “First Adjusted Dividend”).

(2) If the Current Market Price of one share of Common Stock on November 30 (or the next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is equal to or greater than the Second Target Price shown opposite that year in such table, then holders of shares of 2018 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to \$80.00 per share (the “Second Adjusted Dividend”).

(3) If the Current Market Price of one share of Common Stock on November 30 (or next preceding Trading Day if November 30 is not a Trading Day) of any year listed in the Dividend Adjustment Table below is less than the First Target Price shown opposite that year in such table, then the holders of shares of 2018 ESOP Preferred Stock will be entitled to receive a cash dividend for the immediately following twelve month period equal to the Base Dividend.

**Dividend Adjustment Table**

<u>Closing Price on 11/30</u>	<u>First Target Price</u>	<u>Second Target Price</u>
2019	\$70.95	\$75.35
2020	\$75.92	\$83.26
2021	\$81.23	\$92.00
2022	\$86.92	\$101.66
2023	\$93.00	\$112.33
2024	\$99.51	\$124.13
2025	\$106.48	\$137.16
2026	\$113.93	\$151.57

(4) As an example of the adjustments described in subparagraphs (1) through (3) above, if on November 30, 2019, the Current Market Price of one share of Common Stock is \$73.00, then the cash dividend payable for the immediately following twelve month period per share of 2018 ESOP Preferred Stock would equal \$75.00, with the first quarterly payment of such \$75.00 dividend to be made on March 1, 2020. If on November 30, 2020, the Current Market Price of one share of Common Stock is \$84.00, then the cash dividend payable for the immediately following twelve month period per share of 2018 ESOP Preferred Stock would equal \$80.00, with the first quarterly payment of such \$80.00 dividend to be made on March 1, 2021. If on November 30, 2021, the Current Market Price of one share of Common Stock is \$78.00, then the cash dividend payable for the immediately following twelve month period per share of 2018 ESOP Preferred Stock would equal \$70.00, with the first quarterly payment of such \$70.00 dividend to be made on March 1, 2022.

(5) For purposes of this Section 3, the terms “First Adjusted Dividend” and “Second Adjusted Dividend” are sometimes referred to as an “Adjusted Dividend;” the term “Current Market Price” shall have the meaning given to it in Section 4(c)(iv); and the term “Trading Day” shall have the meaning given to it in Section 4(c)(vi).

(iii) If one share of Common Stock in any year listed in the Dividend Adjustment Table shall be changed into a different number of shares or a different class of shares by reason of any reclassification, recapitalization, split-up, combination, exchange of shares or readjustment, or if a stock dividend thereon shall be declared with a record date within such period, then the First Target Price and the Second Target Price listed in such table for that year and each subsequent year will be appropriately and proportionately adjusted.

(iv) Dividends payable on shares of the 2018 ESOP Preferred Stock (whether such dividends are equal to the Base Dividend or to an Adjusted Dividend) shall be payable quarterly on March 1, June 1, September 1, and December 1 of each year,

commencing June 1, 2018. Dividends on shares of the 2018 ESOP Preferred Stock will be cumulative from the date of initial issuance of such shares of 2018 ESOP Preferred Stock. Dividends will be payable, in arrears, to holders of record as they appear on the stock books of the Company on such record dates, not more than 30 days nor less than 15 days preceding the payment dates thereof, as shall be fixed by the Board or a duly authorized committee thereof. The amount of dividends payable per share for each dividend period shall be computed by dividing by four the Base Dividend or the Adjusted Dividend, whichever is then applicable. The amount of dividends payable for the initial dividend period or any period shorter than a full dividend period shall be calculated on the basis of actual days elapsed in a 360-day year of twelve 30-day months.

(b)(i) No full dividends shall be declared or paid or set apart for payment on any stock of the Company ranking, as to dividends, on a parity with or junior to the 2018 ESOP Preferred Stock for any period unless full cumulative dividends have been or contemporaneously are declared and paid or declared and a sum sufficient for the payment thereof has been set apart for such payment on shares of 2018 ESOP Preferred Stock for all dividend payment periods terminating on or prior to the date of payment of such full cumulative dividends. When dividends are not paid in full, as aforesaid, upon the shares of 2018 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2018 ESOP Preferred Stock, all dividends declared upon shares of 2018 ESOP Preferred Stock and any other series of Preferred Stock ranking on a parity as to dividends with 2018 ESOP Preferred Stock shall be declared pro rata so that the amount of dividends declared per share on 2018 ESOP Preferred Stock and such other series of Preferred Stock shall in all cases bear to each other the same ratio that accrued dividends per share on the shares of 2018 ESOP Preferred Stock and such other series of Preferred Stock bear to each other. Holders of shares of 2018 ESOP Preferred Stock shall not be entitled to any dividend, whether payable in cash, property, or stock, in excess of full cumulative dividends, as herein provided, on 2018 ESOP Preferred Stock. No interest, or sum of money in lieu of interest, shall be payable in respect of any dividend payment or payments on 2018 ESOP Preferred Stock which may be in arrears.

(ii) So long as any shares of 2018 ESOP Preferred Stock are outstanding, no dividend (other than dividends or distributions paid in shares of, or options, warrants, or rights to subscribe for or purchase shares of, Common Stock or any other stock ranking junior to 2018 ESOP Preferred Stock as to dividends or upon liquidation and other than as provided in paragraph (b)(i) of this Section 3) shall be declared or paid or set aside for payment or other distribution declared or made upon Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2018 ESOP Preferred Stock as to dividends or upon liquidation, nor shall any Common Stock or any other capital stock of the Company ranking junior to or on a parity with 2018 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up be redeemed, purchased, or otherwise acquired for any consideration (or any moneys be paid to or made available for a sinking fund for the redemption of any shares of any such stock) by the Company (except by conversion into or exchange for stock of

the Company ranking junior to 2018 ESOP Preferred Stock as to dividends or upon liquidation, dissolution or winding up), unless, in each case, the full cumulative dividends on all outstanding shares of 2018 ESOP Preferred Stock shall have been paid or declared and set aside for payment of the then current dividend payment period and all past dividend payment periods.

4. Conversion. Shares of 2018 ESOP Preferred Stock are convertible from time to time hereafter pursuant to the provisions of paragraphs (a) or (b) of this Section 4 into that number of shares of Common Stock determined by dividing the stated value of each share of 2018 ESOP Preferred Stock by the then applicable Conversion Price, (as determined in accordance with the provisions of paragraph (c)(iii) of this Section 4), as follows:

(a) Each share of 2018 ESOP Preferred Stock released from the unallocated reserve of the Plan in accordance with the terms thereof shall be automatically converted, without any further action by the Company or the holder thereof, as of the date such release occurs (the “Release Date”), into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for the 2018 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(b) Subject to and upon compliance with the provisions of this Section 4, a holder of 2018 ESOP Preferred Stock shall be entitled at any time, prior to the close of business on the date fixed for redemption of such shares pursuant to Sections 5 or 6 hereof, to cause any or all of the shares of 2018 ESOP Preferred Stock held by such holder to be converted into fully paid and nonassessable shares of Common Stock at the then applicable Conversion Price for 2018 ESOP Preferred Stock provided for in paragraph (c) of this Section 4.

(c) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) The “Average Current Market Price” per share of Common Stock on any date shall be deemed to be the average of the Current Market Price for one share of Common Stock for the twenty (20) consecutive Trading Days ending on the Trading Day occurring prior to the date the “Purchase Offer” is made (as that term is defined in Section 6(d) hereof).

(ii) A “Business Day” means each day that is not a Saturday, Sunday, or a day on which state or federally chartered banking institutions in the State of New York are not required to be open.

(iii) (A) For purposes of a mandatory conversion of shares of 2018 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (a) of this Section 4, the “Conversion Price” for such shares of 2018 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the relevant Release Date.

(B) For purposes of an optional conversion of shares of 2018 ESOP Preferred Stock into shares of Common Stock pursuant to the provisions of paragraph (b) of this Section 4, the “Conversion Price” for such shares of 2018 ESOP Preferred Stock shall be the Current Market Price of one share of Common Stock on the date the Conversion Notice (as that term is defined in paragraph (d) of this Section 4) is received by the Company, by the transfer agent for the 2018 ESOP Preferred Stock or by any agent for conversion of the 2018 ESOP Preferred Stock designated as such pursuant to paragraph (d) of this Section 4.

(C) For purposes of a conversion of shares of 2018 ESOP Preferred Stock into shares of Common Stock in connection with a “Purchase Offer” (as defined in Section 6(d) hereof), the “Conversion Price” for such shares of 2018 ESOP Preferred Stock shall be the Average Current Market Price of one share of Common Stock.

Each share of 2018 ESOP Preferred Stock shall be valued at its stated value of \$1,000.00 for purposes of computing, based on the applicable Conversion Price, the number of shares of Common Stock into which the shares of 2018 ESOP Preferred Stock will be converted.

(iv) The “Current Market Price” of publicly traded shares of Common Stock or any other class of capital stock or other security of the Company or any other issuer for any day shall mean the reported last sale price, regular way, or, in case no sale takes place on such day, the average of the reported closing bid and asked prices, regular way, in either case as reported on the New York Stock Exchange only or, if the Common Stock is not listed or admitted to trading on the New York Stock Exchange, on the principal national securities exchange on which the Common Stock is listed or admitted to trading or, if not listed or admitted to trading on any national securities exchange, on the National Market System of the National Association of Securities Dealers, Inc. Automated Quotations System (“NASDAQ”) or, if the Common Stock is not quoted on such National Market System, the average of the closing bid and asked prices on such day in the over-the-counter market as reported by NASDAQ or, if bid and asked prices for the Common Stock on each such day shall not have been reported through NASDAQ, the average of the bid and asked prices for such day as furnished by any New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof or, if no such quotations are available, the fair market value of the Common Stock as determined by a New York Stock Exchange member firm regularly making a market in the Common Stock selected for such purpose by the Board or a committee thereof.

(v) “Common Stock” shall mean the Common Stock of the Company as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

(vi) “Trading Day” with respect to Common Stock means (x) if the Common Stock is listed or admitted for trading on the New York Stock Exchange or another national securities exchange, a day on which the New York Stock Exchange or such other national securities exchange is open for business or (y) if the Common Stock is quoted on the National Market System of NASDAQ, a day on which trades may be made on such National Market System or (z) otherwise, any Business Day.

(d) In connection with any conversion of 2018 ESOP Preferred Stock pursuant to this Section 4, a written notice of conversion (the “Conversion Notice”) shall be delivered to the Company at its principal executive office or the offices of the transfer agent for the 2018 ESOP Preferred Stock or such office or offices in the continental United States of an agent for conversion as may from time to time be designated by notice to the holders of the 2018 ESOP Preferred Stock by the Company or the transfer agent for the 2018 ESOP Preferred Stock, which Conversion Notice shall be accompanied by (a) in the case of certificated 2018 ESOP Preferred Stock, the certificate or certificates representing the shares of 2018 ESOP Preferred Stock being converted pursuant to this Section 4, duly assigned or endorsed for transfer to the Company (or accompanied by duly executed stock powers relating thereto) and (b) in the case of uncertificated 2018 ESOP Preferred Stock, duly executed assignment and transfer documents for the shares of 2018 ESOP Preferred Stock being converted pursuant to this Section 4. Each Conversion Notice shall specify (i)(y) in the case of a mandatory conversion pursuant to paragraph (a) of this Section 4, the number of shares of 2018 ESOP Preferred Stock released from the unallocated reserve of the Plan on the Release Date or (z) in the case of an optional conversion pursuant to paragraph (b) of this Section 4, the number of shares of 2018 ESOP Preferred Stock being converted, and (ii) in connection with any conversion hereunder, (x) the name or names in which such holder wishes the certificate or certificates for Common Stock and, in the case of certificated 2018 ESOP Preferred Stock, for any shares of 2018 ESOP Preferred Stock not to be so converted to be issued, (y) the address to which such holder wishes delivery to be made of such new certificates to be issued upon such conversion, and (z) such other information as the Company or its agents may reasonably request.

(e) Upon delivery to the Company or the transfer agent for the 2018 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4, the Company shall issue and send by hand delivery, by courier or by first-class mail (postage prepaid) to the holder thereof or to such holder’s designee, at the address designated by such holder, a certificate or certificates for the number of shares of Common Stock to which such holder shall be entitled upon conversion. If there shall have been surrendered a certificate or certificates representing shares of 2018 ESOP Preferred Stock only part of which are to be converted, the Company shall issue and deliver to such holder or such holder’s designee, in the manner set forth in the preceding sentence, a new certificate or certificates representing the number of shares of 2018 ESOP Preferred Stock which shall not have been converted.

(f) The issuance by the Company of shares of Common Stock upon a conversion of shares of 2018 ESOP Preferred Stock into shares of Common Stock made pursuant to this Section 4 shall be effective (i) in the case of a mandatory conversion of shares of 2018 ESOP Preferred Stock pursuant to paragraph (a) of this Section 4, as of the Release Date; and (ii) in the case of an optional conversion of such shares pursuant to paragraph (b) of this Section 4, as of the earlier of (A) the delivery to such holder or such holder's designee of the certificates representing the shares of Common Stock issued upon conversion thereof or (B) the commencement of business on the second Business Day after the delivery to the Company or the transfer agent for the 2018 ESOP Preferred Stock of the Conversion Notice and all other documentation and certificates required to effect the conversion, as provided in paragraph (d) of this Section 4. On and after the effective date of a conversion, the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such shares of Common Stock, but no allowance or adjustment shall be made in respect of dividends payable to holders of Common Stock in respect of any period prior to such effective date. The Company shall not be obligated to pay any dividends which shall have accrued or have been declared and shall be payable to holders of shares of 2018 ESOP Preferred Stock if the date on which such dividends are paid is on or after the effective date of conversion of such shares.

(g) The Company shall not be obligated to deliver to holders of 2018 ESOP Preferred Stock any fractional share or shares of Common Stock issuable upon any conversion of such shares of 2018 ESOP Preferred Stock, but in lieu thereof may make a cash payment in respect thereof in any manner permitted by law.

(h) The Company shall at all times reserve and keep available out of its authorized and unissued Common Stock, solely for issuance upon the conversion of shares of 2018 ESOP Preferred Stock as herein provided, free from any preemptive rights, such number of shares of Common Stock as shall from time to time be issuable upon the conversion of all the shares of 2018 ESOP Preferred Stock then outstanding.

(i) The Company will use its best efforts to cause the listing of the shares of Common Stock required to be delivered upon conversion of the 2018 ESOP Preferred Stock prior to distribution to Plan participants on the national securities exchange, if any, upon which the outstanding Common Stock is listed at the time of such delivery.

(j) The Company will pay any and all documentary stamp or similar issue or transfer taxes payable in respect of the issue or delivery of shares of Common Stock on conversions of the 2018 ESOP Preferred Stock pursuant hereto; provided, however, that the Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue or delivery of shares of Common Stock in a name other than that of the holder of the 2018 ESOP Preferred Stock to be converted and no such issue or delivery shall be made unless and until the person requesting such issue or delivery has paid to the Company the amount of any such tax or has established, to the satisfaction of the Company, that such tax has been paid.



5. Redemption At the Option of the Company. (a) The 2018 ESOP Preferred Stock shall be redeemable out of assets legally available therefor, in whole or in part, at the option of the Company at any time, at a redemption price per share of 2018 ESOP Preferred Stock equal to the higher of (x) \$1,000.00 per share, plus an amount equal to all accrued and unpaid dividends thereon to the date fixed for redemption, and (y) the Fair Market Value (as that term is defined in paragraph (d) of this Section 5) per share of 2018 ESOP Preferred Stock on the date fixed for redemption. Payment of the redemption price shall be made by the Company in cash or shares of Common Stock, or a combination thereof, as permitted by paragraph (c) of this Section 5. From and after the date fixed for redemption, dividends on shares of 2018 ESOP Preferred Stock called for redemption will cease to accrue and all rights in respect of such shares of the Company shall cease, except the right to receive the redemption price. Upon payment of the redemption price, such shares shall be deemed to have been transferred to the Company, to be retired as provided in paragraph (a) of Section 1. If the full cumulative dividends have not been paid, or contemporaneously declared and set aside for payment, on all outstanding shares of 2018 ESOP Preferred Stock, the Company may not redeem fewer than all the outstanding shares of 2018 ESOP Preferred Stock pursuant to this Section 5.

(b) Unless otherwise required by law, notice of any redemption pursuant to this Section 5 will be sent to the holders of 2018 ESOP Preferred Stock at the address shown on the books of the Company or any transfer agent for the 2018 ESOP Preferred Stock by hand delivery, by courier, by standard form of telecommunication or by first-class mail (postage prepaid) delivered, sent or mailed, as the case may be, not less than twenty (20) days nor more than sixty (60) days prior to the redemption date. Each such notice shall state: (i) the redemption date; (ii) the total number of shares of the 2018 ESOP Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, the number of such shares to be redeemed from such holder; (iii) the redemption price; (iv) whether the redemption price shall be paid in cash or in shares of Common Stock, or in a combination of such Common Stock and cash; (v) in the case of certificated 2018 ESOP Preferred Stock the place or places where certificates for such shares are to be surrendered for payment of the redemption price; (vi) that dividends on the shares to be redeemed will cease to accrue on such redemption date; and (vii) the conversion rights of the shares to be redeemed, the period within which conversion rights may be exercised and the manner in which the number of shares of Common Stock issuable upon conversion of a share of 2018 ESOP Preferred Stock will be determined. The Company shall redeem shares so called for redemption and not previously converted at the date fixed for redemption and at the redemption price set forth in this Section 5, provided that, in the case of certificated 2018 ESOP Preferred Stock, the Company shall not be obligated to pay the redemption price until the certificates for the shares to be redeemed are surrendered (properly endorsed or assigned for transfer, if the Board of Directors of the Company shall so require and the notice shall so state).

(c) The Company, at its option, may make payment of the redemption price required upon redemption of shares of 2018 ESOP Preferred Stock in cash or in shares of Common Stock, or in a combination of such Common Stock and cash, any such shares of Common Stock to be valued for such purposes at their Fair Market Value (as defined in paragraph (d)(ii) of this Section 5) or their Current Market Price, in either case as of the date fixed for redemption of the 2018 ESOP Preferred Stock, whichever value will result in the issuance of the greater number of shares of Common Stock to the holder of the 2018 ESOP Preferred Stock then being redeemed.

(d) For purposes of these resolutions, the following terms shall have the meanings set forth below:

(i) “Adjustment Period” shall mean the period of five (5) consecutive Trading Days preceding the date as of which the Fair Market Value of a security is to be determined.

(ii) “Fair Market Value” shall mean, as to shares of Common Stock or any other class of capital stock or securities of the Company or any other issue which are publicly traded, the average of the Current Market Prices of such shares or securities for each day of the Adjustment Period. The “Fair Market Value” of any security which is not publicly traded (other than the 2018 ESOP Preferred Stock) or of any other property shall mean the fair value thereof on the date as of which the Fair Market Value of the security is to be determined, as determined by an independent investment banking or appraisal firm experienced in the valuation of such securities or property selected in good faith by the Board or a committee thereof. The “Fair Market Value” of the 2018 ESOP Preferred Stock for purposes of paragraph (a) of Section 5, and for purposes of paragraph (c) of Section 6 shall mean the fair market value thereof determined by an independent appraiser, appointed by the Trustee of the Plan in accordance with the provisions of the Plan, as of the date fixed for redemption of the 2018 ESOP Preferred Stock (in the case of a redemption pursuant to Section 5) or as of the date specified in paragraph (c) of Section 6 (in the case of a redemption under that section). For purposes of determining the Fair Market Value of the 2018 ESOP Preferred Stock, the independent appraiser shall assume (i) that all dividends on the 2018 ESOP Preferred Stock would have been paid when due, and (ii) that the mandatory conversion of shares of 2018 ESOP Preferred Stock held by the Plan into shares of Common Stock pursuant to Section 4(a) hereof would have occurred when and as payments of principal (together with accrued interest thereon) would have been made by the Trustee of the Plan in accordance with the terms of that certain 2018 ESOP Cumulative Convertible Preferred Stock Note Agreement dated on or about January 25, 2018 between the Company and the Plan (including any amendments or modifications thereto).

6. Consolidation, Merger, etc. (a) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged solely for or changed, reclassified or converted solely into stock of any successor or resulting

corporation (including the Company) that constitutes “qualifying employer securities” with respect to a holder of 2018 ESOP Preferred Stock within the meaning of Section 409(1) of the Internal Revenue Code of 1986, as amended, and Section 407(d)(5) of the Employee Retirement Income Security Act of 1974, as amended, or any successor provisions of law, and, if applicable, for a cash payment in lieu of fractional shares, if any, the shares of 2018 ESOP Preferred Stock of such holder shall, in connection with such consolidation, merger or similar business combination, be assumed by and shall become Preferred Stock of such successor or resulting corporation, having in respect of such corporation, insofar as possible, the same powers, preferences and relative, participating, optional or other special rights (including the redemption rights provided by Sections 5 and 6 hereof), and the qualifications, limitations or restrictions thereon, that the 2018 ESOP Preferred Stock had immediately prior to such transaction, subject to the following:

(1) After such transaction each share of the 2018 ESOP Preferred Stock shall be convertible, otherwise on the terms and conditions provided by Section 4 hereof, into the number and kind of qualifying employer securities so receivable by a holder of the number of shares of Common Stock into which such shares of 2018 ESOP Preferred Stock could have been converted immediately prior to such transaction.

(2) The Company shall not consummate any such merger, consolidation or similar transaction unless all then outstanding shares of 2018 ESOP Preferred Stock shall be assumed and authorized by the successor or resulting corporation as aforesaid.

(b) If the Company consummates any consolidation or merger or similar business combination, pursuant to which the outstanding shares of Common Stock are by operation of law exchanged for or changed, reclassified or converted into other stock or securities or cash or any other property, or any combination thereof, other than any such consideration which is constituted solely of qualifying employer securities (as referred to in paragraph (a) of this Section 6) and cash payments, if applicable, in lieu of fractional shares, outstanding shares of 2018 ESOP Preferred Stock shall, without any action on the part of the Company or any holder thereof (but subject to paragraph (c) of this Section 6), be automatically converted by virtue of such merger, consolidation or similar transaction immediately prior to such consummation into the number of shares of Common Stock into which such shares of 2018 ESOP Preferred Stock could have been converted at such time so that each share of 2018 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in like kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2018 ESOP Preferred Stock could have been converted immediately prior to such transaction. However, if by virtue of the structure of such transaction, a holder of Common Stock is required to make an election with respect to the nature and kind of consideration to be received in such transaction,

which election cannot practicably be made by the holders of the 2018 ESOP Preferred Stock, then the shares of 2018 ESOP Preferred Stock shall, by virtue of such transaction and on the same terms as apply to the holders of Common Stock, be converted into or exchanged for the aggregate amount of stock, securities, cash or other property (payable in kind) receivable by a holder of the number of shares of Common Stock into which such shares of 2018 ESOP Preferred Stock could have been converted immediately prior to such transaction if such holder of Common Stock failed to exercise any rights of election as to the kind or amount of stock, securities, cash or other property receivable upon such transaction. If the kind or amount of stock, securities, cash or other property receivable upon such transaction is not the same for each non-electing share, then the kind and amount of stock, securities, cash or other property receivable upon such transaction for each non-electing share shall be the kind and amount so receivable per share by a plurality of the non-electing shares.

(c) In the event the Company shall enter into any agreement providing for any consolidation or merger or similar business combination described in paragraph (b) of this Section 6 (a “Business Combination”), then the Company shall as soon as practicable thereafter (and in any event at least fifteen (15) Business Days before consummation of such transaction) give notice of such agreement and the material terms thereof to each holder of 2018 ESOP Preferred Stock and each such holder shall have the right to elect, by written notice to the Company, to receive, upon consummation of such transaction (if and when such transaction is consummated), from the Company or the successor of the Company, in redemption and retirement of such 2018 ESOP Preferred Stock, a cash payment per share of 2018 ESOP Preferred Stock equal to the higher of (x) \$1,000.00, plus accrued and unpaid dividends thereon to the date of consummation of such transaction or (y) the Fair Market Value per share of 2018 ESOP Preferred Stock, as of the last Business Day (as defined in paragraph (c) of Section 4 hereof) immediately preceding the date the Business Combination is consummated. No such notice of redemption shall be effective unless given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction, unless the Company or the successor of the Company shall waive such prior notice, but any notice of redemption so given prior to such time may be withdrawn by notice of withdrawal given to the Company prior to the close of business on the last Business Day prior to consummation of such transaction.

(d) In the event that a Purchase Offer (as defined below) shall have been made and shall be continuing, each holder of 2018 ESOP Preferred Stock shall have the right to convert shares of 2018 ESOP Preferred Stock into shares of Common Stock at the Conversion Price specified in Section 4(c)(iii)(C) hereof until the date the Purchase Offer is terminated, including without limitation because the original Purchase Offer is withdrawn or because the Purchase Offer has expired and is not renewed, upon notice of such conversion given to the Company not later than the close of business on the date the Purchase Offer terminates (the “Purchase Offer Conversion Period”), unless the Company or any successor of the Company shall waive such prior notice, but any notice

of conversion so given may be withdrawn by notice of withdrawal given to the Company prior to the end of the Purchase Offer Conversion Period.

For purposes of this paragraph (d), the following terms shall have the meanings set forth below:

(i) “Beneficial Ownership” shall have the meaning ascribed to it in Rule 13d-3 under the Securities Exchange Act of 1934 (the “Exchange Act”) and “person” shall have the meanings specified in Sections 3(a)(9) and 13(d)(3) of the Exchange Act.

(ii) A “Purchase Offer” shall have been made when any person (other than the Company or any affiliate of the Company) shall have “commenced” (as such term is defined in Rule 14d-2 under the Exchange Act) a tender offer or exchange offer to purchase shares of Common Stock, such that, upon consummation of such offer, such person would have Beneficial Ownership (as defined herein) or the right to acquire Beneficial Ownership, of twenty percent (20%) or more of the voting power of the Company.

7. Liquidation Rights. (a) Upon the dissolution, liquidation, or winding up of the Company, the holders of the shares of 2018 ESOP Preferred Stock shall be entitled to receive and to be paid out of the assets of the Company available for distribution to its stockholders, before any payment or distribution shall be made on or set aside for the Common Stock or any other class of stock ranking junior to 2018 ESOP Preferred Stock and subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or senior to the 2018 ESOP Preferred Stock, the amount of \$1,000.00 per share, plus a sum equal to all dividends (whether or not earned or declared) on such shares accrued and unpaid thereon to the date of final distribution.

(b) Neither the sale of all or substantially all the property and assets of the Company, nor the merger, consolidation or other business combination of the Company into or with any other corporation, nor the merger, consolidation or other business combination of any other corporation into or with the Company shall be deemed to be a dissolution, liquidation, or winding up, voluntary or involuntary, for the purposes of this Section 7.

(c) After the payment to the holders of the shares of 2018 ESOP Preferred Stock of the full preferential amounts provided for in this Section 7, the holders of 2018 ESOP Preferred Stock, as such, shall have no right or claim to any of the remaining assets of the Company.

(d) In the event the assets of the Company available for distribution to the holders of shares of 2018 ESOP Preferred Stock upon any dissolution, liquidation, or winding up of the Company, whether voluntary or involuntary, shall be insufficient to pay in full all amounts to which such holders are entitled pursuant to paragraph (a) of this Section 7, no such distribution shall be made on account of any shares of any other series

of Preferred Stock or other capital stock of the Company ranking on a parity with the shares of 2018 ESOP Preferred Stock upon such dissolution, liquidation, or winding up unless proportionate distributive amounts shall be paid on account of the shares of 2018 ESOP Preferred Stock, ratably, in proportion to the full distributable amounts for which holders of all such parity shares are respectively entitled upon such dissolution, liquidation, or winding up.

(e) Subject to the rights of the holders of the shares of any series or class or classes of stock ranking on parity with or prior to the shares of 2018 ESOP Preferred Stock upon liquidation, dissolution, or winding up, upon any liquidation, dissolution, or winding up of the Company, after payment shall have been made in full to the holders of the shares of 2018 ESOP Preferred Stock as provided in this Section 7, but not prior thereto, any other series or class or classes of stock ranking junior to the shares of 2018 ESOP Preferred Stock upon liquidation shall, subject to the respective terms and provisions (if any) applying thereto, be entitled to receive any and all assets remaining to be paid or distributed, and the holders of the shares of 2018 ESOP Preferred Stock shall not be entitled to share therein.

8. Ranking. For the purposes of these resolutions, any stock of any series or class or classes of the Company shall be deemed to rank:

(a) prior to the shares of 2018 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if the holders of such series or class or classes shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of 2018 ESOP Preferred Stock;

(b) on a parity with shares of 2018 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, whether or not the dividend rates, dividend payment dates, or redemption or liquidation prices per share, or sinking fund provisions, if any, be different from those of 2018 ESOP Preferred Stock, if the holders of such stock shall be entitled to the receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in proportion to their respective dividend rates or liquidation prices, without preference or priority, one over the other, as between the holders of such stock and the holders of shares of 2018 ESOP Preferred Stock; and

(c) junior to shares of 2018 ESOP Preferred Stock, either as to dividends or upon liquidation, dissolution or winding up, if such class shall be Common Stock or if the holders of shares of 2018 ESOP Preferred Stock shall be entitled to receipt of dividends or of amounts distributable upon dissolution, liquidation, or winding up of the Company, as the case may be, in preference or priority to the holders of shares of such series or class or classes.

9. Priority of 2018 ESOP Preferred Stock. The shares of 2018 ESOP Preferred Stock will rank on a parity, both as to payment of dividends and the distribution of assets

upon liquidation, with the Company's 2010 ESOP Cumulative Convertible Preferred Stock, its 2011 ESOP Cumulative Convertible Preferred Stock, its 2012 ESOP Cumulative Convertible Preferred Stock, its 2013 ESOP Cumulative Convertible Preferred Stock, its 2014 ESOP Cumulative Convertible Preferred Stock, its 2015 ESOP Cumulative Convertible Preferred Stock, its 2016 ESOP Cumulative Convertible Preferred Stock, and its 2017 ESOP Cumulative Convertible Preferred Stock.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designation to be signed by Timothy J. Sloan, its Chief Executive Officer and President, and attested by Jeannine E. Zahn, its Assistant Secretary, on this 23rd day of January, 2018.

WELLS FARGO & COMPANY

By /s/ Timothy J. Sloan  
Timothy J. Sloan  
President and  
Chief Executive Officer

Attest:

/s/ Jeannine E. Zahn  
Jeannine E. Zahn  
Assistant Secretary

[As filed with the Delaware Secretary of State on January 24, 2018]



## WELLS FARGO & COMPANY

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### CERTIFICATE OF DESIGNATION

Pursuant to Section 151(g) of the  
General Corporation Law  
of the State of Delaware

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### NON-CUMULATIVE PERPETUAL CLASS A PREFERRED STOCK, Series Z (Without Par Value)

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WELLS FARGO & COMPANY, a corporation organized and existing under the laws of the State of Delaware (the Corporation), HEREBY CERTIFIES that, pursuant to authority conferred upon the Board of Directors of the Corporation (the Board of Directors) by the provisions of the Restated Certificate of Incorporation of the Corporation, as amended, which authorize the issuance of not more than 20,000,000 shares of Preferred Stock, without par value, and pursuant to authority conferred upon the Securities Committee of the Board of Directors (the Committee) in accordance with Section 141(c) of the General Corporation Law of the State of Delaware (the General Corporation Law), the following resolutions were duly adopted by the Committee pursuant to the unanimous written consent of the Committee duly adopted on January 23, 2020, in accordance with Section 141(f) of the General Corporation Law:

RESOLVED, that pursuant to the authority vested in the Committee and in accordance with the resolutions of the Board of Directors dated October 25, 2016, the provisions of the Restated Certificate of Incorporation, the By-laws of the Corporation, and applicable law, a series of Preferred Stock, no par value, of the Corporation be and hereby is created, and that the designation and number of shares of such series, and the voting and other powers, designations, preferences and relative, participating, optional or other rights, and the qualifications, limitations and restrictions thereof, of the shares of such series, are as follows:

### RIGHTS AND PREFERENCES

**Section 1. Designation.** The shares of such series of Preferred Stock shall be designated Non-Cumulative Perpetual Class A Preferred Stock, Series Z, with no par value and a liquidation preference amount of \$25,000 per share (the “*Series Z Preferred Stock*”). Each share of Series Z Preferred Stock shall be identical in all respects to every other share of Series Z Preferred Stock except with respect to the date from which dividends may accrue. Series Z Preferred Stock will rank equally with Parity Stock with respect to the payment of dividends and distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation and will rank senior to Junior Stock with respect to the payment of dividends and/or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

**Section 2. Number of Shares.** The number of authorized shares of Series Z Preferred Stock shall be 80,500. Such number may from time to time be increased (but not in excess of the total number of authorized shares of Preferred Stock) or decreased (but not below the number of shares of Series Z Preferred Stock then outstanding) by further resolution duly adopted by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation and by the filing of a certificate pursuant to the provisions of the General Corporation Law stating that such increase or decrease, as the case may be, has been so authorized. The Corporation shall have the authority to issue fractional shares of Series Z Preferred Stock.

**Section 3. Definitions.** As used herein with respect to Series Z Preferred Stock:

*“Business Day”* means any day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

*“Certificate of Designation”* means this Certificate of Designation relating to the Series Z Preferred Stock, as it may be amended from time to time.

*“Common Stock”* means the common stock of the Corporation, par value \$1 $\frac{2}{3}$  per share, as the same exists at the date of this Certificate of Designation or as such stock may be constituted from time to time.

*“Depository Company”* has the meaning set forth in Section 6(d) hereof.

*“Dividend Payment Date”* has the meaning set forth in Section 4(a) hereof.

*“Dividend Period”* has the meaning set forth in Section 4(a) hereof.

*“DTC”* means The Depository Trust Company, together with its successors and assigns.

*“Junior Stock”* means the Common Stock and any other class or series of stock of the Corporation now existing or hereafter authorized over which the Series Z Preferred Stock has preference or priority in the payment of dividends or in the distribution of assets on any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*“Liquidation Preference”* has the meaning set forth in Section 5(a) hereof.

*“Nonpayment Event”* shall have the meaning set forth in Section 7(b).

*“Parity Stock”* means any other class or series of stock of the Corporation now existing or hereafter authorized that ranks on par with the Series Z Preferred Stock in the payment of dividends (whether such dividends are cumulative or non-cumulative) or

in the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

“*Preference Stock*” means any and all series of preference stock, having no par value, of the Corporation.

“*Preferred Stock*” means any and all series of preferred stock, having no par value, of the Corporation, including the Series Z Preferred Stock.

“*Preferred Stock Directors*” shall have the meaning set forth in Section 7(b).

“*Regulatory Capital Treatment Event*” means the Corporation’s reasonable determination that as a result of any (i) amendment to, clarification of, or change (including any announced prospective change) in, the laws or regulations of the United States or any political subdivision of or in the United States that is enacted or becomes effective on or after January 15, 2020; (ii) proposed change in those laws or regulations that is announced or becomes effective on or after January 15, 2020; or (iii) official administrative decision or judicial decision or administrative action or other official pronouncement interpreting or applying those laws or regulations that is announced on or after January 15, 2020, there is more than an insubstantial risk that the Corporation will not be entitled to treat the full liquidation preference amount of all shares of Series Z Preferred Stock then outstanding as Tier 1 capital (or its equivalent) for purposes of the capital adequacy guidelines or regulations of the appropriate federal banking agency, as then in effect and applicable, for as long as any share of Series Y Preferred Stock is outstanding.

“*Series Z Preferred Stock*” has the meaning set forth in Section 1 hereof.

“*Voting Parity Stock*” means any Parity Stock having similar voting rights as the Series Z Preferred Stock.

#### **Section 4. Dividends.**

**(a) Rate.** Dividends on the Series Z Preferred Stock will not be mandatory. Holders of Series Z Preferred Stock shall be entitled to receive, when, as and if declared by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation, but only out of assets legally available therefor, non-cumulative cash dividends on the liquidation preference amount of \$25,000 per share of the Series Y Preferred Stock, payable quarterly in arrears on the 15th day of March, June, September and December of each year (commencing on March 15, 2020); provided, however, if any such day is not a Business Day, then payment of any dividend otherwise payable on that date will be made on the next succeeding day that is a Business Day, without any interest or other payment in respect of such delay (each such day on which dividends are payable a “*Dividend Payment Date*”). A “*Dividend Period*” means the period from, and including, a Dividend Payment Date to, but excluding, the next succeeding Dividend Payment Date, except for the initial Dividend Period, which will

be the period from, and including, January 27, 2020 to, but excluding, March 15, 2020. Dividends on each share of Series Z Preferred Stock will accrue at a rate *per annum* equal to 4.75%. The record date for payment of dividends on the Series Z Preferred Stock shall be the last Business Day of the calendar month immediately preceding the month during which the Dividend Payment Date falls or such other date as determined by the Corporation's Board of Directors. The amount of dividends payable shall be computed on the basis of a 360-day year of twelve 30-day months. Dollar amounts resulting from that calculation will be rounded to the nearest cent, with one-half cent being rounded upward.

**(b) Non-Cumulative Dividends.** Dividends on shares of Series Z Preferred Stock shall be non-cumulative. To the extent that any dividends payable on the shares of Series Z Preferred Stock on any Dividend Payment Date are not declared prior to such Dividend Payment Date, then such dividends shall not cumulate and shall cease to accrue and be payable, and the Corporation shall have no obligation to pay, and the holders of Series Z Preferred Stock shall have no right to receive, dividends accrued for such Dividend Period on the Dividend Payment Date for such Dividend Period or at any time in the future or interest with respect to such dividends, whether or not dividends are declared for any subsequent Dividend Period with respect to Series Z Preferred Stock or any other series of authorized Preferred Stock, Preference Stock, or Common Stock of the Corporation.

**(c) Priority of Dividends.** So long as any shares of Series Z Preferred Stock remain outstanding,

(1) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Common Stock, and no shares of Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Common Stock by the Corporation (other than (i) a dividend payable in Common Stock or (ii) the acquisition of shares of Common Stock in exchange for, or through application of proceeds of the sale of, shares of Common Stock);

(2) no dividend shall be declared and paid or set aside for payment and no distribution shall be declared and made or set aside for payment on any Junior Stock other than Common Stock, and no shares of Junior Stock other than Common Stock shall be repurchased, redeemed or otherwise acquired for consideration by the Corporation, directly or indirectly, nor shall any monies be paid to or made available for a sinking fund for the redemption of any such Junior Stock other than Common Stock by the Corporation (other than (i) a dividend payable solely in shares of Junior Stock, (ii) any dividend in connection with the implementation of a stockholder rights plan, or the redemption or repurchase of any rights under any such plan, (iii) any dividend in the form of stock, warrants, options or other rights where the dividend stock or stock issuable upon exercise of such warrants, options or other rights is the same stock as that on

which the dividend is being paid or ranks equally with or junior to such stock, (iv) as a result of a reclassification of Junior Stock other than Common Stock for or into other Junior Stock, (v) the exchange or conversion of one share of Junior Stock other than Common Stock for or into another share of Junior Stock, (vi) through the use of proceeds of a substantially contemporaneous sale of other shares of Junior Stock, (vii) any purchase, redemption or other acquisition of Junior Stock other than Common Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 15, 2020, (viii) any purchase of fractional interests in shares of Junior Stock other than Common Stock pursuant to the conversion or exchange provisions of such Junior Stock other than Common Stock or the securities being converted or exchanged, (ix) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (x) the purchase of Junior Stock other than Common Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business); and

(3) no shares of Parity Stock will be repurchased, redeemed or otherwise acquired for consideration by the Corporation otherwise than pursuant to *pro rata* offers to purchase all, or a *pro rata* portion, of the Series Y Preferred Stock and such Parity Stock during a Dividend Period (other than (i) as a result of a reclassification of Parity Stock for or into other Parity Stock or Junior Stock, (ii) the exchange or conversion of one share of Parity Stock for or into another share of Parity Stock or Junior Stock, (iii) through the use of proceeds of a substantially contemporaneous sale of other shares of Parity Stock or Junior Stock, (iv) any purchase, redemption or other acquisition of Parity Stock pursuant to any of the Corporation's or any of its subsidiaries' employee, consultant or director incentive or benefit plans or arrangements (including any employment, severance or consulting arrangements) adopted before or after January 15, 2020, (v) any purchase of fractional interests in shares of Parity Stock pursuant to the conversion or exchange provisions of such Parity Stock or the securities being converted or exchanged, (vi) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with the distribution thereof or (vii) the purchase of Parity Stock by Wells Fargo Securities, LLC, or any other affiliate of the Corporation, in connection with market-making or other secondary market activities in the ordinary course of business),

unless, in each case, the full dividends for the then-current Dividend Period on all outstanding shares of the Series Z Preferred Stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

Subject to the succeeding sentence, for so long as any shares of Series Z Preferred Stock remain outstanding, no dividends shall be declared, paid, or set aside for payment on any Parity Stock for any period unless full dividends on all outstanding shares of Series Z Preferred Stock for the then-current Dividend Period have been paid

in full or declared and a sum sufficient for the payment thereof set aside. To the extent the Corporation declares dividends on the Series Z Preferred Stock and on any Parity Stock but cannot make full payment of those declared dividends, the Corporation will allocate the dividend payments on a proportional basis among the holders of shares of Series Z Preferred Stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights.

Subject to the foregoing, and not otherwise, such dividends (payable in cash, stock or otherwise) as may be determined by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may be declared and paid on the Common Stock and any other stock that is Parity Stock or Junior Stock, from time to time out of any assets legally available for such payment, and the shares of Series Z Preferred Stock shall not be entitled to participate in any such dividends.

## **Section 5. Liquidation Rights.**

**(a) Liquidation.** In the event of any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation, holders of Series Z Preferred Stock shall be entitled to receive in full out of assets available for distribution to its stockholders before any distribution or payment out of the assets of the Corporation may be made to or set aside for the holders of the Common Stock or any other Junior Stock, and subject to the rights of the holders of Parity Stock or any stock of the Corporation ranking senior to the Series Z Preferred Stock as to such distribution, a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends which have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation (the "*Liquidation Preference*"). The holders of Series Z Preferred Stock shall not be entitled to any further payments in the event of any such voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation other than what is expressly provided for in this Section 5.

**(b) Partial Payment.** If the assets of the Corporation are not sufficient to pay in full the Liquidation Preference to all holders of Series Z Preferred Stock and all holders of any Parity Stock, the amounts paid to the holders of Series Z Preferred Stock and to the holders of all Parity Stock shall be *pro rata* in accordance with the respective aggregate liquidation preference of Series Z Preferred Stock and all such Parity Stock.

**(c) Residual Distributions.** If the Liquidation Preference has been paid in full to all holders of Series Z Preferred Stock and all other amounts payable upon liquidation, dissolution or winding up of the Corporation have been paid in full to all holders of any Parity Stock, the holders of Common Stock and any other Junior Stock shall be entitled to receive all remaining assets of the Corporation according to their respective rights and preferences.

**(d) Merger, Consolidation and Sale of Assets Not Liquidation.** For purposes of this Section 5, the sale, conveyance, exchange or transfer (for cash, shares of stock,

securities or other consideration) of all or substantially all of the property and assets of the Corporation shall not be deemed a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation, nor shall the merger, consolidation or any other business combination transaction of the Corporation into or with any other corporation or person or the merger, consolidation or any other business combination transaction of any other corporation or person into or with the Corporation be deemed to be a voluntary or involuntary dissolution, liquidation or winding up of the affairs of the Corporation.

## **Section 6. Redemption.**

**(a) Optional Redemption.** The Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may redeem, subject to the prior approval of the Federal Reserve Board, out of funds legally available therefor, in whole or in part, the shares of Series Y Preferred Stock at the time outstanding, at any time on any Dividend Payment Date on or after March 15, 2025, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Z Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid up to the redemption date without accumulation of any undeclared dividends.

Notwithstanding the foregoing, within 90 days of the Corporation's good faith determination that a Regulatory Capital Treatment Event has occurred, the Corporation, at the option of its Board of Directors or any duly authorized committee of the Board of Directors of the Corporation, may, subject to the approval of the appropriate federal banking agency, redeem out of funds legally available therefor, in whole, but not in part, the shares of Series Z Preferred Stock at the time outstanding, prior to March 15, 2025, upon notice given as provided in Section 6(b) below. The redemption price for shares of Series Z Preferred Stock shall be \$25,000 per share plus an amount equal to any dividends that have been declared but not paid, without accumulation of any undeclared dividends.

**(b) Notice of Redemption.** Notice of every redemption of shares of Series Z Preferred Stock shall be mailed by first class mail, postage prepaid, addressed to the holders of record of such shares to be redeemed at their respective last addresses appearing on the stock register of the Corporation. Such mailing shall be at least 40 days and not more than 70 days before the date fixed for redemption. Any notice mailed as provided in this Section 6(b) shall be conclusively presumed to have been duly given, whether or not the holder receives such notice, but failure duly to give such notice by mail, or any defect in such notice or in the mailing thereof, to any holder of shares of Series Z Preferred Stock designated for redemption shall not affect the validity of the proceedings for the redemption of any other shares of Series Z Preferred Stock. Each notice shall state (i) the redemption date; (ii) the number of shares of Series Z Preferred Stock to be redeemed and, if fewer than all the shares held by such holder are to be redeemed, if applicable, the number of such shares to be redeemed from such holder; (iii)

the redemption price; (iv) the place or places where the certificates for those shares are to be surrendered for payment of the redemption price; and (v) that dividends on the shares to be redeemed will cease to accrue on the redemption date. Notwithstanding the foregoing, if the Series Z Preferred Stock is held in book-entry form through DTC, the Corporation may give such notice in any manner permitted by DTC.

**(c) Partial Redemption.** In case of any redemption of only part of the shares of Series Z Preferred Stock at the time outstanding, the shares of Series Z Preferred Stock to be redeemed shall be selected either *pro rata* from the holders of record of Series Z Preferred Stock in proportion to the number of Series Z Preferred Stock held by such holders or in such other manner consistent with the rules and policies of the New York Stock Exchange as the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors of the Corporation may determine to be fair and equitable. Subject to the provisions of this Section 6, the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors shall have full power and authority to prescribe the terms and conditions upon which shares of Series Z Preferred Stock shall be redeemed from time to time.

**(d) Effectiveness of Redemption.** If notice of redemption has been duly given and if on or before the redemption date specified in the notice all funds necessary for the redemption have been irrevocably set aside by the Corporation, separate and apart from its other assets, in trust for the *pro rata* benefit of the holders of the shares called for redemption, so as to be and continue to be available therefor, or deposited by the Corporation with a bank or trust company selected by the Board of Directors of the Corporation or any duly authorized committee of the Board of Directors (the “*Depository Company*”) in trust for the *pro rata* benefit of the holders of the shares called for redemption, then, notwithstanding that any certificate for any share so called for redemption has not been surrendered for cancellation, on and after the redemption date all shares so called for redemption shall cease to be outstanding, all dividends with respect to such shares shall cease to accrue after such redemption date, and all rights with respect to such shares shall forthwith on such redemption date cease and terminate, except only the right of the holders thereof to receive the amount payable on such redemption from the Depository Company at any time after the redemption date from the funds so deposited, without interest. The Corporation shall be entitled to receive, from time to time, from the Depository Company any interest accrued on such funds, and the holders of any shares called for redemption shall have no claim to any such interest. Any funds so deposited and unclaimed at the end of two years from the redemption date shall, to the extent permitted by law, be released or repaid to the Corporation, after which time the holders of the shares so called for redemption shall look only to the Corporation for payment of the redemption price of such shares.



## **Section 7. Voting Rights.**

**(a) General.** The holders of Series Z Preferred Stock shall not be entitled to vote on any matter except as set forth in paragraph 7(b) below or as required by applicable law.

**(b) Right To Elect Two Directors Upon Nonpayment Events.** Whenever dividends payable on any shares of Series Y Preferred Stock or any class or series of Voting Parity Stock have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly Dividend Periods or their equivalent, whether or not for consecutive Dividend Periods (a “*Nonpayment Event*”), the holders of the outstanding Series Z Preferred Stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of the Corporation’s Board of Directors at the Corporation’s next annual meeting of stockholders and at each subsequent annual meeting of stockholders (the “*Preferred Stock Directors*”) by a plurality of the votes cast; *provided* that the Board of Directors shall at no time include more than two Preferred Stock Directors (including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights). Upon the vesting of such right of such holders, the maximum authorized number of members of the Board of Directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Z Preferred Stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of the Series Z Preferred Stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Z Preferred Stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect Preferred Stock Directors shall continue until such time as the Corporation has paid in full dividends for the equivalent of at least four quarterly Dividend Periods or their equivalent, at which time such right with respect to the Series Z Preferred Stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent default of the character described in this Section 7(b).

Upon any termination of the right of the holders of all shares of Series Z Preferred Stock and Voting Parity Stock to vote for Preferred Stock Directors, the term of office of all Preferred Stock Directors then in office elected by only those holders voting as a class shall terminate immediately. Any Preferred Stock Director may be removed at any time without cause by the holders of a majority of the outstanding shares of Series Z Preferred Stock and Voting Parity Stock, when they have the voting rights described above (voting together as a class). In case any vacancy shall occur among the Preferred Stock Directors, a successor may be elected by a plurality of the votes cast by the holders of Series Z Preferred Stock and Voting Parity Stock having the voting rights described above, voting together as a class, unless the vacancy has already been filled.

The Preferred Stock Directors shall each be entitled to one vote per director on any matter that shall come before the Board of Directors for a vote. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders as provided in this Section 7(b) shall have expired, the number of directors shall be such number as may be provided for in the By-Laws irrespective of any increase made pursuant to this Section 7(b).

**(c) Other Voting Rights.** In addition to any other vote required by law or the Restated Certificate of Incorporation, so long as any shares of the Series Z Preferred Stock remain outstanding, the vote or consent of the holders of the outstanding shares of Series Z Preferred Stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 2/3% in voting power of all such outstanding Series Z Preferred Stock and such Voting Parity Stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, shall be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law: (i) the issuance of any class or series of Preferred Stock or Preference Stock ranking senior to the Series Z Preferred Stock in the payment of dividends or the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; (ii) any amendment, alteration or repeal of any provision of the Restated Certificate of Incorporation, including the Certificate of Designation, or the By-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series Z Preferred Stock; (iii) any amendment or alteration of the Restated Certificate of Incorporation, including the Certificate of Designation, or By-laws to authorize, create, or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of the Corporation's capital stock ranking senior to the Series Z Preferred Stock with respect to either the payment of dividends or in the distribution of assets in the event of the Corporation's voluntary or involuntary liquidation, dissolution or winding up; or (iv) any consummation of a reclassification involving the Series Z Preferred Stock or a merger or consolidation with another corporation or other entity, except holders of the Series Z Preferred Stock will have no right to vote under this Section 7(c)(iv) if in each case (a) the shares of Series Z Preferred Stock remain outstanding or, in the case of any such merger or consolidation with respect to which the Corporation is not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (b) such shares of Series Z Preferred Stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Z Preferred Stock, taken as a whole; *provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of the Series Z Preferred Stock or any Parity Stock or Junior Stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or Junior Stock will be deemed not to adversely affect the rights,

preferences, privileges or voting powers of the Series Z Preferred Stock, and holders of the Series Z Preferred Stock shall have no right to vote thereon.

If any amendment, alteration, repeal, reclassification, merger or consolidation specified in this Section 7(c) would adversely affect one or more but not all series of voting Preferred Stock (including the Series Z Preferred Stock), then only those series affected by and entitled to vote on the matter shall vote on the matter together as a class (in lieu of all other series of Preferred Stock).

Each holder of the Series Z Preferred Stock will have 25 votes per share on any matter on which holders of the Series Z Preferred Stock are entitled to vote, whether separately or together with any other series of stock of the Corporation (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**(d) Changes after Provision for Redemption.** No vote or consent of the holders of Series Z Preferred Stock shall be required pursuant to Section 7(b) or (c) above if, at or prior to the time when any such vote or consent would otherwise be required pursuant to such Section, all outstanding Series Z Preferred Stock shall have been redeemed, or notice of redemption has been given and sufficient funds shall have been irrevocably deposited in trust to effect such redemption.

**(e) Procedures for Voting and Consents.** The rules and procedures for calling and conducting any meeting of the holders of Series Z Preferred Stock (including, without limitation, the fixing of a record date in connection therewith), the solicitation and use of proxies at such a meeting, the obtaining of written consents and any other aspect or matter with regard to such a meeting or such consents shall be governed by any rules the Board of Directors, in its discretion, may adopt from time to time, which rules and procedures shall conform to the requirements of the Restated Certificate of Incorporation, the By-laws, applicable law and any national securities exchange or other trading facility in which the Series Z Preferred Stock is listed or traded at the time.

**Section 8. Preemption and Conversion.** The holders of Series Z Preferred Stock shall not have any rights of preemption or rights to convert such Series Z Preferred Stock into shares of any other class of capital stock of the Corporation.

**Section 9. Reacquired Shares.** Shares of Series Z Preferred Stock which have been issued and redeemed or otherwise purchased or acquired by the Corporation shall be restored to the status of authorized but unissued shares of Preferred Stock without designation as to series.

**Section 10. No Sinking Fund.** Shares of Series Z Preferred Stock are not subject to the operation of a sinking fund.

**Section 11. Additional Classes or Series of Stock.** Notwithstanding anything set forth in the Restated Certificate of Incorporation or this Certificate of Designation to the contrary, the Board of Directors of the Corporation, or any authorized committee

of the Board of Directors of the Corporation, (i) without the vote of the holders of the Series Z Preferred Stock, may authorize and issue additional shares of Junior Stock and Parity Stock and (ii) with the requisite vote of the holders of the Series Z Preferred Stock and Parity Stock entitled to vote thereon, may authorize and issue any additional class or series of Preferred Stock or Preference Stock senior to the Series Z Preferred Stock as to the payment of dividends and/or the distribution of assets upon any voluntary or involuntary liquidation, dissolution or winding up of the affairs of the Corporation.

*[Signature Page Follows]*

**In Witness Whereof, Wells Fargo & Company** has caused this Certificate of Designation to be signed by Le Roy Davis, its Senior Vice President and Assistant Treasurer, and John J. Muller, its Assistant Secretary, this 24<sup>th</sup> day of January, 2020.

**Wells Fargo & Company**

By: /s/ Le Roy Davis  
Le Roy Davis, Senior Vice President and Assistant  
Treasurer

/s/ John J. Muller  
John J. Muller, Assistant Secretary

[As filed with the Delaware Secretary of State on January 24, 2020]

## EXHIBIT 4(c)

### DESCRIPTION OF SECURITIES REGISTERED PURSUANT TO SECTION 12 OF THE SECURITIES EXCHANGE ACT OF 1934

#### DESCRIPTION OF COMMON STOCK, PREFERRED STOCK AND DEPOSITARY SHARES

The following description of our common stock, preferred stock and depositary shares is a summary and does not purport to be complete. It is subject to and qualified in its entirety by reference to our Restated Certificate of Incorporation and By-Laws, each of which is either filed or incorporated by reference as an exhibit to the Annual Report on Form 10-K of which this exhibit is filed with, and applicable Delaware law. References to “we,” “our” and “us” in this description mean Wells Fargo & Company.

#### DESCRIPTION OF COMMON STOCK

This section describes the general terms and provisions of the shares of our common stock.

**Authorized Shares.** We are authorized to issue up to 9,000,000,000 shares of common stock, par value \$1-2/3 per share.

**Listing.** Our common stock is listed on the New York Stock Exchange under the symbol “WFC.” Equiniti Trust Company serves as the transfer agent and registrar for the common stock.

**Dividends.** Holders of common stock may receive dividends if, when and as declared by our board of directors out of our funds that we can legally use to pay dividends. We may pay dividends in cash, stock or other property. In certain cases, holders of common stock may not receive dividends until we have satisfied our obligations to any holders of outstanding preferred stock.

**Voting Rights.** Holders of common stock have the exclusive power to vote on all matters presented to our stockholders unless Delaware law or the certificate of designation for an outstanding series of preferred stock gives the holders of that preferred stock the right to vote on certain matters. Each holder of common stock is entitled to one vote per share. Holders of common stock have no cumulative voting rights for the election of directors. This means a holder of a single share of common stock cannot cast more than one vote for each position to be filled on our board of directors.

**Other Rights.** If we voluntarily or involuntarily liquidate, dissolve or wind up our business, holders of common stock will receive pro rata, according to shares held by them, any of our remaining assets available for distribution to stockholders after we have provided for payment of all debts and other liabilities, including any liquidation preference for outstanding shares of preferred stock. When we issue securities in the future, holders of common stock have no preemptive rights. This means the holders of common stock have no right, as holders of common stock, to buy any portion of those issued securities. Holders of our common stock have no rights to have their shares of common stock redeemed by us or to convert their shares of common stock into shares of any other class of our capital stock.

**Fully Paid.** The outstanding shares of common stock are fully paid and non-assessable. This means the full purchase price for the outstanding shares of common stock has been paid and the holders of such shares will not be assessed any additional amounts for such shares.

#### Restrictions on Payment of Dividends

We are incorporated in Delaware and are governed by the General Corporation Law of the State of Delaware. Delaware law allows a corporation to pay dividends only out of surplus, as determined under Delaware law, or, if there is no surplus, out of net profits for the fiscal year in which the dividend was declared and for the preceding fiscal year. However, under Delaware law, we cannot pay dividends out of net profits if, after we pay the dividend, our capital would be less than the capital represented by the outstanding stock of all classes having a preference upon the distribution of our assets.

As a bank holding company, our ability to pay dividends is affected by the ability of our bank and non-bank subsidiaries to pay dividends to us. Various federal laws limit the amount of dividends our national bank subsidiaries can pay to us without regulatory approval. State-chartered banks are subject to state regulations that limit dividends.

The terms of our outstanding junior subordinated debt securities prohibit us from declaring or paying any dividends or distributions on our capital stock, including our common stock, or purchasing, acquiring, or making a liquidation payment on such stock, if an event of default has occurred and is continuing under the applicable indenture, we are in default with respect to a guarantee payment under the guarantee of the related trust preferred securities or we have given notice of our election to defer interest payments but the related deferral period has not yet commenced or a deferral period is continuing. In addition, the terms of each of our outstanding series of preferred stock prohibit us from declaring or paying any dividends or distributions on our common stock unless all accrued and unpaid dividends for all completed dividend periods with respect to that preferred stock have been paid.

## Anti-takeover Provisions Contained in the Certificate of Incorporation and By-laws

Certain provisions of Delaware law could make it more difficult for a third party to acquire control of us or have the effect of discouraging a third party from attempting to acquire control of us. For example, we are subject to Section 203 of the General Corporation Law of the State of Delaware, which would make it more difficult for another party to acquire us without the approval of our board of directors. Certain provisions of our restated certificate of incorporation, as amended, may make it less likely that our management would be changed or someone would acquire voting control of our company without our board's consent. These provisions may delay, deter or prevent tender offers or takeover attempts that stockholders may believe are in their best interests, including tender offers or attempts that might allow stockholders to receive premiums over the market price of their common stock.

**Preferred Stock.** Our board of directors can at any time, under our restated certificate of incorporation, as amended, and without stockholder approval, issue one or more new series of preferred stock. In some cases, the issuance of preferred stock without stockholder approval could discourage or make more difficult attempts to take control of our company through a merger, tender offer, proxy contest or otherwise. Preferred stock with special voting rights or other features issued to persons favoring our management could stop a takeover by preventing the person trying to take control of our company from acquiring enough voting shares necessary to take control.

**Nomination Procedures.** In addition to our board of directors, stockholders can nominate candidates for election to our board of directors. However, a stockholder must follow the advance notice procedures described in Section 3.11 of our by-laws, as amended. In general, a stockholder must deliver a written notice of the nomination to our chief executive officer and our corporate secretary at least 90 days but not more than 120 days prior to the first anniversary of the preceding year's annual meeting for consideration at an annual meeting or, for consideration at a special meeting, at least 90 days but not more than 120 days prior to the date of such meeting or, if our first public announcement of the date of such special meeting is less than 100 days prior to the date of such special meeting, then during the 10 days following our public announcement. Subject to all of the terms and conditions specified in the by-laws, an eligible stockholder (or a group of up to 20 eligible stockholders) who has continuously owned for three years at least three percent of our outstanding shares may also nominate and include in our proxy materials nominees constituting up to the greater of two directors and 20 percent of the board of directors. A stockholder must deliver written notice of the proxy access nomination to our corporate secretary at least 120 days prior to the first anniversary of the filing date of our definitive proxy statement for the preceding year's annual meeting and no earlier than 150 days prior to such date.

**Proposal Procedures.** Stockholders can propose that business other than nominations to our board of directors be considered at an annual meeting of stockholders only if a stockholder follows the advance notice procedures described in our by-laws, as amended. In general, a stockholder must submit a written notice of the proposal and the stockholder's interest in the proposal to our chief executive officer and our corporate secretary at least 90 days but not more than 120 days prior to the first anniversary of the preceding year's annual meeting. Stockholders seeking to have a stockholder proposal considered for inclusion in our annual proxy statement must comply with the requirements of Rule 14a-8 of the federal proxy rules.

**Stockholder Requested Special Meetings.** Our by-laws provide procedures pursuant to which record holders of not less than 20 percent of the voting power of issued and outstanding shares of our common stock may request that the board of directors call a special meeting of stockholders. Our by-laws impose certain informational and procedural requirements on stockholders requesting such a meeting (including the provision of the same information required by the advance notice procedures described in Section 3.11 of our by-laws), as well as provisions designed to avoid the calling of a special meeting to conduct the same or similar business that was recently addressed or soon will be addressed at another stockholder meeting or that would be held close in time to our annual meeting.

**Amendment of By-laws.** Under our by-laws and restated certificate of incorporation, as amended, our board of directors can adopt, amend or repeal the by-laws, subject to limitations under the General Corporation Law of the State of Delaware or in the by-laws, as amended. Under the General Corporation Law of the State of Delaware, our stockholders also have the power to change or repeal our by-laws.

## DESCRIPTION OF PREFERRED STOCK

This section describes the general terms and provisions of our preferred stock and related depository shares.

**General.** Pursuant to our restated certificate of incorporation, as amended, our board of directors has the authority, without further stockholder action, to issue a maximum of 24,000,000 shares of preferred stock, consisting of a maximum of 20,000,000 shares of preferred stock without par value and a maximum of 4,000,000 shares of preference stock without par value. Our board of directors has the authority to determine or fix the following terms with respect to shares of any series of preferred stock: the number of shares and designation or title of the shares; dividend rights; whether and upon what terms the shares will be redeemable; the rights of the holders upon our dissolution or upon the distribution of our assets; whether and upon what terms the shares will have a purchase, retirement or sinking fund; whether and upon what terms the shares will be convertible; the voting rights, if any, which will apply; provided, however, that holders of preference stock will not be entitled to more than one vote per share; and any other preferences, rights, limitations or restrictions of the series.

**Series L Preferred Stock.** Our Series L preferred ranks senior to our common stock and to any other securities that we may issue in the future that are subordinate to the Series L preferred stock.

Dividends on shares of our Series L preferred stock are not cumulative. Holders of the Series L preferred stock are entitled to receive, if, as and when declared by our board of directors out of legally available assets, non-cumulative cash dividends on the Liquidation Preference, which is \$1,000 per share of our Series L preferred stock. These dividends are payable at a rate per annum equal to 7.50%, quarterly in arrears on each March 15, June 15, September 15 and December 15, each a “Dividend Payment Date”, from and including the date of issuance. The right of holders of our Series L preferred stock to receive dividends is non-cumulative.

When dividends are not paid in full upon the Series L preferred stock and any parity stock, all dividends upon shares of the Series L preferred stock and such parity stock will be declared on a proportional basis, based upon the ratio of the amount of dividends declared on each series to the amount that if declared would be full dividends (including accrued and unpaid dividends as to any parity stock that bears dividends on a cumulative basis) through the next succeeding applicable dividend payment date.

Our Series L preferred stock is not redeemable and is not subject to any sinking fund or other obligation to redeem, repurchase or retire the Series L preferred stock.

Each share of our Series L preferred stock may be converted at any time, at the option of the holder, into 6.3814 shares of our common stock plus cash in lieu of fractional shares, subject to anti-dilution adjustments (such rate or adjusted rate, the “conversion rate”).

On or after March 15, 2013, we may, at our option, at any time or from time to time cause some or all of the Series L preferred stock to be converted into shares of our common stock at the then applicable conversion rate if, for 20 trading days within any period of 30 consecutive trading days, including the last trading day of such period, the closing price of our common stock exceeds 130% of the then applicable conversion price of the Series L preferred stock. We will provide notice of our decision to exercise our right to cause the mandatory conversion within three trading days of the end of the 30 consecutive trading day period. The applicable conversion price at any given time will be computed by dividing \$1,000 by the applicable conversion rate at such time.

Notwithstanding the foregoing, no holder of our Series L preferred stock will be entitled to receive shares of our common stock upon conversion to the extent (but only to the extent) that such receipt would cause such converting holder to become, directly or indirectly, a “beneficial owner” (within the meaning of Section 13(d) of the Exchange Act and the rules and regulations promulgated thereunder) of more than 9.9% of the shares of our common stock outstanding at such time. Any purported delivery of shares of our common stock upon conversion of the Series L preferred stock shall be void and have no effect to the extent, but only to the extent, that such delivery would result in the converting holder becoming the beneficial owner of more than 9.9% of the shares of our common stock outstanding at such time. If any delivery of shares of our common stock owed to a holder upon conversion of the Series L preferred stock is not made, in whole or in part, as a result of this limitation, our obligation to make such delivery shall not be extinguished and we shall deliver such shares as promptly as practicable after any such converting holder gives notice to us that such delivery would not result in it being the beneficial owner of more than 9.9% of the shares of our common stock outstanding at such time. This limitation on beneficial ownership shall not constrain in any event our ability to exercise our right to cause the Series L preferred stock to convert mandatorily.

The following provisions will apply if, prior to the conversion date, one of the following events occur prior to the conversion date for shares of our Series L preferred stock:

- a “person” or “group” within the meaning of Section 13(d) of the Exchange Act files a Schedule TO or any schedule, form or report under the Exchange Act disclosing that such person or group has become the direct or indirect ultimate “beneficial owner,” as defined in Rule 13d-3 under the Exchange Act, of our common equity representing more than 50% of the voting power of our common stock; or
- consummation of any consolidation or merger or similar transaction or any sale, lease or other transfer in one transaction or a series of transactions of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, to any person other than one of our subsidiaries, in each case pursuant to which our shares of common stock will be converted into cash, securities or other property, other than pursuant to a transaction in which the persons that “beneficially owned” (as defined in Rule 13d-3 under the Exchange Act), directly or indirectly, voting shares immediately prior to such transaction beneficially own, directly or indirectly, voting shares representing a majority of the total voting power of all outstanding classes of voting shares of the continuing or surviving person immediately after the transaction.

These transactions are referred to as “make-whole acquisitions.” However, a make-whole acquisition will not be deemed to have occurred if at least 90% of the consideration (as determined by our board of directors) received by holders of our common stock in the transaction or transactions consists of shares of common stock or American depositary receipts in respect of common stock that are traded on a U.S. national securities exchange or a securities exchange in the European Economic Area or that will be traded on a U.S. national securities exchange or on securities exchanges in the European Economic Area when issued or exchanged in connection with a make-whole acquisition.

The phrase “all or substantially all” of our assets is likely to be interpreted by reference to applicable state law at the relevant time, and will be dependent on the facts and circumstances existing at such time. As a result, there may be a degree of uncertainty in ascertaining whether a sale or transfer is of “all or substantially all” of our assets.

Upon a make-whole acquisition, we will, under certain circumstances, increase the conversion rate in respect of any conversions of the Series L preferred stock that occur during the period (make-whole acquisition conversion period) beginning on the effective date of the make-whole acquisition (effective date) and ending on the date that is 30 days after the effective date, by a number of additional shares of our common stock (make-whole shares) as described below.



We will notify holders, at least 20 days prior to the anticipated effective date of such make-whole acquisition, or within two business days of becoming aware of a make-whole acquisition described in the first bullet of the definition of “make-whole acquisition,” of the anticipated effective date of such transaction. The notice will specify the anticipated effective date of the make-whole acquisition and the date by which each holder’s make-whole acquisition conversion right must be exercised, which shall be 30 days after the effective date of the make-whole acquisition. We will also notify holders on the effective date of such make-whole acquisition, or as soon as practicable thereafter, specifying, among other things, the date that is 30 days after the effective date, the number of make-whole shares and the amount of the cash, securities and other consideration receivable by the holder upon conversion. To exercise the make-whole acquisition conversion right, a holder must deliver to the conversion agent, on or before the close of business on the date specified in the notice, the certificate evidencing such holder’s shares of the Series L preferred stock, if the Series L preferred stock is held in certificated form. If a holder’s interest is a beneficial interest in a global certificate representing our Series L preferred stock, in order to convert a holder must comply with certain conversion procedures and comply with the depositary’s procedures for converting a beneficial interest in a global security. The date that the holder complies with these requirements is referred to as the “make-whole conversion date”. If a holder does not elect to exercise the make-whole acquisition conversion right within the specified period, such holder’s shares of the Series L preferred stock will remain outstanding until otherwise converted but will not be eligible to receive make-whole shares.

The following table sets forth the number of make-whole shares per share of our Series L preferred stock for each stock price and effective date set forth below:

**Make-Whole Acquisition Stock Price**

<b>Effective Date</b>	<b>\$120.54</b>	<b>\$125.57</b>	<b>\$138.12</b>	<b>\$150.68</b>	<b>\$156.71</b>	<b>\$175.79</b>	<b>\$203.72</b>	<b>\$226.02</b>	<b>\$251.13</b>	<b>\$301.36</b>	<b>\$401.81</b>	<b>\$502.26</b>
April 17, 2008	1.9153	1.8855	1.5191	1.1110	0.9497	0.6471	0.3962	0.2847	0.2091	0.1354	0.0757	0.0458
March 15, 2009	1.9153	1.8775	1.5052	1.0951	0.9437	0.6331	0.3763	0.2588	0.1852	0.1175	0.0697	0.0438
March 15, 2010	1.9153	1.8397	1.4913	1.0871	0.9378	0.6073	0.3365	0.2210	0.1533	0.0956	0.0577	0.0358
March 15, 2011	1.9153	1.7899	1.4694	1.0731	0.9238	0.5794	0.2887	0.1712	0.1075	0.0657	0.0398	0.0259
March 15, 2012	1.9153	1.7561	1.4355	1.0652	0.9139	0.5356	0.2051	0.0896	0.0458	0.0299	0.0199	0.0119
March 15, 2013	1.9153	1.6704	1.4275	1.0592	0.9119	0.5097	0.0916	0.0000	0.0000	0.0000	0.0000	0.0000
Thereafter	1.9153	1.6704	1.4275	1.0592	0.9119	0.5097	0.0916	0.0000	0.0000	0.0000	0.0000	0.0000

The number of make-whole shares will be determined by reference to the table above and is based on the effective date and the price (“stock price”) paid per share of our common stock in such transaction. If the holders of our common stock receive only cash (in a single per-share amount, other than with respect to appraisal and similar rights) in the make-whole acquisition, the stock price shall be the cash amount paid per share. For purposes of the preceding sentence as applied to a make-whole acquisition described in the first bullet of the definition of that term, a single price per share shall be deemed to have been paid only if the transaction or transactions that caused the person or group to become direct or indirect ultimate beneficial owners of our common equity representing more than 50% of the voting power of our common stock was a tender offer for more than 50% of our outstanding common stock. Otherwise, the stock price shall be the average of the closing price per share of our common stock on the 10 trading days up to but not including the effective date.

The stock prices set forth in the first row of the table (the column headers) will be adjusted as of any date on which the conversion rate of the Series L preferred stock is adjusted. The adjusted stock prices will equal the stock prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the stock price adjustment and the denominator of which is the conversion rate as so adjusted. Each of the number of make-whole shares in the table will be subject to adjustment in the same manner as the conversion rate as set forth below in our description of anti-dilution rate adjustments.

In lieu of receiving the make-whole shares, if the reference price (as defined below) in connection with a make-whole acquisition is less than \$120.54 (a fundamental change), a holder may elect to convert each share of our Series L preferred stock during the period beginning on the effective date of the fundamental change and ending on the date that is 30 days after the effective date of the fundamental change at an adjusted conversion price equal to the greater of (1) the reference price and (2) \$60.27 (base price). The base price will be adjusted as of any date that the conversion rate of the Series L preferred stock is adjusted. The adjusted base price will equal the base price applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the conversion rate immediately prior to the adjustment giving rise to the conversion rate adjustment and the denominator of which is the conversion rate as so adjusted. If the reference price is less than the base price, holders will receive a maximum of 16.5916 shares of our common stock per share of our Series L preferred stock, subject to adjustment, which may result in a holder receiving value that is less than the liquidation preference of the Series L preferred stock. In lieu of issuing our common stock upon conversion in the event of a fundamental change, we may at our option, and if we obtain any necessary regulatory approval, make a cash payment equal to the reference price for each share of our common stock otherwise issuable upon conversion. The “reference price” is the “stock price” as defined above.

To exercise the fundamental change conversion right, a holder must comply with certain conversion procedures on or before the date that is 30 days following the effectiveness of the fundamental change and indicate that it is exercising the fundamental change

conversion right. If a holder does not elect to exercise the fundamental change conversion right, such holder will not be eligible to convert such holder's shares at the base price and such holder's shares of the Series L preferred stock will remain outstanding until otherwise converted.

We will notify holders, at least 20 days prior to the anticipated effective date of a fundamental change, or within two business days of becoming aware of a make-whole acquisition described in the first bullet of the definition of "make-whole acquisition," of the anticipated effective date of such transaction. The notice will specify the anticipated effective date of the fundamental change and the date by which each holder's fundamental change conversion right must be exercised. We will also provide notice to holders on the effective date of a fundamental change, or as soon as practicable thereafter, specifying, among other things, the date that is 30 days after the effective date, the adjusted conversion price following the fundamental change and the amount of the cash, securities and other consideration receivable by the holder upon conversion. To exercise the fundamental change conversion right, a holder must comply with certain conversion procedures on or before the date that is 30 days following the effectiveness of the fundamental change and indicate that it is exercising the fundamental change conversion right. If a holder does not elect to exercise the fundamental change conversion right within such period, such holder will not be eligible to convert such holder's shares at the base price and such holder's shares of Series L preferred stock will remain outstanding (subject to the holder electing to convert such holder's shares).

In the event of:

- (1) our consolidation or merger with or into another person in each case pursuant to which our common stock will be converted into cash, securities or other of our property or another person;
- (2) any sale, transfer, lease or conveyance to another person of all or substantially all of the consolidated assets of us and our subsidiaries, taken as a whole, in each case pursuant to which our common stock will be converted into cash, securities or other property;
- (3) any reclassification of our common stock into securities, including securities other than our common stock; or
- (4) any statutory exchange of our securities with another person (other than in connection with a merger or acquisition)

each of which is referred to as a "reorganization event," each share of our Series L preferred stock outstanding immediately prior to such reorganization event will, without the consent of the holders of the Series L preferred stock, become convertible into the types and amounts of securities, cash and other property receivable in such reorganization event by a holder of the shares of our common stock that was not the counterparty to the reorganization event or an affiliate of such other party (such securities, cash and other property, the "exchange property"). In the event that holders of our common stock have the opportunity to elect the form of consideration to be received in such transaction, the consideration that the holders of the Series L preferred stock entitled to receive will be deemed to be the types and amounts of consideration received by the majority of the holders of the shares of our common stock that affirmatively make an election. Holders have the right to convert their shares of our Series L preferred stock in the event of certain acquisitions. In connection with certain reorganization events, holders of the Series L preferred stock may have the right to vote as a class.

The conversion rate will be adjusted, without duplication, if certain events occur:

- (1) the issuance of our common stock as a dividend or distribution to all holders of our common stock, or a subdivision or combination of our common stock (other than in connection with a transaction constituting a reorganization event), in which event the conversion rate will be adjusted based on the following formula:

$$CR^1 = CR_0 \times (OS^1 / OS_0)$$

where,

- |                |   |
|----------------|---|
| C              |   |
| R <sub>0</sub> | = the conversion rate in effect at the close of business on the record date   |
| C              |   |
| R <sup>1</sup> | = the conversion rate in effect immediately after the record date   |
| O              |   |
| S <sub>0</sub> | = the number of shares of our common stock outstanding at the close of business on the record date prior to giving effect to such event |
| O              |   |
| S <sup>1</sup> | = the number of shares of our common stock that would be outstanding immediately after, and solely as a result of, such event           |

- (2) the issuance to all holders of our common stock of certain rights or warrants (other than rights issued pursuant to a shareholder rights plan or rights or warrants issued in connection with a transaction constituting a reorganization event) entitling them for a period expiring 60 days or less from the date of issuance of such rights or warrants to purchase shares of our common stock (or securities convertible into our common stock) at less than (or having a conversion price per share less than) the current market price of our common stock as of the record date, in which event the conversion rate will be adjusted based on the following formula:

$$CR^1 = CR_0 \times [(OS_0 + X) / (OS_0 + Y)]$$

where,

- CR<sub>0</sub> = the conversion rate in effect at the close of business on the record date
- CR<sup>1</sup> = the conversion rate in effect immediately after the record date
- OS<sub>0</sub> = the number of shares of our common stock outstanding at the close of business on the record date
- X = the total number of shares of our common stock issuable pursuant to such rights or warrants (or upon conversion of such securities)
- Y = the number of shares equal to quotient of the aggregate price payable to exercise such rights or warrants (or the conversion price for such securities paid upon conversion) divided by the average of the volume-weighted average price of our common stock over each of the ten consecutive volume-weighted average price trading days prior to the Business Day immediately preceding the announcement of the issuance of such rights or warrants

(3) the dividend or other distribution to all holders of our common stock of shares of our capital stock (other than common stock) or evidences of our indebtedness or our assets (excluding any dividend, distribution or issuance covered by clauses (1) or (2) above or (4) below, any dividend or distribution in connection with a transaction constituting a reorganization event or any spin-off to which the provisions set forth below in this clause (3) apply) in which event the conversion rate will be adjusted based on the following formula:

$$CR^1 = CR_0 \times [SP_0 / (SP_0 - FMV)]$$

where,

- CR<sub>0</sub> = the conversion rate in effect at the close of business on the record date
- CR<sup>1</sup> = the conversion rate in effect immediately after the record date
- SP<sub>0</sub> = the current market price as of the record date
- FMV = the fair market value (as determined by our board of directors) on the record date of the shares of capital stock, evidences of indebtedness or assets so distributed, applicable to one share of our common stock

However, if the transaction that gives rise to an adjustment pursuant to this clause (3) is one pursuant to which the payment of a dividend or other distribution on our common stock consists of shares of capital stock of, or similar equity interests in, one of our subsidiaries or one of our other business units (i.e., a spin-off) that are, or, when issued, will be, traded or quoted on the New York Stock Exchange, the Nasdaq Stock Market or any other national or regional securities exchange or market, then the conversion rate will instead be adjusted based on the following formula:

$$CR^1 = CR_0 \times [(FMV_0 + MP_0) / MP_0]$$

where,

- CR<sub>0</sub> = the conversion rate in effect at the close of business on the record date
- CR<sup>1</sup> = the conversion rate in effect immediately after the record date
- FMV<sub>0</sub> = the average of the volume-weighted average price of the capital stock or similar equity interests distributed to holders of our common stock applicable to one share of our common stock over each of the ten consecutive volume-weighted average price trading days commencing on and including the third volume-weighted average price trading day after the date on which "ex-distribution trading" commences for such dividend or distribution on the New York Stock Exchange or such other national or regional exchange or association or over-the-counter market or if not so traded or quoted, the fair market value of the capital stock or similar equity interests distributed to holders of our common stock applicable to one share of our common stock as determined by our board of directors
- MP<sub>0</sub> = the average of the volume-weighted average price of our common stock over each of the ten consecutive volume-weighted average price trading days commencing on and including the third volume-weighted average price trading day after the date on which "ex-distribution trading" commences for such dividend or distribution on the New York Stock Exchange or such other national or regional exchange or association or over-the-counter market on which our common stock is then traded or quoted

(4) We make a distribution consisting exclusively of cash to all holders of our common stock, excluding (a) any regular cash dividend on our common stock to the extent that the aggregate regular cash dividend per share of our common stock does not exceed \$0.375 / 0.1991 in any fiscal quarter (the dividend threshold amount) and (b) any consideration payable in connection with a tender or exchange offer made by us or any of its subsidiaries referred to in clause (5) below, in which event, the conversion rate will be adjusted based on the following formula:

$$CR^1 = CR_0 \times [SP_0 / (SP_0 - C)]$$

where,

- CR<sub>0</sub> = the conversion rate in effect at the close of business on the record date
- CR<sup>1</sup> = the conversion rate in effect immediately after the record date
- SP<sub>0</sub> = the current market price as of the record date
- C = the amount in cash per share equal to (1) in the case of a regular quarterly dividend, the amount we distribute to holders or pay, less the dividend threshold amount or (2) in any other case, the amount we distributes to holders or pay

The dividend threshold amount is subject to adjustment on an inversely proportional basis whenever the conversion rate is adjusted, provided that no adjustment will be made to the dividend threshold amount for any adjustment made to the conversion rate pursuant to this clause (4).

(5) We or one or more of our subsidiaries make purchases of our common stock pursuant to a tender offer or exchange offer by us or one of our subsidiaries for our common stock to the extent that the cash and value (as determined by our board of directors) of any other consideration included in the payment per share of our common stock validly tendered or exchanged exceeds the volume-weighted average price per share of our common stock on the volume-weighted average price trading day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (expiration date), in which event the conversion rate will be adjusted based on the following formula:

$$CR^1 = CR_0 \times [(FMV + (SP^1 \times OS^1)) / (SP_1 \times OS_0)]$$

where,

- CR<sub>0</sub> = the conversion rate in effect at the close of business on the expiration date
- CR<sup>1</sup> = the conversion rate in effect immediately after the expiration date
- FMV = the fair market value (as determined by our board of directors), on the expiration date, of the aggregate value of all cash and any other consideration paid or payable for shares validly tendered or exchanged and not withdrawn as of the expiration date
- OS<sup>1</sup> = the number of shares of our common stock outstanding as of the last time tenders or exchanges may be made pursuant to such tender or exchange offer (expiration time) less any purchased shares
- OS<sub>0</sub> = the number of shares of our common stock outstanding at the expiration time, including any purchased shares
- SP<sup>1</sup> = the average of the volume-weighted average price of common stock over each of the ten consecutive volume-weighted average price trading days commencing with the volume-weighted average price trading day immediately after the expiration date

“Record date” means, for purpose of a conversion rate adjustment, with respect to any dividend, distribution or other transaction or event in which the holders of our common stock have the right to receive any cash, securities or other property or in which our common stock (or other applicable security) is exchanged for or converted into any combination of cash, securities or other property, the date fixed for determination of holders of our common stock entitled to receive such cash, securities or other property (whether such date is fixed by our board of directors or by statute, contract or otherwise).

“Current market price” of our common stock on any day, means the average of the volume-weighted average price of our common stock over each of the ten consecutive volume-weighted average price trading days ending on the earlier of the day in question and the day before the ex-date or other specified date with respect to the issuance or distribution requiring such computation, appropriately adjusted to take into account the occurrence during such period of any event described in clauses (1) through (5) above. For purposes of the foregoing, “ex-date” means the first date on which the shares of our common stock trade on the applicable exchange or in the applicable market, regular way, without the right to receive an issuance or distribution.

In the event of our voluntary or involuntary dissolution, winding up and liquidation, the holders of the Series L preferred stock are entitled to receive a liquidating distribution in the amount of the liquidation preference of \$1,000 per share, plus any authorized, declared and unpaid dividends for the then-current dividend period to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series L preferred stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with the Series L preferred stock upon liquidation and the rights of our creditors. If the amounts available for distribution upon our dissolution, winding up and liquidation are not sufficient to satisfy the full liquidation rights of all the outstanding Series L preferred stock and all stock ranking equal to the Series L preferred stock, then the holders of each series of our Series L preferred stock will share ratably in any distribution of assets in proportion to the full respective preferential amount to which they are entitled. After the full amount of the

liquidation preference is paid, the holders of our Series L preferred stock will not be entitled to any further participation in any distribution of our assets.

Holders of our Series L preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the special voting rights provided for below.

If we fail to pay, or declare and set aside for payment, full dividends on the Series L preferred stock or any other class or series of voting parity stock for six dividend periods or their equivalent (whether or not consecutive), the authorized number of directors serving on our board of directors will be increased by two. Subject to satisfaction of certain qualifications for persons serving as directors pursuant to regulations of any securities exchange on which our securities are then listed or traded, the holders of our Series L preferred stock, voting together as a single and separate class with the holders of all outstanding voting parity stock on which dividends likewise have not been paid, will have the right to elect two directors in addition to the directors then in office at our next annual meeting of shareholders. When dividends have been paid in full on the Series L preferred stock and any and all voting parity stock for at least four consecutive dividend periods or their equivalent, then the right of the holders of our Series L preferred stock to elect directors shall cease (but subject always to revesting of such voting rights in the case of any future nonpayment of dividends), and, if and when all rights of holders of our Series L preferred stock and voting parity stock to elect directors shall have ceased, the terms of office of all the directors elected by preferred stock holders under this provision shall forthwith terminate and the number of directors constituting the board of directors shall automatically be reduced accordingly.

So long as any shares of our Series L preferred stock are outstanding, the vote or consent of the holders of at least  $66\frac{2}{3}\%$  of the shares of our Series L preferred stock at the time outstanding, voting as a class with all other series of preferred stock ranking equally with the Series L preferred stock and entitled to vote thereon, given in person or by proxy, either in writing without a meeting or by vote at any meeting called for the purpose, will be necessary for effecting or validating any of the following actions, whether or not such approval is required by Delaware law:

- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificates of designations creating the Series L preferred stock) or our by-laws that would alter or change the voting powers, preferences or special rights of the holders of the Series L preferred stock so as to affect them adversely;
- any amendment or alteration of our restated certificate of incorporation, as amended, to authorize or create, or increase the authorized amount of, or any issuance of any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking prior to the Series L preferred stock in the payment of dividends or in the distribution of assets on our liquidation, dissolution or winding up; or
- the consummation of a binding share exchange or reclassification involving the Series L preferred stock or a merger or consolidation with another entity, except holders of our Series L preferred stock will have no right to vote under this provision or otherwise under Delaware law if, in each case, (i) the Series L preferred stock remains outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, is converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such Series L preferred stock remaining outstanding or such preference securities, as the case may be, has such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series L preferred stock, taken as a whole;

except that any authorization, creation or increase in the authorized amount of or issuance of our Series L preferred stock or any class or series of parity stock or junior stock or any securities convertible into any class or series of parity stock (whether dividends payable in respect of such parity stock are cumulative or non-cumulative) or junior stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the holders of the Series L preferred stock, and, notwithstanding any provision of Delaware law, holders of the Series L preferred stock shall have no right to vote thereon.

**Series N Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series N, which we refer to as our “Series N preferred stock,” with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series N preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series N preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series N preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series N preferred stock are not mandatory. Holders of our Series N preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series N preferred stock. These dividends accrue at a rate per annum equal to 5.20%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series N preferred stock to receive dividends is non-cumulative. The Series N preferred stock was issued on August 16, 2012, and the first dividend payment date was December 15, 2012.

To the extent we declare dividends on the Series N preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series N preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series N preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series N preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series N preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the Board of Governors of the Federal Reserve System (the "FRB"), the Series N preferred stock, in whole or in part, on any dividend payment date on or after September 15, 2017. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series N preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series N preferred stock at the time outstanding prior to September 15, 2017. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series N preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series N preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series N preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series N preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series N preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series N preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series N preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series N preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series N preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series N preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series N preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series N preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series N preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series N preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66<sup>2</sup>/<sub>3</sub>% in voting power of all such outstanding Series N preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series N preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;

- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series N preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series N preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series N preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series N preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series N preferred stock will have no right to vote under this provision if in each case (i) the shares of Series N preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series N preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series N preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series N preferred stock or any class or series of Parity Stock or securities ranking junior to the Series N preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series N preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series N preferred stock, and holders of the Series N preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series N preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series N preferred stock will have 25 votes per share on any matter on which holders of the Series N preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series N Depositary Shares.** Each Series N depositary share issued by us represents a 1/1,000th interest in one share of our Series N preferred stock. The shares of our Series N preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series N depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series N depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series N depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series N depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series N depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series N preferred stock to the holders of record of Series N depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series N depositary shares in proportion to the number of Series N depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series N depositary shares are the same as the corresponding record dates for the Series N preferred stock.

The amounts distributed to holders of the Series N depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series N preferred stock underlying the Series N depositary shares is redeemed (i) after September 15, 2017, in whole or in part, or (ii) prior to September 15, 2017 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series N depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series N preferred stock held by the depositary. The redemption price per Series N depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series N preferred stock (or \$25 per Series N depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series N preferred stock is redeemed after September 15, 2017, the Series N depositary shares to be redeemed will be selected pro rata, or in any other manner determined by the depositary to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series N preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series N depositary shares relating to the Series N preferred stock. Each record holder of the Series N depositary shares on the record date, which will be the same date as the record date for the Series N preferred stock, may instruct the depositary to vote the amount of the Series N preferred stock represented by the holder's Series N depositary shares. To the extent possible, the depositary will vote the amount of the Series N preferred stock represented by the Series N depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series N depositary shares representing the Series N preferred stock, it will not vote the amount of Series N preferred stock represented by such Series N depositary shares.

**Series O Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series O, which we refer to as our "Series O preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series O preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series O preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series O preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series O preferred stock are not mandatory. Holders of our Series O preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series O preferred stock. These dividends accrue at a rate per annum equal to 5.125%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series O preferred stock to receive dividends is non-cumulative. The Series O preferred stock was issued on November 20, 2012, and the first dividend payment date was March 15, 2013.

To the extent we declare dividends on the Series O preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series O preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series O preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series O preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series O preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series O preferred stock, in whole or in part, on any dividend payment date on or after December 15, 2017. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series O preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series O preferred stock at the time outstanding prior to December 15, 2017. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series O preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series O preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series O preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series O preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series O preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series O preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series O preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series O preferred stock (together with the holders of shares of any one



or more other series of Voting Parity Stock). At elections for such directors, each holder of Series O preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series O preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series O preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series O preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series O preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series O preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series O preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series O preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series O preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series O preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series O preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series O preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series O preferred stock will have no right to vote under this provision if in each case (i) the shares of Series O preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series O preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series O preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series O preferred stock or any class or series of Parity Stock or securities ranking junior to the Series O preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series O preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series O preferred stock, and holders of the Series O preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series O preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series O preferred stock will have 25 votes per share on any matter on which holders of the Series O preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series O Depositary Shares.** Each Series O depositary share issued by us represents a 1/1,000th interest in one share of our Series O preferred stock. The shares of our Series O preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series O depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series O depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series O depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series O depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series O depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series O preferred stock to the holders of record of Series O depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series O depositary shares in proportion to the number of Series O depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series O depositary shares are the same as the corresponding record dates for the Series O preferred stock.

The amounts distributed to holders of the Series O depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series O preferred stock underlying the Series O depositary shares is redeemed (i) after December 15, 2017, in whole or in part, or (ii) prior to December 15, 2017 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series O depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series O preferred stock held by the depositary. The redemption price per Series O depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series O preferred stock (or \$25 per Series O depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series O preferred stock is redeemed after December 15, 2017, the Series O depositary shares to be redeemed will be selected pro rata, or in any other manner determined by the depositary to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series O preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series O depositary shares relating to the Series O preferred stock. Each record holder of the Series O depositary shares on the record date, which will be the same date as the record date for the Series O preferred stock, may instruct the depositary to vote the amount of the Series O preferred stock represented by the holder's Series O depositary shares. To the extent possible, the depositary will vote the amount of the Series O preferred stock represented by the Series O depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series O depositary shares representing the Series O preferred stock, it will not vote the amount of Series O preferred stock represented by such Series O depositary shares.

**Series P Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series P, which we refer to as our "Series P preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series P preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series P preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series P preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series P preferred stock are not mandatory. Holders of our Series P preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series P preferred stock. These dividends accrue at a rate per annum equal to 5.25%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series P preferred stock to receive dividends is non-cumulative. The Series P preferred stock was issued on March 22, 2013, and the first dividend payment date was June 15, 2013.

To the extent we declare dividends on the Series P preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series P preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series P preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series P preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series P preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series P preferred stock, in whole or in part, on any dividend payment date on or after June 15,

2018. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series P preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series P preferred stock at the time outstanding prior to June 15, 2018. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series P preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series P preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series P preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series P preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series P preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series P preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series P preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series P preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series P preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series P preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series P preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series P preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series P preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series P preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66<sup>2</sup>/<sub>3</sub>% in voting power of all such outstanding Series P preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series P preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series P preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series P preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series P preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series P preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series P preferred stock will have no right to vote under this provision if in each case (i) the shares of Series P preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series P preferred stock remaining outstanding or such preference securities, as the case may be, have such rights,

preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series P preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series P preferred stock or any class or series of Parity Stock or securities ranking junior to the Series P preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series P preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series P preferred stock, and holders of the Series P preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series P preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series P preferred stock will have 25 votes per share on any matter on which holders of the Series P preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series P Depositary Shares.** Each Series P depositary share issued by us represents a 1/1,000th interest in one share of our Series P preferred stock. The shares of our Series P preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series P depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series P depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series P depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series P depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series P depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series P preferred stock to the holders of record of Series P depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series P depositary shares in proportion to the number of Series P depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series P depositary shares are the same as the corresponding record dates for the Series P preferred stock.

The amounts distributed to holders of the Series P depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series P preferred stock underlying the Series P depositary shares is redeemed (i) after June 15, 2018, in whole or in part, or (ii) prior to June 15, 2018 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series P depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series P preferred stock held by the depositary. The redemption price per Series P depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series P preferred stock (or \$25 per Series P depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series P preferred stock is redeemed after June 15, 2018, the Series P depositary shares to be redeemed will be selected pro rata, or in any other manner determined by the depositary to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series P preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series P depositary shares relating to the Series P preferred stock. Each record holder of the Series P depositary shares on the record date, which will be the same date as the record date for the Series P preferred stock, may instruct the depositary to vote the amount of the Series P preferred stock represented by the holder's Series P depositary shares. To the extent possible, the depositary will vote the amount of the Series P preferred stock represented by the Series P depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series P

depository shares representing the Series P preferred stock, it will not vote the amount of Series P preferred stock represented by such Series P depository shares.

**Series Q Preferred Stock.** Our 5.85% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series Q, which we refer to as our “Series Q preferred stock,” with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series Q preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series Q preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series Q preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series Q preferred stock are not mandatory. Holders of our Series Q preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series Q preferred stock. From July 22, 2013 to, but excluding, September 15, 2023 (the “Fixed Rate Period”), these dividends will accrue at a fixed rate per annum equal to 5.85%, and from, and including, September 15, 2023 (the “Floating Rate Period”), dividends will accrue at a rate per annum equal to three-month LIBOR plus 3.09%. These dividends are payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series Q preferred stock to receive dividends is non-cumulative. The Series Q preferred stock was issued on July 22, 2013, and the first dividend payment date was September 15, 2013. Wells Fargo Bank, N.A. is the calculation agent for purposes of determining three-month LIBOR for dividends payable for the Floating Rate Period.

To the extent we declare dividends on the Series Q preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series Q preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series Q preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series Q preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series Q preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series Q preferred stock, in whole or in part, on any dividend payment date on or after September 15, 2023. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series Q preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series Q preferred stock at the time outstanding prior to September 15, 2023. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series Q preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series Q preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series Q preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series Q preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series Q preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series Q preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series Q preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Q preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series Q preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Q preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such

right with respect to the Series Q preferred stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series Q preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series Q preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series Q preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series Q preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series Q preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series Q preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series Q preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series Q preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series Q preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series Q preferred stock will have no right to vote under this provision if in each case (i) the shares of Series Q preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series Q preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Q preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series Q preferred stock or any class or series of Parity Stock or securities ranking junior to the Series Q preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series Q preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series Q preferred stock, and holders of the Series Q preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series Q preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series Q preferred stock will have 25 votes per share on any matter on which holders of the Series Q preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series Q Depositary Shares.** Each Series Q depositary share issued by us represents a 1/1,000th interest in one share of our Series Q preferred stock. The shares of our Series Q preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series Q depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series Q depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series Q depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series Q depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series Q depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series Q preferred stock to the holders of record of Series Q depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series Q depositary shares in proportion to the number of Series Q depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series Q depositary shares are the same as the corresponding record dates for the Series Q preferred stock.

The amounts distributed to holders of the Series Q depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series Q preferred stock underlying the Series Q depositary shares is redeemed (i) after September 15, 2023, in whole or in part, or (ii) prior to September 15, 2023 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series Q depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series Q preferred stock held by the depositary. The redemption price per Series Q depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series Q preferred stock (or \$25 per Series Q depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series Q preferred stock is redeemed after September 15, 2023, the Series Q depositary shares to be redeemed will be selected pro rata, or in any other manner determined by the depositary to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series Q preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series Q depositary shares relating to the Series Q preferred stock. Each record holder of the Series Q depositary shares on the record date, which will be the same date as the record date for the Series Q preferred stock, may instruct the depositary to vote the amount of the Series Q preferred stock represented by the holder's Series Q depositary shares. To the extent possible, the depositary will vote the amount of the Series Q preferred stock represented by the Series Q depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series Q depositary shares representing the Series Q preferred stock, it will not vote the amount of Series Q preferred stock represented by such Series Q depositary shares.

**Series R Preferred Stock.** Our 6.625% Fixed-to-Floating Rate Non-Cumulative Perpetual Class A Preferred Stock, Series R, which we refer to as our “Series R preferred stock,” with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series R preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series R preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series R preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series R preferred stock are not mandatory. Holders of our Series R preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series R preferred stock. From December 18, 2013 to, but excluding, March 15, 2024 (the “Fixed Rate Period”), these dividends will accrue at a fixed rate per annum equal to 6.625%, and from, and including, March 15, 2024 (the “Floating Rate Period”), dividends will accrue at a rate per annum equal to three-month LIBOR plus 3.69%. These dividends are payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series R preferred stock to receive dividends is non-cumulative. The Series R preferred stock was issued on December 18, 2013, and the first dividend payment date was March 15, 2014. Wells Fargo Bank, N.A. is the calculation agent for purposes of determining three-month LIBOR for dividends payable for the Floating Rate Period.

To the extent we declare dividends on the Series R preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series R preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series R preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series R preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series R preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series R preferred stock, in whole or in part, on any dividend payment date on or after March 15, 2024. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series R preferred stock), we, at the option of our board of directors or any duly authorized

committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series R preferred stock at the time outstanding prior to March 15, 2024. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series R preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series R preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series R preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series R preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series R preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series R preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series R preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series R preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series R preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series R preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series R preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series R preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series R preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series R preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series R preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series R preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series R preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series R preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series R preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series R preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series R preferred stock will have no right to vote under this provision if in each case (i) the shares of Series R preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series R preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series R preferred stock, taken as a whole;



*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series R preferred stock or any class or series of Parity Stock or securities ranking junior to the Series R preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series R preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series R preferred stock, and holders of the Series R preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series R preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series R preferred stock will have 25 votes per share on any matter on which holders of the Series R preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series R Depositary Shares.** Each Series R depositary share issued by us represents a 1/1,000th interest in one share of our Series R preferred stock. The shares of our Series R preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series R depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series R depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series R depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series R depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series R depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series R preferred stock to the holders of record of Series R depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series R depositary shares in proportion to the number of Series R depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series R depositary shares are the same as the corresponding record dates for the Series R preferred stock.

The amounts distributed to holders of the Series R depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series R preferred stock underlying the Series R depositary shares is redeemed (i) after March 15, 2024, in whole or in part, or (ii) prior to March 15, 2024 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series R depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series R preferred stock held by the depositary. The redemption price per Series R depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series R preferred stock (or \$25 per Series R depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series R preferred stock is redeemed after March 15, 2024, the Series R depositary shares to be redeemed will be selected pro rata, or in any other manner determined by the depositary to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series R preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series R depositary shares relating to the Series R preferred stock. Each record holder of the Series R depositary shares on the record date, which will be the same date as the record date for the Series R preferred stock, may instruct the depositary to vote the amount of the Series R preferred stock represented by the holder's Series R depositary shares. To the extent possible, the depositary will vote the amount of the Series R preferred stock represented by the Series R depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series R depositary shares representing the Series R preferred stock, it will not vote the amount of Series R preferred stock represented by such Series R depositary shares.

**Series T Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series T, which we refer to as our "Series T preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are

expressly made junior to our Series T preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series T preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series T preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series T preferred stock are not mandatory. Holders of our Series T preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series T preferred stock. These dividends accrue at a rate per annum equal to 6.00%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series T preferred stock to receive dividends is non-cumulative. The Series T preferred stock was issued on July 21, 2014, and the first dividend payment date was September 15, 2014.

To the extent we declare dividends on the Series T preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series T preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series T preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series T preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series T preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series T preferred stock, in whole or in part, on any dividend payment date on or after September 15, 2019. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series T preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series T preferred stock at the time outstanding prior to September 15, 2019. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series T preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series T preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series T preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series T preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series T preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series T preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series T preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series T preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series T preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series T preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series T preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series T preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series T preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series T preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66<sup>2</sup>/<sub>3</sub>% in voting power of all such outstanding Series T preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series T preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series T preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series T preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series T preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series T preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series T preferred stock will have no right to vote under this provision if in each case (i) the shares of Series T preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series T preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series T preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series T preferred stock or any class or series of Parity Stock or securities ranking junior to the Series T preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series T preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series T preferred stock, and holders of the Series T preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series T preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series T preferred stock will have 25 votes per share on any matter on which holders of the Series T preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series T Depositary Shares.** Each Series T depositary share issued by us represents a 1/1,000th interest in one share of our Series T preferred stock. The shares of our Series T preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series T depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series T depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series T depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series T depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series T depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series T preferred stock to the holders of record of Series T depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series T depositary shares in proportion to the number of Series T depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series T depositary shares are the same as the corresponding record dates for the Series T preferred stock.

The amounts distributed to holders of the Series T depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series T preferred stock underlying the Series T depositary shares is redeemed (i) after September 15, 2019, in whole or in part, or (ii) prior to September 15, 2019 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series T depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series T preferred stock held by the depositary. The redemption price per Series T depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series T preferred stock (or \$25 per Series T depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series T preferred stock is redeemed after September 15, 2019, the Series T depositary shares to be redeemed will be selected pro rata, or in any other manner consistent with the rules and policies of the NYSE as the depositary may determine to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series T preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series T depositary shares relating to the Series T preferred stock. Each record holder of the Series T depositary shares on the record date, which will be the same date as the record date for the Series T preferred stock, may instruct the depositary to vote the amount of the Series T preferred stock represented by the holder's Series T depositary shares. To the extent possible, the depositary will vote the amount of the Series T preferred stock represented by the Series T depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series T depositary shares representing the Series T preferred stock, it will not vote the amount of Series T preferred stock represented by such Series T depositary shares.

**Series V Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series V, which we refer to as our "Series V preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series V preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series V preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series V preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series V preferred stock are not mandatory. Holders of our Series V preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series V preferred stock. These dividends accrue at a rate per annum equal to 6.00%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series V preferred stock to receive dividends is non-cumulative. The Series V preferred stock was issued on September 15, 2015, and the first dividend payment date was December 15, 2015.

To the extent we declare dividends on the Series V preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series V preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series V preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series V preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series V preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series V preferred stock, in whole or in part, on any dividend payment date on or after December 15, 2020. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series V preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series V preferred stock at the time outstanding prior to December 15, 2020. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series V preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking

junior to the Series V preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series V preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series V preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series V preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series V preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series V preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series V preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series V preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series V preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series V preferred stock shall terminate, except as provided by law, and subject to reversion in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series V preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series V preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series V preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66<sup>2</sup>/<sub>3</sub>% in voting power of all such outstanding Series V preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series V preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series V preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series V preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series V preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series V preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series V preferred stock will have no right to vote under this provision if in each case (i) the shares of Series V preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series V preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series V preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series V preferred stock or any class or series of Parity Stock or securities ranking junior to the Series V preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series V preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series V preferred stock, and holders of the Series V preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series V preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series V preferred stock will have 25 votes per share on any matter on which holders of the Series V preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series V Depositary Shares.** Each Series V depositary share issued by us represents a 1/1,000th interest in one share of our Series V preferred stock. The shares of our Series V preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series V depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series V depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series V depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series V depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series V depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series V preferred stock to the holders of record of Series V depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series V depositary shares in proportion to the number of Series V depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series V depositary shares are the same as the corresponding record dates for the Series V preferred stock.

The amounts distributed to holders of the Series V depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series V preferred stock underlying the Series V depositary shares is redeemed (i) after December 15, 2020, in whole or in part, or (ii) prior to December 15, 2020 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series V depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series V preferred stock held by the depositary. The redemption price per Series V depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series V preferred stock (or \$25 per Series V depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series V preferred stock is redeemed after December 15, 2020, the Series V depositary shares to be redeemed will be selected pro rata, or in such other manner consistent with the rules and policies of the NYSE as the depositary may determine to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series V preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series V depositary shares relating to the Series V preferred stock. Each record holder of the Series V depositary shares on the record date, which will be the same date as the record date for the Series V preferred stock, may instruct the depositary to vote the amount of the Series V preferred stock represented by the holder's Series V depositary shares. To the extent possible, the depositary will vote the amount of the Series V preferred stock represented by the Series V depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series V depositary shares representing the Series V preferred stock, it will not vote the amount of Series V preferred stock represented by such Series V depositary shares.

**Series W Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series W, which we refer to as our "Series W preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series W preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series W preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series W preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series W preferred stock are not mandatory. Holders of our Series W preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series W preferred stock. These dividends accrue at a rate per annum equal to 5.70%, payable quarterly in arrears on each March 15, June 15, September 15

and December 15. The right of holders of our Series W preferred stock to receive dividends is non-cumulative. The Series W preferred stock was issued on January 29, 2016, and the first dividend payment date was March 15, 2016.

To the extent we declare dividends on the Series W preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series W preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series W preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series W preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series W preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series W preferred stock, in whole or in part, on any dividend payment date on or after March 15, 2021. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series W preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series W preferred stock at the time outstanding prior to March 15, 2021. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series W preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series W preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series W preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series W preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series W preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series W preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series W preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series W preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series W preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series W preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series W preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series W preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series W preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series W preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series W preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series W preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;

- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series W preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series W preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series W preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series W preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series W preferred stock will have no right to vote under this provision if in each case (i) the shares of Series W preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series W preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series W preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series W preferred stock or any class or series of Parity Stock or securities ranking junior to the Series W preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series W preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series W preferred stock, and holders of the Series W preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series W preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series W preferred stock will have 25 votes per share on any matter on which holders of the Series W preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series W Depositary Shares.** Each Series W depositary share issued by us represents a 1/1,000th interest in one share of our Series W preferred stock. The shares of our Series W preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series W depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series W depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series W depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series W depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series W depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series W preferred stock to the holders of record of Series W depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series W depositary shares in proportion to the number of Series W depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series W depositary shares are the same as the corresponding record dates for the Series W preferred stock.

The amounts distributed to holders of the Series W depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series W preferred stock underlying the Series W depositary shares is redeemed (i) after March 15, 2021, in whole or in part, or (ii) prior to March 15, 2021 in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series W depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series W preferred stock held by the depositary. The redemption price per Series W depositary share will be equal to 1/1,000th of the applicable redemption price



per share payable with respect of such Series W preferred stock (or \$25 per Series W depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series W preferred stock is redeemed after March 15, 2021, the Series W depositary shares to be redeemed will be selected pro rata, or in any other manner consistent with the rules and policies of the NYSE as the depositary may determine to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series W preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series W depositary shares relating to the Series W preferred stock. Each record holder of the Series W depositary shares on the record date, which will be the same date as the record date for the Series W preferred stock, may instruct the depositary to vote the amount of the Series W preferred stock represented by the holder's Series W depositary shares. To the extent possible, the depositary will vote the amount of the Series W preferred stock represented by the Series W depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series W depositary shares representing the Series W preferred stock, it will not vote the amount of Series W preferred stock represented by such Series W depositary shares.

**Series X Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series X, which we refer to as our "Series X preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series X preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series X preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series X preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series X preferred stock are not mandatory. Holders of our Series X preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series X preferred stock. These dividends accrue at a rate per annum equal to 5.50%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series X preferred stock to receive dividends is non-cumulative. The Series X preferred stock was issued on June 15, 2016, and the first dividend payment date was September 15, 2016.

To the extent we declare dividends on the Series X preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series X preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series X preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series X preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series X preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series X preferred stock, in whole or in part, on any dividend payment date on or after September 15, 2021. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series X preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series X preferred stock at the time outstanding prior to September 15, 2021. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series X preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series X preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series X preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series X preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series X preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series X preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series X preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual

meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series X preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series X preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series X preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series X preferred stock shall terminate, except as provided by law, and subject to revesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series X preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series X preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series X preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series X preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series X preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series X preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series X preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series X preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series X preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series X preferred stock will have no right to vote under this provision if in each case (i) the shares of Series X preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series X preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series X preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series X preferred stock or any class or series of Parity Stock or securities ranking junior to the Series X preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series X preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series X preferred stock, and holders of the Series X preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series X preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series X preferred stock will have 25 votes per share on any matter on which holders of the Series X preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series X Depositary Shares.** Each Series X depositary share issued by us represents a 1/1,000th interest in one share of our Series X preferred stock. The shares of our Series X preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series X depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series X depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series X depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series X depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series X depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series X preferred stock to the holders of record of Series X depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series X depositary shares in proportion to the number of Series X depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series X depositary shares are the same as the corresponding record dates for the Series X preferred stock.

The amounts distributed to holders of the Series X depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series X preferred stock underlying the Series X depositary shares is redeemed (i) after September 15, 2021, in whole or in part, or (ii) prior to September 15, 2021, in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series X depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series X preferred stock held by the depositary. The redemption price per Series X depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series X preferred stock (or \$25 per Series X depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series X preferred stock is redeemed after September 15, 2021, the Series X depositary shares to be redeemed will be selected pro rata, or in any other manner consistent with the rules and policies of the NYSE as the depositary may determine to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series X preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series X depositary shares relating to the Series X preferred stock. Each record holder of the Series X depositary shares on the record date, which will be the same date as the record date for the Series X preferred stock, may instruct the depositary to vote the amount of the Series X preferred stock represented by the holder's Series X depositary shares. To the extent possible, the depositary will vote the amount of the Series X preferred stock represented by the Series X depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series X depositary shares representing the Series X preferred stock, it will not vote the amount of Series X preferred stock represented by such Series X depositary shares.

**Series Y Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series Y, which we refer to as our "Series Y preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series Y preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series Y preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of designation for the Series Y preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series Y preferred stock are not mandatory. Holders of our Series Y preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series Y preferred stock. These dividends accrue at a rate per annum equal to 5.625%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series Y preferred stock to receive dividends is non-cumulative. The Series Y preferred stock was issued on April 24, 2017, and the first dividend payment date was June 15, 2017.

To the extent we declare dividends on the Series Y preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series Y preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series Y preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series Y preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding

shares of Series Y preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series Y preferred stock, in whole or in part, on any dividend payment date on or after June 15, 2022. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series Y preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series Y preferred stock at the time outstanding prior to June 15, 2022. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series Y preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series Y preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series Y preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series Y preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series Y preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series Y preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series Y preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Y preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series Y preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Y preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series Y preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series Y preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series Y preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series Y preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least  $66\frac{2}{3}\%$  in voting power of all such outstanding Series Y preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series Y preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series Y preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series Y preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series Y preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series Y preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series Y preferred stock will have no right to vote under this provision if in each case (i) the shares of Series Y preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or

exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series Y preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Y preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series Y preferred stock or any class or series of Parity Stock or securities ranking junior to the Series Y preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series Y preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series Y preferred stock, and holders of the Series Y preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series Y preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series Y preferred stock will have 25 votes per share on any matter on which holders of the Series Y preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series Y Depositary Shares.** Each Series Y depositary share issued by us represents a 1/1,000th interest in one share of our Series Y preferred stock. The shares of our Series Y preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series Y depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series Y depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series Y depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series Y depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series Y depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series Y preferred stock to the holders of record of Series Y depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series Y depositary shares in proportion to the number of Series Y depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series Y depositary shares are the same as the corresponding record dates for the Series Y preferred stock.

The amounts distributed to holders of the Series Y depositary shares will be reduced by any amounts required to be withheld by the depositary or by us on account of taxes or other governmental charges.

If the Series Y preferred stock underlying the Series Y depositary shares is redeemed (i) after June 15, 2022, in whole or in part, or (ii) prior to June 15, 2022, in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series Y depositary shares will be redeemed with the proceeds received by the depositary from the redemption of the Series Y preferred stock held by the depositary. The redemption price per Series Y depositary share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series Y preferred stock (or \$25 per Series Y depositary share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series Y preferred stock is redeemed after June 15, 2022, the Series Y depositary shares to be redeemed will be selected pro rata, or in any other manner consistent with the rules and policies of the NYSE as the depositary may determine to be fair and equitable.

When the depositary receives notice of any meeting at which the holders of the Series Y preferred stock are entitled to vote, the depositary will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series Y depositary shares relating to the Series Y preferred stock. Each record holder of the Series Y depositary shares on the record date, which will be the same date as the record date for the Series Y preferred stock, may instruct the depositary to vote the amount of the Series Y preferred stock represented by the holder's Series Y depositary shares. To the extent possible, the depositary will vote the amount of the Series Y preferred stock represented by the Series Y depositary shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depositary determines are necessary to enable the depositary to vote as instructed. If the depositary does not receive specific instructions from the holders of any Series Y depositary shares representing the Series Y preferred stock, it will not vote the amount of Series Y preferred stock represented by such Series Y depositary shares.

**Series Z Preferred Stock.** Our Non-Cumulative Perpetual Class A Preferred Stock, Series Z, which we refer to as our "Series Z preferred stock," with no par value, ranks senior to our common stock and to any other securities that we may issue in the future that are expressly made junior to our Series Z preferred stock, as to payment of dividends and/or distribution of assets upon our liquidation, dissolution or winding up. The Series Z preferred stock ranks equally with our Parity Stock (as such term is defined in the certificate of

designation for the Series Z preferred stock) as to payment of dividends and distribution of assets upon our liquidation, dissolution or winding up.

Dividends on shares of our Series Z preferred stock are not mandatory. Holders of our Series Z preferred stock are entitled to receive, when, as and if declared by our board of directors or any duly authorized committee of our board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference amount, which is \$25,000 per share of Series Z preferred stock. These dividends accrue at a rate per annum equal to 4.75%, payable quarterly in arrears on each March 15, June 15, September 15 and December 15. The right of holders of our Series Z preferred stock to receive dividends is non-cumulative. The Series Z preferred stock was issued on January 27, 2020, and the first dividend payment date will be March 15, 2020.

To the extent we declare dividends on the Series Z preferred stock and on any other Parity Stock but cannot make full payment of those declared dividends, we will allocate the dividend payments on a proportional basis among the holders of shares of Series Z preferred stock and the holders of any Parity Stock then outstanding where the terms of such Parity Stock provide similar dividend rights. No interest will be payable in respect of any dividend payment that may be in arrears.

We cannot pay dividends on our common stock or other securities ranking junior to the Series Z preferred stock or repurchase, redeem or otherwise acquire for consideration shares of our common stock, other securities ranking junior to the Series Z preferred stock or Parity Stock, subject to certain exceptions, unless the full dividends for the then-current period on all outstanding shares of Series Z preferred stock have been declared and paid or declared and a sum sufficient for the payment of those dividends has been set aside.

We, at the option of our board of directors or any duly authorized committee of our board of directors, may redeem, subject to the prior approval of the FRB, the Series Z preferred stock, in whole or in part, on any dividend payment date on or after March 15, 2025. In addition, within 90 days of our good faith determination that a Regulatory Capital Treatment Event (as such term is defined in the certificate of designation for the Series Z preferred stock), we, at the option of our board of directors or any duly authorized committee of the board of directors, may, subject to approval of the appropriate federal banking agency, redeem in whole, but not in part, the shares of Series Z preferred stock at the time outstanding prior to March 15, 2025. Any redemption shall be at the redemption price of \$25,000 per share plus an amount equal to any dividends that have been declared but not paid to the redemption date without accumulation of any undeclared dividends.

In the event of our voluntary or involuntary liquidation, dissolution or winding up, the holders of our Series Z preferred stock are entitled to receive a liquidating distribution in the amount of \$25,000 per share, plus an amount equal to any dividends that have been declared but not yet paid, without accumulation of any undeclared dividends, to the date of liquidation, out of our assets legally available for distribution to our stockholders, before any distribution is made to holders of our common stock or any securities ranking junior to the Series Z preferred stock and subject to the rights of the holders of Parity Stock or any of our stock ranking senior to the Series Z preferred stock as to such distribution and the rights of our depositors and other creditors.

Holders of our Series Z preferred stock do not have any voting rights and are not entitled to elect any directors, except as required by law and except for the voting rights provided for below.

Whenever dividends payable on any shares of Series Z preferred stock or any class or series of Voting Parity Stock (as such term is defined in the certificate of designation for the Series Z preferred stock) have not been declared and paid in an aggregate amount equal to, as to any class or series, at least six quarterly dividend periods or their equivalent, whether or not for consecutive dividend periods, the holders of our Series Z preferred stock, voting together as a class with holders of Voting Parity Stock whose voting rights are exercisable, will be entitled to vote for the election of two additional directors of our board of directors at our next annual meeting of stockholders and at each subsequent meeting of stockholders, by a plurality of votes cast; *provided* that our board of directors shall at no time include more than two such directors and including, for purposes of this limitation, all directors that the holders of any series of Voting Parity Stock are entitled to elect pursuant to like voting rights. Upon the vesting of such right of such holders, the maximum authorized number of members of our board of directors shall automatically be increased by two and the two vacancies so created shall be filled by vote of the holders of the outstanding Series Z preferred stock (together with the holders of shares of any one or more other series of Voting Parity Stock). At elections for such directors, each holder of Series Z preferred stock shall be entitled to 25 votes for each share held (the holders of shares of any other series of Voting Parity Stock being entitled to such number of votes, if any, for each share of such stock as may be granted to them). The right of the holders of the Series Z preferred stock (voting together as a class with the holders of shares of any one or more other series of Voting Parity Stock) to elect such directors shall continue until such time as we have paid in full dividends for the equivalent of at least four quarterly dividend periods or their equivalent, at which time such right with respect to the Series Z preferred stock shall terminate, except as provided by law, and subject to re-vesting in the event of each and every subsequent nonpayment of dividends. Upon any termination of the right of the holders of all shares of Series Z preferred stock and Voting Parity Stock to vote for directors, the term of office of all such directors then in office elected by only those holders voting as a class shall terminate immediately. Whenever the term of office of the directors elected by such holders voting as a class shall end and the special voting powers vested in such holders shall have expired, the number of directors shall be such number as may be provided for in our by-laws.

In addition to any other vote required by law or our restated certificate of incorporation, as amended, so long as any shares of our Series Z preferred stock are outstanding, the vote or consent of the holders of the outstanding shares of our Series Z preferred stock and outstanding shares of all other series of Voting Parity Stock entitled to vote on the matter, by a vote of at least 66 <sup>2</sup>/<sub>3</sub>% in voting

power of all such outstanding Series Z preferred stock and such Voting Parity stock, voting together as a class, given in person or by proxy, either in writing without a meeting or at any meeting called for the purpose, will be necessary to permit, effect or validate any one or more of the following actions, whether or not such approval is required by Delaware law:

- the issuance of any series of preferred stock or preference stock ranking senior to the Series Z preferred stock with respect to either the payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up;
- any amendment, alteration or repeal of any provision of our restated certificate of incorporation, as amended (including the certificate of designation relating to the Series Z preferred stock) or our by-laws that would adversely affect the rights, preferences, privileges or voting powers of the Series Z preferred stock;
- any amendment or alteration of our restated certificate of incorporation, as amended, or by-laws to authorize, create or increase the authorized amount of, any shares of, or any securities convertible into shares of, any class or series of our capital stock ranking senior to the Series Z preferred stock with respect to either payment of dividends or the distribution of assets in the event of any voluntary or involuntary liquidation, dissolution or winding up; or
- the consummation of a reclassification involving the Series Z preferred stock or a merger or consolidation with another corporation or other entity, except holders of the Series Z preferred stock will have no right to vote under this provision if in each case (i) the shares of Series Z preferred stock remain outstanding or, in the case of any such merger or consolidation with respect to which we are not the surviving or resulting entity, are converted into or exchanged for preference securities of the surviving or resulting entity or its ultimate parent, and (ii) such shares of Series Z preferred stock remaining outstanding or such preference securities, as the case may be, have such rights, preferences, privileges and voting powers, taken as a whole, as are not materially less favorable to the holders thereof than the rights, preferences, privileges and voting powers of the Series Z preferred stock, taken as a whole;

*provided, however*, that any authorization, creation or increase in the authorized amount of or issuance of our Series Z preferred stock or any class or series of Parity Stock or securities ranking junior to the Series Z preferred stock or any securities convertible into any class or series of Parity Stock (whether dividends payable in respect of such Parity Stock are cumulative or non-cumulative) or securities ranking junior to the Series Z preferred stock will be deemed not to adversely affect the rights, preferences, privileges or voting powers of the Series Z preferred stock, and holders of the Series Z preferred stock shall have no right to vote thereon.

If an amendment, alteration, repeal, reclassification, merger or consolidation described above would adversely affect one or more but not all series of voting preferred stock (including the Series Z preferred stock for this purpose), then only those series affected and entitled to vote shall vote as a class in lieu of all such series of preferred stock.

Each holder of the Series Z preferred stock will have 25 votes per share on any matter on which holders of the Series Z preferred stock are entitled to vote, whether separately or together with any other series of our stock (the holders of any shares of any other series of stock being entitled to such number of votes, if any, for each share of stock as may be granted to them), pursuant to Delaware law or otherwise, including by written consent.

**Series Z Depositary Shares.** Each Series Z depositary share issued by us represents a 1/1,000th interest in one share of our Series Z preferred stock. The shares of our Series Z preferred stock are deposited with Equiniti Trust Company, as depositary. Pursuant to the deposit agreement, the depositary issued Series Z depositary shares, which are evidenced by depositary receipts.

Equiniti Trust Company acts as transfer agent and registrar and paying agent with respect to the Series Z depositary shares.

The depositary's office at which the depositary receipts are administered is located at Equiniti Trust Company, 1110 Centre Pointe Curve, Suite 101, Mendota Heights, MN 55120.

The Series Z depositary shares were issued in book-entry form through DTC. This means that actual depositary receipts will not be issued, except in limited circumstances. This means that the Series Z depositary shares will be in the form of a single global depositary receipt deposited with a DTC nominee. Each beneficial holder must rely on the procedures of DTC and if the Series Z depositary shares are held through a broker or financial institution nominee, the beneficial holder must rely on the procedures of such broker or financial institution to assert the rights of a depositary receipt holder described in this section.

The depositary will distribute all cash dividends or other cash distributions received on the Series Z preferred stock to the holders of record of Series Z depositary shares in proportion to the numbers of such depositary shares owned by each holder. In the event of a distribution other than in cash, the depositary will distribute property received by it to the holders of record of the Series Z depositary shares in proportion to the number of Series Z depositary shares held by each holder, unless the depositary determines that it is not feasible to make such distribution, in which case the depositary may, with our approval, adopt a method of distribution that it deems practicable, including the sale of such property and distribution of the net proceeds from such sale to such holders.

Record dates for the payment of dividends and other matters relating to the Series Z depositary shares are the same as the corresponding record dates for the Series Z preferred stock.

The amounts distributed to holders of the Series Z depository shares will be reduced by any amounts required to be withheld by the depository or by us on account of taxes or other governmental charges.

If the Series Z preferred stock underlying the Series Z depository shares is redeemed (i) after March 15, 2025, in whole or in part, or (ii) prior to March 15, 2025, in whole, but not in part, due to the occurrence of a Regulatory Capital Treatment Event, Series Z depository shares will be redeemed with the proceeds received by the depository from the redemption of the Series Z preferred stock held by the depository. The redemption price per Series Z depository share will be equal to 1/1,000th of the applicable redemption price per share payable with respect of such Series Z preferred stock (or \$25 per Series Z depository share), plus an amount equal to any declared and unpaid dividends, without accumulation of any undeclared dividends. If less than all the Series Z preferred stock is redeemed after March 15, 2025, the Series Z depository shares to be redeemed will be selected pro rata, or in any other manner consistent with the rules and policies of the NYSE as the depository may determine to be fair and equitable.

When the depository receives notice of any meeting at which the holders of the Series Z preferred stock are entitled to vote, the depository will mail, or otherwise transmit by an authorized method, the information contained in the notice and any accompanying proxy material to the record holders of the Series Z depository shares relating to the Series Z preferred stock. Each record holder of the Series Z depository shares on the record date, which will be the same date as the record date for the Series Z preferred stock, may instruct the depository to vote the amount of the Series Z preferred stock represented by the holder's Series Z depository shares. To the extent possible, the depository will vote the amount of the Series Z preferred stock represented by the Series Z depository shares in accordance with the instructions it receives. We will agree to take all reasonable actions that the depository determines are necessary to enable the depository to vote as instructed. If the depository does not receive specific instructions from the holders of any Series Z depository shares representing the Series Z preferred stock, it will not vote the amount of Series Z preferred stock represented by such Series Z depository shares.

**Dividend Equalization Preferred (“DEP”) Shares.** With regard to distributions upon liquidation or dissolution, our DEP Shares rank junior to any other class or series of our preferred stock issued in exchange for preferred stock established by the Wachovia Corporation (“Wachovia”) board of directors after September 1, 2001 and each class or series of preferred stock established by our board of directors following the issuance of the DEP Shares, and rank senior to the common stock for the \$10.00 liquidation preference described below.

Holders of our DEP Shares are not entitled to receive any dividends, and the DEP Shares are not convertible or exchangeable. The DEP Shares are redeemable, in whole or in part, at our option after December 31, 2021, for an amount equal to \$10.00 per DEP Share. We must provide no less than 30 and no more than 60 days' notice prior to any date specified for redemption of the DEP Shares. If we redeem less than all of the outstanding DEP Shares, then we must redeem all DEP Shares held by holders of fewer than one-tenth of a share, or by holders that would hold fewer than one-tenth of a share following the redemption.

In the event of liquidation, holders of our DEP Shares are entitled to receive, before any distribution is made to the holders of common stock or any other junior stock, but after any distribution to any other class or series of our preferred stock issued in exchange for preferred stock established by the Wachovia board of directors after September 1, 2001, an amount equal to \$10.00 per DEP Share. The holders of DEP Shares have no other right or claim to any of our remaining assets. Each one one-thousandth of a DEP Share has a corresponding liquidation preference of \$0.01.

Holders our DEP Shares do not have voting rights, except those required by applicable law or the rules of a securities exchange on which the DEP Shares may be listed.

### **DESCRIPTION OF GUARANTEE OF 5.80% FIXED-TO-FLOATING RATE NORMAL WACHOVIA INCOME TRUST SECURITIES OF WACHOVIA CAPITAL TRUST III**

The following description of the 5.80% Fixed-to-Floating Rate Normal Wachovia Income Trust Securities (collectively, the “WITS,” and individually, a “WIT”) of Wachovia Capital Trust III (the “Trust”) and the related Guarantee of the WITS (the “Guarantee”) by Wells Fargo & Company, as successor to Wachovia Corporation (the “Company”), is a summary and does not purport to be complete, and is qualified in its entirety by reference to the Trust Agreement (as defined below) and the Guarantee. The Trust is a perpetual statutory trust created under Delaware law. At the time of the issuance of the WITS, the Trust concurrently issued common securities of the Trust to the Company (the “Trust Common Securities”). Both the WITS and Trust Common Securities (together, the “Trust Securities”) represent beneficial interests in the Trust.

#### **The WITS**

The WITS were issued pursuant to an Amended and Restated Trust Agreement, as further amended or supplemented from time to time (the “Trust Agreement”), with the Company as the depositor, U.S. Bank National Association as the property trustee, U.S. Bank Trust National Association as the Delaware trustee, and two or more individuals who are employees or officers of, or affiliated with, the Company as the administrative trustees (the property trustee, the Delaware trustee, and the administrative trustees together, the “trustees”). The Trust will pass through, as distributions on or the redemption price of WITS, amounts that it receives on its assets that are the “corresponding assets” for the WITS. The corresponding asset for each WIT is a 1/100<sup>th</sup>, or \$1,000, interest in one share of the



Company's Non-Cumulative Perpetual Class A Preferred Stock, Series I, \$100,000 liquidation preference per share (the "Preferred Stock").

Holders of WITS are entitled to receive distributions corresponding to non-cumulative cash dividend payments on the Preferred Stock held by the Trust. The Trust must make distributions on the WITS on the Distribution Dates (as defined below) to the extent that it has funds available therefor. The Trust's funds available for distribution to holders of the WITS are limited to dividends received from the Trust on the Preferred Stock. The Company guarantees the payment of distributions on the WITS out of moneys held by the Trust to the extent of available Trust funds. The "Distribution Dates" for the WITS are each March 15, June 15, September 15 and December 15, or if any such date is not a business day, the next business day.

Dividends on the Preferred Stock will be payable if, as and when declared by the Company's board of directors, on the dividend payment dates, which are each March 15, June 15, September 15 and December 15 (or, if such day is not a business day, the next business day). Dividends on the Preferred Stock will accrue at a *per annum* rate equal to the greater of (x) Three-Month LIBOR for the related dividend period plus 0.93% and (y) 5.56975%. See "The Preferred Stock" below.

### **Redemption and Redemption Procedures**

The WITS have no stated maturity but must be redeemed on the date the Company redeems the Preferred Stock, and the property trustee or paying agent will apply the proceeds from such repayment or redemption to redeem a like amount (as defined below) of the WITS. The Preferred Stock is perpetual but the Company may redeem it, subject to certain limitations. The redemption price per WIT will equal the liquidation amount per WIT plus accumulated and unpaid distributions to but excluding the redemption date. If less than all of the shares of Preferred Stock held by the Trust are to be redeemed on a redemption date, then the proceeds from such redemption will be allocated *pro rata* to the redemption of the WITS and the Trust Common Securities, except as set forth under "-Ranking of Trust Common Securities" below. The term "like amount" as used above means WITS having a liquidation amount equal to that portion of the liquidation amount of the Preferred Stock to be contemporaneously redeemed, the proceeds of which will be used to pay the redemption price of such WITS.

Notice of any redemption will be mailed at least 30 days but not more than 60 days before the redemption date to the registered address of each holder of WITS to be redeemed. If (i) the Trust gives an irrevocable notice of redemption of the WITS for cash and (ii) the Company has paid to the property trustee a sufficient amount of cash in connection with the related redemption of the Preferred Stock, then on the redemption date, the property trustee will irrevocably deposit with Depository Trust Company ("DTC") funds sufficient to pay the redemption price for the WITS being redeemed. The Trust will also give DTC irrevocable instructions and authority to pay the redemption amount in immediately available funds to the beneficial owners of the global securities representing the WITS. Distributions to be paid on or before the redemption date for any WITS called for redemption will be payable to the holders as of the record dates for the related Distribution Dates. If the WITS called for redemption are no longer in book-entry form, the property trustee, to the extent funds are available, will irrevocably deposit with the paying agent for the WITS funds sufficient to pay the applicable redemption price and will give such paying agent irrevocable instructions and authority to pay the redemption price to the holders thereof upon surrender of their certificates evidencing the WITS.

If notice of redemption shall have been given and funds deposited as required, then upon the date of such deposit:

- all rights of the holders of the WITS called for redemption will cease, except the right of the holders of such WITS to receive the redemption price and any distribution payable in respect of the WITS on or prior to the redemption date, but without interest on such redemption price; and
- the WITS called for redemption will cease to be outstanding.

If any redemption date is not a business day, then the redemption amount will be payable on the next business day (and without any interest or other payment in respect of any such delay). However, if payment on the next business day causes payment of the redemption amount to be in the next calendar month, then payment will be on the preceding business day.

If payment of the redemption amount for any shares of Preferred Stock called for redemption is improperly withheld or refused and accordingly the redemption amount of the WITS is not paid either by the Trust or by the Company under the Guarantee, then dividends on the Preferred Stock will continue to accrue and distributions on the WITS called for redemption will continue to accumulate at the applicable rate from the original redemption date scheduled to the actual date of payment. In this case, the actual payment date will be considered the redemption date for purposes of calculating the redemption amount. Redemptions of the WITS may require prior approval of the Board of Governors of the Federal Reserve System (the "Federal Reserve").

If less than all of the outstanding shares of Preferred Stock are to be redeemed on a redemption date, then the aggregate liquidation amount of WITS and Trust Common Securities to be redeemed shall be allocated *pro rata* to the WITS and Trust Common Securities based upon the relative liquidation amounts of such Trust Securities, except as set forth under "-Ranking of Trust Common Securities" below. The property trustee will select the WITS to be redeemed on a *pro rata* basis not more than 60 days before the redemption date from the outstanding WITS not previously called for redemption by any method the property trustee deems fair and appropriate, or, if the WITS are in book-entry only form, in accordance with the procedures of DTC. The property trustee shall promptly notify the transfer agent in writing of the WITS selected for redemption and, in the case of any WITS selected for redemption in part, the liquidation amount to be redeemed.

For all purposes of the Trust Agreement, unless the context otherwise requires, all provisions relating to the redemption of WITS shall relate, in the case of any WITS redeemed or to be redeemed only in part, to the portion of the aggregate liquidation amount of WITS that has been or is to be redeemed. If less than all of the WITS are redeemed, the WITS held through the facilities of DTC will be redeemed pro rata in accordance with DTC's internal procedures.

Subject to applicable law, including, without limitation, U.S. federal securities laws and the Declaration of Covenant entered into in connection with the issuance of the WITS, the Company or its affiliates may at any time and from time to time purchase outstanding WITS by tender, in the open market or by private agreement.

### **Liquidation Distribution upon Dissolution**

Pursuant to the Trust Agreement, the Trust shall dissolve on the first to occur of:

- certain events of bankruptcy, dissolution or liquidation of the Company;
- redemption of all of the WITS as described above; and
- the entry of an order for the dissolution of the Trust by a court of competent jurisdiction.

Except as set forth in the next paragraph, if an early dissolution occurs as a result of certain events of bankruptcy, dissolution or liquidation of the Company, the property trustee and the administrative trustees will liquidate the Trust as expeditiously as they determine possible by distributing, after satisfaction of liabilities to creditors of the Trust as provided by applicable law, to each holder of WITS a like amount of corresponding assets as of the date of such distribution. Except as set forth in the next paragraph, if an early dissolution occurs as a result of the entry of an order for the dissolution of the Trust by a court of competent jurisdiction, unless otherwise required by applicable law, the property trustee will liquidate the Trust as expeditiously as it determines to be possible by distributing, after satisfaction of liabilities to creditors of the Trust as provided by applicable law, to each holder of WITS of each class a like amount of corresponding assets as of the date of such distribution. The property trustee shall give notice of liquidation to each holder of WITS at least 30 days and not more than 60 days before the date of liquidation.

If, whether because of an order for dissolution entered by a court of competent jurisdiction or otherwise, the property trustee determines that distribution of the corresponding assets in the manner provided above is not practical, or if the early dissolution occurs as a result of the redemption of all the WITS, the property trustee shall liquidate the property of the Trust and wind up its affairs in such manner as it determines. In that case, upon the winding-up of the Trust, except with respect to an early dissolution that occurs as a result of the redemption of all the WITS, the holders will be entitled to receive out of the assets of the Trust available for distribution to holders and after satisfaction of liabilities to creditors of the Trust as provided by applicable law, an amount equal to the aggregate liquidation amount per Trust security plus accrued and unpaid distributions to the date of payment. If, upon any such winding-up, the Trust has insufficient assets available to pay in full such aggregate liquidation distribution, then the amounts payable directly by the Trust on its Trust Securities shall be paid on a *pro rata* basis, except as set forth under “-Ranking of Trust Common Securities” below.

The term “like amount” as used above means, with respect to a distribution of Preferred Stock to holders of WITS in connection with a dissolution or liquidation of the Trust therefor, Preferred Stock having a liquidation preference equal to the liquidation amount of the WITS of the holder to whom such Preferred Stock would be distributed.

### **Distribution of Trust Assets**

Upon liquidation of the Trust other than as a result of an early dissolution upon the redemption of all the WITS and after satisfaction of the liabilities of creditors of the Trust as provided by applicable law, the assets of the Trust will be distributed to the holders of such Trust Securities in exchange therefor.

After the liquidation date fixed for any distribution of assets of the Trust:

- the WITS will no longer be deemed to be outstanding;
- if the assets to be distributed are shares of Preferred Stock, DTC or its nominee, as the record holder of the WITS, will receive a registered global certificate or certificates representing the Preferred Stock to be delivered upon such distribution
- any certificates representing the WITS not held by DTC or its nominee or surrendered to the exchange agent will be deemed to represent shares of Preferred Stock having a liquidation preference equal to the WITS until such certificates are so surrendered for transfer and reissuance; and
- all rights of the holders of the WITS will cease, except the right to receive Preferred Stock upon such surrender.

Since each WIT corresponds to 1/100th of a share of Preferred Stock, holders of the WITS may receive fractional shares of Preferred Stock upon this distribution.

## Ranking of Trust Common Securities

If on any Distribution Date the Trust does not have funds available from payments of dividends on the Preferred Stock to make full distributions on the WITS and the Trust Common Securities then, if the deficiency in funds results from the Company's failure to pay a full dividend on shares of Preferred Stock on a dividend payment date, then the available funds from dividends on the Preferred Stock shall be applied first to make distributions then due on the WITS on a *pro rata* basis on such Distribution Date up to the amount of such distributions corresponding to dividends on the Preferred Stock (or, if less, the amount of the corresponding distributions that would have been made on the WITS had the Company paid a full dividend on the Preferred Stock) before any such amount is applied to make a distribution on Trust Common Securities on such Distribution Date.

If on any date where WITS and Trust Common Securities must be redeemed because the Company is redeeming Preferred Stock the Trust does not have funds available from the Company's redemption of shares of Preferred Stock to pay the full redemption price then due on all of the outstanding WITS and Trust Common Securities to be redeemed, then (i) the available funds shall be applied first to pay the redemption price on the WITS to be redeemed on such redemption date and (ii) Trust Common Securities shall be redeemed only to the extent funds are available for such purpose after the payment of the full redemption price on the WITS to be redeemed.

If an early dissolution event occurs in respect of the Trust, no liquidation distributions shall be made on the Trust Common Securities until full liquidation distributions have been made on the WITS.

In the case of any event of default under the Trust Agreement resulting from the Company's failure to comply in any material respect with any of the Company's obligations as issuer of the Preferred Stock, or arising under applicable law, the Company, as holder of the Trust Common Securities, will be deemed to have waived any right to act with respect to any such event of default under the Trust Agreement until the effect of all such events of default with respect to the WITS have been cured, waived or otherwise eliminated. Until all events of default under the Trust Agreement have been so cured, waived or otherwise eliminated, the property trustee shall act solely on behalf of the holders of the WITS and not on the Company's behalf, and only the holders of the WITS will have the right to direct the property trustee to act on their behalf.

## Events of Default; Notice

Any one of the following events constitutes an event of default under the Trust Agreement, or a "Trust Event of Default," regardless of the reason for such event of default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body:

- the failure to comply in any material respect with the Company's obligations as issuer of the Preferred Stock or those of the Trust or arising under applicable law;
- the default by the Trust in the payment of any distribution on any Trust security of the Trust when such becomes due and payable, and continuation of such default for a period of 30 days;
- the default by the Trust in the payment of any redemption price of any Trust security of the Trust when such becomes due and payable;
- the failure to perform or the breach, in any material respect, of any other covenant or warranty of the trustees in the Trust Agreement for 90 days after the defaulting trustee or trustees have received written notice of the failure to perform or breach in the manner specified in such Trust Agreement; or
- the occurrence of certain events of bankruptcy or insolvency with respect to the property trustee and the Company's failure to appoint a successor property trustee within 90 days.

Within 30 days after any Trust Event of Default actually known to the property trustee occurs, the property trustee will transmit notice of such Trust Event of Default to the holders of the affected Trust Securities and to the administrative trustees, unless such Trust Event of Default shall have been cured or waived. The Company, as depositor, and the administrative trustees are required to file annually with the property trustee a certificate as to whether or not the Company or they are in compliance with all the conditions and covenants applicable to the Company and to them under the Trust Agreement.

## Mergers, Consolidations, Amalgamations or Replacements of the Trust

The Trust may not merge with or into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to the Company or any other person, except as described below or as otherwise described in the Trust Agreement. The Trust may, at the Company's request, with the consent of the administrative trustees but without the consent of the holders of the WITS, the property trustee or the Delaware trustee, merge with or into, consolidate, amalgamate, or be replaced by, or convey, transfer or lease its properties and assets substantially as an entirety to, a trust organized as such under the laws of any state if:

- such successor entity either:
  - expressly assumes all of the obligations of the Trust with respect to the WITS, or
  - substitutes for the WITS other securities having substantially the same terms as the WITS, or the “Successor Securities,” so long as the Successor Securities rank the same as the WITS in priority with respect to distributions and payments upon liquidation, redemption and otherwise;
- a trustee of such successor entity possessing the same powers and duties as the property trustee is appointed to hold the Preferred Stock then held by or on behalf of the property trustee;
- such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not cause the WITS, including any Successor Securities, to be downgraded by any nationally recognized statistical rating organization;
- such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders of the WITS, including any Successor Securities, in any material respect;
- such successor entity has purposes substantially identical to those of the Trust;
- prior to such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, the property trustee has received an opinion from counsel to the Trust experienced in such matters to the effect that:
  - such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease does not adversely affect the rights, preferences and privileges of the holders the WITS, including any Successor Securities, in any material respect, and
  - following such merger, consolidation, amalgamation, replacement, conveyance, transfer or lease, neither the Trust nor such successor entity will be required to register as an investment company under the Investment Company Act of 1940, as amended (the “ICA”);
- the Trust has received an opinion of counsel experienced in such matters that such merger, consolidation, amalgamation, conveyance, transfer or lease will not cause the Trust or the successor entity to be classified as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes; and
- the Company or any permitted successor or assignee owns all of the common securities of such successor entity and guarantees the obligations of such successor entity under the Successor Securities at least to the extent provided by the Guarantee.

Notwithstanding the foregoing, the Trust may not, except with the consent of holders of 100% in liquidation amount of the WITS, consolidate, amalgamate, merge with or into, or be replaced by or convey, transfer or lease its properties and assets substantially as an entirety to any other entity or permit any other entity to consolidate, amalgamate, merge with or into, or replace it if such consolidation, amalgamation, merger, replacement, conveyance, transfer or lease would cause the Trust or the successor entity to be classified as other than one or more grantor trusts and/or agency arrangements or to be classified as an association or a publicly traded partnership taxable as a corporation for U.S. federal income tax purposes.

### **Voting Rights; Amendment of the Trust Agreement**

Except as otherwise required by law and the Trust Agreement or as otherwise described herein, the holders of the WITS have no voting rights or control over the administration, operation or management of the Trust or the obligations of the parties to the Trust Agreement, including in respect of Preferred Stock beneficially owned by the Trust. Under the Trust Agreement, however, the property trustee is required to obtain their consent before exercising some of its rights in respect of these securities.

#### ***Trust Agreement***

The Trust Agreement is governed by Delaware law. The Company and the administrative trustees may amend the Trust Agreement without the consent of the holders of the WITS, the property trustee or the Delaware trustee, unless in the case of the first two bullets below such amendment will materially and adversely affect the interests of any holder of WITS or the property trustee or the Delaware trustee, to:

- cure any ambiguity, correct or supplement any provisions in the Trust Agreement that may be inconsistent with any other provision, or to make any other provisions with respect to matters or questions arising under such Trust Agreement, which may not be inconsistent with the other provisions of the Trust Agreement;
- modify, eliminate or add to any provisions of the Trust Agreement to such extent as shall be necessary to ensure that the Trust will be classified for U.S. federal income tax purposes as one or more grantor trusts and/or agency arrangements and not as an association or a publicly traded partnership taxable as a corporation at all times that any Trust Securities are

outstanding, to ensure that the Trust will not be required to register as an “investment company” under the ICA or to ensure the treatment of the WITS as tier 1 regulatory capital under prevailing Federal Reserve rules and regulations;

- provide that certificates for the WITS may be executed by an administrative trustee by facsimile signature instead of manual signature, in which case such amendment(s) shall also provide for the appointment by the Company of an authentication agent and certain related provisions;
- require that holders that are not U.S. persons for U.S. federal income tax purposes irrevocably appoint a U.S. person to exercise any voting rights to ensure that the Trust will not be treated as a foreign trust for U.S. federal income tax purposes; or
- conform the terms of the Trust Agreement to the description of the Trust Agreement, the WITS and the Trust Common Securities in the applicable prospectus, in the manner provided in the Trust Agreement.

Any such amendment shall become effective when notice thereof is given to the property trustee, the Delaware trustee and the holders of the WITS.

The Company and the administrative trustees may generally amend the Trust Agreement with:

- the consent of holders representing not less than a majority, based upon liquidation amounts, of the WITS affected by the amendments; and
- receipt by the trustees of the Trust of an opinion of counsel to the effect that such amendment or the exercise of any power granted to the trustees of the Trust or the administrative trustees in accordance with such amendment will not affect the Trust’s status as one or more grantor trusts and/or agency arrangements for U.S. federal income tax purposes or affect the Trust’s exemption from status as an “investment company” under the ICA.

However, without the consent of each affected holder of Trust Securities, the Trust Agreement may not be amended to:

- change the amount or timing, or otherwise adversely affect the amount, of any distribution required to be made in respect of Trust Securities as of a specified date; or
- restrict the right of a holder of Trust Securities to institute a suit for the enforcement of any such payment on or after such date.

### ***Preferred Stock***

So long as the Preferred Stock is held by the property trustee on behalf of the Trust, the trustees of the Trust will not waive any default in respect of the Preferred Stock without obtaining the prior approval of the holders of at least a majority in liquidation amount of the WITS then outstanding. The trustees of the Trust shall also not consent to any amendment to the Trust’s or the Company’s governing documents that would change the dates on which dividends are payable or the amount of such dividends, without the prior written consent of each holder of WITS. In addition to obtaining the foregoing approvals from holders, the trustees shall obtain, at the Company’s expense, an opinion of counsel to the effect that such action shall not cause the Trust to be taxable as a corporation or classified as a partnership for U.S. federal income tax purposes. See “The Preferred Stock” below.

### ***General***

Any required approval of holders the WITS may be given at a meeting of holders convened for such purpose or pursuant to written consent. The property trustee will cause a notice of any meeting at which holders of the WITS are entitled to vote, or of any matter upon which action by written consent of such holders is to be taken, to be given to each record holder of the WITS in the manner set forth in the Trust Agreement.

No vote or consent of the holders of WITS will be required for the Trust to redeem and cancel the WITS in accordance with the Trust Agreement.

Notwithstanding that holders of the WITS are entitled to vote or consent under any of the circumstances described above, any of the WITS that are owned by the Company or its affiliates or the trustees or any of their affiliates, shall, for purposes of such vote or consent, be treated as if they were not outstanding.

### ***Payment***

Payments on the WITS shall be made to DTC, which shall credit the relevant accounts on the applicable Distribution Dates. If any WITS are not held by DTC, such payments shall be made by check mailed to the address of the holder as such address shall appear on the register.

## **Property Trustee**

Other than during the occurrence and continuance of a Trust Event of Default, the property trustee undertakes to perform only the duties that are specifically set forth in the Trust Agreement. After a Trust Event of Default, the property trustee must exercise the same degree of care and skill as a prudent individual would exercise or use in the conduct of his or her own affairs. Subject to this provision, the property trustee is under no obligation to exercise any of the powers vested in it by the Trust Agreement at the request of any holder of WITS unless it is offered indemnity satisfactory to it by such holder against the costs, expenses and liabilities that might be incurred. If no Trust Event of Default has occurred and is continuing and the property trustee is required to decide between alternative courses of action, construe ambiguous provisions in the Trust Agreement or is unsure of the application of any provision of the Trust Agreement, and the matter is not one upon which holders of WITS are entitled under the Trust Agreement to vote, then the property trustee will take any action that the Company directs. If the Company does not provide direction, the property trustee may take any action that it deems advisable and in the interests of the holders of the Trust Securities and will have no liability except for its own bad faith, negligence or willful misconduct.

The Company and its affiliates may maintain certain accounts and other banking relationships with the property trustee and its affiliates in the ordinary course of business.

## **Trust Expenses**

Pursuant to the Trust Agreement, the Company agrees to pay:

- all debts and other obligations of the Trust (other than with respect to the WITS);
- all costs and expenses of the Trust, including costs and expenses relating to the organization of the Trust, the fees and expenses of the trustees and the cost and expenses relating to the operation of the Trust; and
- any and all taxes and costs and expenses with respect thereto, other than U.S. withholding taxes, to which the Trust might become subject.

## **Miscellaneous**

The administrative trustees are authorized and directed to conduct the affairs of and to operate the Trust in such a way that it will not be required to register as an "investment company" under the ICA or characterized as other than one or more grantor trusts and/or agency arrangements for U.S. federal income tax purposes.

In this regard, the Company and the administrative trustees are authorized to take any action, not inconsistent with applicable law, the certificate of trust of the Trust or the Trust Agreement, that the Company and the administrative trustees determine to be necessary or desirable to achieve such end, as long as such action does not materially and adversely affect the interests of the holders of the WITS.

Holders of the WITS have no preemptive or similar rights. The WITS are not convertible into or exchangeable for the Company's common stock or preferred stock.

## **The Preferred Stock**

The Company issued its Preferred Stock to the Trust as contemplated by the WITS. This description of the Preferred Stock is qualified in its entirety by the Certificate of Designations dated December 30, 2008.

The Preferred Stock ranks senior to the Company's common stock and to any other securities that the Company may issue in the future that are subordinate to the Preferred Stock. The Company may authorize and issue additional shares of preferred stock that may rank junior to, on parity with or senior to the Preferred Stock as to dividend rights and rights upon liquidation, winding up, or dissolution without the consent of the holders of the Preferred Stock.

Dividends on shares of the Preferred Stock are not mandatory. Holders of the Preferred Stock are entitled to receive, if, when, and as declared by the Company's board of directors out of legally available assets, non-cumulative cash dividends on the liquidation preference, which is \$100,000 per share of Preferred Stock. These dividends are payable quarterly in arrears on each March 15, June 15, September 15 and December 15. Dividends accrue on the Preferred Stock at a rate per annum equal to the greater of (x) three-month LIBOR for the related dividend period plus 0.93% and (y) 5.56975%. The right of holders of the Preferred Stock to receive dividends is non-cumulative.

When dividends are not paid in full upon the Preferred Stock and any other parity stock, dividends upon that stock will be declared on a proportional basis so that the amount of dividends declared per share will bear to each other the same ratio that accrued dividends for the current dividend period per share on the Preferred Stock, and accrued dividends, including any accumulations on such voting parity stock, bear to each other. No interest will be payable in respect of any dividend payment that may be in arrears.

So long as full dividends on all outstanding shares of the Company's Preferred Stock for the then-current dividend period have been paid or declared and a sum sufficient for the payment thereof set aside, the Company, at the option of its board of directors, may redeem the Preferred Stock in whole or in part on any dividend payment date at any time after March 15, 2011. Any such redemption shall be at the redemption price of \$100,000 per share plus dividends that have been declared but not paid to the redemption date, without interest.

In the event of the Company's voluntary or involuntary liquidation, dissolution or winding up, the holders of the Preferred Stock are entitled to receive a liquidating distribution in the amount of the liquidation preference of \$100,000 per share, plus any accrued and unpaid dividends for the then-current dividend period to the date of liquidation, out of the Company's assets legally available for distribution to its stockholders, before any distribution is made to holders of the Company's common stock or any securities ranking junior to the Preferred Stock and subject to the rights of the holders of any class or series of securities ranking senior to or on parity with the Preferred Stock upon liquidation and the rights of the Company's depositors and other creditors.

Holders of the Preferred Stock do not have any voting rights and are not entitled to elect any directors, except as required by law.

## **The Guarantee**

The payment of distributions out of money held by the Trust, and payments upon redemption of the WITS or liquidation of the Trust, are guaranteed by the Company. The Guarantee and the Company's obligations under the Trust Agreement, including obligations to pay costs, expenses, debts and liabilities of the Trust, with certain exceptions, has the effect of providing a full and unconditional guarantee of amounts due on the WITS. U.S. Bank National Association, as the guarantee trustee, holds the Guarantee for the benefit of the holders of the WITS. The Guarantee does not cover payment of distributions when the Trust does not have sufficient available funds to pay those distributions. The Guarantee is governed by the laws of the State of New York.

### **General**

The following payments on the WITS, also referred to as the "guarantee payments," if not fully paid by the Trust, will be paid by the Company under the Guarantee for the benefit of the holders of the WITS. Pursuant to the Guarantee, the Company irrevocably and unconditionally agrees to pay in full the guarantee payments, without duplication:

- any accumulated and unpaid distributions required to be paid on the WITS, to the extent the Trust has funds available to make the payment;
- the redemption price for any WITS called for redemption, to the extent the Trust has funds available to make the payment; and
- upon a voluntary or involuntary dissolution, winding-up or liquidation of the Trust, other than in connection with a distribution of a like amount of corresponding assets to the holders of the WITS, the lesser of:
  - the aggregate of the liquidation amount and all accumulated and unpaid distributions on the WITS to the date of payment, to the extent the Trust has funds available to make the payment; and
  - the amount of assets of the Trust remaining available for distribution to holders of the WITS upon liquidation of the Trust.

The Company's obligation to make a guarantee payment may be satisfied by direct payment of the required amounts by the Company to the holders of the WITS or by causing the Trust to pay the amounts to the holders.

If the Company does not make a regular dividend payment on the Preferred Stock, the Trust will not have sufficient funds to make the related payments on the WITS. The Guarantee does not cover payments on the WITS when the Trust does not have sufficient funds to make these payments. Because the Company is a holding company, its rights to participate in the assets of any of its subsidiaries upon the subsidiary's liquidation or reorganization will be subject to the prior claims of the subsidiary's creditors except to the extent that it may itself be a creditor with recognized claims against the subsidiary. The Guarantee does not limit the incurrence or issuance by the Company of other secured or unsecured indebtedness.

### **Effect of the Guarantee**

The Guarantee, when taken together with the Trust's obligations under the Trust Agreement, including the obligations to pay costs, expenses, debts and liabilities of the Trust, other than with respect to the Trust Securities, has the effect of providing a full and unconditional guarantee on a subordinated basis of payments due on the WITS. The Company also agreed to irrevocably and unconditionally guarantee the obligations of the Trust with respect to the Trust Common Securities to the same extent as the Guarantee.

## **Status of the Guarantee**

The Guarantee is unsecured and ranks:

- subordinate and junior in right of payment to all of the Company's senior debt in the same manner as the Remarketable Junior Subordinated Notes due 2042 originally issued in connection with the issuance of the WITS pursuant to an indenture dated as of February 1, 2006 between the Company and U.S. Bank National Association, as indenture trustee (the "original junior subordinated notes"), as set forth in such indenture; and
- equally with all other guarantees for payments on WITS that the Company issues in the future to the extent the related subordinated notes by their terms rank *pari passu* with the original junior subordinated notes, subordinated notes that the Company issues in the future to the extent that by their terms rank *pari passu* with the original junior subordinated notes and any of the Company's other present or future obligations that by their terms rank *pari passu* with such Guarantee.

The Guarantee constitutes a guarantee of payment and not of collection, which means that the guaranteed party may sue the Company to enforce its rights under the Guarantee without suing any other person or entity. The Guarantee is held for the benefit of the holders of the WITS. The Guarantee will be discharged only by payment of the guarantee payments in full to the extent not paid by the Trust.

## **Amendments and Assignment**

The Guarantee may be amended only with the prior approval of the holders of not less than a majority in aggregate liquidation amount of the outstanding WITS. No vote will be required, however, for any changes that do not adversely affect the rights of holders of the WITS in any material respect. All guarantees and agreements contained in the Guarantee will bind the Company's successors, assignees, receivers, trustees and representatives and will be for the benefit of the holders of the WITS then outstanding.

## **Termination of the Guarantee**

The Guarantee will terminate:

- upon full payment of the redemption price of all WITS; or
- upon full payment of the amounts payable in accordance with the Trust Agreement upon liquidation of the Trust.

The Guarantee will continue to be effective or will be reinstated, as the case may be, if at any time any holder of WITS must restore payment of any sums paid under the WITS or the Guarantee.

## **Events of Default**

An event of default under the Guarantee will occur if the Company fails to perform any payment obligation or if the Company fails to perform any other obligation under the Guarantee and such default remains unremedied for 30 days.

The holders of a majority in liquidation amount of the WITS have the right to direct the time, method and place of conducting any proceeding for any remedy available to the guarantee trustee in respect of the Guarantee or to direct the exercise of any trust or power conferred upon the guarantee trustee under the Guarantee. Any holder of WITS may institute a legal proceeding directly against the Company to enforce the guarantee trustee's rights and the Company's obligations under the Guarantee, without first instituting a legal proceeding against the Trust, the guarantee trustee or any other person or entity.

As guarantor, the Company is required to file annually with the guarantee trustee a certificate as to whether or not the Company is in compliance with all applicable conditions and covenants under the Guarantee.

## **Information Concerning the Guarantee Trustee**

Prior to the occurrence of an event of default relating to the Guarantee, the guarantee trustee is required to perform only the duties that are specifically set forth in the Guarantee. Following the occurrence of an event of default, the guarantee trustee will exercise the same degree of care as a prudent individual would exercise in the conduct of his or her own affairs. Provided that the foregoing requirements have been met, the guarantee trustee is under no obligation to exercise any of the powers vested in it by the Guarantee at the request of any holder of WITS, unless offered indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred thereby.

The Company and its affiliates may maintain certain accounts and other banking relationships with the guarantee trustee and its affiliates in the ordinary course of business.



## Relationship between the WITS and the Guarantee

As set forth in the Trust Agreement, the exclusive purposes of the Trust are, as now applicable:

- issuing the Trust Securities representing beneficial interests in the Trust;
- purchasing and holding the Preferred Stock; and
- engaging in only those activities necessary or incidental thereto.

As long as dividends are declared and paid on the Preferred Stock, those payments will be sufficient to cover the distributions and payments due on the Trust Securities. This is due to the following factors:

- the Trust holds an aggregate liquidation preference of Preferred Stock equal to the aggregate liquidation amount of the Trust Securities and the dividend payment rates and dates on the Preferred Stock match the distribution payment rates and dates on the Trust securities;
- under the Guarantee Agreement, the Company will pay, and the Trust will not be obligated to pay, directly or indirectly, all costs, expenses, debts and obligations of the Trust, other than those relating to such Trust Securities; and
- the Trust Agreement further provides that the trustees may not cause or permit the Trust to engage in any activity that is not consistent with the purposes of the Trust.

To the extent that funds are available, the Company guarantees payments of distributions and other payments due on the Trust Securities. If the Company does not make dividend payments on the Preferred Stock, the Trust will not have sufficient funds to pay distributions on the Trust Securities. The Guarantee is a subordinated guarantee in relation to the Trust Securities. The Guarantee does not apply to any payment of distributions unless and until the Trust has sufficient funds for the payment of such distributions.

## Rights upon Dissolution

Upon any voluntary or involuntary dissolution of the Trust, holders of the WITS will receive the distributions described under “The WITS-Liquidation Distribution upon Dissolution.” Upon any voluntary or involuntary liquidation or bankruptcy of the Company, the property trustee, as holder of the Preferred Stock, would be a preferred stockholder of the Company, entitled to the preferences upon liquidation described under “The Preferred Stock.” Since the Company is the guarantor under the Guarantee and has agreed to pay for all costs, expenses and liabilities of the Trust, other than the Trust’s obligations to the holders of the Trust Securities, the positions of a holder of WITS relative to other creditors and to the Company’s stockholders in the event of liquidation or bankruptcy are expected to be substantially the same as if that holder held the corresponding assets of the Trust directly.

## DESCRIPTION OF GUARANTEE OF MEDIUM-TERM NOTES, SERIES A, DUE OCTOBER 30, 2028 OF WELLS FARGO FINANCE LLC

The following description of Wells Fargo Finance LLC’s Medium-Term Notes, Series A, Notes due October 30, 2028 (the “Notes”) and the related Guarantee of the Notes by Wells Fargo & Company (the “Guarantee”) is a summary and does not purport to be complete. This description is qualified in its entirety by reference to the indenture, dated as of April 25, 2018, among Wells Fargo Finance LLC, as issuer, Wells Fargo & Company, as guarantor, and Citibank, N.A., as trustee (the “indenture”). Wells Fargo Finance LLC is a Delaware limited liability company and a direct, wholly-owned finance subsidiary of Wells Fargo & Company. References in this section to “Wells Fargo Finance” are solely to Wells Fargo Finance LLC and not to any of its subsidiaries, and references in this section to the “Company” are solely to Wells Fargo & Company and not to any of its subsidiaries, in each case unless the context requires otherwise or as otherwise indicated.

### The Notes

Wells Fargo Finance issued \$5,000,000 aggregate principal amount of the Notes on October 31, 2018. The Notes are senior unsecured debt securities of Wells Fargo Finance, rank equally with all of its other unsecured unsubordinated debt and are part of a series of debt securities entitled Medium-Term Notes, Series A. Payment on the Notes is fully and unconditionally guaranteed by the Company.

The Notes mature on October 30, 2028 and bear interest at a rate of 4.50% per annum. Interest is payable semi-annually on April 30 and October 30 of each year. The initial interest payment date was April 30, 2019, and the last interest payment will occur at stated maturity. Interest payable with respect to a semi-annual interest period will be computed on the basis of a 360-day year of twelve 30-day months. If a scheduled interest payment date is not a business day, interest will be paid on the next business day, and interest on that payment will not accrue during the period from and after the scheduled interest payment date. The paying agent (as defined below) for the Notes will pay interest to the person in whose name the Notes are registered at the close of business on the record date. The record date for an interest payment date is the date one business day prior to such interest payment date. A “business day” means any

day, other than a Saturday or Sunday, that is neither a legal holiday nor a day on which banking institutions are authorized or required by law or regulation to close in New York, New York.

The Notes are not subject to redemption by Wells Fargo Finance or repayment at the option of any holder and were issued in registered form in denominations of \$1,000 each or integral multiples of \$1,000 in excess thereof.

The Notes were issued under the indenture, and the indenture and the Notes are governed by New York law. The indenture does not limit the amount of debt securities that Wells Fargo Finance may issue thereunder.

Citibank, N.A. is the trustee under the indenture. The “paying agent” for the Notes is Wells Fargo Bank, N.A., acting through its corporate trust office at 600 South 4<sup>th</sup> Street, Minneapolis, MN 55415.

### **The Guarantee of the Notes**

The Company will fully and unconditionally guarantee, on an unsecured basis, the full and punctual payment of the principal of and interest on the Notes when the same becomes due and payable, at maturity, upon acceleration or otherwise. If for any reason Wells Fargo Finance does not make any required payment in respect of the Notes when due, the Company will on demand pay the unpaid amount at the same place and in the same manner that applies to payments made by Wells Fargo Finance under the indenture. The Guarantee is of payment and not of collection.

The Company’s obligations under the Guarantee are unconditional and absolute. However,

- (1) the Company will not be liable for any amount of payment that Wells Fargo Finance is excused from making or any amount in excess of the amount actually due and owing by Wells Fargo Finance, and
- (2) any defenses or counterclaims available to Wells Fargo Finance (except those resulting solely from, or on account of, its insolvency or its status as debtor or subject of a bankruptcy or insolvency proceeding) will also be available to the Company to the same extent as these defenses or counterclaims are available to Wells Fargo Finance, whether or not asserted by Wells Fargo Finance.

Holders of the Notes are direct creditors of Wells Fargo Finance, as well as direct creditors of the Company under the Guarantee. As a finance subsidiary, Wells Fargo Finance has no independent operations beyond the issuance and administration of its securities and will have no independent assets available for distributions to holders of the Notes if they make claims in respect of the Notes in a bankruptcy, resolution or similar proceeding. Accordingly, any recoveries by such holders will be limited to those available under the Guarantee by the Company and that Guarantee ranks *pari passu* with all other unsecured, unsubordinated obligations of the Company.

The assets of the Company consist primarily of equity in its subsidiaries, and the Company is a separate and distinct legal entity from its subsidiaries. As a result, the Company’s ability to address claims of holders of the Notes against the Company under the Guarantee depends on the Company’s receipt of dividends, loan payments and other funds from its subsidiaries. Various federal and state statutes and regulations limit the amount of dividends that banking and other subsidiaries may pay to the Company without regulatory approval. In addition, if any of the Company’s subsidiaries becomes insolvent, the direct creditors of that subsidiary will have a prior claim on its assets. The rights of the Company and the rights of its creditors will be subject to that prior claim unless the Company is also a direct creditor of that subsidiary.

### **Indenture Provisions**

The indenture does not contain restrictions on Wells Fargo Finance’s ability to:

- incur, assume or become liable for any type of debt or other obligation;
- create liens on Wells Fargo Finance’s property for any purpose; or
- pay dividends or make distributions on Wells Fargo Finance’s capital stock or repurchase or redeem Wells Fargo Finance’s capital stock.

The indenture does not require the maintenance of any financial ratios or specified levels of net worth or liquidity. In addition, the indenture does not contain any provision which would require Wells Fargo Finance to repurchase or redeem or modify the terms of any debt securities upon a change of control or other event involving Wells Fargo Finance which may adversely affect the creditworthiness of the debt securities.

### **Consolidation, Merger or Sale**

The indenture generally permits a consolidation or merger between Wells Fargo Finance and another entity and/or between the Company and another entity. It also permits the conveyance, transfer or lease by Wells Fargo Finance of all or substantially all of its property and assets and/or by the Company of all or substantially all of its property and assets.

With respect to Wells Fargo Finance, these transactions, if a transaction other than a conveyance, transfer or lease to one or more of the Company's subsidiaries, are permitted if:

- the resulting or acquiring entity, if other than Wells Fargo Finance, is organized and existing under the laws of a domestic jurisdiction and assumes all of Wells Fargo Finance's responsibilities and liabilities under the indenture, including the payment of all amounts due on the debt securities and performance of the covenants in the indenture; and
- immediately after the transaction, and giving effect to the transaction, no covenant breach (as defined below) or event of default under the indenture exists.

If Wells Fargo Finance consolidates or merges with or into any other entity or conveys, transfers or leases all or substantially all of its assets in accordance with the requirements of the indenture, the resulting or acquiring entity will be substituted for Wells Fargo Finance in the indenture with the same effect as if it had been an original party to the indenture. As a result, such successor entity may exercise Wells Fargo Finance's rights and powers under the indenture, in Wells Fargo Finance's name and, except in the case of a lease of all or substantially all of Wells Fargo Finance's properties, Wells Fargo Finance will be released from all its liabilities and obligations under the indenture and under the debt securities. The successor entity to a consolidation or merger may be the Company or a subsidiary of the Company. In addition, the successor entity in a conveyance, transfer or lease may be the Company. The indenture also permits Wells Fargo Finance to convey, transfer or lease all or substantially all of its assets to one or more of the Company's subsidiaries without any restriction and, in that event, those subsidiaries would not be required under the indenture to assume Wells Fargo Finance's liabilities and obligations under the indenture and the debt securities.

With respect to the Company, these transactions, if a transaction other than a conveyance, transfer or lease to one or more of its subsidiaries, are permitted if:

- the resulting or acquiring entity, if other than the Company, is organized and existing under the laws of a domestic jurisdiction and assumes all of the Company's responsibilities and liabilities under the indenture, including the guarantee of the payment of all amounts due on the debt securities to the extent provided in the indenture and performance of the covenants in the indenture; and
- immediately after the transaction, and giving effect to the transaction, no covenant breach (as defined below) or event of default under the indenture exists.

If the Company consolidates or merges with or into any other entity or conveys, transfers or leases all or substantially all of its assets in accordance with the requirements of the indenture, the resulting or acquiring entity will be substituted for the Company in the indenture with the same effect as if it had been an original party to the indenture. As a result, such successor entity may exercise the Company's rights and powers under the indenture, in the name of the Company and, except in the case of a lease of all or substantially all of the Company's properties, the Company will be released from all its liabilities and obligations under the indenture and under the debt securities. The successor entity to a consolidation or merger may be a subsidiary of the Company. In addition, the indenture permits the Company to convey, transfer or lease all or substantially all of its assets to one or more of its subsidiaries without any restriction and, in that event, those subsidiaries would not be required under the indenture to assume the Company's liabilities and obligations under the indenture and the debt securities.

The term "subsidiary" in respect of any specified person means any corporation more than 50% of the outstanding shares of voting stock, except for directors' qualifying shares, of which shall at the time be owned, directly or indirectly by such specified person or by one or more of the subsidiaries of such specified person, or by such specified person and one or more other subsidiaries of such specified person. Voting stock is stock (or the equivalent thereof) that is entitled in the ordinary course to vote for the election of a majority of the directors, managers or trustees of a corporation and does not include stock (or the equivalent thereof) that is entitled to so vote only as a result of the happening of certain events; references to "corporation" refer to corporations, associations, companies (including limited liability companies) and business trusts; and references to any "person" refer to any corporation.

### **Events of Default and Covenant Breaches**

An "event of default," with respect to any series of debt securities, means any of the following:

- (1) failure to pay interest on any debt security of that series for 30 days after the payment is due;
- (2) failure to pay the principal of or any premium on any debt security of that series for 30 days after the payment is due;
- (3) the entry by a court having jurisdiction of (A) a decree or order for relief in respect of Wells Fargo Finance in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency or similar law or (B) a decree or order adjudging Wells Fargo Finance a bankrupt or insolvent, or approving a petition seeking receivership, insolvency or liquidation of or in respect of Wells Fargo Finance under any applicable Federal or State law, or appointing a receiver, liquidator, trustee or similar official of Wells Fargo Finance, or ordering the winding up or liquidation of its affairs, and the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive days;

- (4) the commencement by Wells Fargo Finance of a voluntary case or proceeding under any applicable Federal or State bankruptcy, insolvency or similar law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, the appointment of a receiver for Wells Fargo Finance under any applicable Federal or State bankruptcy, insolvency or similar law following consent by the Board of Directors of Wells Fargo Finance to such appointment, or the entry of a decree or order for relief in respect of Wells Fargo Finance in an involuntary case or proceeding under any applicable Federal or State bankruptcy, insolvency, receivership, liquidation or similar law following Wells Fargo Finance's consent to such decree or order; or
- (5) the guarantee ceases to be in full force and effect, other than in accordance with the indenture, or the Company denies or disaffirms its obligations under the guarantee, provided that no event of default with respect to the guarantee will occur as a result of, or because it is related directly or indirectly to, the insolvency of the Company or the commencement of proceedings under Title 11, or the appointment of a receiver for the Company under the Dodd-Frank Act or the Federal Deposit Insurance Corporation having separately repudiated the guarantee in any receivership of the Company, or the commencement of any proceeding under any other applicable Federal or State bankruptcy, insolvency, resolution or other similar law, or a receiver, assignee or trustee in bankruptcy or reorganization, liquidator, sequestrator or similar official having been appointed for or having taken possession of the Company or its property, or the institution of any other comparable judicial or regulatory proceedings relative to the Company, or to the creditors or property of the Company.

If an event of default for any series of debt securities occurs and continues, the trustee or the holders of at least 25% in aggregate principal amount of the outstanding debt securities of the series may declare the entire principal of all the debt securities of that series to be due and payable immediately. If such a declaration occurs, the holders of a majority of the aggregate principal amount of the outstanding debt securities of that series can, subject to conditions, rescind the declaration. The holders of Wells Fargo Finance's debt securities will not have the right to accelerate the payment of principal of the debt securities as a result of a covenant breach or Wells Fargo Finance's failure to perform any covenant or agreement contained in the debt securities or the indenture other than the obligations to pay principal and interest on the debt securities.

Events of bankruptcy, insolvency, receivership or liquidation relating to the Company will not constitute an event of default with respect to any series of Wells Fargo Finance's debt securities. In addition, failure by the Company to perform any of its covenants or warranties (other than a payment default) will not constitute an event of default with respect to any series of Wells Fargo Finance's debt securities. Therefore, events of bankruptcy, insolvency, receivership or liquidation relating to the Company (in the absence of any such event occurring with respect to Wells Fargo Finance) will not permit any of the debt securities to be declared due and payable and the trustee is not authorized to exercise any remedy against Wells Fargo Finance or the Company upon the occurrence or continuation of these events with respect to the Company. Instead, even if an event of bankruptcy, insolvency, receivership or liquidation relating to the Company has occurred, the trustee and the holders of debt securities of a series will not be able to declare the relevant debt securities to be immediately due and payable unless there is an event of default with respect to that series as described above, such as Wells Fargo Finance's bankruptcy, insolvency, receivership or liquidation or a payment default by Wells Fargo Finance or the Company on the relevant debt securities.

A "covenant breach," when used in the indenture with respect to any series of debt securities, means failure to perform any covenant in the indenture that applies to debt securities of that series for 90 days after Wells Fargo Finance LLC and the Company have received written notice of the failure to perform in the manner specified in the indenture.

A covenant breach shall not be an event of default, and neither the trustee nor any holder of debt securities will have any acceleration rights if a covenant breach occurs or continues.

The indenture requires each of Wells Fargo Finance and the Company to file an officers' certificate with the trustee each year that states, to the knowledge of a certifying officer, whether or not any defaults exist under the terms of the indenture. The trustee may withhold notice to the holders of debt securities of any default, except defaults in the payment of principal, premium, interest or any sinking fund installment, if it considers the withholding of notice to be in the best interests of the holders. For purposes of this paragraph, "default" means any event which is, or after notice or lapse of time or both would become, a covenant breach with respect to the debt securities of a series or an event of default under the indenture with respect to the debt securities of the applicable series.

Other than its duties in the case of a covenant breach or an event of default, the trustee is not obligated to exercise any of its rights or powers under the indenture at the request, order or direction of any holders, unless the holders offer the trustee indemnification. If indemnification is provided, then, subject to other rights of the trustee, the holders of a majority in principal amount of the outstanding debt securities of any series may, with respect to the debt securities of that series, direct the time, method and place of:

- conducting any proceeding for any remedy available to the trustee; or
- exercising any trust or power conferred upon the trustee.

The holder of a debt security of any series will have the right to begin any proceeding with respect to the indenture or for any remedy only if:

- the holder has previously given the trustee written notice of a continuing covenant breach or event of default with respect to that series;

- the holders of at least 25% in aggregate principal amount of the outstanding debt securities of that series have made a written request of, and offered reasonable indemnification to, the trustee to begin such proceeding with respect to such covenant breach or event of default;
- the trustee has not started such proceeding within 60 days after receiving the request; and
- the trustee has not received directions inconsistent with such request from the holders of a majority in aggregate principal amount of the outstanding debt securities of that series during those 60 days.

However, the holder of any debt security will have an absolute right to receive payment of principal of and any premium and interest on the debt security when due and to institute suit to enforce this payment.

### ***Modification and Waiver***

Under the Indenture, certain of the rights and obligations of Wells Fargo Finance and the Company and certain of the rights of holders of the debt securities may be modified or amended with the consent of the holders of at least a majority of the aggregate principal amount of the outstanding debt securities of all series of debt securities affected by the modification or amendment, acting as one class. However, the following modifications and amendments will not be effective against any holder without its consent:

- a change in the stated maturity date of any payment of principal or interest;
- a reduction in payments due on the debt securities;
- a change in the place of payment or currency in which any payment on the debt securities is payable;
- a limitation of a holder's right to sue Wells Fargo Finance for the enforcement of payments due on the debt securities;
- a reduction in the percentage of outstanding debt securities required to consent to a modification or amendment of the indenture or required to consent to a waiver of compliance with certain provisions of the indenture or certain defaults under the indenture;
- a reduction in the requirements contained in the indenture for quorum or voting;
- a limitation of a holder's right, if any, to repayment of debt securities at the holder's option;
- make any change in the guarantee that would adversely affect any holder or release the Company from the guarantee other than pursuant to the terms of the indenture; and
- a modification of any of the foregoing requirements contained in the indenture.

Under the indenture, the holders of at least a majority of the aggregate principal amount of the outstanding debt securities of all series of debt securities affected by a particular covenant or condition, acting as one class, may, on behalf of all holders of such series of debt securities, waive compliance by Wells Fargo Finance or the Company, as applicable, with any covenant or condition contained in the indenture unless Wells Fargo Finance specifies that such covenant or condition cannot be so waived at the time Wells Fargo Finance establishes the series.

In addition, under the indenture, the holders of a majority in aggregate principal amount of the outstanding debt securities of any series of debt securities may, on behalf of all holders of that series, waive any past default under the indenture, except:

- a default in the payment of the principal of or any premium or interest on any debt securities of that series; or
- a default under any provision of the indenture which itself cannot be modified or amended without the consent of the holders of each outstanding debt security of that series.

## Exhibit 10(a)

### Form of Performance Share Award Agreement for Grants on or after February 24, 2020

Brackets identify provisions that may vary depending on the particular grant, grant recipient and/or other relevant factor.

#### WELLS FARGO & COMPANY LONG-TERM INCENTIVE COMPENSATION PLAN PERFORMANCE SHARE AWARD AGREEMENT

Grant Date: *[applicable date]*

1. **Award.** Wells Fargo & Company (the “Company”) has awarded you Performance Shares to provide an incentive for you to remain in the employment of the Company or an Affiliate and provide valuable services to the Company or an Affiliate. The target number of Performance Shares (“Target Award Number”) awarded you is identified as the “Total Granted” on the acknowledgement screen for your grant on this website. The Target Award Number is subject to upward and downward adjustments based on Company performance during the *[performance period]* (the “Performance Period”) as set forth on Exhibit A. The “Final Award Number” is the number of Performance Shares awarded to you under this Award Agreement after adjusting the Target Award Number in accordance with Exhibit A. This Award Agreement also grants Performance Shares with respect to dividend equivalents as provided in paragraph 4. Each Performance Share entitles you to receive one share of Wells Fargo & Company common stock (“Common Stock”) contingent upon earning such Performance Share based on the Company performance criteria set forth on Exhibit A, vesting as set forth in paragraph 2 and subject to the other terms and conditions set forth in the Company’s Long-Term Incentive Compensation Plan, as may be amended from time to time (the “Plan”) and this Award Agreement, including the performance conditions in paragraph 8, *[and]* Exhibits A and B hereto *[and the attached Wells Fargo Agreement Regarding Trade Secrets, Confidential Information, Non-Solicitation and Assignment of Inventions]*.
2. **Vesting.** Except as otherwise provided in this Award Agreement, the Final Award Number of Performance Shares will vest on the Determination Date as set forth on Exhibit A (“Determination Date”), subject to the performance conditions in paragraph 8, which apply through the Settlement Date. Shares of Common Stock will be issued to you or, in case of your death, your Beneficiary determined in accordance with the Plan. You will have no rights as a stockholder of the Company with respect to your Performance Shares (including any Performance Shares with respect to dividend equivalents as provided below) until settlement. However, you may be entitled to dividend equivalents as set forth in paragraph 4. Except as otherwise provided in the Plan or this Award Agreement, vested Performance Shares will be settled and distributed in shares of Common Stock on *[applicable date]* (the “Settlement Date”).
3. **Termination.**
  - (a) If prior to *[end of Performance Period]* you cease to be an Employee due to your death, the Target Award Number of Performance Shares under this Award Agreement after giving effect to any Net Operating Loss adjustments determined in accordance with Exhibit A for any years in the Performance Period completed prior to the year in which you die (and any Performance Shares with respect to dividend equivalents as provided below) will immediately vest upon the date of your death and will be distributed to your Beneficiary in shares of Common Stock between January 2 and March 1 of the year following the year in which you die. If you cease to be an Employee due to your death on or after *[end of Performance Period]* and prior to the Determination Date, the Final Award Number of Performance Shares under this Award Agreement (and any Performance Shares with respect to dividend equivalents as provided below) will vest upon the Determination Date and will be distributed to your Beneficiary on *[applicable date]*. Notwithstanding the foregoing, if by the applicable last payment date set forth herein your Beneficiary has not presented evidence deemed satisfactory by the Company to allow transfer of the shares of Common Stock to the Beneficiary under applicable laws, the Company may treat all Performance Shares awarded hereby as forfeited, in which case the Company shall have no obligation to issue shares of Common Stock or benefits in lieu of such shares to your Beneficiary and shall have no liability therefor.
  - (b) If prior to the Determination Date you have an involuntary Separation from Service due to [(i)] application of the Company’s Extended Absence Policy to you in connection with a Disability[, (ii) your displacement and receipt of an immediate lump sum severance benefit, placement on a Salary Continuation Leave of Absence or placement on another leave of absence which will result in your receipt of a severance benefit in connection with that leave, or (iii) the Company or an Affiliate entering into a corporate transaction with another company (the “buyer”) (including a transaction where the buyer acquires all or any portion of the assets, stock or

operations of the Company or Affiliate) and pursuant to the terms of the transaction you are continuing in employment with the buyer after completion of the transaction], then the Final Award Number of Performance Shares under this Award Agreement (and any Performance Shares with respect to dividend equivalents as provided below) will vest upon the Determination Date and will be distributed to you (or your Beneficiary if you have died before such distribution) in shares of Common Stock on [applicable date], subject to the restrictions in paragraph 7, the performance conditions in paragraph 8 and the stock ownership requirements in paragraph 9 below. For purposes of this Award, the term "Separation from Service" is determined by the Company in accordance with Section 409A (as defined in paragraph 12 below) and in accordance with the definition set forth on Exhibit B to this Award Agreement, which definition is incorporated by reference herein. For purposes of this Award, the term "Disability" is defined as set forth on Exhibit B to this Award Agreement, which definition is incorporated by reference herein. Notwithstanding the foregoing, if you die following any such involuntary Separation from Service and prior to [end of Performance Period], the Target Award Number of Performance Shares under this Award Agreement after giving effect to any Net Operating Loss adjustments determined in accordance with Exhibit A for any years in the Performance Period completed prior to the year in which you die (and any Performance Shares with respect to dividend equivalents as provided below) will immediately vest and will be distributed to your Beneficiary in accordance with paragraph 3(a) above.

- (c) [If prior to the Determination Date, the Affiliate that employs you incurs a Change in Control and you continue employment with the buyer immediately after the Change in Control, then the Final Award Number of Performance Shares under this Award Agreement (and any Performance Shares with respect to dividend equivalents as provided below) will continue to vest upon the Determination Date and will be distributed to you (or your Beneficiary if you have died before such distribution) in shares of Common Stock on [applicable date], subject to the restrictions in paragraph 7, the performance conditions in paragraph 8 and the stock ownership requirements in paragraph 9 below. For purposes of this Award, the term "Change in Control" is defined as set forth on Exhibit B to this Award Agreement, which definition is incorporated by reference herein. Notwithstanding the foregoing, if you die following such event and prior to [end of Performance Period], the Target Award Number of Performance Shares under this Award Agreement after giving effect to any Net Operating Loss adjustments determined in accordance with Exhibit A for any years in the Performance Period completed prior to the year in which you die (and any Performance Shares with respect to dividend equivalents as provided below) will immediately vest and will be distributed to your Beneficiary in accordance with paragraph 3(a) above.]
- (d) [If prior to the Determination Date you have a Separation from Service for a reason other than Cause and you have satisfied the definition of Retirement under the Plan on your Separation from Service date or you satisfy the definition of Retirement following your Separation from Service date at the end of an approved leave of absence not to exceed six months, the Final Award Number of Performance Shares under this Award Agreement (and any Performance Shares with respect to dividend equivalents as provided below) will continue to vest upon the Determination Date and will be distributed to you (or your Beneficiary if you have died before such distribution) in shares of Common Stock on [applicable date] subject to the restrictions in paragraph 7, the performance conditions in paragraph 8 and the stock ownership requirements in paragraph 9 below, and provided that beginning immediately after you cease to be an Employee and continuing until the Determination Date you satisfy each of the following conditions ("vesting conditions"): (i) you comply with the terms of the attached Wells Fargo Agreement Regarding Trade Secrets, Confidential Information, Non-Solicitation and Assignment of Inventions, which agreement is incorporated by reference herein, (ii) you do not express any derogatory or damaging statements about the Company or any Affiliate, the management or the board of directors of the Company or any Affiliate, the products, services or the business condition of the Company or any Affiliate in any public way or to anyone who could make those statements public, and (iii) to the fullest extent enforceable under the applicable state law, you do not perform services as an officer, director, employee, consultant or otherwise for any business which is in competition with any line of business of the Company or any Affiliate for which you had executive responsibilities while you were employed by the Company or any Affiliate (including predecessors thereof) and which does business in any location in the geographic footprint of the Company or any Affiliate in which you had executive responsibilities. For purposes of this Award, the term "Cause" is defined as set forth on Exhibit B to this Award Agreement, which definition is incorporated by reference herein. [For purposes of this Award, the term "Retirement" is defined as termination of employment after reaching (i) age 55 with five completed years of service or (ii) such more favorable treatment as may apply based on the practices of the Company in effect from time to time.] Notwithstanding the foregoing, if you die following your Retirement and prior to [end of Performance Period] and have satisfied the vesting conditions set forth above through your date of death, the Target Award Number of Performance Shares under this Award Agreement after giving effect to any Net Operating Loss

adjustments determined in accordance with Exhibit A for any years in the Performance Period completed prior to the year in which you die (and any Performance Shares with respect to dividend equivalents as provided below) will immediately vest and will be distributed to your Beneficiary in accordance with paragraph 3(a) above.

Notwithstanding the foregoing, nothing contained in this Award Agreement prohibits or restricts you (or your attorney) from initiating communications directly with, or responding to any inquiry from, or providing testimony before, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the National Labor Relations Board, the Equal Employment Opportunity Commission, or any self-regulatory organization or governmental authority charged with the enforcement of any laws.]

- (e) If prior to the Determination Date you incur a Separation from Service other than for a reason described in paragraph 3(a), [or] 3(b), [3(c) or 3(d),] or you fail to comply with any applicable vesting condition [(including the vesting conditions set forth in paragraph 3(d))], any then unvested Performance Shares awarded hereby (including any Performance Shares with respect to dividend equivalents as provided below) will immediately terminate without notice to you and will be forfeited. For avoidance of doubt, a “Separation from Service other than as described in paragraph 3(a), [or] 3(b)[, 3(c) or 3(d)]” includes, without limitation, a voluntary Separation from Service [that does not constitute a Retirement] and an involuntary Separation from Service [for Cause][other than due to death or application of the Company’s Extended Absence Policy to you in connection with Disability].
4. **Dividend Equivalents.** During the period beginning on the Grant Date and ending on the Settlement Date for the Performance Shares or the date the Performance Shares are forfeited, whichever occurs first, if the Company pays a dividend on the Common Stock, you will automatically receive, as of the payment date for such dividend, dividend equivalents in the form of additional Performance Shares based on the amount or number of shares that would have been paid on the Final Award Number of Performance Shares (or the NOL Adjusted Target Award Number of Performance Shares as applicable under paragraphs 3(a)[, and] 3(b)[, 3(c) and 3(d)]) had they been issued and outstanding shares of Common Stock as of the record date and, if a cash dividend, the closing price of the Common Stock on the New York Stock Exchange as of the dividend payment date. You will also automatically receive dividend equivalents with respect to such additional Performance Shares, to be determined in the same manner. Performance Shares granted with respect to dividend equivalents will be subject to the same vesting schedule and other terms and conditions as the underlying Performance Shares, including the Company’s right of recoupment or forfeiture, and will be distributed in shares of Common Stock when, and if, the underlying Performance Shares are settled and distributed.
5. **Tax Withholding.** The Company will withhold from the number of shares of Common Stock otherwise issuable hereunder (including with respect to dividend equivalents) a number of shares necessary to satisfy any and all applicable federal, state, local and foreign tax withholding obligations and employment-related tax requirements (“Tax-Related Items”). In addition, the Company (or your employer, if different) will withhold from your compensation any and all applicable Tax-Related Items in the event all or a portion of the Performance Shares are treated as taxable prior to or other than on the vesting date set forth in paragraph 2 above and the number of shares of Common Stock otherwise issuable (if any) is insufficient to satisfy such Tax-Related Items withholding obligations. Finally, you shall pay to the Company (or your employer, if different) any amount of Tax-Related Items that the Company or your employer may be required to withhold or account for as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the shares of Common Stock if you fail to comply with your obligations in connection with the Tax-Related Items.
6. **Nontransferable.** Unless the Committee provides otherwise, (i) no rights under this Award will be assignable or transferable, and neither you nor your Beneficiary will have any power to anticipate, alienate, dispose of, pledge or encumber any rights under this Award, and (ii) the rights and the benefits of this Award may be exercised and received during your lifetime only by you or your legal representative.
7. **Other Restrictions; Amendment.** The grant of the Award and issuance of Common Stock hereunder is subject to compliance by the Company, its Affiliates and you with all legal and regulatory requirements applicable thereto, including compliance with the requirements of 12 C.F.R. Part 359, orders issued under 12 U.S.C. § 1818(b) (together with any agreements related thereto, “orders”) and tax withholding obligations, and with all applicable regulations of any stock exchange on which the Common Stock may be listed at the time of issuance. For the avoidance of doubt, regulatory approval under Part 359 or any orders to which the Company is a party may be required for the issuance of Common Stock hereunder in certain circumstances, and the Company cannot provide any assurance that it will be able to request such approval in accordance with the requirements of Part 359 or any applicable order or that any requested approval will be received. Subject to paragraphs 12 and 13 below, the Committee or its delegate may, in its sole discretion and without your consent, reduce, delay vesting, modify, revoke, cancel, impose additional



conditions and restrictions on or recover all or a portion of this Award if the Committee or its delegate deems it necessary or advisable to comply with, or to promote or facilitate compliance with, applicable laws, rules and regulations or as required under any procedures or policies implemented by the Company in furtherance of such legal or regulatory compliance. This Award is subject to any applicable reduction, recoupment, “malus” or “clawback” policies, practices or provisions of the Company and its Affiliates, as in effect from time to time, and any applicable reduction, recoupment, malus or clawback requirements imposed under laws, rules and regulations.

8. **Performance Conditions.** This Award is fully conditioned on and subject to performance adjustments, which include the right of the Committee to cause you to forfeit all or any unpaid portion of an Award, if the Committee determines in its sole discretion that:
- You engage in misconduct which has or might reasonably be expected to have reputational or other harm to the Company or any conduct that constitutes Cause;
  - You engage in misconduct or commit a material error that causes or might reasonably be expected to cause significant financial or reputational harm to the Company or your business group;
  - The Award was based on materially inaccurate performance metrics, whether or not you were responsible for the inaccuracy;
  - You improperly or with gross negligence, including in a supervisory capacity, fail to identify, escalate, monitor, or manage, in a timely manner and as reasonably expected, risks material to the Company or your business group; or
  - The Company or your business group suffers a material downturn in its financial performance or suffers a material failure of risk management.

This Award is also subject to additional performance adjustments, including the forfeiture or cancellation of all or any unpaid portion of the Award, in the Committee’s discretion, based on your role and responsibility for progress on resolving outstanding consent orders and other regulatory matters.

The Committee may consider any factors it determines necessary or appropriate for purposes of making a determination whether a performance adjustment is appropriate and the amount of the adjustment based on the particular facts and circumstances. All determinations by the Committee will be final and binding.

9. **Stock Ownership Provision.** In accordance with the terms of the Company’s stock ownership policy, as may be amended from time to time: (a) if you are an Executive Officer of the Company or a member of its Operating Committee, as a condition to receiving this Award, you agree to hold, while employed by the Company or any Affiliate and for a period of one year after your Retirement, a number of shares of Common Stock equal to at least 50% of the after-tax shares of Common Stock (assuming a 50% tax rate) acquired upon vesting and settlement of Company stock-based awards or pursuant to the exercise of Company stock options (if applicable), subject to a maximum holding requirement of shares with a value equal to ten (10) times your cash salary; and (b) if you are not an Executive Officer or member of the Operating Committee, you are expected to hold that number of shares while employed by the Company or any Affiliate.
10. **Additional Provisions.** This Award Agreement is subject to the provisions of the Plan. Capitalized terms not defined in this Award Agreement or by reference to another document are used as defined in the Plan. If the Plan and this Award Agreement conflict, the provisions of the Plan will govern. Interpretations of the Plan and this Award Agreement by the Committee are binding on you and the Company.
11. **No Employment Agreement.** Neither the award to you of the Performance Shares nor the delivery to you of this Award Agreement or any other document relating to the Performance Shares will confer on you the right to continued employment with the Company or any Affiliate. You understand that your employment with the Company or any Affiliate is “at will” and nothing in this document changes, alters or modifies your “at will” status or your obligation to comply with all policies, procedures and rules of the Company, as they may be adopted or amended from time to time.
12. **Section 409A.** This Award is intended to be exempt from or comply with the requirements of Section 409A of the Internal Revenue Code of 1986, as amended, and the applicable Treasury regulations or other binding guidance thereunder (“Section 409A”). Accordingly, all provisions included in this Award Agreement, or incorporated by reference, will be interpreted and administered in accordance with that intent. If any provision of the Plan or this Award Agreement would otherwise conflict with or frustrate this intent, that provision will be interpreted and deemed amended or limited so as to avoid the conflict; provided, however, that the Company makes no representation that the Award is exempt from or complies with Section 409A and makes no undertaking to preclude Section 409A from applying to the Award. The Company will have no liability to you or to any other party if the Award or payment of the Award that is intended to be exempt from or compliant with Section 409A is not so exempt or compliant or for any action taken by the Committee with respect thereto.

13. **Six-month Delay.** Notwithstanding any provision of the Plan or this Award Agreement to the contrary, if, upon your Separation from Service for any reason, the Company determines that you are a “Specified Employee” for purposes of Section 409A and in accordance with the definition set forth on Exhibit B to this Award Agreement, which definition is incorporated by reference herein, your Performance Shares, if subject to settlement upon your Separation from Service and if required pursuant to Section 409A, will not settle before the date that is the first business day following the six-month anniversary of such Separation from Service, or, if earlier, upon your death.
14. **No Fractional Shares.** The number of Performance Shares to be distributed to you under this Award Agreement will be rounded down to the nearest whole share.
15. **Severability and Judicial Modification.** If any provision of this Award Agreement is held to be invalid or unenforceable under pertinent state law or otherwise or the Company elects not to enforce any such provision, the remaining provisions shall remain in full force and effect and the invalid or unenforceable provision shall be modified only to the extent necessary to render that provision valid and enforceable to the fullest extent permitted by law. If the invalid or unenforceable provision cannot be, or is not, modified, that provision shall be severed from this Award Agreement and all other provisions shall remain valid and enforceable.
16. **Applicable Law.** This Award Agreement and the award of Performance Shares evidenced hereby will be governed by, and construed in accordance with the laws of the state of Delaware (without regard to its choice-of-law provisions), except to the extent Federal law would apply.
17. **Imposition of Other Requirements.** The Company reserves the right to impose other requirements on your participation in the Plan, on the Award and on any shares of Common Stock acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with applicable law or facilitate the administration of the Plan and provided the imposition of the term or condition will not result in adverse accounting expense to the Company, and to require you to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.
18. **Electronic Delivery and Acceptance.** The Company is electronically delivering documents related to current or future participation in the Plan and is requesting your consent to participate in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through the current plan administrator’s on-line system, or any other on-line system or electronic means that the Company may decide, in its sole discretion, to use in the future.
19. **Entire Agreement.** The Plan is incorporated herein by reference. The Plan and this Award Agreement (including Exhibits A and B attached hereto) constitute the entire agreement of the parties with respect to the Award and supersede in their entirety all prior proposals, undertakings and agreements, written or oral, and all other communications between you and the Company with respect to the Award.

[Insert requirement to acknowledge and accept grant terms]

**WELLS FARGO & COMPANY  
LONG-TERM INCENTIVE COMPENSATION PLAN  
PERFORMANCE SHARE AWARD AGREEMENT**

**Exhibit A to Performance Share Award Agreement**

This Exhibit A sets forth the manner in which the Final Award Number will be determined.

**Definitions**

Capitalized terms used but not defined herein (including, but not limited to, Return on Tangible Common Equity) shall have the same meanings assigned to them in the Plan and the Award Agreement. In addition, the following terms used in the text of this Exhibit A shall have the meanings set forth below:

“Average Return on Tangible Common Equity” means for each of the Financial Performance Group Companies the sum of such company’s Return on Tangible Common Equity for each of the 12-month periods ending [applicable dates during the Performance Period], which sum is then divided by [applicable divisor], rounded to two decimals.

“Company Return on Tangible Common Equity Ranking” means the rank of the Company’s Average Return on

Tangible Common Equity relative to the Average Return on Tangible Common Equity achieved by each of the other Financial Performance Group Companies.

“Final Award Number Percentage” means the “Final Award Number Percentage” determined in accordance with the Determination of Final Award Number section of this Exhibit A.

“Financial Performance Group Companies” means, in addition to the Company, the companies listed below, provided that any if, during the Performance Period, one or more of such companies shall merge, engage in a spin-off, or its existence or primary businesses shall terminate or cease due to receivership, bankruptcy, sale, or otherwise, then the Committee may eliminate such company as a Financial Performance Group Company or make such other equitable adjustments, such as adding an acquirer or a new company to the list of Financial Performance Group Companies, as it deems appropriate.

*[Financial Performance Group Companies]*

“Net Operating Loss” means for any year in the Performance Period a loss that results from adjusting a net loss as reported in the Company's consolidated financial statements to eliminate the effect of the following items, each determined based on generally accepted accounting principles: (1) losses resulting from discontinued operations; (2) the cumulative effect of changes in generally accepted accounting principles; and (3) any other unusual or infrequent loss which is separately identified and quantified.

“Company Total Stockholder Return Ranking” means the rank of the Company's Total Stockholder Return relative to the Total Stockholder Return achieved by each of the other *[Financial Performance Group Companies]* *[Stockholder Return Group Companies]*.

“Stockholder Return Group Companies” means, in addition to the Company, the companies listed below provided that any if, during the Performance Period, one or more of such companies shall merge, engage in a spin-off, or its existence or primary businesses shall terminate or cease due to receivership, bankruptcy, sale, or otherwise, then the Committee may eliminate such company as a Stockholder Return Group Company or make such other equitable adjustments, such as adding an acquirer or a new company to the list of Stockholder Return Group Companies, as it deems appropriate.]

*[Stockholder Return Group Companies]*

“Total Stockholder Return” means for each of the *[Financial Performance Group Companies]* *[Stockholder Return Group Companies]* (a) (i) the company's average closing price of a share of common stock (as reported in The Wall Street Journal or such other reliable source as determined by the Committee, in its sole discretion) over the *[applicable period]*, plus the value of any dividends declared on such common stock in respect of an *[applicable date]*, as adjusted assuming such dividends were reinvested in shares of common stock of the company on such *[applicable date]*, minus (ii) the company's average closing price of a share of common stock (as reported in The Wall Street Journal or such other reliable source as determined by the Committee, in its sole discretion) over the *[applicable period]* plus the value of any dividends declared on such common stock in respect of an *[applicable date]* occurring during such *[applicable period]* (“Base Price”), divided by (b) the Base Price (in each case, with such adjustments as are appropriate, in the judgment of the Committee in its sole discretion, to equitably calculate Total Stockholder Return in light of any stock splits, reverse stock splits, stock dividends, and other extraordinary transactions or other changes in the capital structure of the company, as applicable).

## **Determination of Final Award Number**

Net Operating Loss Adjustments. If the Company incurs a Net Operating Loss for any year in the Performance Period, the Target Award Number will be reduced by one-third for each such year, effective upon certification by the Committee of a Net Operating Loss for such year. The Target Award Number after giving effect to each such Net Operating Loss adjustment is referred to herein as the “NOL Adjusted Target Award Number.” If the Company does not incur a Net Operating Loss in any year in the Performance Period, your NOL Adjusted Target Award Number will be the same as your Target Award Number.

ROTCE Adjustment. The NOL Adjusted Target Award Number will be adjusted upward or downward depending on the Company's Average Return on Tangible Common Equity performance over the Performance Period as follows:

1. *Absolute* ROTCE. If the Company Return on Tangible Common Equity is equal to or greater than [applicable %], your Final Award Number will be determined by multiplying the NOL Adjusted Target Award Number by [applicable %]. If the Company Average Return on Tangible Common Equity is less than [applicable %], your Final Award Number will be [applicable % or other applicable number].
2. *Relative* ROTCE. If the Company Average Return on Tangible Common Equity is less than [applicable %] but equal to or greater than [applicable %], the Final Award Number will be determined by the Company Return on Tangible Common Equity Ranking in accordance with the chart below to calculate your Final Award Number of Performance Shares. The Final Award Number of Performance Shares will be determined by multiplying (i) the Final Award Number Percentage (rounded to the nearest whole percent) by (ii) your NOL Adjusted Target Award Number. Each Final Award Number Percentage in the chart below will be based on the Company Return on Tangible Common Equity Ranking in each quartile among the Financial Performance Group Companies and applies to the lowest ranking percentile in each quartile that is equal to or greater than the Company Return on Tangible Common Equity Ranking percentile shown.

<b>Company Return on Tangible Common Equity Ranking</b>	<b>Final Award Number Percentage</b>	<b>Final Award Number of Performance Shares</b>
[applicable ranking]	[applicable %]	[applicable %] x NOL Adjusted Target Award Number
[applicable ranking]	[applicable %]	[applicable %] x NOL Adjusted Target Award Number
[applicable ranking]	[applicable %]	[applicable %] x NOL Adjusted Target Award Number
[applicable ranking]	[applicable %]	[applicable %] x NOL Adjusted Target Award Number
---	[applicable %]	[applicable %] x NOL Adjusted Target Award Number

If the Company Return on Tangible Common Equity Ranking is [applicable ranking range], and the Company's Total Stockholder Return Ranking is [applicable ranking range], the Final Award Number Percentage shall be interpolated on a straight-line basis between [applicable percentage range] and the Final Award Number of Performance Shares shall be interpolated on a corresponding straight-line basis between [applicable percentage range] of the NOL Adjusted Target Award Number [, but in no event will the Final Award Number Percentage exceed [applicable percentage range] unless the Company Total Stockholder Return is [applicable ranking range]].

If the Company Return on Tangible Common Equity Ranking is [applicable ranking range], the Final Award Number Percentage shall be interpolated on a straight-line basis between [applicable percentage range] and the Final Award Number of Performance Shares shall be interpolated on a corresponding straight-line basis between [applicable percentage range] of the NOL Adjusted Target Award Number.

If the Company does not have the lowest Average Return on Tangible Common Equity Ranking among the Financial Performance Group Companies and the Company Return on Tangible Common Equity is [applicable ranking range], the Final Award Number Percentage shall be interpolated on a straight-line basis between [applicable percentage range] and the Final Award Number of Performance Shares shall be interpolated on a corresponding straight-line basis between [applicable percentage range] of the NOL Adjusted Target Award Number.

In no event shall the Final Award Number Percentage be greater than [applicable percentage] nor shall the Final Award Number of Performance Shares be greater than [applicable percentage] of the NOL Adjusted Target Award Number. If the Company Total Stockholder Return Ranking is below [applicable percentage range], in no event shall the Final Award Number Percentage be greater than [applicable percentage] nor shall the Final Award Number of Performance Shares be greater than [applicable percentage] of the NOL Adjusted Target Award Number.

As provided in paragraph 4, you will be entitled to receive Performance Shares with respect to dividend equivalents on the Final Award Number (or the Target Award Number, as applicable and as may be adjusted under paragraphs 3(a), [and])

3(b)[, 3(c) and 3(d)]) to determine the total number of Performance Shares that will be distributed to you upon settlement.

[Exclusion. In determining the Company's [Average Return on Realized Common Equity][Average Return on Tangible Common Equity] and Net Operating Loss for purposes of determining the Final Award Number of Performance Shares, the impact of any penalties or other charges related to litigation, investigations or examinations arising out of retail sales practices of the Company or arising out of other material regulatory matters related to conduct of the Company, in each case during periods prior to your commencement of employment with the Company will be excluded.]

### **Committee Determination**

The Committee shall determine the Final Award Number of Performance Shares after the end of the Performance Period and not later than [applicable date] and the date the Committee makes such determination is referred to in this Award as the "Determination Date." In doing so, the Committee, as it deems equitable and appropriate, may make adjustments to the manner in which the Final Award Number is determined under this Exhibit A to exclude the effect (whether positive or negative) of any of the following types of events or matters with respect to the Company occurring after the Grant Date: (1) unusual, non-recurring or infrequent matters, transactions or events affecting the Company or its consolidated financial statements; (2) changes in accounting principles, practices or policies or in tax laws or other laws or requirements; (3) changes in capital structure by reason of legal or regulatory requirements; or (4) other similar events, matters or changed circumstances. Each such adjustment, if any, shall be made solely for the purpose of maintaining the intended economics of the award in light of changed circumstances in order to prevent the dilution or enlargement of the Award holder's rights with respect to the Performance Shares.

The Committee shall make all determinations in calculating the Final Award Number of Performance Shares and the Committee's determination shall be binding.

**WELLS FARGO & COMPANY**

**LONG-TERM INCENTIVE COMPENSATION PLAN  
PERFORMANCE SHARE AWARD AGREEMENT**

**Exhibit B to Performance Share Award Agreement**

Cause

“Cause” means (1) the continued failure by you to substantially perform your duties; (2) your conviction of a crime involving dishonesty or breach of trust, conviction of a felony, or commission of any act that makes you ineligible for coverage under the Company’s fidelity bond or otherwise makes you ineligible for continued employment; or (3) your violation of the Company’s policies, including but not limited to Wells Fargo’s Code of Ethics and Business Conduct (or the Code applicable to your line of business), Anti-Bribery and Corruption Policy, Information Security Policies, and Risk Management Accountability Policy. For the avoidance of doubt, an event or conduct constituting Cause could take place before or after your termination of employment.

[Change in Control]

“Change in Control” means a change in the ownership or effective control of the Company or the Affiliate that employs you, or in the ownership of a substantial portion of the assets of the Company or the Affiliate that employs you within the meaning of Treas. Reg. Section 1.409A-3(i)(5) as determined by the Company.]

Disability

You will be considered to have a “Disability” if you are (1) receiving income replacement benefits for a period of not less than three months under the Company’s or an Affiliate’s long-term disability plan as a result of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months; or (2) determined by the Social Security Administration to be eligible for social security disability benefits.

Separation from Service

A “Separation from Service” occurs upon your death, retirement or other termination of employment or other event that qualifies as a “separation from service” under Internal Revenue Code Section 409A and the applicable regulations thereunder as in effect from time to time. The Company shall determine in each case when a Separation from Service has occurred, which determination shall be made in a manner consistent with Treasury Regulation Section 1.409A-1(h). The Company shall determine that a Separation from Service has occurred as of a certain date when the facts and circumstances indicate that the Company (or an Affiliate, if applicable) and you reasonably anticipate that, after that date, you will render no further services, or your level of bona fide services (either as an employee or independent contractor) will permanently decrease to a level that is 20% or less than the average level of your bona fide services (either as an employee or independent contractor) previously in effect for you over the immediately preceding 36-month period (or your entire period of service, if you have been providing services for less than 36 months).

The following presumptions shall also apply to all such determinations:

- (1) Transfers. A Separation from Service has not occurred upon your transfer of employment from the Company to an Affiliate or vice versa, or from an Affiliate to another Affiliate.
- (2) Medical leave of absence. Where you have a medical leave of absence due to any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than six months, and you have not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the earlier of: (A) the first day on which you would not be considered “disabled” under any disability policy of the Company or Affiliate under which you are then receiving a benefit; or (B) the first day on which your medical leave of absence period exceeds 29 months.

- (3) Military leave of absence. Where you have a military leave of absence, and you have not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the day next following the last day on which you are entitled to reemployment rights under USERRA.
- (4) Salary continuation leave. A Separation from Service has occurred on the first day of your salary continuation leave taken under the Company's Salary Continuation Pay Plan.
- (5) Other leaves of absence. In the event that you are on a bona fide leave of absence, not otherwise described in this definition, from which you have not returned to employment with the Company or an Affiliate, your Separation from Service has occurred on the first day on which your leave of absence period exceeds six months or, if earlier, upon your termination of employment (provided that such termination of employment constitutes a Separation from Service in accordance with the last sentence of the first paragraph of this definition).
- (6) Asset purchase transaction. If, in connection with the sale or other disposition of substantial assets (such as a division or substantially all assets of a trade or business) of the Company or an Affiliate to an unrelated buyer, you become an employee of the buyer or an affiliate of the buyer upon the closing of or in connection with such transaction, a Separation from Service has not occurred if the Company and the buyer have specified that such transaction will not, with respect to any individual affected by such transaction who becomes an employee of the buyer or an affiliate, be considered a "separation from service" under Treasury Regulation Section 1.409A-1(h), and such specification meets the requirements of Treasury Regulation Section 1.409A-1(h)(4).

#### Specified Employee

A "Specified Employee" means an individual who at any time during the applicable identification period is:

- (1) one of the top 50 most highly compensated officers in the Controlled Group with a title of Senior Vice President or above (where the "Controlled Group" includes the Company and its controlled group members); or
- (2) a member of the Wells Fargo Operating Committee or the Wells Fargo Management Committee Review Group; or
- (3) a "key employee" under Internal Revenue Code Section 416(i)(1)(A)(i), (ii) or (iii) (applied in accordance with the regulations thereunder and disregarding Internal Revenue Code Section 416(i)(5)).

For purposes of applying Internal Revenue Code Section 409A, the "identification period" is the 12-month period ending each December 31. Any person described in (1), (2) or (3) above during an identification period shall be treated as a Specified Employee for the entire 12-month period beginning on the following April 1.

Notwithstanding the above, in the event of a corporate transaction to which the Company or an Affiliate is a party, the Company may, in its discretion, establish a method for determining Specified Employees pursuant to Treasury Regulation Section 1.409A-1(i)(6).

**[Wells Fargo Agreement Regarding Trade Secrets,  
Confidential Information, Non-Solicitation and Assignment of Inventions**

**I. Introduction**

In consideration for the Performance Share Award granted to me by Wells Fargo & Company on *[insert date]*, on the terms and conditions contained in the Performance Share Award Agreement (“Performance Share Award Agreement”), I acknowledge that the nature of my employment with and performance of services for Wells Fargo & Company and its affiliates (the “Company”) permits me to have access to certain of its trade secrets and confidential and proprietary information and that such information is, and shall always remain, the sole property of the Company. Any unauthorized disclosure or use of this information would be wrongful and would cause the Company irreparable harm. I also acknowledge that if in the course of my employment I develop Inventions (as defined herein), I agree that the property rights of such inventions belong to the Company and agree to assist, as may be necessary, with the assignment of these Inventions to the Company. Therefore, I agree as follows:

**II. Confidential Information**

During the course of my employment I will acquire knowledge of the Company’s Confidential Information. The Company’s Confidential Information includes the following:

Trade Secrets: “Trade Secrets” shall be defined under the Uniform Trade Secrets Act (the “UTSA”), as may be amended from time to time. If the UTSA is not recognized by a state or jurisdiction that is interpreting this agreement, “Trade Secrets” is defined as information, including a formula, pattern, compilation, program, device, method, technique, or process, that: (1) derives independent economic value, actual or potential, from not being generally known to and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (2) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

Proprietary Information:

- The names, address, and contact information of the Company’s customers and prospective customers, as well as any other personal or financial information relating to any customer or prospect, including, without limitation, account numbers, balances, portfolios, maturity and/or expiration or renewal dates, loans, policies, investment activities, purchasing practices, insurance, annuity policies and objectives;
- Any information concerning the Company’s operations, including without limitation, information related to its methods, services, pricing, costs, margins and mark ups, finances, practices, strategies, business plans, agreements, decision-making, systems, technology, policies, procedures, marketing, sales, techniques, agent information, and processes; and
- Any other proprietary and/or confidential information relating to the Company’s customers, products, services, sales, technologies, or business affairs.

Company Records: The records, documents, files and archives of the Company and include, but are not limited to, original, duplicated, computerized, memorized, handwritten or any other form of information, whether contained in materials provided to me by the Company, or by any institution acquired by the Company, or compiled by me in any form or manner including information in documents or electronic devices, such as software, flowcharts, graphs, spreadsheets, resource manuals, videotapes, calendars, day timers, planners, rolodexes, or telephone directories maintained in personal computers, laptop computers, personal digital assistants or any other device.



Personnel Records: Personal information about Company employees contained in the Company's records and to which access is restricted and granted only for purposes of performing and evaluating job duties.

Confidential Information: "Confidential Information" includes (comprises) Trade Secrets, Proprietary Information, Company Records and Personnel Records.

I understand that my obligation to maintain the confidentiality of all Confidential Information continues at all times during and after my employment. Confidential Information does not become any less confidential or proprietary to the Company because I may commit some of it to memory or because I may otherwise maintain this information outside of the Company's offices.

I agree that any Confidential Information of the Company is to be used by me solely and exclusively for the purpose of conducting business on behalf of the Company. I am expected to keep such Confidential Information confidential and not to divulge, use or disclose this information except for that purpose. If I resign or am terminated from my employment for any reason, I agree to immediately return to the Company all Company Records and Confidential Information, including information maintained by me in my office, outside of the office, in personal electronic devices, and in any format or storage system.

Notwithstanding the foregoing, I understand that nothing contained in this Agreement prohibits or restricts me (or my attorney) from initiating communications directly with, or responding to any inquiry from, or providing testimony before, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the National Labor Relations Board, the Equal Employment Opportunity Commission, or any self-regulatory organization or governmental authority charged with the enforcement of any laws.

### **III. Non-Solicitation of Company's Employees and Customers**

I agree that for the period beginning on my termination date with the Company through the greater of (i) the period beginning on my termination date through the Determination Date as defined in the Performance Share Award Agreement or (ii) the one-year period following my termination date ("the Non-Solicitation Period"), I will not do any of the following, either directly or indirectly or through associates, agents, or employees:

- a. solicit, recruit or promote the solicitation or recruitment of any employee or consultant of the Company for the purpose of encouraging that employee or consultant to leave the Company's employ or sever an agreement for services; or
- b. to the fullest extent enforceable under the applicable state law, solicit, participate in or promote the solicitation of any of the Company's clients, customers, or prospective customers with whom I had Material Contact and/or regarding whom I received Confidential Information, for the purpose of providing products or services ("Competitive Products/Services"). "Material Contact" means interaction between me and the customer, client or prospective customer within one (1) year prior to my Separation of Service (as defined in the Performance Award Agreement) which takes place to manage, service or further the business relationship.

This limitation is not intended to limit the Company's right to prevent misappropriation of its Confidential Information beyond the Non-Solicitation Period.

### **IV. Assignment of Inventions**

I agree to disclose to the Company promptly in writing complete information regarding all Inventions that I make, conceive or first reduce to practice (alone or in conjunction with others) during my employment with the Company. For the purposes of this Assignment, the term "Invention" means any invention, discovery, design, formula, modification, improvement, new idea, business method, process, algorithm, software program, know how or trade secret, or other work or concept, whether recorded in a written document, electronically or not recorded at all and whether or not copyrightable or patentable.

The categories of Inventions that are subject to this assignment are: (1) all Inventions that relate at the time of conception or reduction to practice of the Invention to the Company's business, or actual or demonstrably anticipated research or development of the Company whether or not I made, conceived or first reduced the Inventions to practice during normal working hours; and (2) all Inventions involving the use of any time, material, information, or facility of the Company.

I acknowledge and agree that all Inventions and all worldwide intellectual property rights therein are owned by the Company. All intellectual property rights in the Inventions shall vest in the Company on the date such Inventions are created, conceived, reduced to practice, actually or constructively, or reduced to a tangible medium of expression, whichever occurs first. Without limiting the foregoing, I agree that if any Inventions are copyrightable and fall within the definition of a "work made for hire" as defined in 17 U.S.C. §101 and §201(b), such Inventions will be considered "works made for hire" and all copyrights and copyright registrations related to such copyrightable Inventions will be the sole and exclusive property of the Company. If, and to the extent that, all intellectual property rights in any Inventions do not vest in the Company, I hereby irrevocably grant and assign, and agree to assign, to the Company without reservation, all of my worldwide ownership rights, title and interest in and to all Inventions and all present and future intellectual property rights in such Inventions, and irrevocably waive all moral rights in, and other intellectual property rights to, all Inventions.

By entering into this Assignment, I understand that I am not conveying any rights in Inventions I may have made, conceived or first reduced to practice before my employment with the Company ("Prior Inventions"). If I claim ownership in any Prior Inventions, I have identified and provided a non-confidential description of each such Prior Invention in the space provided below (and on additional pages as necessary):

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I further agree, without charge and at the Company's expense, to give the Company all assistance it reasonably requires to evidence, establish, maintain, perfect, protect, and use the rights to the Inventions I have assigned to it. In particular, but without limitation, I agree to sign all documents, supply all information, and provide all written or oral testimony that the Company may deem necessary or desirable to: (i) transfer or record the transfer of my entire right, title, and interest in the assigned Inventions; (ii) enable the Company to obtain patent protection for such Inventions anywhere in the world; and (iii) protect and enforce Company's rights in the Inventions and the intellectual property rights therein. Notwithstanding the foregoing, I hereby irrevocably appoint Wells Fargo as attorney in fact (coupled with an interest) to execute any such documents.

#### **V. Defend Trade Secrets Act Notice**

I acknowledge and agree that nothing in this Agreement is intended to discourage or restrict me from reporting any theft of Trade Secrets pursuant to the Defend Trade Secrets Act of 2016 (the "DTSA") or other applicable state or federal law. The DTSA prohibits retaliation against an employee because of whistleblower activity in connection with the disclosure of Trade Secrets, so long as any such disclosure is made either (A) in confidence to an attorney or a federal, state, or local government official and solely to report or investigate a suspected violation of the law, or (B) under seal in a complaint or other document filed in a lawsuit or other proceeding. Nothing in this Agreement shall limit, curtail or diminish the Company's statutory rights under the DTSA, any applicable state law regarding trade secrets or common law.

#### **VI. Employment At Will**

I understand that my employment with the Company is "at will" which means; (1) the Company and I both have the right to terminate my employment at any time, with or without advance notice and with or without cause and, (2) the Company has the right to change policies and terms and conditions of my employment at any time. I also understand that nothing in this Agreement changes, alters or modifies my "at will" status or my obligation to comply with all policies, procedures and rules of the Company, as they may be adopted or amended from time to time. My employment at will status may not be changed except in writing, signed by

me and an officer of the Company at the level of executive vice president or higher, authorized by the senior Human Resource Manager for my business group.

**VII. Injunctive Relief & Damages**

Recognizing the irreparable nature of the injury that could be done by my violation of this Agreement and that money damages alone would be inadequate compensation to the Company, it is agreed that any violation of this Agreement by me should be the proper subject for immediate injunctive relief, specific performance and other equitable relief which shall be in addition to and not in lieu of any other remedies and damages to the Company may recover.

**VIII. Partial Invalidity**

If any provision of this Agreement is held to be invalid or unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall remain in full force and effect and the invalid or unenforceable provision shall be modified only to the extent necessary to render that provision valid and enforceable to the fullest extent permitted by law. If the invalid or unenforceable provision cannot be modified, that provision shall be severed from the Agreement and all other provisions shall remain valid and enforceable.

**IX. Choice of Law/Integration/Survival**

This Agreement and any dispute, controversy or claim which arises under or relates in any way to it shall be governed by the law of the state where the incident(s) giving rise to the dispute or claim arose. This Agreement supersedes any prior written or verbal agreements pertaining to the subject matter herein, and is intended to be a final expression of our Agreement with respect only to the terms contained herein. There may be no modification of this Agreement except in writing signed by me and an executive officer of the Company. This Agreement shall survive my employment by the Company, inure to the benefit of successors and assigns of the Company, and is binding upon my heirs and legal representatives.

**Acknowledgement**

I acknowledge that I have read, understand, and received a copy of this Agreement, and will abide by its terms.

]

[Name of Executive] Date

End of Form of Performance Share Award Agreement

For Grants on or after February 24, 2020

## Form of Restricted Share Rights Award Agreement for Grants on or after February 24, 2020

Brackets identify provisions that may vary depending on the particular grant, grant recipient and/or other relevant factor.

### WELLS FARGO & COMPANY LONG-TERM INCENTIVE COMPENSATION PLAN RESTRICTED SHARE RIGHTS AWARD AGREEMENT

Grant Date: *[applicable date]*

- Award.** To encourage your continued employment with the Company or any Affiliate and to motivate you to help the Company increase stockholder value over the long term, Wells Fargo & Company (the "Company") has awarded you the number of Restricted Share Rights as set forth on the acknowledgement screen for your grant on this website (the "Award"). Each Restricted Share Right entitles you to receive one share of Wells Fargo & Company common stock ("Common Stock") contingent upon vesting and subject to the other terms and conditions set forth in the Company's Long-Term Incentive Compensation Plan, as may be amended from time to time (the "Plan") and this Award Agreement.
- Vesting.** Except as otherwise provided in this Award Agreement, and subject to the Company's right to recoup or forfeit all or any portion of this Award and other conditions as provided in this Award Agreement, the Restricted Share Rights will vest and be settled according to the following schedule:  
*[Vesting Schedule]*

Shares of Common Stock in settlement of the Restricted Share Rights will be issued to you or, in case of your death, your Beneficiary determined in accordance with the Plan. Although you may receive dividend equivalents as provided below, you will have no rights as a stockholder of the Company with respect to your Restricted Share Rights until settlement. Upon vesting, each Restricted Share Right will be settled and distributed as one share of Common Stock except as otherwise provided in the Plan or this Award Agreement[, subject to the restrictions in *[applicable paragraphs]* and the performance conditions in *[applicable paragraph]* below].

- Termination.**
  - If you cease to be an Employee due to your death, any then unvested Restricted Share Rights awarded hereby (including any Restricted Share Rights granted with respect to dividend equivalents as provided below) will immediately vest upon your date of death and will be settled and distributed to your Beneficiary in shares of Common Stock between January 2 and March 1 of the year following the year in which you die. Notwithstanding the foregoing, if by the last date set forth herein your Beneficiary has not presented evidence deemed satisfactory by the Company to allow transfer of the shares of Common Stock to the Beneficiary under applicable laws, the Company may treat all unvested Restricted Share Rights as forfeited, in which case the Company shall have no obligation to issue shares of Common Stock or benefits in lieu of such shares to your Beneficiary and shall have no liability therefor.
  - If you incur an involuntary *[Separation from Service]**[termination of employment]* as a result of *[one of]* the *[following:]*
    - [(1)]* application of the Company's Extended Absence Policy to you in connection with a Disability,
    - [(1)]* *[your displacement and receipt of an immediate lump sum severance benefit, placement on a Salary Continuation Leave of Absence or placement on another leave of absence which will result in your receipt of a severance benefit in connection with that leave, or]*
    - [(2)]* *[the Company or an Affiliate entering into a corporate transaction with another company (the "buyer") (including a transaction where the buyer acquires all or any portion of the assets, stock or operations of the Company or Affiliate) and pursuant to the terms of the transaction you are continuing in employment with the buyer after completion of the corporate transaction,]*

any then unvested Restricted Share Rights awarded hereby (including any Restricted Share Rights granted with respect to dividend equivalents as provided below) will immediately vest and will be settled and distributed to you in shares of Common Stock within 90 days from your *[Separation from Service]* *[termination of employment or, if earlier, by March 1 of the year following the year in which the Restricted*

Share Rights vest][, subject to the restrictions in [applicable paragraphs], the performance conditions in [applicable paragraphs] and the stock ownership requirements in [applicable paragraphs] below.]

[The definitions of the terms [“Separation from Service” (which is determined by the Company in accordance with Section 409A (as defined in paragraph 11 below)),] and “Disability” are set forth on Exhibit A to this Award Agreement, which definitions are incorporated by reference herein.][For purposes of this Award, you will be considered to have a “Disability” if you are (1) receiving income replacement benefits for a period of not less than three months under the Company’s or an Affiliate’s long-term disability plan as a result of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months; or (2) determined by the Social Security Administration to be eligible for social security disability benefits.]

- (c) [If you have a Separation from Service that is not addressed in paragraph 3(b) above for a reason other than Cause and you satisfy the definition of Retirement under the Plan on your Separation from Service date or you satisfy the definition of Retirement following your Separation from Service date at the end of an approved leave of absence not to exceed six months, any then unvested Restricted Share Rights awarded hereby (including any Restricted Share Rights granted with respect to dividend equivalents as provided below) will continue to vest and be settled upon the scheduled vesting date as set forth in paragraph 2 above[, subject to the restrictions in [applicable paragraphs], the performance conditions in [applicable paragraph] and the stock ownership requirements in [applicable paragraphs] below]; provided, however, if you die following Retirement, subject to the limitations set forth in paragraph 3(a), any then unvested Restricted Share Rights will vest immediately upon your date of death and will be settled and distributed to your Beneficiary in shares of Common Stock between January 2 and March 1 of the year following the year in which you die. The definition of the term “Cause” is set forth on Exhibit A to this Award Agreement, which definition is incorporated by reference herein.]
- (d) [If the Affiliate that employs you incurs a Change in Control and you continue employment with the buyer immediately after the Change in Control, any then unvested Restricted Share Rights awarded hereby (including any Restricted Share Rights granted with respect to dividend equivalents as provided below) will immediately vest and will be settled and distributed to you in shares of Common Stock within 90 days from the date the Change in Control occurred [or, if earlier, by March 1 of the year immediately following the year in which the Change in Control occurred][, subject to the restrictions in [applicable paragraphs], the performance conditions in [applicable paragraph] and the stock ownership requirements in [applicable paragraphs] below]. Exhibit A to this Award Agreement sets forth the definition of the term “Change in Control,” which definition is incorporated in this Award Agreement by reference.]
- (a) If you [incur a Separation from Service][terminate employment] other than for a reason described in [applicable paragraphs] above, any then unvested Restricted Share Rights awarded hereby (including any Restricted Share Rights granted with respect to dividend equivalents as provided below) will immediately terminate without notice to you and will be forfeited.

- 4. **Dividend Equivalents.** During the period beginning on the Grant Date and ending on the date the applicable Restricted Share Rights vest and are distributed, or are forfeited, whichever occurs first, if the Company pays a dividend on the Common Stock, you will automatically receive, as of the payment date for such dividend, dividend equivalents in the form of additional Restricted Share Rights based on the amount or number of shares that would have been paid on the Restricted Share Rights had they been issued and outstanding shares of Common Stock as of the record date and, if a cash dividend, the closing price of the Common Stock on the New York Stock Exchange as of the dividend payment date. You will also automatically receive dividend equivalents with respect to such additional Restricted Share Rights, to be granted in the same manner. Restricted Share Rights granted with respect to dividend equivalents will be subject to the same vesting schedule and other terms and conditions as the underlying Restricted Share Rights, including the Company’s right of recoupment or forfeiture, and will be distributed in shares of Common Stock when, and if, the underlying Restricted Share Rights are settled and distributed.
- 5. **Tax Withholding.** Regardless of any action the Company or an Affiliate which is your employer (the “Employer”) takes with respect to any or all income tax, payroll tax, payment on account or other tax-related items related to your participation in the Plan and legally applicable to you or deemed by the Company or the Employer to be an appropriate charge to you even if technically due by the Company or the Employer (“Tax-Related Items”), you acknowledge that the ultimate liability for all Tax-Related Items is and remains your responsibility and may exceed the amount (if any) withheld by the Company or the Employer. You further acknowledge that the Company and/or the Employer: (a) make no representations or undertakings regarding the treatment of any Tax-Related Items in connection with any aspect of the Award, including the grant, vesting or settlement of the Restricted Share Rights, the issuance of shares of Common Stock upon settlement of the Restricted Share Rights, the subsequent sale of

shares of Common Stock acquired pursuant to such issuance and the receipt of any dividends and/or any dividend equivalents; and (b) do not commit to and are under no obligation to structure the terms of the grant or any aspect of the Award to reduce or eliminate your liability for such Tax-Related Items or to achieve any particular tax result. Further, if you are subject to Tax-Related Items in more than one jurisdiction, you acknowledge that the Company and/or the Employer (or former employer, as applicable) may be required to withhold or account for Tax-Related Items in more than one jurisdiction.

Prior to any relevant taxable or tax withholding event, as applicable, you shall pay or make adequate arrangements satisfactory to the Company or the Employer to satisfy all Tax-Related Items. In this regard, you authorize the Company and/or the Employer, or their respective agents, at their discretion and pursuant to such procedures as the Company may specify from time to time, to satisfy the obligations with regard to all Tax-Related Items by one or a combination of the following: (1) withholding from any wages or other cash compensation paid to you by the Company and/or the Employer; (2) withholding from proceeds of the sale of shares of Common Stock acquired upon vesting and settlement of the Restricted Share Rights either through a voluntary sale or through a mandatory sale arranged by the Company (on your behalf pursuant to this authorization without further consent); or (3) withholding in shares of Common Stock to be issued upon vesting and settlement of the Restricted Share Rights. Notwithstanding the foregoing, if you are subject to the short-swing profit rules of Section 16(b) of the Securities Exchange Act of 1934 (the "Exchange Act"), the Company will withhold in shares of Common Stock upon the relevant tax withholding event[, except with respect to any Tax-Related Items required to be withheld prior to the vesting dates set forth in paragraph 2 which may be withheld from your wages or other cash compensation.] Only if withholding in shares of Common Stock is prevented by applicable law or has materially adverse accounting or tax consequences, may the Tax-Related Items withholding obligation for individuals subject to Section 16(b) of the Exchange Act be satisfied by one or a combination of methods (1) and (2) above.

Depending on the withholding method, the Company may withhold or account for Tax-Related Items by considering applicable minimum statutory withholding amounts or other applicable withholding rates, including maximum applicable rates, in which case you will receive a refund of any over-withheld amount in cash and will have no entitlement to the Common Stock equivalent. Anything to the contrary in this paragraph notwithstanding, the Company or the Employer's right to withhold any amounts payable pursuant to this Award to cover Tax-Related Items for any portion of the Award that is considered deferred compensation subject to Section 409A shall be limited to the minimum amount permitted to avoid a prohibited acceleration under Section 409A. If the obligation for Tax-Related Items is satisfied by withholding in shares of Common Stock, for tax purposes, you will be deemed to have been issued the full number of shares of Common Stock subject to the vested Restricted Share Rights, notwithstanding that a number of the shares of Common Stock are held back solely for the purpose of paying the Tax-Related Items due as a result of any aspect of your participation in the Plan.

Finally, you shall pay to the Company or the Employer any amount of Tax-Related Items that the Company or the Employer may be required to withhold or account for as a result of your participation in the Plan that cannot be satisfied by the means previously described. The Company may refuse to issue or deliver the shares or the proceeds of the sale of shares of Common Stock, if you fail to comply with your obligations in connection with the Tax-Related Items.

6. **Nontransferable.** Unless the Committee provides otherwise, (i) no rights under this Award will be assignable or transferable, and neither you nor your Beneficiary will have any power to anticipate, alienate, dispose of, pledge or encumber any rights under this Award, and (ii) the rights and the benefits of this Award may be exercised and received during your lifetime only by you or your legal representative.
7. **Other Restrictions; Amendment.** The grant of the Award and issuance of Common Stock hereunder is subject to compliance by the Company, its Affiliates and you with all legal and regulatory requirements applicable thereto, including compliance with the requirements of 12 C.F.R. Part 359, orders issued under 12 U.S.C. § 1818(b) (together with any agreements related thereto, "orders") and tax withholding obligations, and with all applicable regulations of any stock exchange on which the Common Stock may be listed at the time of issuance. For the avoidance of doubt, regulatory approval under Part 359 or any orders to which the Company is a party may be required for the issuance of Common Stock hereunder in certain circumstances, and the Company cannot provide any assurance that it will be able to request such approval in accordance with the requirements of Part 359 or any applicable order or that any requested approval will be received. Subject to paragraph[s] 11 [and 12] below, the Committee or its delegate may, in its sole discretion and without your consent, reduce, delay vesting, modify, revoke, cancel, impose additional conditions and restrictions on or recover all or a portion of this Award if the Committee or its delegate deems it necessary or advisable to comply with, or to promote or facilitate compliance with, applicable laws, rules and regulations or as required under any procedures or policies implemented by the Company in furtherance of such

legal or regulatory compliance. This Award is subject to any applicable reduction, recoupment, “malus” or “clawback” policies, practices or provisions of the Company and its Affiliates, as in effect from time to time, and any applicable reduction, recoupment, malus or clawback requirements imposed under laws, rules and regulations.

8. **Performance Conditions.** The Award is fully conditioned on and subject to performance adjustments, which include the right of the Committee to cause you to forfeit all or any unpaid portion of an Award, if the Committee determines in its sole discretion that:
- You engage in misconduct which has or might reasonably be expected to have reputational or other harm to the Company or any conduct that constitutes Cause;
  - You engage in misconduct or commit a material error that causes or might reasonably be expected to cause significant financial or reputational harm to the Company or your business group;
  - The Award was based on materially inaccurate performance metrics, whether or not you were responsible for the inaccuracy;
  - You improperly or with gross negligence, including in a supervisory capacity, fail to identify, escalate, monitor, or manage, in a timely manner and as reasonably expected, risks material to the Company or your business group; or
  - The Company or your business group suffers a material downturn in its financial performance or suffers a material failure of risk management.

[For purposes of this Award, “Cause” means (1) the continued failure by you to substantially perform your duties; (2) your conviction of a crime involving dishonesty or breach of trust, conviction of a felony, or commission of any act that makes you ineligible for coverage under the Company’s fidelity bond or otherwise makes you ineligible for continued employment; or (3) your violation of the Company’s policies, including but not limited to Wells Fargo’s Code of Ethics and Business Conduct (or the Code applicable to your line of business), Anti-Bribery and Corruption Policy, Information Security Policies, and Risk Management Accountability Policy. For the avoidance of doubt, an event or conduct constituting Cause could take place before or after your termination of employment.] The Committee may consider any factors it determines necessary or appropriate for purposes of making a determination whether a performance adjustment is appropriate and the amount of the adjustment based on the particular facts and circumstances. All determinations by the Committee will be final and binding.

9. **Restrictive Covenants.** In consideration of the terms of this Award and your access to Confidential Information, you agree to the restrictive covenants and associated remedies as set forth below, which exist independently of and in addition to any obligation to which you are subject under the terms of the Wells Fargo Agreement Regarding Trade Secrets, Confidential Information, Non-Solicitation, And Assignment Of Inventions (the “TSA”):
- (a) **Trade Secrets and Confidential Information.** During the course of your employment, you will acquire knowledge of the Company’s and/or any Affiliate’s (collectively “WFC”) Trade Secrets and other proprietary information relating to its business, business methods, personnel, and customers (collectively, “Confidential Information”). “Trade Secrets” means WFC’s confidential information, which has an economic value in being secret and which WFC has taken steps to keep secret and you understand and agree that Trade Secrets include, but are not limited to, confidentially maintained client and customer lists and information, and confidentially maintained prospective client and customer lists and information. You agree that Confidential Information of WFC is to be used solely and exclusively for the purpose of conducting business on behalf of WFC. You agree to keep such Confidential Information confidential and will not divulge, use or disclose this information except for that purpose. In addition, you agree that, both during and after your employment, you will not remove, share, disseminate or otherwise use WFC’s Trade Secrets to directly or indirectly solicit, participate in or promote the solicitation of any of WFC’s clients, customers, or prospective customers for the purpose of providing products or services that are in competition with WFC’s products or services. Notwithstanding the foregoing, nothing contained in this Award Agreement prohibits or restricts you (or your attorney) from initiating communications directly with, or responding to any inquiry from, or providing testimony before, the Securities and Exchange Commission, the Financial Industry Regulatory Authority, the National Labor Relations Board, the Equal Employment Opportunity Commission, or any self-regulatory organization or governmental authority charged with the enforcement of any laws.
- (b) **Assignment of Inventions.** You acknowledge and agree that all inventions and all worldwide intellectual property rights that you make, conceive or first reduce to practice (alone or in conjunction with others) during your employment with WFC are owned by WFC that (1) relate at the time of conception or reduction to practice of the invention to WFC’s business, or actual or demonstrably anticipated research or development of WFC whether or not you made, conceived or first reduced the inventions to practice during normal working hours; and (2) involve the use of any time, material, information, or facility of WFC.

- (c) **Non-solicitation.** If you are currently subject to a TSA, you shall continue to be bound by the terms of the TSA. If you are not currently subject to a TSA, you agree to the following:

For a period of one year immediately following termination of your employment for any reason, you will not do any of the following, either directly or indirectly or through associates, agents, or employees:

- i. solicit, recruit or promote the solicitation or recruitment of any employee or consultant of WFC for the purpose of encouraging that employee or consultant to leave WFC's employ or sever an agreement for services; or
- ii. to the fullest extent enforceable under the applicable state law, solicit, participate in or promote the solicitation of any of WFC's clients, customers, or prospective customers with whom you had Material Contact and/or regarding whom you received Confidential Information, for the purpose of providing products or services that are in competition with WFC's products or services. "Material Contact" means interaction between you and the customer, client or prospective customer within one (1) year prior to your last day as a team member which takes place to manage, service or further the business relationship.

The one-year limitation is not intended to limit WFC's right to prevent misappropriation of its Confidential Information beyond the one-year period.

- (d) **Violation of TSA or Restrictive Covenants.** If you breach any of the terms of a TSA and/or the restrictive covenants above, all unvested Restricted Share Rights shall be immediately and irrevocably forfeited. For any Restricted Share Rights that vested within one (1) year prior to the termination of your employment with WFC or at any time after your termination, you shall be required to repay or otherwise reimburse WFC an amount having a value equal to the aggregate fair market value (determined as of the date of vesting) of such vested shares. This paragraph does not constitute the Company's exclusive remedy for violation of your restrictive covenant obligations, and WFC may seek any additional legal or equitable remedy, including injunctive relief, for any such violation.

10. **No Employment Agreement.** Neither the award to you of the Restricted Share Rights nor the delivery to you of this Award Agreement or any other document relating to the Restricted Share Rights will confer on you the right to continued employment with the Company or any Affiliate. You understand that your employment with the Company or any Affiliate is "at will" and nothing in this document changes, alters or modifies your "at will" status or your obligation to comply with all policies, procedures and rules of the Company, as they may be adopted or amended from time to time.
11. **Section 409A.** This Award is intended to [comply with the requirements of][be exempt from] Section 409A of the Internal Revenue Code of 1986, as amended, and the applicable Treasury Regulations or other binding guidance thereunder ("Section 409A"). Accordingly, all provisions included in this Award Agreement, or incorporated by reference, will be interpreted and administered in accordance with that intent. [Therefore, all Restricted Share Rights will be settled and distributed no later than March 1 of the year following the year when such Restricted Share Rights vest.] If any provision of the Plan or this Award Agreement would otherwise conflict with or frustrate this intent, that provision will be interpreted and deemed amended or limited so as to avoid the conflict; provided, however, that the Company makes no representation that the Award is exempt from or complies with Section 409A and makes no undertaking to preclude Section 409A from applying to the Award. The Company will have no liability to you or to any other party if the Award or payment of the Award that is intended to be [compliant with][exempt from] Section 409A is not so [compliant][exempt] or for any action taken by the Committee with respect thereto.
12. **[Six-month Delay.]** Notwithstanding any provision of the Plan or this Award Agreement to the contrary, if, upon your Separation from Service for any reason, the Company determines that you are a "Specified Employee" for purposes of Section 409A and in accordance with the definition set forth on Exhibit A to this Award Agreement, which definition is incorporated by reference herein, your Restricted Share Rights, if subject to settlement upon your Separation from Service and if required pursuant to Section 409A, will not settle before the date that is the first business day following the six-month anniversary of such Separation from Service, or, if earlier, upon your death.]
13. **Stock Ownership Provision.** In accordance with the terms of the Company's stock ownership policy, as may be amended from time to time: (a) if you are an Executive Officer of the Company or a member of its Operating Committee, as a condition to receiving this Award, you agree to hold, while employed by the Company or any Affiliate and for a period of one year after your Retirement, a number of shares of Common Stock equal to at least 50% of the after-tax shares of Common Stock (assuming a 50% tax rate) acquired upon vesting and settlement of Company stock-based awards or pursuant to the exercise of Company stock options (if applicable), subject to a maximum holding requirement of shares with a value equal to ten (10) times your cash salary; and (b) if you are not an Executive



Officer or member of the Operating Committee, you are expected to hold that number of shares while employed by the Company or any Affiliate.

14. **Severability and Judicial Modification.** If any provision of this Award Agreement is held to be invalid or unenforceable under pertinent state law or otherwise or the Company elects not to enforce any such provision, including but not limited to paragraph 9(c)(ii), the remaining provisions shall remain in full force and effect and the invalid or unenforceable provision shall be modified only to the extent necessary to render that provision valid and enforceable to the fullest extent permitted by law. If the invalid or unenforceable provision cannot be, or is not, modified, that provision shall be severed from this Award Agreement and all other provisions shall remain valid and enforceable.
15. **Additional Provisions.** This Award Agreement is subject to the provisions of the Plan. Capitalized terms not defined in this Award Agreement are used as defined in the Plan. If the Plan and this Award Agreement are inconsistent, the provisions of the Plan will govern. Interpretations of the Plan and this Award Agreement by the Committee are binding on you and the Company.
16. **Applicable Law.** This Award Agreement and the award of Restricted Share Rights evidenced hereby will be governed by, and construed in accordance with the laws of the state of Delaware (without regard to its choice-of-law provisions), except to the extent Federal law would apply.
17. **Imposition of Other Requirements.** The Company reserves the right to impose other requirements on your participation in the Plan, on the Award and on any shares of Common Stock acquired under the Plan, to the extent the Company determines it is necessary or advisable in order to comply with applicable law or facilitate the administration of the Plan and provided the imposition of the term or condition will not result in adverse accounting expense to the Company, and to require you to sign any additional agreements or undertakings that may be necessary to accomplish the foregoing.
18. **Electronic Delivery and Acceptance.** The Company is electronically delivering documents related to current or future participation in the Plan and is requesting your consent to participate in the Plan by electronic means. You hereby consent to receive such documents by electronic delivery and agree to participate in the Plan through the current plan administrator's on-line system, or any other on-line system or electronic means that the Company may decide, in its sole discretion, to use in the future.
19. **Entire Agreement.** The Plan is incorporated herein by reference. The Plan and this Award Agreement [(including Exhibit A attached hereto)] constitute the entire agreement of the parties with respect to the Award and supersede in their entirety all prior proposals, undertakings and agreements, written or oral, and all other communications between you and the Company with respect to the Award.

**[Insert requirement to acknowledge and accept grant terms]**

**[Certain Definitions]**

[Separation from Service

A Participant's "Separation from Service" occurs upon his or her death, retirement or other termination of employment or other event that qualifies as a "separation from service" under Internal Revenue Code Section 409A and the applicable regulations thereunder as in effect from time to time. The Company shall determine in each case when a Participant's Separation from Service has occurred, which determination shall be made in a manner consistent with Treasury Regulation Section 1.409A-1(h). The Company shall determine that a Separation from Service has occurred as of a certain date when the facts and circumstances indicate that the Company (or an Affiliate, if applicable) and the Participant reasonably anticipate that, after that date, the Participant will render no further services, or the Participant's level of bona fide services (either as an employee or independent contractor) will permanently decrease to a level that is 20% or less than the average level of the Participant's bona fide services (either as an employee or independent contractor) previously in effect for such Participant over the immediately preceding 36-month period (or the Participant's entire period of service, if the Participant has been providing services for less than 36 months).

The following presumptions shall also apply to all such determinations:

- (1) Transfers. A Separation from Service has not occurred upon the Participant's transfer of employment from the Company to an Affiliate or vice versa, or from an Affiliate to another Affiliate.
- (2) Medical leave of absence. Where the Participant has a medical leave of absence due to any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than six months, and he or she has not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the earlier of: (A) the first day on which the Participant would not be considered "disabled" under any disability policy of the Company or Affiliate under which the Participant is then receiving a benefit; or (B) the first day on which the Participant's medical leave of absence period exceeds 29 months.
- (3) Military leave of absence. Where the Participant has a military leave of absence, and he or she has not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the day next following the last day on which the Participant is entitled to reemployment rights under USERRA.
- (4) Salary continuation leave. A Separation from Service has occurred on the first day of the Participant's salary continuation leave taken under the Company's Salary Continuation Pay Plan.
- (5) Other leaves of absence. In the event that the Participant is on a bona fide leave of absence, not otherwise described in this definition, from which he or she has not returned to employment with the Company or an Affiliate, the Participant's Separation from Service has occurred on the first day on which the Participant's leave of absence period exceeds six months or, if earlier, upon the Participant's termination of employment (provided that such termination of employment constitutes a Separation from Service in accordance with the last sentence of the first paragraph of this definition).
- (6) Asset purchase transaction. If, in connection with the sale or other disposition of substantial assets (such as a division or substantially all assets of a trade or business) of the Company or an Affiliate to an unrelated buyer, the Participant becomes an employee of the buyer or an affiliate of the buyer upon the closing of or in connection with such transaction, a Separation from Service has not occurred if the Company and the buyer have specified that such transaction will not, with respect to any individual affected by such transaction who becomes an employee of the buyer or an affiliate, be considered a "separation from service" under Treasury Regulation Section 1.409A-1(h), and such specification meets the requirements of Treasury Regulation Section 1.409A-1(h)(4).]

[Specified Employee

A "Specified Employee" means an individual who at any time during the applicable identification period is:

- (1) one of the top 50 most highly compensated officers in the Controlled Group with a title of Senior Vice President or above (where the "Controlled Group" includes the Company and its controlled group members); or

- (2) a member of the Wells Fargo Operating Committee or the Wells Fargo Management Committee Review Group; or
- (3) a "key employee" under Internal Revenue Code Section 416(i)(1)(A)(i), (ii) or (iii) (applied in accordance with the regulations thereunder and disregarding Internal Revenue Code Section 416(i)(5)).

For purposes of applying Internal Revenue Code Section 409A, the "identification period" is the 12-month period ending each December 31. Any person described in (1), (2) or (3) above during an identification period shall be treated as a Specified Employee for the entire 12-month period beginning on the following April 1.

Notwithstanding the above, in the event of a corporate transaction to which the Company or an Affiliate is a party, the Company may, in its discretion, establish a method for determining Specified Employees pursuant to Treasury Regulation Section 1.409A-1(i)(6).]

[Disability

You will be considered to have a "Disability" if you are (1) receiving income replacement benefits for a period of not less than three months under the Company's or an Affiliate's long-term disability plan as a result of any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than 12 months; or (2) determined by the Social Security Administration to be eligible for social security disability benefits.]

[Cause

"Cause" means (1) the continued failure by you to substantially perform your duties; (2) your conviction of a crime involving dishonesty or breach of trust, conviction of a felony, or commission of any act that makes you ineligible for coverage under the Company's fidelity bond or otherwise makes you ineligible for continued employment; or (3) your violation of the Company's policies, including but not limited to Wells Fargo's Code of Ethics and Business Conduct (or the Code applicable to your line of business), Anti-Bribery and Corruption Policy, Information Security Policies, and Risk Management Accountability Policy. For the avoidance of doubt, an event or conduct constituting Cause could take place before or after your termination of employment.]

[Change in Control

"Change in Control" means a change in the ownership or effective control of the Company or the Affiliate that employs you, or in the ownership of a substantial portion of the assets of the Company or the Affiliate that employs you within the meaning of Treas. Reg. section 1.409A-3(i)(5) as determined by the Company.]

End of Form of Restricted Share Rights Award Agreement

For Grants on or after February 24, 2020

## Exhibit 10(d)

# WELLS FARGO & COMPANY

## DEFERRED COMPENSATION PLAN

(As Amended and Restated Effective as of January 1, 2020)

1. **Purpose, History and Effective Dates.** On July 27, 1993, the Board of Directors of Norwest Corporation, a Delaware corporation now known as “Wells Fargo & Company” (the “Company”), authorized the creation of a nonqualified, unfunded, elective deferral plan known as the “Norwest Corporation Employees’ Deferred Compensation Plan” (the “Plan”) for the purpose of allowing a select group of management and highly compensated employees of the Company and its Affiliates to defer the receipt of compensation which would otherwise be paid to those employees. Effective July 1, 1999, the name of the Plan was changed to the “Wells Fargo & Company Deferred Compensation Plan.” The Company reserved the power to amend and terminate the Plan by action of the Human Resources Committee of the Company’s Board of Directors. The Human Resources Committee exercised that reserved power of amendment by the adoption of amended and restated Plan documents effective January 1, 2004, and effective January 1, 2008.

The terms of the 2008 Restatement were intended to comply with Internal Revenue Code §409A, as added by the American Jobs Creation Act of 2004 and applicable guidance thereunder. The terms of such Restatement applied to: (i) deferred compensation that relates all or in part to services performed on or after January 1, 2005, and (ii) deferred compensation that relates entirely to services performed on or before December 31, 2004 if such amounts were not earned or vested prior to January 1, 2005. The 2008 Restatement was not intended to materially modify the Plan with respect to any other amounts payable pursuant to the Plan and was construed and administered accordingly.

The Human Resources Committee exercised its reserved power of amendment by the adoption of an amended and restated Plan document (the “Restatement”) effective January 1, 2020 (the “Restatement Effective Date”).

The terms of this Restatement (i) incorporate all of the Plan’s amendments subsequent to the 2008 Restatement and prior to the Restatement Effective Date and (ii) clarify certain provisions relating to the Plan’s administration. This Restatement is not intended to material modify the Plan with respect to any amounts payable pursuant to the Plan.

2. **Definitions.** When the following terms are used herein with initial capital letters, they shall have the following meanings:

- (A) **Affiliate.** Any entity other than the Company that is part of a “single employer” within the meaning of subsection (b) or (c) of Code §414 that includes the Company; subject, however, to such aggregation rules as may be provided in applicable guidance under Code §409A.
- (B) **CD Option.** An earnings option based on a certificate of deposit in such denomination and for such duration as is determined from time to time by the Plan Administrator.
- (C) **Code.** The Internal Revenue Code of 1986, as from time to time amended.
- (D) **Common Stock.** Shares of Wells Fargo & Company common stock.
- (E) **Common Stock Earnings Option.** An earnings option based on shares of Common Stock.
- (F) **Compensation.** Base salary, bonuses, incentives and commissions earned by an Eligible Employee during the Deferral Year for services rendered to the Company or its Affiliates as determined by the Plan Administrator for that Deferral Year and payable (if not deferred) no later than March 15 of the Plan Year following the Deferral Year; provided, however, that Compensation shall not include:

- (1) any award under the Company's Long-Term Incentive Compensation Plan, or any successor to the plan;
  - (2) any amount if the right to receive that amount is conditioned on the Eligible Employee's Separation from Service;
  - (3) compensation paid on account of salary continuation leave;
  - (4) any amount paid after the pay period in which the Eligible Employee's Separation from Service (including a resignation or termination of employment at retirement age) occurs except bonuses payable after the March 1 immediately following the date the Employee incurs a Separation from Service if the Eligible Employee elected payment in annual installment's and Section 9(l) does not apply.
- (G) **Deferral Accounts.** Bookkeeping accounts maintained for a Participant to which are credited the amounts deferred under Deferral Elections, Stock Option Gain Deferral Elections and amounts credited pursuant to Appendix B and/or Appendix C of the Plan, together with any increase or decrease thereon, based on the earnings option(s) selected by the Participant or mandated by the Plan.
- (H) **Deferral Election.** An irrevocable election made by an Eligible Employee during an enrollment period specified by the Plan Administrator or the Plan to defer the receipt of Compensation for a given Deferral Year. The term "Deferral Election" does not include a Stock Option Gain Deferral Election or the automatic deferral of supplemental Company matching contributions credited pursuant to Appendix B of the Plan and/or supplemental discretionary profit sharing contributions credited pursuant to Appendix C of the Plan.
- (I) **Deferral Year.** The Plan Year for which a Deferral Election is made.
- (J) **Eligible Employee.** Each employee of the Company or any of its Affiliates who has been selected for participation in the Plan for a given Plan Year pursuant to Section 3 of the Plan and/or who receives an allocation pursuant to Appendix B and/or Appendix C of the Plan for a given Plan Year. Each Eligible Employee shall be a member of a "select group of management or highly compensated employees," within the meaning of Sections 201, 301 and 401 of ERISA,
- (K) **ERISA.** The Employee Retirement Income Security Act of 1974, as from time to time amended.
- (L) **Fund Option.** An earnings option based on a selection of registered investment companies, collective investment funds, private portfolios, or other comparable investment media chosen from time to time by the Company's Employee Benefit Review Committee, unless or until the Plan Administrator appoints a different individual or committee to select all or some of the earnings options.
- (M) **Initial Deferral Election.** The special Deferral Election described in Section 6(C) that is available only to certain Eligible Employees who have not previously participated in an account balance nonqualified deferred compensation plan maintained by the Company or an Affiliate.
- (N) **Key Employee.** If the Participant is determined to be a "Key Employee" for purposes of Code section 409A, no lump sum or installment payment shall be paid to the Participant prior to the date that is six months after the date the Participant's Separation from Service occurred. For purposes of this Plan, a Participant's status as a Key Employee shall be determined in accordance with the Wells Fargo & Company Key/Specified Employee Policy as adopted and amended from time to time by the Human Resources Committee of the Company's Board of Directors.
- (O) **Participant.** Each Eligible Employee who enters into a Deferral Election, who receives an allocation pursuant to Appendix B of the Plan, who receives an allocation pursuant to Appendix C of the Plan, who prior to 2004 entered into a Stock Option Gain Deferral Election, or who has a Transferred Account set up under the Plan. An employee who has become a Participant shall remain a Participant in the Plan until the date of the Participant's death, or if earlier, the date the Participant no longer has any accounts under the Plan.

- (P) **Plan Administrator.** “Plan Administrator” of the Plan is the Director of Human Resources and the Director of Compensation and Benefits, each of whom, acting individually, may take action as the Plan Administrator.
- (Q) **Plan Year.** The twelve-month period beginning on any January 1 and ending the following December 31.
- (R) **Separation from Service.** For purposes of this Plan, a participant’s “Separation from Service” occurs upon his or her death, retirement or other termination of employment or other event that qualifies as a “separation from service” under Code section 409A and the applicable regulations thereunder as in effect from time to time. The Plan Administrator shall determine in each case when a participant’s Separation from Service has occurred, which determination shall be made in a manner consistent with Treasury Regulation Section 1.409A-1(h). The Plan Administrator shall determine that a Separation from Service has occurred as of a certain date when the facts and circumstances indicate that the Company (or an Affiliate, if applicable) and the participant reasonably anticipate that, after that date, the participant will render no further services, or the participant’s level of bona fide services (either as an employee or independent contractor) will permanently decrease to a level that is 20% or less than the average level of the participant’s bona fide services (either as an employee or independent contractor) previously in effect for such participant over the immediately preceding 36-month period (or the participant’s entire period of service, if the participant has been providing services for less than 36 months). If the Participant incurs a Separation from Service as determined by the Plan Administrator, a subsequent rehire will not impact the prior Separation from Service determination and distribution will commence pursuant to Section 9.

The following presumptions shall also apply to all such determinations:

- (1) Transfers. A Separation from Service has not occurred upon the participant’s transfer of employment or of provision of services from the Company to an Affiliate or vice versa, or from an Affiliate to another Affiliate.
- (2) Medical leave of absence. Where the participant has a medical leave of absence due to any medically determinable physical or mental impairment that can be expected to result in death or can be expected to last for a continuous period of not less than six months, and he or she has not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the earlier of: (A) the first day on which the participant would not be considered “disabled” under any disability policy of the Company or Affiliate under which the participant is then receiving a benefit; or (B) the first day on which the participant’s medical leave of absence period exceeds 29 months.
- (3) Military leave of absence. Where the participant has a military leave of absence, and he or she has not returned to employment with the Company or an Affiliate, a Separation from Service has occurred on the day next following the last day on which the participant is entitled to reemployment rights under USERRA.
- (4) Salary continuation leave. A Separation from Service has occurred on the first day of the Participant’s salary continuation leave taken under the Company’s salary continuation leave program.
- (5) Other leaves of absence. In the event that the participant is on a bona fide leave of absence, not otherwise described in this Sec. 2(R), from which he or she has not returned to employment with the Company or an Affiliate, the participant’s Separation from Service has occurred on the first day on which the participant’s leave of absence period exceeds six months or, if earlier, upon the participant’s termination of employment (provided that such termination of employment constitutes a Separation from Service):
- (6) Asset purchase transaction. If, in connection with the sale or other disposition of substantial assets (such as a division or substantially all assets of a trade or business) of the Company or an Affiliate to an unrelated buyer, the participant becomes an employee of the buyer or an affiliate of the buyer upon the closing of or in connection with such transaction,

a Separation from Service has not occurred if the Company and the buyer have specified that such transaction will not, with respect to any individual affected by such transaction who becomes an employee of the buyer or an affiliate, be considered a "separation from service" under Treasury Regulation Section 1.409A-1(h), and such specification meets the requirements of Treasury Regulation Section 1.409A-1(h)(4).

- (S) **Stock Option Gain Compensation.** Gain realized from the exercise of specified Common Stock option grants under the Company's Long-Term Incentive Compensation Plan, or any other stock option plan approved by the Plan Administrator, using the stock-for-stock swap ("stock swap") method of exercise. Stock option gains derived from either a cash exercise or a same day sale are not Stock Option Gain Compensation.
- (T) **Stock Option Gain Deferral Election.** An irrevocable election to defer the receipt of Stock Option Gain Compensation made by an Eligible Employee prior to January 1, 2004.
- (U) **Transferred Account.** A bookkeeping account maintained for a Participant to which is credited the Participant's interest in any nonqualified deferred compensation plan transferred to this Plan, together with any increase or decrease thereon based on the earnings option(s) selected by the Participant or mandated by the Plan.

3. **Eligibility.** Each employee of the Company or an Affiliate who meets the requirements in Section 2(J) who has been selected for participation in the Plan by the Plan Administrator, or by such officers of the Company to whom the Plan Administrator has delegated its authority, shall be considered an Eligible Employee and shall be eligible to make Deferral Elections under the Plan until such time as the employee no longer meets the requirements in Section 2(J) or employee's selection has been revoked. In addition, each employee of the Company or an Affiliate who receives an allocation pursuant to Appendix B and/or Appendix C for a given Plan Year shall be considered an Eligible Employee but only with respect to the allocations under Appendix B and/or Appendix C, unless the employee has also been selected for participation pursuant to the previous sentence. Selection of an employee for participation in this Plan shall be deemed to occur on the date notice of the employee's selection is sent to the employee in accordance with the notice procedures established by the Plan Administrator. In the event an employee's selection is revoked and the employee ceases to be an Eligible Employee, such revocation shall have no effect on any outstanding deferral elections.

4. **Transferred Accounts.** Transferred Accounts created following a merger or transfer described in Appendix A shall be subject to the terms and conditions described in Appendix A. To the extent, if any, Appendix A makes distribution of a Transferred Account subject to the rules of this Plan without specifying whether the distribution rules of Section 8 or Section 9 will apply, the rules of this Plan applicable to distribution of the Transferred Account shall be (a) the rules in Section 8, if the Transferred Accounts are attributable to amounts earned and vested prior to January 1, 2005, and (b) the rules in Section 9, if the Transferred Accounts are attributable to amounts not earned and vested prior to January 1, 2005. Individuals for whom a Transferred Account is maintained shall be considered Participants in this Plan with respect to their Transferred Accounts from the date indicated in Appendix A through the date their Transferred Accounts are fully distributed. Such Participants shall not, however, be entitled to enter into Deferral Elections unless they are also Eligible Employees within the meaning of the Plan. The right of such Participants to make Deferral Elections shall be subject to any additional limitations described in Appendix A.

5. **Deferral of Compensation.**

- (A) **Deferral Elections for Deferral Years Beginning On or After January 1, 2008.** An Eligible Employee may elect to defer all or any part of his or her Compensation for a Deferral Year beginning on or after January 1, 2008, by making a Deferral Election in accordance with Section 6 below.
- (B) **Deferral Elections for Deferral Years Beginning Prior to January 1, 2008.** Deferral Elections for Deferral Years beginning prior to January 1, 2008, were made pursuant to the terms of the Plan in effect at the time of the Deferral Election.
- (C) **Stock Option Gain Deferral Elections.** Effective January 1, 2004, the Plan no longer permits Eligible Employees to enter into Stock Option Gain Deferral Elections. Stock Option Gain Deferral Elections made prior to that date were made pursuant to the terms of the Plan in effect at the time of the

Stock Option Gain Deferral Election. Notwithstanding anything in those terms or in this Plan to the contrary, Stock Option Gain Deferral Elections with respect to options that were not earned and vested as of December 31, 2004, and Stock Option Gain Deferral Elections with respect to options that have not been exercised before the Participant's employment termination, shall be void and have no effect.

6. **Deferral Elections.** Deferral Elections made with respect to Deferral Years beginning on or after January 1, 2008 shall be subject to the following:

- (A) **Time.** Except as otherwise provided in (C) below, an Eligible Employee who wishes to defer Compensation earned in a Deferral Year must file an irrevocable Deferral Election with respect to that Compensation during the enrollment period specified by the Plan Administrator for that Deferral Year, but no later than December 31 of the Plan Year preceding that Deferral Year. A Deferral Election shall be effective only for the Deferral Year specified in the Deferral Election. A new Deferral Election must be filed for each Deferral Year. For purposes of election timing under this Section 6(A), if Compensation consists of sales commissions, the Participant is treated as providing the services giving rise to such commissions in the Participant's taxable year in which the customer remits payment to the Company or its Affiliates, or, if applied consistently to all similarly situated service providers, in the Participant's taxable year in which the sale giving rise to the commissions occurs. For purposes of election timing under this Section 6(A), if Compensation consists of investment commissions, the Participant is treated as providing the services giving rise to such commissions over the 12 months preceding the date as of which the overall value of the assets or the asset accounts is determined for purposes of calculation of the commissions.
- (B) **Content.** An Eligible Employee's Deferral Election shall indicate the percentage of Compensation to be deferred, the earnings option(s) that will determine earnings on the deferred Compensation (see Section 7(A)), and the time and form of distribution (see Section 9). The Eligible Employee shall specify for each Compensation category the percentage to be deferred per pay period.
- (C) **Initial Deferral Elections.** An employee who:
  - (1) has not previously been eligible to participate in any "account balance plan" (as defined in Treas. Reg. §31.3121(v)(2)-1(c)(1)(ii)(A)) maintained by the Company or any Affiliate, other than a plan described in paragraph (c)(2)(i)(D), (E), (F), (G) or (H) of Treas. Reg. §1.409A-1, including any arrangement that would have been such an account balance plan if the person had been an employee at the time of his or her participation, and
  - (2) becomes an Eligible Employee on or before the one-month anniversary of the employee's date of hire,

may make a special Deferral Election ("Initial Deferral Election") within thirty (30) days after the date on which he or she became an Eligible Employee. An Initial Deferral Election shall apply only to Compensation earned from the beginning of the first full payroll period that starts after the Eligible Employee's Initial Deferral Election is received by the Plan Administrator or the person designated by the Plan Administrator to receive such elections. (For example, if a person is hired on April 2nd, becomes an Eligible Employee on April 10th, and files a Deferral Election on May 3rd, the Compensation deferred by that election will be the Eligible Employee's Compensation for the period beginning with the first full payroll period that starts after May 3rd and ending on December 31st of that same year.) The portion of bonus or incentive Compensation deferred by an Initial Deferral Election will be determined by multiplying the total amount earned during the Deferral Year by a fraction, the numerator of which is the number of days in the Deferral Year during and after such first full payroll period over which the bonus or incentive was earned and the denominator of which is the total number of days in the Deferral Year over which the bonus or incentive was earned, but disregarding any days prior to the Eligible Employee's date of hire. If an Eligible Employee is eligible to make an Initial Deferral Election during an enrollment period described in Section 6(A), any election made during the enrollment period will be treated as an election pursuant to Section 6(A), and not as an election pursuant to this Section 6(C), unless the election form clearly indicates that it is intended to be an Initial Deferral Election pursuant to this Section 6(C) or the Eligible Employee has previously filed an election pursuant to Section 6(A) during that enrollment period.



- (D) **Charges Against Accounts.** The Plan Administrator may allocate a portion of any administrative expenses of the Plan to each Participant's Deferral Accounts and/or Transferred Accounts, as applicable.
- (E) **Cancellation of Deferral Election.** Notwithstanding any other provision in the Plan to the contrary, an Eligible Employee's Deferral Election for a Deferral Year will be cancelled for the remainder of the Deferral Year following the date the Eligible Employee receives a hardship distribution from any Code section 401(k) plan maintained by the Company or an Affiliate of the Company in accordance with Treas. Reg. section 1.409A-3(j)(4)(viii). In the event that the end of a six month period following the date that an Eligible Employee receives a hardship distribution from any Code section 401(k) plan maintained by the Company or an Affiliate of the Company spans two Deferral Years, the Eligible Employee's Deferral Election for the second Deferral Year shall not become effective until after the end of the six month period.
- (F) **Reduced by Payroll Deductions.** The amount of Compensation actually deferred shall be reduced to the extent necessary (1) to pay the Federal Insurance Contributions Act ("FICA") taxes imposed under §3101 and §3111 of the Code and any other payroll deductions determined by the Plan Administrator prior to the beginning of the Deferral Year, or (2) to satisfy any limitations established by the Plan Administrator prior to the beginning of the Deferral Year.

7. **Deferral Account Valuation.**

- (A) **Earnings Options.** At the time of the Participant's Deferral Election, a Participant must choose to allocate the amounts that will be credited to the Participant's Deferral Account among the following earnings options in increments of one (1) percent:
  - (1) Common Stock Earnings Option
  - (2) CD Option
  - (3) Fund Options

All deferred Stock Option Gain Compensation will automatically be allocated to the Common Stock Earnings Option. All allocations credited pursuant to Appendix B and/or Appendix C of the Plan shall be automatically allocated to one or more Fund Options (other than the Common Stock Earnings Option) as selected by the Plan Administrator from time to time until the Participant makes a subsequent investment election applicable to those allocations. Except with respect to amounts allocated to the Common Stock Earnings Option, which may not subsequently be reallocated to another earnings option, a Participant may change the earnings options as of each business day or less frequently if and as determined by the Plan Administrator. A reallocation election will not change the allocation of future deferrals.

- (B) **Periodic Credits of Deferral Amounts.** Deferred Compensation shall be credited to a Participant's Deferral Account as of the day it would otherwise have been paid to the Participant. Stock Option Gain Compensation will be credited to a Participant's Deferral Account as of the stock option exercise date. All periodic credits to a Participant's Deferral Account under the Fund Options shall be in share equivalents of the Fund Options. All periodic credits to a Participant's Deferral Account under the Common Stock Earnings Option shall be in share equivalents of Common Stock. The number of share equivalents of Common Stock credited to a Deferral Account for Compensation or Stock Option Gain Compensation allocated to the Common Stock Earnings Option shall be determined by dividing the amount so allocated by the New York Stock Exchange-only closing price per share of Common Stock on the day as of which the amount is credited (or, if the New York Stock Exchange is closed on that date, on the next preceding date on which it is open).
- (C) **Increase or Decrease to Deferral Accounts.** The value of a Participant's Deferral Account will increase or decrease as follows:
  - (1) **CD Option.** The amount of the increase or decrease for the CD Option for a particular calendar month is calculated based on the interest rate as of the first business day of that month for a certificate of deposit in such denomination and for such duration as is determined by the Plan Administrator.

- (2) **Fund Options.** The amount of the increase or decrease for a Fund Option is based on the performance for the selected Fund Option.
- (3) **Common Stock Earnings Option.** The amount of the increase or decrease for the Common Stock Earnings Option is based on the performance of the Common Stock including dividends. Common Stock dividend equivalents will be credited under the Common Stock Earnings Option at the same time and same rate as dividends are paid on shares of Common Stock. Cash dividend equivalents shall be converted to share equivalents based on the New York Stock Exchange-only closing price per share of Common Stock on the last business day prior to the dividend payment date (or, if the New York Stock Exchange is closed on that date, on the next preceding date on which it is open).

8. **Distribution of Accounts Earned and Vested Prior to January 1, 2005.** Deferral Accounts earned and vested prior to January 1, 2005 (including all Deferral Accounts attributable to Stock Option Gain Deferral Elections), shall be distributed in accordance with the applicable Deferral Election or Stock Option Gain Deferral Election, subject to the following:

- (A) **Lump Sum or Installment Distributions.** The Participant must elect to receive the balance of each Deferral Account in either a lump sum or in annual installments over a period of years up to ten.
- (B) **Timing of Distribution.** The Participant must designate on his or her Deferral Election the year that distribution from the resulting Deferral Account shall commence. For purposes of Stock Option Gain Deferral Elections, the Participant may not elect to receive the distribution earlier than twelve (12) months after the date on which the option is exercised. In all events, however, distribution shall commence as soon as practicable after the March 1 immediately following the date the Participant ceases to be employed by the Company and its Affiliates. A Participant who is actively employed by the Company or an Affiliate shall be permitted to make a one-time redeferral election to push back the timing of distribution of a particular Deferral Year by selecting a new distribution year that is at least three (3) years beyond the originally elected distribution year and by completing an election form in a form provided by the Plan Administrator at least twelve (12) months prior to the originally elected distribution year. If a Participant redefers by electing a new distribution year for a particular Deferral Year, that Deferral Account shall become subject to the terms of the Plan in effect for Deferral Accounts earned and vested prior to January 1, 2005 at the time of the new distribution election including the early withdrawal provisions. An election of a new distribution year shall not change the form of distribution (lump sum or installments) originally selected on the Participant's Deferral Election.
- (C) **Upon Death.** If a Participant dies before receiving all payments under the Plan, payment of the balance in the Participant's Deferral Accounts shall be made to the Participant's designated beneficiary in the forms of distribution elected by the Participant on the Participant's Deferral Elections as soon as practicable after the March 1 following the date of the Participant's death. To be valid, any such designation shall be in such form as the Plan Administrator may prescribe, and shall be filed with the Plan Administrator or its agent prior to the Participant's death.

If at the time of a Participant's death the Plan Administrator or its designated agent is not in possession of a fully effective designation of beneficiary, or if the designated beneficiary does not survive the Participant, the Participant's beneficiary shall be the person or persons surviving in the first of the following classes in which the Participant's death.

If at the time of a Participant's death the Plan Administrator or its designated agent is not in possession of a fully effective designation of beneficiary, or if the designated beneficiary does not survive the Participant, the Participant's beneficiary shall be the person or persons surviving in the first of the following classes in which there is a survivor, share and share alike:

- (1) The Participant's spouse or domestic partner.
- (2) The Participant's biological and adopted children, except that if any of his or her children predecease the Participant but leave descendants surviving the Participant, such

descendants shall take by right of representation the share their parent would have taken if living.

- (3) The Participant's parents.
- (4) The Participant's brothers and sisters.
- (5) The Participant's estate.

If a beneficiary survives the Participant but dies before receiving the balance of the Participant's Deferral Accounts (or the beneficiary's share of such Participant's Deferral Accounts balance in the case of more than one beneficiary), that beneficiary's share of the Participant's Deferral Accounts shall be made to the beneficiary's estate.

- (D) **Transitional Rule.** Notwithstanding the foregoing distribution rules contained in this Section 8, a Participant who was employed by the Company on January 1, 2000 and who entered into a Deferral Election for a Deferral Year prior to January 1, 2000 or had a Transferred Account (collectively "Prior Deferral Elections") and who had not commenced distribution of such Prior Deferral Election prior to January 1, 2000, was given a one-time opportunity effective January 1, 2000 to elect to change the method of distribution (lump sum versus installments) or to postpone the distribution commencement date for a Prior Deferral Election for a period of at least one year from the original distribution commencement date selected on the Prior Deferral Election. To be effective, such change had to be submitted to the Plan Administrator on a form provided by the Plan Administrator by December 31, 1999, or if earlier, a date required by the Plan Administrator. If the change was not submitted by December 31, 1999, the method and timing of distribution elected on the Prior Deferral Election remained in effect. If the Participant elected to make a change to a Prior Deferral Election, the amount deferred under the Prior Deferral Election and all earnings attributable to that Prior Deferral Election became subject to the distribution rules contained in this Section 8 and the timing and form of distribution selected on the Prior Deferral Election was no longer applicable with respect to distributions on account of termination of employment, retirement or disability. For purposes of a Prior Deferral Election made under this Plan, "retirement" means the Participant's termination of employment with the Company after the Participant's attainment of regular or early retirement as defined in Section 6.1 or 6.2 of the Norwest Corporation Pension Plan in effect on June 30, 1999. Also, for purposes of Prior Deferral Elections made under this Plan, "disability" means the Participant's total disability as described in the Wells Fargo & Company Long-Term Disability Plan, as amended from time to time.
- (E) **Form of Distributions.** All distributions from Deferral Accounts shall be payable as follows:
- (1) in cash, for all Deferral Accounts in an earnings option other than the Common Stock Earnings Option; or
  - (2) in shares of Common Stock (and cash for any fractional share), for the portion of the Deferral Accounts in the Common Stock Earnings Option.
- (F) **Valuation of Deferral Accounts for Distribution.**
- (1) The amount of the distribution in cash and/or Common Stock shall be determined based on the Participant's Deferral Account balance (and, if applicable, the price of Common Stock) as of the close of business on March 1 of the year of distribution (or the next following business day if March 1 is not a business day). The amount of the distribution in cash and/or Common Stock as of any other date on which a distribution is made shall be determined based on the Participant's Deferral Account balance (and, if applicable, the price of Common Stock) as of the close of business on the last business day of the month in which the event which triggers distribution occurs. Earnings adjustments to amounts that have been valued for distribution shall cease as of the date used to value such amounts.
  - (2) The amount of each installment payment will be based on the value of the Participant's Deferral Account as of the close of business on March 1 of the year of the installment

payment (or the next following business day if March 1 is not a business day) and the number of the installments remaining. The balance remaining in the Deferral Account shall continue to be adjusted based on the earnings option(s) among which the Deferral Account is allocated until the valuation date used to determine the amount of the last payment. All installment payments will be made by pro rata distributions from each earnings option.

- (G) **Early Withdrawal.** Effective January 1, 2004, the Plan will not allow early withdrawals for any reason from Deferral Accounts attributable to Deferral Years commencing on or after January 1, 2004 and to Deferral Accounts attributable to Deferral Years commencing prior to January 1, 2004 that were subject to a change in the time of distribution election made pursuant to Section 8(B). A Participant or beneficiary who wishes to receive payment of all or part of the Participant's other Deferral Accounts for Deferral Years prior to 2004 on a date earlier than that specified in the Deferral Election or in the case of a beneficiary in accordance with Section 8(C), may do so by filing with the Plan Administrator a request for early withdrawal. Such payment will be made from the earliest Deferral Year(s) in which the Participant has participated in the Plan. Partial withdrawals of a given Deferral Year's deferral are not permitted. Deferral Accounts will be distributed in the order in which the accounts were established. Stock Option Gain Compensation deferrals will be distributed in the order in which the accounts were established following the distribution of all funds from the Compensation Deferrals. For the appropriate Deferral Year(s), account accruals to date shall be disbursed completely, less a 10% early withdrawal penalty on the amount distributed. The 10% penalty assessed for early withdrawal will be permanently forfeited by the Participant and will be credited to the account of the Company. Further, the Participant shall forfeit eligibility to defer Compensation under this Plan during the two Deferral Years following the year in which the early withdrawal is made, but in no case shall an early withdrawal cause a current Deferral Election (either of Compensation or Stock Option Gain Compensation) to be suspended or canceled. In no case may a Participant or beneficiary make more than one early withdrawal per calendar year.
- (H) **Accounts Less Than \$25,000.** Notwithstanding the foregoing provisions of this Section 8, if the aggregate value of the Participant's Deferral Accounts attributable to (a) Deferral Elections made for Deferral Years commencing on or after January 1, 2000, (b) Deferral Elections made on July 1, 1999 by transferred BRP Participants, and (c) any Prior Deferral Elections that became subject to the terms of this Plan in accordance with Section 8 (D), is less than \$25,000 at the end of the month in which the Participant's employment terminates, then the portion of such Deferral Accounts subject to the distribution rules in this Section 8 shall be paid in a lump sum as soon as practicable after the March 1 immediately following the Participant's termination date.
- (I) **Definitions Relating to Marital Status.** For all purposes under this Plan, the following terms have the meanings assigned to them below:
- (1) The term "spouse" means a person to whom the Participant is legally married at the relevant time under the laws of any U.S. or foreign jurisdiction having the legal authority to sanction marriages, including the common-law spouse of a Participant in a legally recognized common-law marriage. The term "spouse" does not include an individual who has entered into a registered domestic partnership, civil union or other similar formal relationship with a Participant recognized under the law of any U.S. or foreign jurisdiction that is not denominated as a marriage under the laws of that U.S. or foreign jurisdiction. Notwithstanding any provision of this Plan to the contrary, this provision shall be construed in accordance with Federal law.
  - (2) The term "domestic partner" means a person who is not the spouse of the Participant as defined in subsection (1) of this section, but who at the relevant time is the Participant's significant other (together referred to as "partners") with whom the Participant lives and shares financial responsibility. A domestic partner may be of the same gender as the Participant or of opposite gender. A person will be considered a domestic partner of the Participant if the person and the Participant are joined in a civil union (or other similar formal relationship) that is recognized as creating some or all of the rights of marriage under the laws of the state or country in which the union was created, but which is not denominated or recognized as marriage under the laws of that state or country. A person will be considered a domestic partner of the Participant if the Participant or other person

can provide a domestic partnership certificate to the Plan Administrator from a city, county, state or country which offers the ability to register a domestic partnership. A person who is not joined in civil union (or similar formal relationship) and is not registered in a domestic partnership with the Participant will not be considered a domestic partner unless the Participant and/or domestic partner provide sufficient evidence to the Plan Administrator that all of the following requirements are satisfied:

- (a) The partners have shared a single, intimate, and committed relationship of mutual caring for at least six months and intend to remain in the relationship indefinitely.
- (b) The partners reside together in the same residence and have lived in a spouse-like relationship for at least six months.
- (c) The partners are not related by blood or a degree of closeness which would prohibit marriage under the law of the state in which they reside.
- (d) Neither partner is married to another person under federal, state, or common law, and neither has another domestic partner or is a member of another domestic partnership.
- (e) Each partner is mentally competent to consent or contract.
- (f) Both partners are at least 18 years of age.
- (g) The partners are financially interdependent, are jointly responsible for each other's basic living expenses, and are able to provide documents proving at least three of the following situations to demonstrate such financial interdependence:
  - (i) Joint ownership of real property or a common leasehold interest in real property.
  - (ii) Common ownership of an automobile.
  - (iii) Joint bank or credit accounts.
  - (iv) A will which designates the other as primary beneficiary.
  - (v) A beneficiary designation form for a retirement plan or life insurance policy signed
  - (vi) Designation of one partner as holding power of attorney for health care decisions for the other.

9. **Distribution of Accounts Not Earned and Vested Prior to January 1, 2005.** Deferral Accounts not earned and vested prior to January 1, 2005 shall be distributed in accordance with the applicable Deferral Election, subject to the following:

- (A) **Lump Sum or Installment Distributions.** The Participant must elect to receive the balance of each Deferral Account in either a lump sum or in annual installments over a period of years up to ten (10) years, except that the total amount accumulated pursuant to Appendix B and/or Appendix C of the Plan shall automatically be paid in a lump sum.
- (B) **Timing of Distribution.** Except with respect to the total amount accumulated pursuant to Appendix B and/or Appendix C of the Plan, the Participant must designate on his or her Deferral Election the year that distribution from the resulting Deferral Account shall commence. Distribution will commence on or as soon as practicable after March 1 of the distribution commencement year, but not later than December 31 of that year. If the Participant elected to receive installments, distribution of each subsequent annual installment shall occur on or as soon as practicable after March 1 of the installment year, but not later than December 31 of that year. If distribution does

not commence earlier pursuant to the preceding provisions of this Section 9(B) or due to Section 9(C) or Section 9(D) below, distribution shall commence on or as soon as practicable after the March 1 immediately following, the Participant's Separation from Service if the Participant is not a Key Employee but not later than December 31 of that year. Notwithstanding the foregoing, distribution of any Participant subject to the requirements of Section 23 shall not commence earlier than provided in Section 23.

If the Participant is a Key Employee, distribution shall commence on or as soon as practicable after the later of the March 1 immediately following the Participant's Separation from Service or six months after the Participant's Separation from Service. (For example, if a Key Employee had a Separation from Service on October 1, 2008, a distribution attributable to that Key Employee's Separation from Service would commence on or as soon as practicable after April 1, 2009, which is a date six months immediately following the Participant's Separation from Service.)

- (C) **Redeferral.** A Participant who has not had a Separation from Service may elect to delay the distribution of any one or more of such Participant's Deferral Accounts except any amounts accumulated under Appendix B and/or Appendix C of the Plan, subject to the provisions of Section 9(B) above regarding payment following Separation from Service, by electing a new distribution commencement year that is at least five (5) years beyond the originally elected distribution commencement year. Any such redeferral election shall be made by filing an election on a form and in the manner provided by the Plan Administrator at least twelve (12) months prior to the originally elected distribution year and shall not take effect until at least 12 months after the date on which it is filed. A redeferral election shall not change the form of distribution (lump sum or installments) originally selected on the Participant's Deferral Election for the relevant Deferral Account. Only one redeferral election shall be permitted for any Deferral Account.
- (D) **Upon Death.** If a Participant dies before receiving all payments under the Plan, payment of the balance in the Participant's Deferral Accounts, excluding the amounts accumulated under Appendix B and/or Appendix C of the Plan shall be made to the Participant's designated beneficiary in the forms of distribution elected by the Participant on the Participant's Deferral Elections. Payment of the amounts accumulated under Appendix B and/or Appendix C of the Plan shall be paid in a lump sum to the Participant's designated beneficiary as soon as practicable after the March 1 following the date of the Participant's death. If a payment of a Deferral Account, excluding the amounts accumulated under Appendix B and/or Appendix C commenced prior to the Participant's death, payments from that Deferral Account after the Participant's death shall be made to the Participant's designated beneficiary when they would have been made to the Participant if the Participant had survived. If payment of a Deferral Account, excluding the amounts accumulated under Appendix B and/or Appendix C did not commence prior to the Participant's death, payments from that Deferral Account after the Participant's death shall commence as soon as practicable after March 1 following the date of the Participant's death. To be valid, any such designation shall be in such form as the Plan Administrator may prescribe, and shall be filed with the Plan Administrator or its agent prior to the Participant's death.

If at the time of a Participant's death the Plan Administrator or its designated agent is not in possession of a fully effective designation of beneficiary, or if the designated beneficiary does not survive the Participant, the Participant's beneficiary shall be the person or persons surviving in the first of the following classes in which there is a survivor, share and share alike:

- (1) The Participant's spouse or domestic partner.
- (2) The Participant's biological and adopted children, except that if any of his or her children predecease the Participant but leave descendants surviving the Participant, such descendants shall take by right of representation the share their parent would have taken if living.
- (3) The Participant's parents.
- (4) The Participant's brothers and sisters.

- (5) The Participant's estate.

If a beneficiary survives the Participant but dies before receiving the balance of the Participant's Deferral Accounts (or the beneficiary's share of such Participant's Deferral Accounts balance in the case of more than one beneficiary), that beneficiary's share of the Participant's Deferral Accounts shall be made to the beneficiary's estate.

- (E) **Form of Distributions.** All distributions from Deferral Accounts shall be payable as follows:

- (1) in cash, for all Deferral Accounts in an earnings option other than the Common Stock Earnings Option; or
- (2) in shares of Common Stock (and cash for any fractional share), for the portion of the Deferral Accounts in the Common Stock Earnings Option.

- (F) **Valuation of Deferral Accounts for Distribution.**

- (1) The amount of the distribution in cash and/or Common Stock shall be determined based on the Participant's Deferral Account balance as of the close of business on March 1 of the year of distribution (or the next following business day if March 1 is not a business day). Earnings adjustments to amounts that have been valued for distribution shall cease as of the date used to value such amounts.
- (2) The amount of each installment payment will be based on the value of the Participant's Deferral Account as of the close of business on March 1 of the year of the installment payment (or the next following business day if March 1 is not a business day) and the number of the installments remaining. The balance remaining in the Deferral Account shall continue to be adjusted based on the earnings option(s) among which the Deferral Account is allocated until the valuation date used to determine the amount of the last payment. All installment payments will be made by pro rata distributions from each earnings option.

- (G) **Withdrawals Due to Unforeseeable Emergency.** Notwithstanding any provision of this Section 9 to the contrary, a Participant may withdraw all or a portion of the balance of the Participant's Deferral Accounts, except the total amount accumulated pursuant to Appendix B and/Appendix C of the Plan, established for Deferral Years commencing on or after January 1, 2013 (the "eligible Deferral Accounts") due to unforeseeable emergency, subject to the following:

- (a) For purposes of this section, "unforeseeable emergency" means a severe financial hardship resulting from (i) illness or accident of the Participant or his or her spouse, beneficiary or dependent, (ii) loss of the Participant's home or property due to casualty, or (iii) other similar extraordinary and unforeseeable circumstances beyond the control of the Participant. For example, needs such as the following may constitute unforeseeable emergencies: (1) imminent foreclosure of or eviction from the Participant's primary residence; (2) funeral expenses for the Participant's spouse, beneficiary or dependent; or (3) uninsured medical expenses of the Participant or his or her spouse, beneficiary or dependent.
- (b) Withdrawals are available both before and after a Participant's Separation from Service.
- (c) Withdrawals under this Section are not permitted to the extent the Participant's hardship is or may be relieved through reimbursement or compensation from insurance or otherwise, by liquidation of the Participant's assets (to the extent liquidation would not cause a severe financial hardship), or by cessation of deferrals under the Plan. For this purpose, any additional compensation that is available from a qualified employer plan (including any loan) or that, due to the unforeseeable emergency, is available under another nonqualified deferred compensation plan may be disregarded.

- (d) If a Participant takes a withdrawal under this section, his or her Deferral Election for the Deferral Year in which the withdrawal occurs (if any) will be terminated and no eligible Compensation will be deferred under Section 5 for the remainder of that Deferral Year.
  - (e) The amount withdrawn shall not exceed the amount reasonably necessary to satisfy the unforeseeable emergency (which may include amounts necessary to pay any Federal, state, or local income taxes or penalties reasonably anticipated to result from the withdrawal).
  - (f) Withdrawal requests must be made in writing and are subject to approval by the Plan Administrator. The Plan Administrator has discretionary authority to determine the extent to which a payment available under this Section 9(G) will be made. The Participant must supply any financial or other information the Plan Administrator determines is necessary to determine whether to permit the withdrawal.
  - (g) The Participant's eligible Deferral Account balance will be reduced by the amounts withdrawn. If the Participant has more than one eligible Deferral Account, the Plan Administrator will designate how the withdrawal amount is allocated among those eligible Deferral Accounts at the time the withdrawal is paid.
- (H) **Definitions Relating to Marital Status.** For all purposes under this Plan, the following terms have the meanings assigned to them below:
- (1) The term "spouse" means a person to whom the Participant is legally married at the relevant time under the laws of any U.S. or foreign jurisdiction having the legal authority to sanction marriages, including the common-law spouse of a Participant in a legally recognized common-law marriage. The term "spouse" does not include an individual who has entered into a registered domestic partnership, civil union or other similar formal relationship with a Participant recognized under the law of any U.S. or foreign jurisdiction that is not denominated as a marriage under the laws of that U.S. or foreign jurisdiction. Notwithstanding any provision of this Plan to the contrary, this provision shall be construed in accordance with Federal law.
  - (2) The term "domestic partner" means a person who is not the spouse of the Participant as defined in subsection (1) of this section, but who at the relevant time is the Participant's significant other (together referred to as "partners") with whom the Participant lives and shares financial responsibility. A domestic partner may be of the same gender as the Participant or of opposite gender. A person will be considered a domestic partner of the Participant if the person and the Participant are joined in a civil union (or other similar formal relationship) that is recognized as creating some or all of the rights of marriage under the laws of the state or country in which the union was created, but which is not denominated or recognized as marriage under the laws of that state or country. A person will be considered a domestic partner of the Participant if the Participant or other person can provide a domestic partnership certificate to the Plan Administrator from a city, county, state or country which offers the ability to register a domestic partnership. A person who is not joined in civil union (or similar formal relationship) and is not registered in a domestic partnership with the Participant will not be considered a domestic partner unless the Participant and/or domestic partner provide sufficient evidence to the Plan Administrator that all of the following requirements are satisfied:
    - (a) The partners have shared a single, intimate, and committed relationship of mutual caring for at least six months and intend to remain in the relationship indefinitely.
    - (b) The partners reside together in the same residence and have lived in a spouse-like relationship for at least six months.



- (c) The partners are not related by blood or a degree of closeness which would prohibit marriage under the law of the state in which they reside.
- (d) Neither partner is married to another person under federal, state, or common law, and neither has another domestic partner or is a member of another domestic partnership.
- (e) Each partner is mentally competent to consent or contract.
- (f) Both partners are at least 18 years of age.
- (g) The partners are financially interdependent, are jointly responsible for each other's basic living expenses, and are able to provide documents proving at least three of the following situations to demonstrate such financial interdependence:
  - (i) Joint ownership of real property or a common leasehold interest in real property.
  - (ii) Common ownership of an automobile.
  - (iii) Joint bank or credit accounts.
  - (iv) A will which designates the other as primary beneficiary.
  - (v) A beneficiary designation form for a retirement plan or life insurance policy signed and completed to the effect that one partner is a beneficiary of the other.
  - (vi) Designation of one partner as holding power of attorney for health care decisions for the other.
- (l) **Accounts Less Than Code §402(g) Threshold.** Notwithstanding the foregoing provisions of this Section 9, if
  - (1) the aggregate value of the Participant's Deferral Accounts that are subject to the distribution rules in this Section 9, Appendix B and/or Appendix C of the Plan due to Separation from Service or death is less than the applicable dollar amount under Code §402(g)(1)(B) as of the end of the month following the Participant's Separation from Service or death, and
  - (2) a lump sum payment of the value referred to in (1) above would result in the termination and liquidation of the entirety of the Participant's interest under the Plan and any other agreements, methods, programs or other arrangements with respect to which deferrals of compensation are treated as having been deferred under a single nonqualified deferred compensation plan under Treas. Reg. §1.409A-1(c)(2), taking into account only such interests as are subject to Code §409A,

then the value of the Deferral Accounts except the total amount accumulated pursuant to Appendix B and/or Appendix C of the Plan shall be distributed in a single lump sum on the date that the first payment would occur pursuant to the foregoing provisions of this Section 9. The total amount accumulated pursuant to Appendix B and/or Appendix C of the Plan shall be distributed in a single lump sum pursuant to Appendix B and/or Appendix C as applicable.

10. **Nonassignability.** No Participant or beneficiary shall have any interest in any accounts under this Plan that can be transferred, nor shall any Participant or beneficiary have any power to anticipate, alienate, dispose of, pledge or encumber the same while in the possession or control of the Company, nor shall the Company recognize any assignment thereof, either in whole or in part, nor shall any account be subject to attachment, garnishment, execution following judgment or other legal process while in the possession or control of the Company. The designation of a beneficiary by a Participant does not constitute a transfer.

11. **Withholding of Taxes.** Distributions under this Plan shall be subject to the deduction of the amount of any federal, state, or local income taxes, Social Security tax, Medicare tax, or other taxes required to be withheld from such payments by applicable laws and regulations.

12. **Unsecured Obligation.** The obligation of the Company to make payments under this Plan constitutes only the unsecured (but legally enforceable) promise of the Company to make such payments. The Participant shall have no lien, prior claim or other security interest in any property of the Company. The Company is not required to establish or maintain any fund, trust or account (other than a bookkeeping account or reserve) for the purpose of funding or paying the benefits promised under this Plan. If such a fund is established, the property therein shall remain the sole and exclusive property of the Company. The Company will pay the cost of this Plan out of its general assets. All references to accounts, accruals, gains, losses, income, expenses, payments, custodial funds and the like are included merely for the purpose of measuring the Company's obligation to Participants in this Plan and shall not be construed to impose on the Company the obligation to create any separate fund for purposes of this Plan.

13. **Trust Fund.** If the Company chooses to fund credits to Participants' accounts, all cash contributed for such funding shall be held and administered in trust in accordance with the terms and provisions of a trust agreement between the Company and the appointed trustee or any duly appointed successor trustee. All Common Stock or other funds in the trust shall be held on a commingled basis and shall be subject to the claims of the general creditors of the Company. Plan accounts shall be for bookkeeping purposes only, and the establishment of Plan accounts shall not require segregation of trust assets.

14. **No Guarantee of Employment.** Participation in this Plan does not constitute a guarantee or contract of employment with the Company or any of the Company's Affiliates. Such participation shall in no way interfere with any right of the Company or any Affiliate to determine the duration of a Participant's employment or the terms and conditions of such employment.

15. **Administration.** The Plan Administrator or its delegate shall have the exclusive authority and responsibility for all matters in connection with the operation and administration of the Plan. The Plan Administrator's powers and duties shall include, but shall not be limited to, the following: (a) responsibility for the compilation and maintenance of all records necessary in connection with the Plan; (b) discretionary authority to interpret the terms of the Plan; (c) authorizing the payment of all benefits and expenses of the Plan as they become payable under the Plan; (d) authority to engage such legal, accounting and other professional services as it may deem necessary; (e) authority to adopt rules and procedures for implementing the Plan; (f) discretionary authority to determine Participants' eligibility for benefits under the Plan; (g) set limits on the percentage or amount of Compensation that may be deferred in a Deferral Year; and (h) to resolve all issues of fact and law in connection with such determinations. The decision of the Plan Administrator on any matter affecting the Plan or the rights and obligations arising under the Plan shall be final and binding upon all persons.

16. **Common Stock.** Subject to adjustment as provided in this Section 16, the maximum number of shares of Common Stock that may be credited under the Plan is 16,000,000. If the Company shall at any time increase or decrease the number of its outstanding shares of Common Stock or change in any way the rights and privileges of such shares by means of the payment of a stock dividend or any other distribution upon such shares payable in Common Stock, or through a stock split, subdivision, consolidation, combination, reclassification, or recapitalization involving the Common Stock, then the numbers, rights, and privileges of the shares issuable under the Plan shall be increased, decreased, or changed in like manner as if such shares had been issued and outstanding, fully paid, and non-assessable at the time of such occurrence.

17. **Claims Procedure.** No application is required for the payment of benefits under the Plan other than a financial hardship distribution as set forth in Section 9(G) of this Plan. However, if any Participant (or beneficiary) believes he or she is entitled to a benefit from the Plan which differs from the benefit determined by the Plan Administrator, then such individual may file a written claim for benefits with the Plan Administrator. The following procedures will be used to review claims for benefits and any other claims filed by Participants or other individuals under ERISA with respect to the Plan:

- (A) **Claims and Appeals.** If the Participant believes there is an error in his or her account or in a distribution, believes he or she is entitled to different benefits from the Plan, or disagrees with any determination that has been made reflecting the Participant's benefits under the Plan, the Participant (or the Participant's authorized representative) may present a claim in

writing for a review. The Participant's written claim should explain, as best he or she can, what the Participant wants and why the Participant believe he or she is entitled to it, and should include copies of any relevant documents. The Participant should specifically designate the claim as a "claim for benefits." The Participant should sign and submit the claim by mail or in person to the following address:

Wells Fargo & Company

c/o Wells Fargo & Company Deferred Compensation Plan Administrator

11625 North Community House Road

MAC D1185-031

Charlotte, NC 28277

(B) **Initial Review.** Ordinarily, the Plan Administrator will respond to a claim within 90 days after receiving it. The Participant will receive either:

- A decision; or
- A notice describing special circumstances requiring a specified amount of additional time (but no more than 180 days from the day the Participant delivered the claim) to reach a decision.

If the Participant's claim is fully or partially denied, the Participant will receive a written notice specifying:

- The reasons for the denial;
- The Plan provisions on which the denial is based; and
- Any additional information needed from the Participant in connection with the claim and the reason such information is needed.

The Participant will also receive information about his or her right to request a review as set forth in Section 17(C) below.

(C) **Appealing a Decision,** If the Participant does not agree with the Plan Administrator's decision and the Participant wants to pursue the matter further, the Participant (or the Participant's authorized representative) must request that the decision be reviewed by the Plan Administrator by filing a written request for review within 60 days after receiving the notice that the claim has been denied. The Plan Administrator reserves the right to delegate its authority to review appeals.

The Participant's written appeal should describe all reasons why he or she believes the claim denial was in error, and should include copies of any documents the Participant wants considered in support of the appeal. The appeal will be decided based on the information in the file, so the Participant should make sure that the submission is complete. The Participant may request copies of (or reasonable access to) all pertinent Plan documents and other information relevant to the claim for benefits, free of charge. The Participant (or the Participant's authorized representative) may also present written statements explaining why the Participant believes he or she is entitled to the benefits claimed and any other information that supports the claim.

Generally, appeals will be reviewed within 60 days of receipt. However, if special circumstances require a delay, the review may take up to 120 days. The Participant

will receive written notice of any delay. A decision regarding the appeal will be in writing and will specify the Plan provisions on which the decision is based.

All decisions of the Plan Administrator are binding and conclusive on all parties. The Participant does, however, have the right to bring a civil action under Section 502(a) of ERISA following an adverse decision on an appeal. If the Participant does not receive a decision within the specified time, the Participant should assume that the claim or appeal was denied on the date the specified time expired. The Participant may, at his or her own expense, have an attorney or other representative act on the Participant's behalf, but the Plan Administrator reserves the right to require a written authorization.

- (D) **Deadline for Legal Action.** Any lawsuit challenging a claim denial must be commenced within six months after the date on the denial letter. In addition to that six month deadline, there is an additional "catch-all" limitation that applies to all lawsuits involving Plan benefits. Any such lawsuit must be commenced no later than two years after the Participant or other claimant first receives information that constitutes a clear repudiation of the rights the individual is seeking to assert. This two-year limitation period will not run during the period of time, if any, when the claim is in the claims procedure process. Once that process is completed, however, the two year period will continue running where it left off.

18. **Construction and Applicable Law.** This Plan is intended to be construed and administered as an unfunded plan maintained primarily for the purpose of providing deferred compensation for a select group of management or highly compensated employees as provided under ERISA. The Plan shall be construed and administered according to the laws of the State of Minnesota (other than its laws regarding choice of law) to the extent that such laws are not preempted by ERISA.

19. **Agent for Legal Process.** The Company shall be agent for service of legal process with respect to any matter concerning the Plan, unless and until the Company designates some other person as such agent.

20. **Amendment.** The Board of Directors of the Company or the Human Resources Committee of the Company's Board of Directors may at any time amend this Plan in any manner; provided, however, that if necessary to maintain the availability of the exemption contained in Rule 16b-3, or any successor regulation, under the Securities Exchange Act of 1934, as amended, for transactions pursuant to this Plan, the provisions of this Plan relating to the amount, price and timing of awards pursuant to this Plan may not be amended more than once in every six months other than to comport with changes in the Internal Revenue Code or ERISA, or the rules thereunder. Notwithstanding the foregoing, the Chief Executive Officer, Director of Human Resources or the Senior Vice President of Compensation and Benefits, acting singly, shall have the authority to execute a written action to amend the Plan to authorize the merger of any nonqualified deferred compensation plan maintained by any acquired entity into this Plan.

21. **Termination or Suspension.** The Board of Directors of the Company or the Human Resources Committee of the Company's Board of Directors may at any time suspend or terminate this Plan. In the event that the Plan is terminated, the Deferral Accounts of all Participants (whether or not currently in distribution status) shall be paid in the form originally elected by the Participant to commence as soon as practicable after the March 1 following the date the Plan is terminated or shall be paid under some other method as determined by the Plan Administrator; provided, however, that accelerated distribution of Deferral Accounts subject to Section 9 shall only be permitted on account of Plan termination in accordance with Treas. Reg. §1.409A-3(j)(4)(ix), which generally permits:

- (A) accelerated payment pursuant to a termination and liquidation of the Plan if that occurs within 12 months of a corporate dissolution or bankruptcy;
- (B) termination and liquidation of the Plan pursuant to irrevocable action taken during the period commencing 30 days before and ending 12 months after a change in control event within the meaning of Treas. Reg. §1.409A-3(i)(5), but only if all deferred compensation arrangements sponsored by the Company and its Affiliates that are treated as a single plan under Treas. Reg. §1.409A-1(c)(2) that includes this Plan are terminated and liquidated with respect to every participant who experienced such change in control event, and all amounts

payable under such single plan for such participants are paid within 12 months after the irrevocable action is taken; or

- (C) termination and liquidation of the Plan, provided:
- (1) the termination and liquidation is not proximate to a downturn in the financial health of the Company and its Affiliates,
  - (2) the Company and its Affiliates also terminate and liquidate all other deferral arrangements that would be aggregated with the Plan under Treas. Reg. §1.409A-1(c)(2);
  - (3) no accelerated payments are made within 12 months after irrevocable action is taken to terminate and liquidate the Plan,
  - (4) all payments are made within 24 months after all necessary action is taken to irrevocably terminate and liquidate the Plan, and
  - (5) during the three years after such irrevocable action is taken the Company and its Affiliates do not adopt a new plan that would be aggregated with the Plan under Treas. Reg. §1.409A-1(c)(2) if the Plan still existed.

The foregoing provisions of this Section 21 shall not prohibit the earlier distribution of any Deferral Account in accordance with the provisions of Section 8.

22. **Severability.** If any provision of the Plan is determined to be illegal or invalid (in whole or in part) for any reason, or if legislative, Internal Revenue Service, Department of Labor, court or other action is at risk of causing a provision to be interpreted so as to cause Participants in the Plan to be in constructive receipt of amounts in their Deferral Accounts for U.S. federal income tax purposes, the Plan shall be construed and enforced as if the provision had not been included in the Plan.

23. **TARP Compliance.** To the extent required by the Emergency Economic Stabilization Act of 2008, as amended from time to time, and implementing regulations (“EESA”), if the Plan Administrator determines that the Participant is a “Senior Executive Officer” (SEO) or a “Most Highly Compensated” employee (MHCE) of the Company (both terms as defined under EESA), no lump sum or installment payment in respect of any bonus or incentive previously deferred under the Plan and any earnings credits associated with such amounts and that would otherwise be distributable in accordance with the terms of the Plan and the Participant’s applicable Deferral Election will be paid to such SEO or MHCE until the earlier of (1) the end of the period during which any obligation arising from financial assistance provided to the Company under the Troubled Asset Relief Program (“TARP”) remains outstanding (the “TARP Restriction Period”), or (2) the date after which the Participant ceases to be a SEO or MHCE. If delayed payment is required by EESA as provided above, such delayed distribution payment shall be paid to the Participant promptly following the first date upon which payment could be made under EESA.

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## APPENDIX A

### Transferred Accounts

Section 1. **The Wells Fargo & Company Benefit Restoration Program.** The Wells Fargo & Company Benefit Restoration Program (“BRP”) merged into this Plan effective July 1, 1999. The transferred BRP accounts are held in a “Transferred Account” set up under this Plan for each participant in BRP who had a BRP account as of June 30, 1999. Each BRP participant who has a Transferred Account set up under this Plan is considered a Participant in this Plan effective July 1, 1999 but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in this Plan. If the Participant is not an employee of the Company on January 1, 2000, the Participant’s Transferred Account as of the first day of a quarter (less any distributions made from the Transferred Account during the quarter) shall be adjusted with interest for that quarter. Interest on the Transferred Account will be calculated quarterly at an annual rate equal to the sum of the average annual rate for 3-year Treasury Notes for the immediately preceding calendar year plus two percent. If the Participant is an employee of the Company on January 1, 2000, the Participant must elect earnings options for the Transferred Account in accordance with Section 7 of the Plan. If the Participant does not elect earnings options, the Participant’s Transferred Account shall be treated as having been allocated to the “Balanced Fund” Fund Option. Distribution of the Participant’s Transferred Account will be made in either a lump sum or in ten annual installments as elected by the Participant under BRP. If the Participant elected a lump sum payment, payment will be made as soon as feasible after the Participant terminates employment. If the Participant elected installments, installments will begin in January following the calendar year in which the Participant terminates employment. If, however, the Transferred Account balance is less than \$5,000 at the time of the Participant terminates employment, distribution will be made in a lump sum as soon as administratively feasible after the Participant terminates employment. The transitional rules under Section 8(D) of the Plan apply to the Transferred Account. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 2. **Mortgage Plans.** The Norwest Corporation Elective Deferred Compensation Plan for Mortgage Banking Executives, the Norwest Mortgage Banking Incentive Compensation and Deferral Plan and the Norwest Mortgage Banking Deferral Plan (collectively the “Mortgage Plans”) are merged into this Plan effective as of January 1, 2000. The transferred Mortgage Plans accounts shall be held in a “Transferred Account” set up under this Plan for each participant in the Mortgage Plans who had an account as of December 31, 1999. Each Mortgage Plans participant who has a Transferred Account set up under this Plan shall be considered a Participant in this Plan effective January 1, 2000 but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in this Plan. A Participant’s Transferred Account shall be subject to the rules of this Plan including the transitional rules in Section 8(D) of this Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of this Plan.

Section 3. **The Wells Fargo & Company 1997 Bonus Deferral Plan.** The Wells Fargo & Company 1997 Bonus Deferral Plan (“Bonus Deferral Plan”) is merged into this Plan effective as of January 1, 2000 with respect to participants in the Bonus Deferral Plan who are employed by the Company on January 1, 2000. The transferred Bonus Deferral Plan accounts shall be held in a “Transferred Account” set up under this Plan for each participant in the Bonus Deferral Plan who had an account as of December 31, 1999 and was employed by the Company on January 1, 2000. Each Bonus Deferral Plan participant who has a Transferred Account set up under this Plan shall be considered a Participant in this Plan effective January 1, 2000 but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in this Plan. A Participant’s Transferred Account shall be subject to the rules of this Plan including the transitional rules in Section 8(D) of this Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of this Plan.

Section 4. **Ragen MacKenzie Group Incorporated Deferred Compensation Plan.** The Ragen MacKenzie Group Incorporated Deferred Compensation Plan (the “Ragen Plan”) is merged into this Plan effective July 1, 2000. The transferred Ragen Plan accounts shall be held in a “Transferred Account” set up under this Plan for each participant in the Ragen Plan who had an account as of June 30, 2000. Each Ragen Plan participant who has a Transferred Account set up under this Plan shall be considered a Participant in

this Plan effective July 1, 2000, but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in this Plan. A Participant's Transferred Account shall be subject to the rules of this Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of this Plan.

Section 5. **National Bank of Alaska Deferred Compensation Plan.** The National Bank of Alaska Deferred Compensation Plan (the "Alaska Plan") is merged into this Plan effective August 1, 2000. The transferred Alaska Plan accounts shall be held in a "Transferred Account" set up under this Plan for each participant in the Alaska Plan who had an account as of July 31, 2000. Each Alaska Plan participant who has a Transferred Account set up under this Plan shall be considered a Participant in this Plan effective August 1, 2000, but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in this Plan. A Participant's Transferred Account shall be subject to the rules of this Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of this Plan.

Section 6. **First Commerce Supplemental Executive Retirement and Deferred Compensation Plan and Trust Agreement.** The First Commerce Supplemental Executive Retirement and Deferred Compensation Plan and Trust Agreement (the "First Commerce Plan") is merged into the Plan effective January 1, 2001. The transferred First Commerce Plan accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the First Commerce Plan who had an account as of December 31, 2000. Each First Commerce Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan effective January 1, 2001, but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 7. **Brenton Banks, Inc. Executive Savings Plan.** The Brenton Banks, Inc. Executive Savings Plan (the "Brenton Plan") is merged into the Plan effective January 1, 2001. The transferred Brenton Plan accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the Brenton Plan who had an account as of December 31, 2000. Each Brenton Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan effective January 1, 2001, but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 8. **First Security Corporation Executive Deferred Compensation Plan.** The First Security Corporation Executive Deferred Compensation Plan (the "First Security Plan") was terminated effective October 30, 2000. The account balances of participants in the First Security Plan who elected to defer distribution of their First Security Plan accounts as a result of the First Security Plan termination shall be transferred to the Plan and held in Transferred Accounts set up under the Plan as soon as administratively practical after October 30, 2000. The transferred First Security Plan accounts shall be held in a "Transferred Account" set up under this Plan for each participant in the First Security Plan who made a special deferral election. Each First Security Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan effective as of the date the Transferred Account is established, but not be able to enter into a Deferral Election until January 1, 2001 if the Participant is also an Eligible Employee as provided in the Plan as of January 1, 2001. A Participant's Transferred Account shall be subject to the rules of this Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 9. **Norwest Financial, Inc. Employees' Deferred Compensation Plan.** All accounts under the Norwest Financial, Inc. Employees' Deferred Compensation Plan (the "NFI Plan") for actively employed NFI Plan participants are transferred to the Plan effective January 1, 2001. The transferred NFI Plan accounts shall be held in a "Transferred Account" set up under the Plan for each active participant in the NFI Plan who had an account as of December 31, 2000. Each NFI Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan effective January 1, 2001, but will not be able to enter into Deferral Elections unless the Participant is also an Eligible Employee as provided in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies

before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 10. **Norwest Corporation Executive Incentive Compensation Plan.** The Norwest Corporation Executive Incentive Compensation Plan (the "EICP") is merged into the Plan effective January 1, 2002. The transferred EICP accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the EICP who had an account as of December 31, 2001. Each EICP participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan except that (i) distribution to the Participant of the Transferred Account (valued as of December 31 of the calendar year in which the Participant terminates employment or becomes disabled) attributable to the EICP shall be made in a lump sum in whole shares of Common Stock (with cash in lieu of a fractional share) as soon as practicable after the calendar year in which the Participant terminates employment or becomes disabled ("disabled" means the Participant is unable to perform his or her job for a continuous period of six months), and (ii) the Transferred Account shall only be allocated to the Common Stock Earnings Option. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 11. **Norwest Corporation Employees' Stock Deferral Plan.** The Norwest Corporation Employees' Stock Deferral Plan (the "ESDP") is merged into the Plan effective January 1, 2002. The transferred ESDP accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the ESDP who had an account as of December 31, 2001. Each ESDP participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan except that (i) distribution to the Participant of the Transferred Account attributable to the ESDP (valued as of December 31 of the calendar year in which the Participant terminates employment) shall be made in accordance with the type of distribution (i.e., lump sum or installments) elected by the Participant under the ESDP and shall be made (or commence in the case of installments) on or as soon as practicable after the February 28 following the calendar year in which the Participant terminates employment, (ii) in the event of a change in control as defined in the ESDP, distribution to the Participant of the Transferred Account attributable to the ESDP shall be made in accordance with the terms of the ESDP as those terms existed on December 31, 2001, and (iii) the Transferred Account shall only be allocated to the Common Stock Earnings Option. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 12. **Acordia, Inc. Deferral Plan.** The Acordia, Inc. Deferral Plan (the "Deferral Plan") is merged into the Plan effective January 1, 2002. The transferred Deferral Plan accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the Deferral Plan who had an account as of December 31, 2001. Each Deferral Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 13. **Acordia Services Frozen Producers' Deferred Compensation Plan.** The Acordia Services Frozen Producers' Deferred Compensation Plan (the "Producers' Deferred Plan") is merged into the Plan effective January 1, 2002. The transferred Producers' Deferred Plan accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the Producers' Deferred Plan who had an account as of December 31, 2001. Each Producers' Deferred Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

Section 14. **Acordia Services Frozen Deferred Compensation Plan.** The Acordia Services Frozen Deferred Compensation Plan (the "Deferred Plan") is merged into the Plan effective January 1, 2002. The transferred Deferred Plan accounts shall be held in a "Transferred Account" set up under the Plan for each participant in the Deferred Plan who had an account as of December 31, 2001. Each Deferred Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant's Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.



Section 15. **MBI and Affiliates Deferred Compensation Plan.** A portion of the MBI and Affiliates Deferred Compensation Plan (the “MBI Deferred Plan”) comprising accounts for certain employees of the Texas Financial Bancorporation acquisition is merged into the Plan effective February 2, 2002. The transferred MBI Deferred Plan accounts shall be held in a “Transferred Account” set up under the Plan. Each MBI Deferred Plan participant who has a Transferred Account set up under the Plan shall be considered a Participant in the Plan. A Participant’s Transferred Account shall be subject to the rules of the Plan. In the event the Participant dies before distribution of his or her entire Transferred Account, the remaining balance shall be paid pursuant to Section 8(C) of the Plan.

## APPENDIX B

### **Supplemental Company Matching Contribution Allocations**

Effective for Plan Years beginning on or after January 1, 2010, the Wells Fargo & Company Deferred Compensation Plan (the "Plan") is amended to provide credits for supplemental Company matching contributions pursuant to the rules in this Appendix B.

Section 1. **Eligibility.** Employees who have satisfied one year of service as defined under the Wells Fargo & Company 401(k) Plan (the "401(k) Plan") and are eligible to receive Company matching contributions under the 401(k) Plan and who have entered into an agreement to defer Compensation under this Plan ("deferred compensation") which would otherwise have been recognized as "Certified Compensation" under the 401(k) Plan for a Plan Year shall be eligible to receive the supplemental Company matching contribution credits (the "Credits") as provided under this Appendix B for that Plan Year. Credits under this Appendix shall be reflected in the Participant's Deferral Account attributable to the allocations under this Appendix B as soon as administratively feasible after the end of the Plan Year in which a Company matching contribution would have been allocated to the Participant's 401(k) Plan account if deferred compensation had been recognized as Certified Compensation in the 401(k) Plan for the Plan Year.

Section 2. **Credits.** For each Plan Year, the Deferral Account attributable to the allocations under this Appendix B for each eligible Participant shall receive a Credit equal to the sum of the amounts determined for each quarter of the Plan Year as follows:

(a) To be eligible to receive a credit with respect to a particular calendar quarter, the Participant must have been eligible to receive Employer Matching Contributions under and as defined in the 401(k) Plan for that quarter.

(b) The amount of the Participant's Credit under this Appendix B for a calendar quarter will be equal to the Participant's "applicable percent" for the Plan Year as defined below, multiplied by the deferred compensation deducted from the Participant's Compensation during that calendar quarter; provided, however, that such Credit shall be made only with respect to such deferred compensation for the calendar quarter and any previous calendar quarters in the Plan Year which when added to the Participant's Certified Compensation for such Plan Year does not exceed the Code Section 401(a)(17) compensation limit in effect for such Plan Year.

(c) Notwithstanding the foregoing, a Participant shall not be entitled to receive any of the Credit allocated to his or her Deferral Account for a Plan Year (and such Credit shall be forfeited) unless the Participant's salary deferral contributions to the 401(k) Plan for the Plan Year were at least equal to the lesser of (1) the limit on salary deferral contributions imposed under Code Section 402(g) for such Plan Year or (2) the maximum amount of salary deferral contributions that the Participant was permitted to contribute under the terms of the 401(k) Plan for such Plan Year.

(d) For purposes of this Sec. 2, a Participant's "applicable percent" for a Plan Year is equal to the smaller of (i) six percent, or (ii) the percent by which the Participant has elected to have his or her Certified Compensation reduced for the purpose of making salary deferral contributions under the 401(k) Plan in the election that is in effect on January 1 of that Plan Year. The percent determined under the preceding sentence shall apply to the Participant for the entire Plan Year without regard to any changes the Participant may subsequently make in his or her deferral election for purposes of contributions to the 401(k) Plan.

Section 3. **Investment Election.** The amount of the Credit pursuant to this Appendix shall be automatically allocated to one or more Fund Options (other than the Common Stock Earnings Option) as selected by the Plan Administrator from time to time as of the date the amount is actually allocated to the Participant's Deferral Account. The Participant then can make a subsequent investment election pursuant to Section 7 of the Plan.

Section 4. **Distribution Upon Separation from Service.** Distribution of the amounts accumulated pursuant to this Appendix B (Credits and associated earnings credits) shall be automatically paid in a lump sum as soon as practicable after the March 1 immediately following the Participant's Separation from Service if the Participant

is not a Key Employee, but not later than December 31 of that year. If the Participant is a Key Employee, distribution shall commence as provided in Section 9(B) of the Plan.

## APPENDIX C

### **Supplemental Discretionary Profit Sharing Contributions**

Effective for Plan Years beginning on or after January 1, 2011, the Wells Fargo & Company Deferred Compensation Plan (the “Plan”) is amended to provide credits for supplemental discretionary profit sharing contributions pursuant to the rules in this Appendix C.

Section 1. **Eligibility.** Employees who have satisfied one year of vesting service as defined under the Wells Fargo & Company 401(k) Plan (the “401(k) Plan”), are eligible to receive a discretionary profit sharing contribution under the 401(k) Plan and who have entered into an agreement to defer Compensation under this Plan (“deferred compensation”) which would otherwise have been recognized as “Certified Compensation” under the 401(k) Plan for a Plan Year, shall be eligible to receive supplemental discretionary profit sharing contribution credits (the “Credits”) provided under this Appendix C for that Plan Year. Credits under this Appendix shall be reflected in the Participant’s Deferral Account attributable to the allocations under this Appendix as soon as administratively feasible after the end of the Plan Year in which a discretionary profit sharing contribution would have been allocated to the Participant’s 401(k) Plan account if deferred compensation had been recognized as Certified Compensation in the 401(k) Plan for the Plan Year. No Credits under this Appendix will be allocated under this Plan for a Plan Year unless a discretionary profit sharing contribution has been made to the 401(k) Plan for such Plan Year.

Section 2. **Credits.** For each Plan Year in which a discretionary profit sharing contribution has been made to the 401(k) Plan, the Deferral Account attributable to the allocations under this Appendix C for each eligible Participant shall receive a Credit equal to the discretionary profit sharing contribution percentage (not greater than 4%) declared under the 401(k) Plan for the Plan Year multiplied by the deferred compensation deducted from the Participant’s Compensation during that Plan Year; provided, however, that such Credit shall be made only to the extent that such deferred compensation for the Plan Year plus the Participant’s Certified Compensation in the 401(k) Plan for such Plan Year does not exceed the Code Section 401(a)(17) compensation limit in effect for such Plan Year.

Section 3. **Investment Election.** The amount of the Credit pursuant to this Appendix shall be automatically allocated to one or more Fund Options (other than the Common Stock Earnings Option) as selected by the Plan Administrator from time to time as of the date the amount is actually allocated to the Participant’s Deferral Account. The Participant can then make a subsequent investment election pursuant to Section 7 of the Plan.

Section 4. **Distribution Upon Separation from Service.** Distribution of the amounts accumulated pursuant to this Appendix (Credits and associated earnings credits) shall be automatically paid in a lump sum as soon as practicable after the March 1 immediately following the Participant’s Separation from Service if the Participant is not a Key Employee, but not later than December 31 of that year. If the Participant is a Key Employee, distribution shall commence as provided in Section 9(B) of the Plan.

## Exhibit 10(h)

### Amendment to Wells Fargo & Company Supplemental Cash Balance Plan

The Wells Fargo & Company Supplemental Cash Balance Plan (the “Supplemental Cash Balance Plan”) is amended as follows:

1. Section 13(f)(2) of the Supplemental Cash Balance Plan is amended in its entirety effective December 31, 2018 to read in full as follows:

(N) **Key Employee.** If the Participant is determined to be a “Key Employee” for purposes of Code section 409A, no lump sum or installment payment shall be paid to the Participant prior to the date that is six months after the date the Participant’s Separation from Service occurred. For purposes of this Plan, a Participant’s status as a Key Employee shall be determined in accordance with the Wells Fargo & Company Key/Specified Employee Policy as adopted and amended from time to time by the Human Resources Committee of the Company’s Board of Directors.

2. Except as herein expressly amended, all the terms and provisions of the Supplemental Cash Balance Plan shall continue in full force and effect.

## Exhibit 13

<b>Financial Review</b>			
<a href="#">30</a>	Overview	<a href="#">144</a>	5 Available-for-Sale and Held-to-Maturity Debt Securities
<a href="#">34</a>	Earnings Performance	<a href="#">151</a>	6 Loans and Allowance for Credit Losses
<a href="#">51</a>	Balance Sheet Analysis	<a href="#">165</a>	7 Leasing Activity
<a href="#">54</a>	Off-Balance Sheet Arrangements	<a href="#">167</a>	8 Equity Securities
<a href="#">56</a>	Risk Management	<a href="#">169</a>	9 Premises, Equipment and Other Assets
<a href="#">87</a>	Capital Management	<a href="#">170</a>	10 Securitizations and Variable Interest Entities
<a href="#">93</a>	Regulatory Matters	<a href="#">180</a>	11 Mortgage Banking Activities
<a href="#">96</a>	Critical Accounting Policies	<a href="#">182</a>	12 Intangible Assets
<a href="#">100</a>	Current Accounting Developments	<a href="#">183</a>	13 Deposits
<a href="#">102</a>	Forward-Looking Statements	<a href="#">184</a>	14 Short-Term Borrowings
<a href="#">103</a>	Risk Factors	<a href="#">185</a>	15 Long-Term Debt
		<a href="#">187</a>	16 Guarantees, Pledged Assets and Collateral, and Other Commitments
	<b>Controls and Procedures</b>	<a href="#">192</a>	17 Legal Actions
<a href="#">119</a>	Disclosure Controls and Procedures	<a href="#">196</a>	18 Derivatives
<a href="#">119</a>	Internal Control Over Financial Reporting	<a href="#">207</a>	19 Fair Values of Assets and Liabilities
<a href="#">119</a>	Management's Report on Internal Control over Financial Reporting	<a href="#">227</a>	20 Preferred Stock
<a href="#">120</a>	Report of Independent Registered Public Accounting Firm	<a href="#">230</a>	21 Common Stock and Stock Plans
		<a href="#">233</a>	22 Revenue from Contracts with Customers
		<a href="#">236</a>	23 Employee Benefits and Other Expenses
	<b>Financial Statements</b>	<a href="#">243</a>	24 Income Taxes
<a href="#">121</a>	Consolidated Statement of Income	<a href="#">245</a>	25 Earnings and Dividends Per Common Share
<a href="#">122</a>	Consolidated Statement of Comprehensive Income	<a href="#">246</a>	26 Other Comprehensive Income
<a href="#">123</a>	Consolidated Balance Sheet	<a href="#">248</a>	27 Operating Segments
<a href="#">124</a>	Consolidated Statement of Changes in Equity	<a href="#">250</a>	28 Parent-Only Financial Statements
<a href="#">128</a>	Consolidated Statement of Cash Flows	<a href="#">253</a>	29 Regulatory and Agency Capital Requirements
	<b>Notes to Financial Statements</b>		
<a href="#">129</a>	1 Summary of Significant Accounting Policies		
<a href="#">141</a>	2 Business Combinations	<a href="#">254</a>	<b>Report of Independent Registered Public Accounting Firm</b>
<a href="#">142</a>	3 Cash, Loan and Dividend Restrictions	<a href="#">256</a>	<b>Quarterly Financial Data</b>
<a href="#">143</a>	4 Trading Activities	<a href="#">258</a>	<b>Glossary of Acronyms</b>

This Annual Report, including the Financial Review and the Financial Statements and related Notes, contains forward-looking statements, which may include forecasts of our financial results and condition, expectations for our operations and business, and our assumptions for those forecasts and expectations. Do not unduly rely on forward-looking statements. Actual results may differ materially from our forward-looking statements due to several factors. Factors that could cause our actual results to differ materially from our forward-looking statements are described in this Report, including in the “Forward-Looking Statements” and “Risk Factors” sections, and in the “Regulation and Supervision” section of our Annual Report on Form 10-K for the year ended December 31, 2019 (2019 Form 10-K).

When we refer to “Wells Fargo,” “the Company,” “we,” “our,” or “us” in this Report, we mean Wells Fargo & Company and Subsidiaries (consolidated). When we refer to the “Parent,” we mean Wells Fargo & Company. See the Glossary of Acronyms for definitions of terms used throughout this Report.

## Financial Review

### Overview

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Wells Fargo & Company is a diversified, community-based financial services company with \$1.9 trillion in assets. Founded in 1852 and headquartered in San Francisco, we provide banking, investment and mortgage products and services, as well as consumer and commercial finance, through 7,400 locations, more than 13,000 ATMs, digital (online, mobile and social), and contact centers (phone, email and correspondence), and we have offices in 32 countries and territories to support customers who conduct business in the global economy. With approximately 260,000 active, full-time equivalent team members, we serve one in three households in the United States and ranked No. 29 on *Fortune*'s 2019 rankings of America's largest corporations. We ranked fourth in assets and third in the market value of our common stock among all U.S. banks at December 31, 2019.

On February 11, 2020, we announced a new organizational structure with five principal lines of business: Consumer and Small Business Banking; Consumer Lending; Commercial Banking; Corporate and Investment Banking; and Wealth and Investment Management.

Wells Fargo's top priority remains meeting its regulatory requirements in order to build the right foundation for all that lies ahead. To do that, the Company is committing the resources necessary to ensure that we operate with the strongest business practices and controls, maintain the highest level of integrity, and have in place the appropriate culture.

#### **Federal Reserve Board Consent Order Regarding Governance Oversight and Compliance and Operational Risk Management**

On February 2, 2018, the Company entered into a consent order with the Board of Governors of the Federal Reserve System (FRB). As required by the consent order, the Company's Board of Directors (Board) submitted to the FRB a plan to further enhance the Board's governance and oversight of the Company, and the Company submitted to the FRB a plan to further improve the Company's compliance and operational risk management program. The Company continues to engage with the FRB as the Company works to address the consent order provisions. The consent order also requires the Company, following the FRB's acceptance and approval of the plans and the Company's adoption and implementation of the plans, to complete an initial third-party review of the enhancements and improvements provided for in the plans. Until this third-party review is complete and the plans are approved and implemented to the satisfaction of the FRB, the Company's total consolidated assets will be limited to the level as of December 31, 2017. Compliance with this asset cap will be measured on a two-quarter daily average basis to allow for management of

temporary fluctuations. As of the end of fourth quarter 2019, our total consolidated assets, as calculated pursuant to the requirements of the consent order, were below our level of total assets as of December 31, 2017. Additionally, after removal of the asset cap, a second third-party review must also be conducted to assess the efficacy and sustainability of the enhancements and improvements.

#### **Consent Orders with the Consumer Financial Protection Bureau and Office of the Comptroller of the Currency Regarding Compliance Risk Management Program, Automobile Collateral Protection Insurance Policies, and Mortgage Interest Rate Lock Extensions**

On April 20, 2018, the Company entered into consent orders with the Consumer Financial Protection Bureau (CFPB) and the Office of the Comptroller of the Currency (OCC) to pay an aggregate of \$1 billion in civil money penalties to resolve matters regarding the Company's compliance risk management program and past practices involving certain automobile collateral protection insurance policies and certain mortgage interest rate lock extensions. As required by the consent orders, the Company submitted to the CFPB and OCC an enterprise-wide compliance risk management plan and a plan to enhance the Company's internal audit program with respect to federal consumer financial law and the terms of the consent orders. In addition, as required by the consent orders, the Company submitted for non-objection plans to remediate customers affected by the automobile collateral protection insurance and mortgage interest rate lock matters, as well as a plan for the management of remediation activities conducted by the Company.

#### **Retail Sales Practices Matters**

In September 2016, we announced settlements with the CFPB, the OCC, and the Office of the Los Angeles City Attorney, and entered into related consent orders with the CFPB and the OCC, in connection with allegations that some of our retail customers received products and services they did not request. As a result, it remains a top priority to rebuild trust through a comprehensive action plan that includes making things right for our customers, team members, and other stakeholders, and building a better Company for the future. Our priority of rebuilding trust has included numerous actions focused on identifying potential financial harm to customers resulting from these matters and providing remediation.

For additional information regarding retail sales practices matters, including related legal matters, see the “Risk Factors”

## Overview (continued)

section and Note 17 (Legal Actions) to Financial Statements in this Report.

### Other Customer Remediation Activities

Our priority of rebuilding trust has also included an effort to identify other areas or instances where customers may have experienced financial harm, provide remediation as appropriate, and implement additional operational and control procedures. We are working with our regulatory agencies in this effort. We have previously disclosed key areas of focus as part of our rebuilding trust efforts and are in the process of providing remediation for those matters. We have accrued for the reasonably estimable remediation costs related to our rebuilding trust efforts, which amounts may change based on additional facts and information, as well as ongoing reviews and communications with our regulators.

As our ongoing reviews continue, it is possible that in the future we may identify additional items or areas of potential concern. To the extent issues are identified, we will continue to assess any customer harm and provide remediation as appropriate. For more information, including related legal and regulatory risk, see the “Risk Factors” section and Note 17 (Legal Actions) to Financial Statements in this Report.

### Financial Performance

In 2019, we generated \$19.5 billion of net income and diluted earnings per common share (EPS) of \$4.05, compared with \$22.4 billion of net income and EPS of \$4.28 for 2018. Financial performance items for 2019 (compared with 2018) included:

- revenue of \$85.1 billion, down from \$86.4 billion, with net interest income of \$47.2 billion, down \$2.8 billion, or 6%; and noninterest income of \$37.8 billion, up \$1.4 billion, or 4%;
- the net interest margin was 2.73%, down 18 basis points;
- noninterest expense of \$58.2 billion, up \$2.1 billion, or 4%;
- an efficiency ratio of 68.4%, compared with 65.0%;
- average loans of \$951.0 billion, up \$5.8 billion;
- average deposits of \$1.3 trillion, up \$10.4 billion;
- our credit results remained strong with a net charge-off rate of 0.29%, flat compared with a year ago;
- nonaccrual loans of \$5.3 billion, down \$1.2 billion, or 18%;
- \$30.2 billion in capital returned to our shareholders through common stock dividends and net share repurchases, up 17% from \$25.8 billion a year ago; and
- return on assets (ROA) of 1.02% and return on equity (ROE) of 10.23%, down from 1.19% and 11.53%, respectively.

Table 1 presents a six-year summary of selected financial data and Table 2 presents selected ratios and per common share data.

### Balance Sheet and Liquidity

Our balance sheet remained strong during 2019 with strong credit quality and solid levels of liquidity and capital. Our total assets were \$1.9 trillion at December 31, 2019. Cash and other short-term investments decreased \$10.1 billion from December 31, 2018, reflecting lower cash balances, partially offset by an increase in federal funds sold and securities purchased under resale agreements. Debt securities increased \$12.4 billion from December 31, 2018, predominantly due to increases in trading and held-to-maturity debt securities. Loans increased \$9.2 billion from December 31, 2018, driven by increases in commercial and industrial loans, commercial real estate mortgage loans, real estate 1-4 family first mortgage loans, automobile loans, credit card loans, and lease financing,

partially offset by decreases in commercial real estate construction loans, real estate 1-4 family junior lien mortgage loans, and other revolving credit and installment loans.

Average deposits in 2019 were \$1.3 trillion, up \$10.4 billion from 2018, reflecting higher other time deposits, mortgage escrow deposits and commercial deposits. Our average deposit cost in 2019 was 67 basis points, up 23 basis points from a year ago, driven by increased retail banking promotional pricing for new deposits and a continued deposit mix shift to higher cost products.

### Credit Quality

Credit quality remained solid in 2019, as losses remained low and we continued to originate high-quality loans, reflecting our long-term risk focus. Net charge-offs were \$2.8 billion, or 0.29% of average loans, in 2019, flat compared with 2018.

Our commercial portfolio net charge-offs were \$652 million, or 13 basis points of average commercial loans, in 2019, compared with \$429 million, or 9 basis points, in 2018, predominantly driven by increased losses in our commercial and industrial loan portfolio. Our consumer portfolio net charge-offs were \$2.1 billion, or 48 basis points of average consumer loans, in 2019, compared with \$2.3 billion, or 52 basis points, in 2018, predominantly driven by decreased losses in our automobile portfolio, partially offset by increased losses in our credit card portfolio.

The allowance for credit losses of \$10.5 billion at December 31, 2019, decreased \$251 million from the prior year. The allowance coverage for total loans was 1.09% at December 31, 2019, compared with 1.12% at December 31, 2018. The allowance covered 3.8 times net charge-offs in 2019, compared with 3.9 in 2018. Future amounts of the allowance for credit losses will be based on a variety of factors, including loan growth, portfolio performance and general economic conditions. Our provision for credit losses in 2019 was \$2.7 billion, compared with \$1.7 billion in 2018. The provision for credit losses in both 2019 and 2018 reflected continuing solid underlying credit performance. The provision for credit losses in 2018 also reflected a higher level of credit quality improvement compared with 2019, as well as an improvement in the outlook associated with 2017 hurricane-related losses.

Nonperforming assets (NPAs) at December 31, 2019, were \$5.6 billion, down \$1.3 billion from December 31, 2018. Nonaccrual loans decreased \$1.2 billion from December 31, 2018, driven by improvement across all consumer loan categories, including a decrease in consumer nonaccruals from sales of residential real estate mortgage loans as well as the reclassification of real estate 1-4 family mortgage nonaccrual loans to mortgage loans held for sale (MLHFS) in 2019. Foreclosed assets were down \$148 million from December 31, 2018.

### Capital

Our financial performance in 2019 allowed us to maintain a solid capital position with total equity of \$188.0 billion at December 31, 2019, compared with \$197.1 billion at December 31, 2018. We returned \$30.2 billion to shareholders in 2019 (\$25.8 billion in 2018) through common stock dividends and net share repurchases, and our net payout ratio (which is the ratio of (i) common stock dividends and share repurchases less issuances and stock compensation-related items, divided by (ii) net income applicable to common stock) was 168%. During 2019, we increased our quarterly common stock dividend from \$0.43 to \$0.51 per share. We continued to reduce our common share count through the repurchase of 502.4 million common



shares during the year. We expect our share count to continue to decline in 2020 as a result of anticipated net share repurchases.

We believe an important measure of our capital strength is our Common Equity Tier 1 (CET1) ratio, which was 11.14% as of December 31, 2019, down from 11.74% a year ago, but still well above our internal target of 10%. Likewise, our other regulatory capital ratios remained strong. As of December 31, 2019, our

eligible external total loss absorbing capacity (TLAC) as a percentage of total risk-weighted assets was 23.28%, compared with the required minimum of 22.0%. See the “Capital Management” section in this Report for more information regarding our capital, including the calculation of our regulatory capital amounts.

**Table 1: Six-Year Summary of Selected Financial Data**

(in millions, except per share amounts)	2019	2018	2017	2016	2015	2014	% Change 2019/ 2018	Five-year compound growth rate
<b>Income statement</b>								
Net interest income	\$ 47,231	49,995	49,557	47,754	45,301	43,527	(6)%	2
Noninterest income	37,832	36,413	38,832	40,513	40,756	40,820	4	(2)
Revenue	85,063	86,408	88,389	88,267	86,057	84,347	(2)	—
Provision for credit losses	2,687	1,744	2,528	3,770	2,442	1,395	54	14
Noninterest expense	58,178	56,126	58,484	52,377	49,974	49,037	4	3
Net income before noncontrolling interests	20,041	22,876	22,460	22,045	23,276	23,608	(12)	(3)
Less: Net income from noncontrolling interests	492	483	277	107	382	551	2	(2)
Wells Fargo net income	19,549	22,393	22,183	21,938	22,894	23,057	(13)	(3)
Earnings per common share	4.08	4.31	4.14	4.03	4.18	4.17	(5)	—
Diluted earnings per common share	4.05	4.28	4.10	3.99	4.12	4.10	(5)	—
Dividends declared per common share	1.920	1.640	1.540	1.515	1.475	1.350	17	7
<b>Balance sheet (at year end)</b>								
Federal funds sold and securities purchased under resale agreements	\$ 102,140	80,207	80,025	65,725	49,721	39,210	27 %	21
Debt securities	497,125	484,689	473,366	459,038	394,744	350,661	3	7
Loans	962,265	953,110	956,770	967,604	916,559	862,551	1	2
Allowance for loan losses	9,551	9,775	11,004	11,419	11,545	12,319	(2)	(5)
Goodwill	26,390	26,418	26,587	26,693	25,529	25,705	—	1
Equity securities	68,241	55,148	62,497	49,110	40,266	44,005	24	9
Assets	1,927,555	1,895,883	1,951,757	1,930,115	1,787,632	1,687,155	2	3
Deposits	1,322,626	1,286,170	1,335,991	1,306,079	1,223,312	1,168,310	3	3
Long-term debt	228,191	229,044	225,020	255,077	199,536	183,943	—	4
Wells Fargo stockholders' equity	187,146	196,166	206,936	199,581	192,998	184,394	(5)	—
Noncontrolling interests	838	900	1,143	916	893	868	(7)	(1)
Total equity	187,984	197,066	208,079	200,497	193,891	185,262	(5)	—

## Overview (continued)

**Table 2: Ratios and Per Common Share Data**

	Year ended December 31,		
	2019	2018	2017
<b>Profitability ratios</b>			
Wells Fargo net income to average assets (ROA)	1.02%	1.19	1.15
Wells Fargo net income applicable to common stock to average Wells Fargo common stockholders' equity (ROE)	10.23	11.53	11.35
Return on average tangible common equity (ROTCE) (1)	12.20	13.73	13.55
<b>Efficiency ratio (2)</b>	<b>68.4</b>	65.0	66.2
<b>Capital ratios (3)</b>			
At year end:			
Wells Fargo common stockholders' equity to assets	8.65	9.20	9.38
Total equity to assets	9.75	10.39	10.66
Risk-based capital (4):			
Common Equity Tier 1	11.14	11.74	12.28
Tier 1 capital	12.76	13.46	14.14
Total capital	15.31	16.60	17.46
Tier 1 leverage	8.31	9.07	9.35
Average balances:			
Average Wells Fargo common stockholders' equity to average assets	9.16	9.50	9.37
Average total equity to average assets	10.33	10.77	10.64
<b>Per common share data</b>			
Dividend payout (5)	47.4	38.3	37.6
Book value (6)	\$ 40.31	38.06	37.44

- (1) Tangible common equity is a non-GAAP financial measure and represents total equity less preferred equity, noncontrolling interests, goodwill, certain identifiable intangible assets (other than mortgage servicing rights) and goodwill and other intangibles on nonmarketable equity securities, net of applicable deferred taxes. The methodology of determining tangible common equity may differ among companies. Management believes that return on average tangible common equity, which utilizes tangible common equity, is a useful financial measure because it enables investors and others to assess the Company's use of equity. For additional information, including a corresponding reconciliation to generally accepted accounting principles (GAAP) financial measures, see the "Capital Management – Tangible Common Equity" section in this Report.
- (2) The efficiency ratio is noninterest expense divided by total revenue (net interest income and noninterest income).
- (3) See the "Capital Management" section and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report for additional information.
- (4) The risk-based capital ratios were calculated under the lower of the Standardized or Advanced Approach determined pursuant to Basel III. Beginning January 1, 2018, the requirements for calculating common equity tier 1 and tier 1 capital, along with risk-weighted assets, became fully phased-in. Accordingly, the information presented reflects fully phased-in common equity tier 1 capital, tier 1 capital and risk-weighted assets for the years ended December 31, 2019 and 2018, but reflects all other ratios still in accordance with Transition Requirements. See the "Capital Management" section and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report for additional information.
- (5) Dividend payout ratio is dividends declared per common share as a percentage of diluted earnings per common share.
- (6) Book value per common share is common stockholders' equity divided by common shares outstanding.

## Earnings Performance

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Wells Fargo net income for 2019 was \$19.5 billion (\$4.05 diluted EPS), compared with \$22.4 billion (\$4.28 diluted EPS) for 2018. Net income decreased in 2019, compared with 2018, due to a \$2.8 billion decrease in net interest income, a \$943 million increase in provision for credit losses, and a \$2.1 billion increase in noninterest expense, partially offset by a \$1.4 billion increase in noninterest income, and a \$1.5 billion decrease in income tax expense. Net income in 2019 included a net discrete income tax expense of \$435 million, compared with a net discrete income tax expense of \$627 million in 2018.

Revenue, the sum of net interest income and noninterest income, was \$85.1 billion in 2019, compared with \$86.4 billion in 2018. Revenue decreased \$1.3 billion in 2019, compared with 2018, due to a decrease in net interest income, partially offset by an increase in noninterest income. Our diversified sources of revenue generated by our businesses continued to be balanced between net interest income and noninterest income. In 2019, net interest income of \$47.2 billion represented 56% of revenue, compared with \$50.0 billion (58%) in 2018. See later in this section for discussions of net interest income, noninterest income and noninterest expense.

Table 3 presents the components of net interest income on a tax-equivalent basis, noninterest income and noninterest expense as a percentage of revenue for year-over-year results. Net interest income is presented on a taxable-equivalent basis to consistently reflect income from taxable and tax-exempt loans and debt and equity securities based on a 21% federal statutory tax rate for the periods ended December 31, 2019 and 2018, and 35% for the period ended December 31, 2017.

For a discussion of our 2018 financial results compared with 2017, see the “Earnings Performance” section of our Annual Report on Form 10-K for the year ended December 31, 2018.

## Earnings Performance (continued)

**Table 3: Net Interest Income, Noninterest Income and Noninterest Expense as a Percentage of Revenue**

(in millions)	Year ended December 31,					
	2019	% of revenue	2018	% of revenue	2017	% of revenue
<b>Interest income (on a taxable-equivalent basis)</b>						
Debt securities	\$ 15,456	18%	\$ 14,947	17%	\$ 14,084	16%
Mortgage loans held for sale (MLHFS)	813	1	777	1	786	1
Loans held for sale (LHFS)	79	—	140	—	50	—
Loans	44,253	52	44,086	51	41,551	47
Equity securities	966	1	999	1	821	1
Other interest income	5,129	7	4,359	6	2,941	3
Total interest income (on a taxable-equivalent basis)	66,696	79	65,308	76	60,233	68
<b>Interest expense (on a taxable-equivalent basis)</b>						
Deposits	8,635	10	5,622	7	3,013	3
Short-term borrowings	2,317	3	1,719	2	761	1
Long-term debt	7,350	9	6,703	8	5,157	6
Other interest expense	551	—	610	—	424	1
Total interest expense (on a taxable-equivalent basis)	18,853	22	14,654	17	9,355	11
<b>Net interest income (on a taxable-equivalent basis)</b>	<b>47,843</b>	<b>57</b>	<b>50,654</b>	<b>59</b>	<b>50,878</b>	<b>57</b>
Taxable-equivalent adjustment	(612)	(1)	(659)	(1)	(1,321)	(1)
<b>Net interest income (A)</b>	<b>47,231</b>	<b>56</b>	<b>49,995</b>	<b>58</b>	<b>49,557</b>	<b>56</b>
<b>Noninterest income</b>						
Service charges on deposit accounts	4,798	6	4,716	5	5,111	6
Trust and investment fees (1)	14,072	17	14,509	17	14,495	16
Card fees	4,016	5	3,907	5	3,960	4
Other fees (1)	3,084	4	3,384	4	3,557	4
Mortgage banking (1)	2,715	3	3,017	3	4,350	5
Insurance	378	—	429	—	1,049	1
Net gains from trading activities	993	1	602	1	542	1
Net gains on debt securities	140	—	108	—	479	1
Net gains from equity securities	2,843	3	1,515	2	1,779	2
Lease income	1,612	2	1,753	2	1,907	2
Other (1)	3,181	3	2,473	3	1,603	2
Total noninterest income (B)	37,832	44	36,413	42	38,832	44
<b>Noninterest expense</b>						
Salaries	18,382	22	17,834	21	17,363	20
Commission and incentive compensation	10,828	13	10,264	12	10,442	12
Employee benefits	5,874	7	4,926	6	5,566	6
Technology and equipment	2,763	3	2,444	3	2,237	3
Net occupancy	2,945	3	2,888	3	2,849	3
Core deposit and other intangibles	108	—	1,058	1	1,152	1
FDIC and other deposit assessments	526	1	1,110	1	1,287	1
Operating losses	4,321	5	3,124	4	5,492	6
Outside professional services	3,198	4	3,306	4	3,813	4
Other (2)	9,233	10	9,172	10	8,283	10
Total noninterest expense	58,178	68	56,126	65	58,484	66
Revenue (A) + (B)	\$ 85,063		\$ 86,408		\$ 88,389	

(1) See Table 7 – Noninterest Income in this Report for additional detail.

(2) See Table 8 – Noninterest Expense in this Report for additional detail.

## Net Interest Income

Net interest income is the interest earned on debt securities, loans (including yield-related loan fees) and other interest-earning assets minus the interest paid on deposits, short-term borrowings and long-term debt. The net interest margin is the average yield on earning assets minus the average interest rate paid for deposits and our other sources of funding.

Net interest income and the net interest margin in any one period can be significantly affected by a variety of factors including the mix and overall size of our earning assets portfolio and the cost of funding those assets. In addition, variable sources of interest income, such as loan fees, periodic dividends, and collection of interest on nonaccrual loans, can fluctuate from period to period.

Net interest income on a taxable-equivalent basis was \$47.8 billion in 2019, compared with \$50.7 billion in 2018. Net interest margin on a taxable-equivalent basis was 2.73% in 2019, compared with 2.91% in 2018. The decrease in both net interest income and net interest margin in 2019, compared with 2018, was driven by unfavorable impacts of repricing due to a flattening yield curve and mix of earning assets and funding sources, including sales of high yielding Pick-a-Pay loans, as well as higher costs on promotional retail banking deposits.

Table 4 presents the components of earning assets and funding sources as a percentage of earning assets to provide a more meaningful analysis of year-over-year changes that influenced net interest income.

Deposits are an important low-cost source of funding and affect both net interest income and the net interest margin. Deposits include noninterest-bearing deposits, interest-bearing checking, market rate and other savings, savings certificates, other time deposits, and deposits in non-U.S. offices. Average deposits were \$1.3 trillion in 2019, flat compared with 2018, and represented 135% of average loans in both 2019 and 2018. Average deposits were 73% of average earning assets in both 2019 and 2018. Our average deposit cost in 2019 was 67 basis points, up 23 basis points from a year ago, driven by increased retail banking promotional pricing for new deposits and a continued deposit mix shift to higher cost products.

Table 5 presents the individual components of net interest income and the net interest margin. Net interest income and the net interest margin are presented on a taxable-equivalent basis in Table 5 to consistently reflect income from taxable and tax-exempt loans and debt and equity securities based on a 21% federal statutory tax rate for the periods ended December 31, 2019 and 2018, and 35% for the period ended December 31, 2017.

## Earnings Performance (continued)

**Table 4: Average Earning Assets and Funding Sources as a Percentage of Average Earning Assets**

(in millions)	Year ended December 31,					
	2019		2018		Change from prior year	% Change from prior year
	Average balance	% of earning assets	Average balance	% of earning assets		
<b>Earning assets</b>						
Interest-earning deposits with banks	\$ 135,741	8%	\$ 156,366	9%	\$ (20,625)	(13)%
Federal funds sold and securities purchased under resale agreements	99,286	6	78,547	5	20,739	26
Debt securities:						
Trading debt securities	93,655	5	83,526	5	10,129	12
Available-for-sale debt securities:						
Securities of U.S. Treasury and federal agencies	15,293	1	6,618	—	8,675	131
Securities of U.S. states and political subdivisions	44,203	3	47,884	3	(3,681)	(8)
Mortgage-backed securities:						
Federal agencies	154,160	9	156,052	9	(1,892)	(1)
Residential and commercial	5,363	—	7,769	—	(2,406)	(31)
Total mortgage-backed securities	159,523	9	163,821	9	(4,298)	(3)
Other debt securities	43,675	2	46,875	3	(3,200)	(7)
Total available-for-sale debt securities	262,694	15	265,198	15	(2,504)	(1)
Held-to-maturity debt securities:						
Securities of U.S. Treasury and federal agencies	44,850	3	44,735	3	115	—
Securities of U.S. states and political subdivisions	8,644	1	6,253	—	2,391	38
Federal agency and mortgage-backed securities	95,559	5	94,216	5	1,343	1
Other debt securities	52	—	361	—	(309)	(86)
Total held-to-maturity debt securities	149,105	9	145,565	8	3,540	2
Total debt securities	505,454	29	494,289	28	11,165	2
Mortgage loans held for sale (1)	19,808	1	18,394	1	1,414	8
Loans held for sale (1)	1,708	—	2,526	—	(818)	(32)
Loans:						
Commercial loans:						
Commercial and industrial – U.S.	284,888	16	275,656	16	9,232	3
Commercial and industrial – Non-U.S.	64,274	4	60,718	4	3,556	6
Real estate mortgage	121,813	7	122,947	7	(1,134)	(1)
Real estate construction	21,183	1	23,609	1	(2,426)	(10)
Lease financing	19,302	1	19,392	1	(90)	—
Total commercial loans	511,460	29	502,322	29	9,138	2
Consumer loans:						
Real estate 1-4 family first mortgage	288,059	16	284,178	16	3,881	1
Real estate 1-4 family junior lien mortgage	31,989	2	36,687	2	(4,698)	(13)
Credit card	38,865	2	36,780	2	2,085	6
Automobile	45,901	3	48,115	3	(2,214)	(5)
Other revolving credit and installment	34,682	2	37,115	2	(2,433)	(7)
Total consumer loans	439,496	25	442,875	25	(3,379)	(1)
Total loans (1)	950,956	54	945,197	54	5,759	1
Equity securities	35,930	2	38,092	2	(2,162)	(6)
Other	5,579	—	5,071	1	508	10
Total earning assets	\$ 1,754,462	100%	\$ 1,738,482	100%	\$ 15,980	1%
<b>Funding sources</b>						
Deposits:						
Interest-bearing checking	\$ 59,121	4%	\$ 63,243	4%	\$ (4,122)	(7)%
Market rate and other savings	705,957	40	684,882	39	21,075	3
Savings certificates	30,266	2	20,653	1	9,613	47
Other time deposits	93,368	5	84,822	5	8,546	10
Deposits in non-U.S. offices	53,438	3	63,945	4	(10,507)	(16)
Total interest-bearing deposits	942,150	54	917,545	53	24,605	3
Short-term borrowings	115,337	7	104,267	6	11,070	11
Long-term debt	232,491	13	224,268	13	8,223	4
Other liabilities	25,771	1	27,648	1	(1,877)	(7)
Total interest-bearing liabilities	1,315,749	75	1,273,728	73	42,021	3
Portion of noninterest-bearing funding sources	438,713	25	464,754	27	(26,041)	(6)
Total funding sources	\$ 1,754,462	100%	\$ 1,738,482	100%	\$ 15,980	1%
<b>Noninterest-earning assets</b>						
Cash and due from banks	\$ 19,558		18,777		\$ 781	4%
Goodwill	26,409		26,453		(44)	—
Other	113,015		105,180		7,835	7
Total noninterest-earning assets	\$ 158,982		150,410		\$ 8,572	6%
<b>Noninterest-bearing funding sources</b>						
Deposits	\$ 344,111		358,312		\$ (14,201)	(4)%
Other liabilities	55,963		53,496		2,467	5
Total equity	197,621		203,356		(5,735)	(3)
Noninterest-bearing funding sources used to fund earning assets	(438,713)		(464,754)		26,041	(6)
Net noninterest-bearing funding sources	\$ 158,982		150,410		\$ 8,572	6%
<b>Total assets</b>	<b>\$ 1,913,444</b>		<b>1,888,892</b>		<b>\$ 24,552</b>	<b>1%</b>

(1) Nonaccrual loans are included in their respective loan categories.

**Table 5: Average Balances, Yields and Rates Paid (Taxable-Equivalent Basis) (1)**

(in millions)	2019			2018			2017		
	Average balance	Yields/ rates	Interest income/ expense	Average balance	Yields/ rates	Interest income/ expense	Average balance	Yields/ rates	Interest income/ expense
<b>Earning assets</b>									
Interest-earning deposits with banks	\$ 135,741	2.12%	\$ 2,875	156,366	1.82%	\$ 2,854	201,864	1.07%	\$ 2,162
Federal funds sold and securities purchased under resale agreements	99,286	2.18	2,164	78,547	1.82	1,431	74,697	0.98	735
Debt securities (2):									
Trading debt securities	93,655	3.36	3,149	83,526	3.42	2,856	74,475	3.16	2,356
Available-for-sale debt securities:									
Securities of U.S. Treasury and federal agencies	15,293	2.07	316	6,618	1.70	112	15,966	1.49	239
Securities of U.S. states and political subdivisions	44,203	3.87	1,709	47,884	3.77	1,806	52,658	3.95	2,082
Mortgage-backed securities:									
Federal agencies	154,160	2.85	4,397	156,052	2.79	4,348	145,310	2.60	3,782
Residential and commercial	5,363	4.19	225	7,769	4.62	358	11,839	5.33	631
Total mortgage-backed securities	159,523	2.90	4,622	163,821	2.87	4,706	157,149	2.81	4,413
Other debt securities	43,675	4.23	1,846	46,875	4.22	1,980	48,714	3.68	1,794
Total available-for-sale debt securities	262,694	3.23	8,493	265,198	3.24	8,604	274,487	3.11	8,528
Held-to-maturity debt securities:									
Securities of U.S. Treasury and federal agencies	44,850	2.19	982	44,735	2.19	980	44,705	2.19	979
Securities of U.S. states and political subdivisions	8,644	3.97	343	6,253	4.34	271	6,268	5.32	334
Federal agency and other mortgage-backed securities	95,559	2.60	2,487	94,216	2.36	2,221	78,330	2.34	1,832
Other debt securities	52	3.71	2	361	4.00	15	2,194	2.50	55
Total held-to-maturity debt securities	149,105	2.56	3,814	145,565	2.40	3,487	131,497	2.43	3,200
Total debt securities	505,454	3.06	15,456	494,289	3.02	14,947	480,459	2.93	14,084
Mortgage loans held for sale (3)	19,808	4.10	813	18,394	4.22	777	20,780	3.78	786
Loans held for sale (3)	1,708	4.60	79	2,526	5.56	140	1,487	3.40	50
Loans:									
Commercial loans:									
Commercial and industrial – U.S.	284,888	4.25	12,107	275,656	4.16	11,465	272,034	3.75	10,196
Commercial and industrial – Non-U.S.	64,274	3.71	2,385	60,718	3.53	2,143	57,198	2.86	1,639
Real estate mortgage	121,813	4.40	5,356	122,947	4.29	5,279	129,990	3.74	4,859
Real estate construction	21,183	5.17	1,095	23,609	4.94	1,167	24,813	4.10	1,017
Lease financing	19,302	4.52	873	19,392	4.74	919	19,128	3.74	715
Total commercial loans	511,460	4.27	21,816	502,322	4.18	20,973	503,163	3.66	18,426
Consumer loans:									
Real estate 1-4 family first mortgage	288,059	3.81	10,974	284,178	4.04	11,481	277,751	4.03	11,206
Real estate 1-4 family junior lien mortgage	31,989	5.63	1,800	36,687	5.38	1,975	42,780	4.82	2,062
Credit card	38,865	12.58	4,889	36,780	12.72	4,678	35,600	12.23	4,355
Automobile	45,901	5.15	2,362	48,115	5.18	2,491	57,900	5.34	3,094
Other revolving credit and installment	34,682	6.95	2,412	37,115	6.70	2,488	38,935	6.18	2,408
Total consumer loans	439,496	5.11	22,437	442,875	5.22	23,113	452,966	5.11	23,125
Total loans (3)	950,956	4.65	44,253	945,197	4.66	44,086	956,129	4.35	41,551
Equity securities	35,930	2.69	966	38,092	2.62	999	36,105	2.27	821
Other	5,579	1.62	90	5,071	1.46	74	5,069	0.85	44
Total earning assets	\$ 1,754,462	3.80%	\$ 66,696	1,738,482	3.76%	\$ 65,308	1,776,590	3.40%	\$ 60,233
<b>Funding sources</b>									
Deposits:									
Interest-bearing checking	\$ 59,121	1.33%	\$ 789	63,243	0.96%	\$ 606	49,474	0.49%	\$ 242
Market rate and other savings	705,957	0.59	4,132	684,882	0.31	2,157	682,053	0.14	983
Savings certificates	30,266	1.59	481	20,653	0.57	118	22,190	0.30	67
Other time deposits	93,368	2.46	2,295	84,822	2.25	1,906	61,625	1.43	880
Deposits in non-U.S. offices	53,438	1.75	938	63,945	1.30	835	123,816	0.68	841
Total interest-bearing deposits	942,150	0.92	8,635	917,545	0.61	5,622	939,158	0.32	3,013
Short-term borrowings	115,337	2.01	2,317	104,267	1.65	1,719	98,922	0.77	761
Long-term debt	232,491	3.16	7,350	224,268	2.99	6,703	246,195	2.09	5,157
Other liabilities	25,771	2.13	551	27,648	2.21	610	21,872	1.94	424
Total interest-bearing liabilities	1,315,749	1.43	18,853	1,273,728	1.15	14,654	1,306,147	0.72	9,355
Portion of noninterest-bearing funding sources	438,713	—	—	464,754	—	—	470,443	—	—
Total funding sources	\$ 1,754,462	1.07	18,853	1,738,482	0.85	14,654	1,776,590	0.53	9,355
<b>Net interest margin and net interest income on a taxable-equivalent basis (4)</b>		<b>2.73%</b>	<b>\$ 47,843</b>		<b>2.91%</b>	<b>\$ 50,654</b>		<b>2.87%</b>	<b>\$ 50,878</b>
<b>Noninterest-earning assets</b>									
Cash and due from banks	\$ 19,558			18,777			18,622		
Goodwill	26,409			26,453			26,629		
Other	113,015			105,180			111,164		
Total noninterest-earning assets	\$ 158,982			150,410			156,415		
<b>Noninterest-bearing funding sources</b>									
Deposits	\$ 344,111			358,312			365,464		
Other liabilities	55,963			53,496			55,740		
Total equity	197,621			203,356			205,654		
Noninterest-bearing funding sources used to fund earning assets	(438,713)			(464,754)			(470,443)		
Net noninterest-bearing funding sources	\$ 158,982			150,410			156,415		
<b>Total assets</b>	<b>\$ 1,913,444</b>			<b>1,888,892</b>			<b>1,933,005</b>		
<b>Average prime rate</b>		<b>5.28%</b>			<b>4.91%</b>			<b>4.10%</b>	
<b>Average three-month London Interbank Offered Rate (LIBOR)</b>		<b>2.33</b>			<b>2.31</b>			<b>1.26</b>	

(1) Yields/rates and amounts include the effects of hedge and risk management activities associated with the respective asset and liability categories.

(2) Yields/rates are based on interest income/expense amounts for the period. The average balance amounts represent amortized cost for the periods presented.

(3) Nonaccrual loans and related income are included in their respective loan categories.

(4) Includes taxable-equivalent adjustments of \$612 million, \$659 million and \$1.3 billion for the years ended December 31, 2019, 2018 and 2017, respectively, predominantly related to tax-exempt income on certain loans and securities.

## Earnings Performance (continued)

Table 6 allocates the changes in net interest income on a taxable-equivalent basis to changes in either average balances or average rates for both interest-earning assets and interest-bearing liabilities. Because of the numerous simultaneous volume and rate changes during any period, it is not possible to

precisely allocate such changes between volume and rate. For this table, changes that are not solely due to either volume or rate are allocated to these categories on a pro-rata basis based on the absolute value of the change due to average volume and average rate.

**Table 6: Analysis of Changes in Net Interest Income**

(in millions)	2019 over 2018			Year ended December 31, 2018 over 2017		
	Volume	Rate	Total	Volume	Rate	Total
<b>Increase (decrease) in interest income:</b>						
Interest-earning deposits with banks	\$ (407)	428	21	(569)	1,261	692
Federal funds sold and securities purchased under resale agreements	419	314	733	40	656	696
Debt securities:						
Trading debt securities	343	(50)	293	298	202	500
Available-for-sale debt securities:						
Securities of U.S. Treasury and federal agencies	175	29	204	(157)	30	(127)
Securities of U.S. states and political subdivisions	(143)	46	(97)	(184)	(92)	(276)
Mortgage-backed securities:						
Federal agencies	(50)	99	49	285	281	566
Residential and commercial	(103)	(30)	(133)	(197)	(76)	(273)
Total mortgage-backed securities	(153)	69	(84)	88	205	293
Other debt securities	(139)	5	(134)	(70)	256	186
Total available-for-sale debt securities	(260)	149	(111)	(323)	399	76
Held-to-maturity debt securities:						
Securities of U.S. Treasury and federal agencies	2	—	2	1	—	1
Securities of U.S. states and political subdivisions	97	(25)	72	(1)	(62)	(63)
Federal agency mortgage-backed securities	33	233	266	373	16	389
Other debt securities	(12)	(1)	(13)	(62)	22	(40)
Total held-to-maturity debt securities	120	207	327	311	(24)	287
Mortgage loans held for sale	59	(23)	36	(95)	86	(9)
Loans held for sale	(40)	(21)	(61)	47	43	90
Commercial loans:						
Commercial and industrial – U.S.	390	252	642	138	1,131	1,269
Commercial and industrial – Non-U.S.	130	112	242	105	399	504
Real estate mortgage	(51)	128	77	(272)	692	420
Real estate construction	(124)	52	(72)	(51)	201	150
Lease financing	(4)	(42)	(46)	10	194	204
Total commercial loans	341	502	843	(70)	2,617	2,547
Consumer loans:						
Real estate 1-4 family first mortgage	155	(662)	(507)	248	27	275
Real estate 1-4 family junior lien mortgage	(263)	88	(175)	(312)	225	(87)
Credit card	262	(51)	211	146	177	323
Automobile	(115)	(14)	(129)	(512)	(91)	(603)
Other revolving credit and installment	(167)	91	(76)	(116)	196	80
Total consumer loans	(128)	(548)	(676)	(546)	534	(12)
Total loans	213	(46)	167	(616)	3,151	2,535
Equity securities	(59)	26	(33)	47	131	178
Other	7	9	16	—	30	30
Total increase in interest income	395	993	1,388	(860)	5,935	5,075
<b>Increase (decrease) in interest expense:</b>						
Deposits:						
Interest-bearing checking	(42)	225	183	82	282	364
Market rate and other savings	65	1,910	1,975	4	1,170	1,174
Savings certificates	75	288	363	(5)	56	51
Other time deposits	202	187	389	407	619	1,026
Deposits in non-U.S. offices	(152)	255	103	(534)	528	(6)
Total interest-bearing deposits	148	2,865	3,013	(46)	2,655	2,609
Short-term borrowings	196	402	598	43	915	958
Long-term debt	254	393	647	(495)	2,041	1,546
Other liabilities	(38)	(21)	(59)	122	64	186
Total increase in interest expense	560	3,639	4,199	(376)	5,675	5,299
Increase (decrease) in net interest income on a taxable-equivalent basis	\$ (165)	(2,646)	(2,811)	(484)	260	(224)



## Noninterest Income

**Table 7: Noninterest Income**

(in millions)	Year ended December 31,		
	2019	2018	2017
Service charges on deposit accounts	\$ 4,798	4,716	5,111
Trust and investment fees:			
Brokerage advisory, commissions and other fees	9,237	9,436	9,358
Trust and investment management	3,038	3,316	3,372
Investment banking	1,797	1,757	1,765
Total trust and investment fees	14,072	14,509	14,495
Card fees	4,016	3,907	3,960
Other fees:			
Lending related charges and fees	1,379	1,526	1,568
Cash network fees	452	481	506
Commercial real estate brokerage commissions	358	468	462
Wire transfer and other remittance fees	474	477	448
All other fees	421	432	573
Total other fees	3,084	3,384	3,557
Mortgage banking:			
Servicing income, net	522	1,373	1,427
Net gains on mortgage loan origination/sales activities	2,193	1,644	2,923
Total mortgage banking	2,715	3,017	4,350
Insurance	378	429	1,049
Net gains from trading activities	993	602	542
Net gains on debt securities	140	108	479
Net gains from equity securities	2,843	1,515	1,779
Lease income	1,612	1,753	1,907
Life insurance investment income	658	651	594
All other	2,523	1,822	1,009
Total	\$ 37,832	36,413	38,832

Noninterest income of \$37.8 billion represented 44% of revenue for 2019, compared with \$36.4 billion, or 42%, for 2018 and \$38.8 billion, or 44%, for 2017. The increase in noninterest income in 2019, compared with 2018, was predominantly due to higher net gains from equity securities (including higher deferred compensation plan investment results, which are offset in employee benefits expense), higher all other income, and higher net gains from trading activities. These increases in 2019, compared with 2018, were partially offset by lower trust and investment fees, mortgage banking income, and other fees. The decline in noninterest income in 2018, compared with 2017, was predominantly due to lower net gains on mortgage loan origination/sales activities driven by decreased origination volumes and margins, lower insurance income due to the sale of Wells Fargo Insurance Services in fourth quarter 2017, lower service charges on deposit accounts, lower gains on debt securities, and lower deferred compensation plan investment results (offset in employee benefits expense). These decreases in 2018, compared with 2017, were partially offset by higher gains from equity securities and higher all other income. For more information on our performance obligations and the nature of services performed for certain of our revenues discussed below, see Note 22 (Revenue from Contracts with Customers) to Financial Statements in this Report.

Service charges on deposit accounts increased to \$4.8 billion in 2019, compared with \$4.7 billion in 2018, predominantly due to higher overdraft fees resulting from increased consumer payment transactions, partially offset by the impact of a higher earnings credit rate applied to commercial accounts due to higher interest rates.

Brokerage advisory, commissions and other fees decreased to \$9.2 billion in 2019, compared with \$9.4 billion in 2018, due to lower asset-based fees and lower transactional revenue. Retail

brokerage client assets totaled \$1.6 trillion at December 31, 2019, compared with \$1.5 trillion at December 31, 2018. Asset-based fees are calculated on the market value of the assets as of the beginning of each quarter. All retail brokerage services are provided by our WIM operating segment. For additional information on retail brokerage client assets, see the discussion and Tables 9d and 9e in the “Operating Segment Results – Wealth and Investment Management – Retail Brokerage Client Assets” section in this Report.

Trust and investment management fees decreased to \$3.0 billion in 2019, compared with \$3.3 billion in 2018, largely driven by lower trust fees due to the sale of our Institutional Retirement and Trust (IRT) business in 2019.

Our assets under management (AUM), including IRT client assets still on our platform, totaled \$705.9 billion at December 31, 2019, compared with \$638.3 billion at December 31, 2018. Substantially all of our AUM is managed by our Wealth and Investment Management (WIM) operating segment. Our assets under administration (AUA), including IRT client assets still on our platform, totaled \$1.8 trillion at December 31, 2019, compared with \$1.7 trillion at December 31, 2018. We had AUM and AUA associated with the IRT business of \$21 billion and \$915 billion, respectively, at December 31, 2019. No IRT client assets were transitioned to the buyer’s platform as of December 31, 2019.

We closed the sale of our IRT business on July 1, 2019. We will continue to administer client assets at the direction of the buyer for up to 24 months from the closing date pursuant to a transition services agreement. The buyer will receive post-closing revenue from the client assets and will pay us a fee for certain costs that we incur to administer the client assets during the transition period. The transition services fee will be recognized as other noninterest income, and the expenses we incur will be recognized in the same manner as they were prior to the close of the sale. Transition period revenue is expected to approximate transition period expenses and is subject to downward adjustment as client assets transition to the buyer’s platform.

Additional information regarding our WIM operating segment AUM is provided in Table 9f and the related discussion in the “Operating Segment Results – Wealth and Investment Management – Trust and Investment Client Assets Under Management” section in this Report.

Other fees decreased to \$3.1 billion in 2019 from \$3.4 billion in 2018, predominantly driven by the sale of our commercial real estate brokerage business (Eastdil Secured (Eastdil)) on October 1, 2019 and lower lending related charges and fees.

Mortgage banking income, consisting of net servicing income and net gains on loan origination/sales activities, totaled \$2.7 billion in 2019, compared with \$3.0 billion in 2018. For more information, see Note 11 (Mortgage Banking Activities) to Financial Statements in this Report.

Net servicing income was \$522 million in 2019, compared with \$1.4 billion in 2018, due to a decrease in net servicing fees and changes in the fair value of mortgage servicing rights (MSRs). Net servicing fees decreased \$369 million from 2018, primarily driven by a decrease in contractually specified fees as a result of prepayments and sales of MSRs. In addition to servicing fees, net servicing income includes amortization of commercial MSRs, changes in the fair value of residential MSRs, as well as changes in the fair value of derivatives (economic hedges) used to hedge the residential MSRs. The total fair value of our residential MSRs declined in 2019, compared with 2018, driven by lower mortgage interest rates and higher prepayments. The net MSR valuation loss on our residential MSRs increased in

## Earnings Performance (continued)

2019, compared with 2018, due to a decrease in hedge carry income from a flatter yield curve environment in 2019. Table 7a presents the components of the market-related valuation changes to our residential MSRs, net of hedge results.

**Table 7a: Market-Related Valuation Changes on Residential MSRs, Net of Hedge Results**

(in millions)	Year ended December 31,		
	2019	2018	2017
MSR valuation gain (loss)	\$ (2,569)	960	(126)
Net derivative gains (losses) from economic hedges of residential MSRs	2,318	(1,072)	413
Net MSR valuation gain (loss)	\$ (251)	(112)	287

Our portfolio of loans serviced for others was \$1.6 trillion at December 31, 2019, and \$1.7 trillion at December 31, 2018. At December 31, 2019, the ratio of combined residential and commercial MSRs to related loans serviced for others was 0.79%, compared with 0.94% at December 31, 2018. See the “Risk Management – Asset/Liability Management – Mortgage Banking Interest Rate and Market Risk” section in this Report for additional information regarding our MSRs risks and hedging approach.

Net gains on mortgage loan origination/sales activities was \$2.2 billion in 2019, compared with \$1.6 billion in 2018. The increase in 2019, compared with 2018, was primarily due to increases in origination volumes and margins. The production margin on residential held-for-sale mortgage loan originations, which represents net gains on residential mortgage loan origination/sales activities divided by total residential held-for-sale mortgage loan originations, provides a measure of the profitability of our residential mortgage origination activity. Table 7b presents the information used in determining the production margin.

**Table 7b: Selected Mortgage Production Data**

		Year ended December 31,		
		2019	2018	2017
<b>Net gains on mortgage loan origination/sales activities (in millions):</b>				
Residential	(A)	\$ 1,518	1,174	2,140
Commercial		337	265	358
Residential pipeline and unsold/repurchased loan management (1)		338	205	425
Total		\$ 2,193	1,644	2,923
<b>Residential real estate originations (in billions):</b>				
Held-for-sale	(B)	\$ 135	132	160
Held-for-investment		69	45	52
Total		\$ 204	177	212
<b>Production margin on residential held-for-sale mortgage originations</b>				
	(A)/(B)	1.12%	0.89	1.34

(1) Primarily includes the results of Government National Mortgage Association (GNMA) loss mitigation activities, interest rate management activities and changes in estimate to the liability for mortgage loan repurchase losses.

The production margin was 1.12% for 2019, compared with 0.89% for 2018. The increase in the production margin in 2019, compared with 2018, was due to higher margins in both retail and correspondent production channels and a shift to more retail origination volume, which has a higher production margin.

Mortgage applications were \$311 billion in 2019, compared with \$230 billion in 2018. The real estate 1-4 family first mortgage unclosed pipeline was \$33 billion at December 31, 2019, compared with \$18 billion at December 31, 2018. For additional information about our mortgage banking activities and results, see the “Risk Management – Asset/Liability Management – Mortgage Banking Interest Rate and Market Risk” section and Note 11 (Mortgage Banking Activities) and Note 19 (Fair Values of Assets and Liabilities) to Financial Statements in this Report.

Net gains from trading activities, which reflect unrealized changes in fair value of our trading positions and realized gains and losses, were \$993 million in 2019, compared with \$602 million in 2018. The increase in 2019, compared with 2018, reflected higher trading volumes for rates and commodities, credit, and residential mortgage-backed securities, partially offset by lower equity and foreign exchange trading income. Net gains from trading activities exclude interest and dividend income and expense on trading securities, which are reported within interest income from debt and equity securities and other interest income. For additional information about trading activities, see the “Risk Management – Asset/Liability Management – Market Risk – Trading Activities” section and Note 4 (Trading Activities) to Financial Statements in this Report.

Net gains on debt and equity securities totaled \$3.0 billion for 2019 and \$1.6 billion for 2018. The increase in 2019 was predominantly driven by higher deferred compensation gains (offset in employee benefits expense) and higher unrealized gains on equity securities, partially offset by lower net realized gains from nonmarketable equity securities. Table 8a presents results for our deferred compensation plan and related investments. Net gains on debt and equity securities also included other-than-temporary impairment (OTTI) write-downs of \$308 million for 2019 and \$380 million for 2018. The decrease in OTTI in 2019 reflected a \$214 million impairment taken in 2018 related to the sale of our ownership stake in The Rock Creek Group, LP (RockCreek), partially offset by higher write-downs in our investment portfolio in 2019.

Lease income was \$1.6 billion in 2019, compared with \$1.8 billion in 2018. The decrease in 2019, compared with 2018, was driven by reductions in the size of the equipment leasing portfolio.

All other income was \$2.5 billion in 2019, compared with \$1.8 billion in 2018. All other income includes losses on low income housing tax credit investments (excluding related tax credits recorded in income tax expense), foreign currency adjustments, income from investments accounted for under the equity method, hedge accounting results related to hedges of foreign currency risk, and the results of certain economic hedges, any of which can cause decreases and net losses in other income. The increase in all other income in 2019, compared with 2018, was predominantly driven by pre-tax gains on the sales of our IRT business, Eastdil, and Business Payroll Services, partially offset by lower gains from the sales of purchased credit-impaired (PCI) loans in 2019, as well as higher losses on low income housing tax credit investments in 2019.

## Noninterest Expense

**Table 8: Noninterest Expense**

(in millions)	Year ended December 31,		
	2019	2018	2017
Salaries	\$ 18,382	17,834	17,363
Commission and incentive compensation	10,828	10,264	10,442
Employee benefits	5,874	4,926	5,566
Technology and equipment	2,763	2,444	2,237
Net occupancy (1)	2,945	2,888	2,849
Core deposit and other intangibles	108	1,058	1,152
FDIC and other deposit assessments	526	1,110	1,287
Operating losses	4,321	3,124	5,492
Outside professional services	3,198	3,306	3,813
Contract services (2)	2,489	2,192	1,638
Leases (3)	1,155	1,334	1,351
Advertising and promotion	1,076	857	614
Outside data processing	673	660	891
Travel and entertainment	580	618	687
Postage, stationery and supplies	518	515	544
Telecommunications	367	361	364
Foreclosed assets	163	188	251
Insurance	100	101	100
All other (2)	2,112	2,346	1,843
<b>Total</b>	<b>\$ 58,178</b>	<b>56,126</b>	<b>58,484</b>

(1) Represents expenses for both leased and owned properties.

(2) The amount for 2017 has been revised to conform with the current period presentation whereby temporary help is included in contract services rather than in all other noninterest expense.

(3) Represents expenses for assets we lease to customers.

Noninterest expense was \$58.2 billion in 2019, up 4% from \$56.1 billion in 2018, which was down 4% from \$58.5 billion in 2017. The increase in 2019, compared with 2018, was driven by higher personnel expenses, operating losses, technology and equipment, and advertising and promotion expense, partially offset by lower core deposit and other intangibles expense, Federal Deposit Insurance Corporation (FDIC), leases, and other expense. The decrease in 2018, compared with 2017, was driven by lower operating losses from a decline in litigation accruals, lower personnel expenses, lower outside data processing, and lower FDIC expense, partially offset by higher advertising and promotion, technology and equipment, and other expense.

Personnel expenses, which include salaries, commissions, incentive compensation and employee benefits, were up \$2.1 billion, or 6%, in 2019, compared with 2018, due to higher deferred compensation costs (offset in net gains from equity securities), higher salaries driven by the impact of staffing mix changes and annual salary increases, as well as higher incentive compensation and commissions. The increase in incentive compensation and commissions was due to increased revenue from mortgage banking originations, market sensitive businesses (trading, debt and equity securities activities) and investment banking, partially offset by lower brokerage fees. Table 8a presents results for our deferred compensation plan and related investments.

**Table 8a: Deferred Compensation Plan and Related Investments**

(in millions)	Year ended December 31,	
	2019	2018
Net interest income	\$ 70	60
Net gains (losses) from equity securities	664	(303)
Total revenue (losses) from deferred compensation plan investments	734	(243)
Employee benefits expense (1)	739	(242)
Income (loss) before income tax expense	\$ (5)	(1)

(1) Represents change in deferred compensation plan liability.

Technology and equipment expense was up 13% in 2019, compared with 2018, due to higher impairment expenses on capitalized software and computer software licensing and maintenance costs, reflecting the strategic reassessment of technology projects in WIM.

Core deposit and other intangibles expense was down 90% in 2019, compared with 2018, due to lower amortization expense reflecting the end of the 10-year amortization period on Wachovia intangibles.

FDIC and other deposit assessments were down 53% in 2019, compared with 2018, due to the completion of the FDIC surcharge which ended September 30, 2018.

Operating losses were up \$1.2 billion, or 38%, in 2019, compared with 2018, due to higher litigation accruals for a variety of matters, including previously disclosed retail sales practices matters, partially offset by lower remediation expense.

Outside professional and contract services expense was up 3% in 2019, compared with 2018, reflecting an increase in project spending, partially offset by lower legal expense.

Leases expense was down 13% in 2019, compared with 2018, driven by reductions in the size of the operating lease portfolio.

Advertising and promotion expense was up 26% in 2019, compared with 2018, due to increases in marketing and brand campaign volumes.

All other noninterest expense was down 10% in 2019, compared with 2018, due to a sales tax refund in 2019, higher gains on the sale of corporate properties in 2019, compared with 2018, and pension plan settlement expense in 2018 that did not recur in 2019.

## Income Tax Expense

Our effective income tax rate in 2019 was 17.5%, compared with 20.2% in 2018. The 2019 and 2018 effective income tax rates reflected the non-tax-deductible treatment of certain litigation accruals. The 2018 effective income tax rate also reflected income tax expense related to the reconsideration of reserves for state income taxes following the U.S. Supreme Court decision in *South Dakota v. Wayfair, Inc.* and the recognition of \$164 million of income tax expense associated with the final re-measurement of our initial estimates for the impacts of the Tax Cuts & Jobs Act (Tax Act). See Note 24 (Income Taxes) to Financial Statements in this Report for additional information about our income taxes.

## Earnings Performance (continued)

### Operating Segment Results

As of December 31, 2019, we were organized for management reporting purposes into three operating segments: Community Banking; Wholesale Banking; and Wealth and Investment Management (WIM). These segments are defined by product type and customer segment and their results are based on our management reporting process. The management reporting process is based on U.S. GAAP with specific adjustments, such as for funds transfer pricing for asset/liability management, for shared revenues and expenses, and tax-equivalent adjustments to consistently reflect income from taxable and tax-exempt sources. On February 11, 2020, we announced a new organizational structure with five principal lines of business: Consumer and Small Business Banking; Consumer Lending; Commercial Banking; Corporate and Investment Banking; and Wealth and Investment Management. This new organizational

structure is intended to help drive operating, control, and business performance. The Company is currently in the process of transitioning to this new organizational structure, including identifying leadership for some of these principal business lines and aligning management reporting and allocation methodologies. These changes will not impact the consolidated financial results of the Company, but are expected to result in changes to our operating segments. We will update our operating segment disclosures, including comparative financial results, when the Company completes its transition and is managed in accordance with the new organizational structure. Table 9 and the following discussion present our results by operating segment. For additional description of our operating segments, including additional financial information and the underlying management reporting process, see Note 27 (Operating Segments) to Financial Statements in this Report.

**Table 9: Operating Segment Results – Highlights**

(in millions, except average balances which are in billions)	Year ended December 31,				
	Community Banking	Wholesale Banking	Wealth and Investment Management	Other (1)	Consolidated Company
<b>2019</b>					
<b>Revenue</b>	\$ 45,316	27,677	17,341	(5,271)	85,063
<b>Provision (reversal of provision) for credit losses</b>	2,319	378	5	(15)	2,687
<b>Net income (loss)</b>	7,398	10,696	2,713	(1,258)	19,549
<b>Average loans</b>	\$ 459.4	475.3	75.6	(59.3)	951.0
<b>Average deposits</b>	782.0	422.5	146.0	(64.2)	1,286.3
<b>2018</b>					
Revenue	\$ 46,913	28,706	16,376	(5,587)	86,408
Provision (reversal of provision) for credit losses	1,783	(58)	(5)	24	1,744
Net income (loss)	10,394	11,032	2,580	(1,613)	22,393
Average loans	\$ 463.7	465.7	74.6	(58.8)	945.2
Average deposits	757.2	423.7	165.0	(70.0)	1,275.9
<b>2017</b>					
Revenue	\$ 47,018	30,000	17,072	(5,701)	88,389
Provision (reversal of provision) for credit losses	2,555	(19)	(5)	(3)	2,528
Net income (loss)	10,938	9,914	2,770	(1,439)	22,183
Average loans	\$ 475.7	465.6	71.9	(57.1)	956.1
Average deposits	729.6	464.2	189.0	(78.2)	1,304.6

(1) Includes the elimination of certain items that are included in more than one business segment, substantially all of which represents products and services for WIM customers served through Community Banking distribution channels.

**Community Banking** offers a complete line of diversified financial products and services for consumers and small businesses with annual sales generally up to \$5 million in which the owner generally is the financial decision maker. These financial products and services include checking and savings accounts, credit and debit cards, automobile, student, mortgage, home equity and small business lending, as well as referrals to Wholesale Banking and WIM business partners. The Community

Banking segment also includes the results of our Corporate Treasury activities net of allocations (including funds transfer pricing, capital, liquidity and certain corporate expenses) in support of other segments and results of investments in our affiliated venture capital and private equity partnerships. Table 9a provides additional financial information for Community Banking.

**Table 9a: Community Banking**

(in millions, except average balances which are in billions)	Year ended December 31,				
	2019	2018	% Change	2017	% Change
<b>Net interest income</b>	<b>\$ 27,610</b>	29,219	(6)%	\$ 28,658	2%
<b>Noninterest income:</b>					
Service charges on deposit accounts	2,823	2,641	7	2,909	(9)
Trust and investment fees:					
Brokerage advisory, commissions and other fees (1)	1,931	1,887	2	1,830	3
Trust and investment management (1)	805	910	(12)	889	2
Investment banking (2)	(93)	(35)	NM	(59)	41
Total trust and investment fees	2,643	2,762	(4)	2,660	4
Card fees	3,655	3,543	3	3,613	(2)
Other fees	1,278	1,359	(6)	1,497	(9)
Mortgage banking	2,307	2,659	(13)	3,895	(32)
Insurance	44	83	(47)	139	(40)
Net gains (losses) from trading activities	24	28	(14)	(251)	111
Net gains (losses) on debt securities	51	(3)	NM	709	NM
Net gains from equity securities (3)	2,155	1,505	43	1,455	3
Other income of the segment	2,726	3,117	(13)	1,734	80
Total noninterest income	17,706	17,694	—	18,360	(4)
<b>Total revenue</b>	<b>45,316</b>	46,913	(3)	47,018	—
<b>Provision for credit losses</b>	<b>2,319</b>	1,783	30	2,555	(30)
<b>Noninterest expense:</b>					
Personnel expense	22,867	21,252	8	20,381	4
Technology and equipment	2,423	2,356	3	2,157	9
Net occupancy	2,236	2,166	3	2,111	3
Core deposit and other intangibles	3	404	(99)	446	(9)
FDIC and other deposit assessments	327	624	(48)	715	(13)
Outside professional services	1,942	1,560	24	1,875	(17)
Operating losses	3,846	2,656	45	5,312	(50)
Other expense of the segment	(948)	(527)	(80)	(382)	(38)
Total noninterest expense	32,696	30,491	7	32,615	(7)
<b>Income before income tax expense and noncontrolling interests</b>	<b>10,301</b>	14,639	(30)	11,848	24
Income tax expense	2,426	3,784	(36)	634	497
Less: Net income from noncontrolling interests (4)	477	461	3	276	67
<b>Net income</b>	<b>\$ 7,398</b>	10,394	(29)	\$ 10,938	(5)
<b>Average loans</b>	<b>\$ 459.4</b>	463.7	(1)	\$ 475.7	(3)
<b>Average deposits</b>	<b>782.0</b>	757.2	3	729.6	4

NM - Not meaningful

(1) Represents income on products and services for WIM customers served through Community Banking distribution channels which is eliminated in consolidation.

(2) Includes underwriting fees paid to Wells Fargo Securities for services related to the issuance of our corporate securities which are offset in our Wholesale Banking segment and eliminated in consolidation.

(3) Largely represents gains resulting from venture capital investments.

(4) Reflects results attributable to noncontrolling interests predominantly associated with the Company's consolidated venture capital investments.

## Earnings Performance *(continued)*

Community Banking reported net income of \$7.4 billion in 2019, down \$3.0 billion, or 29%, from 2018. Revenue was \$45.3 billion in 2019, down \$1.6 billion, or 3%, from 2018. The decrease in revenue in 2019 was due to lower net interest income, gains from the sales of purchased credit-impaired (PCI) residential mortgage loans, mortgage banking revenue driven by a decrease in servicing income, and trust and investment fees, partially offset by higher gains on equity securities, service charges on deposit accounts, and card fees.

The provision for credit losses in 2019 increased \$536 million from 2018 due to a higher level of credit quality improvement in 2018 compared with 2019, partially offset by lower net charge-offs in the automobile portfolio in 2019.

Noninterest expense of \$32.7 billion in 2019 increased \$2.2 billion, or 7%, from 2018. The increase in 2019 was predominantly driven by higher personnel expense, operating losses reflecting litigation accruals for a variety of matters, including previously disclosed retail sales practices matters, and outside professional services expense, partially offset by lower other expense, core deposit and other intangibles amortization expense, and FDIC and other deposit assessments expense.

Income tax expense was \$2.4 billion in 2019, down \$1.4 billion from \$3.8 billion in 2018. The decrease in income tax expense in 2019 was driven by lower pre-tax income, and reflected the non-tax-deductible treatment of certain litigation accruals.

Average loans decreased \$4.3 billion in 2019, or 1%, from 2018 driven by decreases in real estate 1-4 family junior lien mortgage, automobile, other revolving credit and installment, and commercial loans, partially offset by higher real estate 1-4 family first mortgage and credit card loans. Average deposits increased \$24.8 billion in 2019, or 3%, from 2018.

**Wholesale Banking** provides financial solutions to businesses with annual sales generally in excess of \$5 million and to financial institutions globally. Products and businesses include Commercial Banking, Commercial Real Estate, Corporate and

Investment Banking, Credit Investment Portfolio, Treasury Management, and Commercial Capital. Table 9b provides additional financial information for Wholesale Banking.

**Table 9b: Wholesale Banking**

(in millions, except average balances which are in billions)	Year ended December 31,				
	2019	2018	% Change	2017	% Change
<b>Net interest income</b>	<b>\$ 17,699</b>	18,690	(5)%	\$ 18,810	(1)%
<b>Noninterest income:</b>					
Service charges on deposit accounts	1,974	2,074	(5)	2,201	(6)
Trust and investment fees:					
Brokerage advisory, commissions and other fees	292	317	(8)	304	4
Trust and investment management	486	445	9	523	(15)
Investment banking	1,889	1,783	6	1,827	(2)
Total trust and investment fees	2,667	2,545	5	2,654	(4)
Card fees	359	362	(1)	345	5
Other fees	1,801	2,019	(11)	2,054	(2)
Mortgage banking	412	362	14	458	(21)
Insurance	303	312	(3)	872	(64)
Net gains from trading activities	915	516	77	701	(26)
Net gains (losses) on debt securities	89	102	(13)	(232)	144
Net gains from equity securities	416	293	42	116	153
Other income of the segment	1,042	1,431	(27)	2,021	(29)
Total noninterest income	9,978	10,016	—	11,190	(10)
<b>Total revenue</b>	<b>27,677</b>	28,706	(4)	30,000	(4)
<b>Provision (reversal of provision) for credit losses</b>	<b>378</b>	(58)	752	(19)	NM
<b>Noninterest expense:</b>					
Personnel expense	5,560	5,567	—	6,603	(16)
Technology and equipment	38	48	(21)	55	(13)
Net occupancy	388	403	(4)	425	(5)
Core deposit and other intangibles	92	378	(76)	414	(9)
FDIC and other deposit assessments	172	419	(59)	481	(13)
Outside professional services	600	958	(37)	1,134	(16)
Operating losses	35	246	(86)	74	232
Other expense of the segment	8,467	8,138	4	7,438	9
Total noninterest expense	15,352	16,157	(5)	16,624	(3)
<b>Income before income tax expense and noncontrolling interest</b>	<b>11,947</b>	12,607	(5)	13,395	(6)
Income tax expense (1)	1,246	1,555	(20)	3,496	(56)
Less: Net income (loss) from noncontrolling interest	5	20	(75)	(15)	233
<b>Net income</b>	<b>\$ 10,696</b>	11,032	(3)	\$ 9,914	11
<b>Average loans</b>	<b>\$ 475.3</b>	465.7	2	\$ 465.6	—
<b>Average deposits</b>	<b>422.5</b>	423.7	—	464.2	(9)

NM - Not meaningful

(1) Income tax expense for our Wholesale Banking operating segment included income tax credits related to low-income housing and renewable energy investments of \$1.8 billion, \$1.6 billion and \$1.4 billion for the years ended December 31, 2019, 2018 and 2017, respectively.

Wholesale Banking reported net income of \$10.7 billion in 2019, down \$336 million, or 3%, from 2018. The decrease in 2019 was predominantly due to lower net interest income, partially offset by lower noninterest expense. Revenue of \$27.7 billion in 2019 decreased \$1.0 billion, or 4%, from 2018.

Net interest income of \$17.7 billion in 2019 decreased \$1.0 billion, or 5%, from 2018. The decrease in net interest income in 2019 was due to lower credit spreads on loans, trading assets, and debt securities, as well as the impact of migration from noninterest-bearing to interest-bearing deposits.

Noninterest income of \$10.0 billion in 2019 was flat compared with 2018.

The provision for credit losses in 2019 increased \$436 million from 2018, driven by lower recoveries reflecting a higher level of credit quality improvement in 2018 compared with 2019.

Noninterest expense of \$15.4 billion in 2019 decreased \$805 million, or 5%, compared with 2018. The decrease in 2019 was predominantly due to lower core deposit and other intangibles amortization expense, FDIC and other deposit assessments expense, operating losses, and lease expense (within other expense), as well as the impact of the sale of Eastdil, partially offset by increased project expense (within other expense).

## Earnings Performance (continued)

Average loans of \$475.3 billion in 2019 increased \$9.6 billion, or 2%, compared with 2018. Loan growth in 2019 from commercial and industrial loans was partially offset by declines in commercial real estate loans. Average deposits of \$422.5 billion in 2019 decreased \$1.2 billion from 2018. The decline in 2019 was driven by commercial customers allocating more cash to alternative higher-rate liquid investments.

**Wealth and Investment Management** provides a full range of personalized wealth management, investment and retirement products and services to clients across U.S.-based businesses including Wells Fargo Advisors, The Private Bank, Abbot

Downing, and Wells Fargo Asset Management. We deliver financial planning, private banking, credit, investment management and fiduciary services to high-net worth and ultra-high-net worth individuals and families. We also serve clients' brokerage needs and provide investment management capabilities delivered to global institutional clients through separate accounts and the Wells Fargo Funds. The sale of our IRT business closed on July 1, 2019. For additional information on the sale of our IRT business, including its impact on our AUM, AUA and associated revenue and expenses, see the "Noninterest Income" section in this Report. Tables 9c through 9f provide additional financial information for WIM.

**Table 9c: Wealth and Investment Management**

(in millions, except average balances which are in billions)	Year ended December 31,				
	2019	2018	% Change	2017	% Change
<b>Net interest income</b>	<b>\$ 4,037</b>	4,441	(9)%	\$ 4,641	(4)%
<b>Noninterest income:</b>					
Service charges on deposit accounts	16	16	—	17	(6)
Trust and investment fees:					
Brokerage advisory, commissions and other fees	8,946	9,161	(2)	9,072	1
Trust and investment management	2,587	2,893	(11)	2,877	1
Investment banking	6	9	(33)	(2)	550
Total trust and investment fees	11,539	12,063	(4)	11,947	1
Card fees	6	6	—	6	—
Other fees	17	17	—	18	(6)
Mortgage banking	(12)	(11)	(9)	(10)	(10)
Insurance	72	82	(12)	88	(7)
Net gains from trading activities	53	57	(7)	92	(38)
Net gains on debt securities	—	9	(100)	2	350
Net gains (losses) from equity securities	272	(283)	196	208	NM
Other income of the segment	1,341	(21)	NM	63	NM
Total noninterest income	13,304	11,935	11	12,431	(4)
<b>Total revenue</b>	<b>17,341</b>	16,376	6	17,072	(4)
<b>Provision (reversal of provision) for credit losses</b>	<b>5</b>	(5)	200	(5)	—
<b>Noninterest expense:</b>					
Personnel expense	8,477	8,085	5	8,126	(1)
Technology and equipment	304	42	624	28	50
Net occupancy	448	440	2	431	2
Core deposit and other intangibles	13	276	(95)	292	(5)
FDIC and other deposit assessments	49	116	(58)	154	(25)
Outside professional services	684	815	(16)	834	(2)
Operating losses	452	232	95	115	102
Other expense of the segment	3,282	2,932	12	2,643	11
Total noninterest expense	13,709	12,938	6	12,623	2
<b>Income before income tax expense and noncontrolling interest</b>	<b>3,627</b>	3,443	5	4,454	(23)
Income tax expense	904	861	5	1,668	(48)
Less: Net income from noncontrolling interest	10	2	400	16	(88)
<b>Net income</b>	<b>\$ 2,713</b>	2,580	5	\$ 2,770	(7)
<b>Average loans</b>	<b>\$ 75.6</b>	74.6	1	\$ 71.9	4
<b>Average deposits</b>	<b>146.0</b>	165.0	(12)	189.0	(13)

NM - Not meaningful

WIM reported net income of \$2.7 billion in 2019, up \$133 million, or 5%, from 2018. Revenue of \$17.3 billion in 2019 increased \$965 million, or 6%, from 2018.

Net interest income of \$4.0 billion in 2019 decreased \$404 million, or 9%, from 2018 predominantly due to the impact of lower deposit balances.

Noninterest income of \$13.3 billion in 2019 increased \$1.4 billion, or 11%, from 2018, predominantly due to the \$1.1 billion gain on the sale of our IRT business and higher net gains from equity securities on increased deferred compensation plan investment results (largely offset by higher employee benefits expense), partially offset by lower asset-based fees.



Noninterest income in 2018 reflected an impairment on the sale of our ownership stake in RockCreek.

The provision for credit losses was \$5 million in 2019, compared with a reversal of provision of \$5 million in 2018.

Noninterest expense of \$13.7 billion in 2019 increased \$771 million, or 6%, from 2018 due to higher personnel expense on increased deferred compensation plan expense (offset in net gains from equity securities), technology and equipment expense including \$265 million of capitalized software impairment and computer software licensing and maintenance costs, reflecting the strategic reassessment of technology projects, operating losses, and project expense (within other expense), partially offset by lower core deposits and other intangibles amortization expense.

Average loans of \$75.6 billion in 2019 increased \$1.0 billion from 2018 driven by growth in nonconforming mortgage loans. Average deposits of \$146.0 billion in 2019 decreased \$19.0 billion, or 12%, from 2018 as customers allocated more cash into higher yielding liquid alternatives.

The following discussions provide additional information for client assets we oversee in our retail brokerage advisory and trust and investment management business lines.

**Retail Brokerage Client Assets** Brokerage advisory, commissions and other fees are received for providing full-service and discount brokerage services predominantly to retail brokerage clients. Offering advisory account relationships to our brokerage clients is an important component of our broader strategy of meeting their financial needs. Although a majority of our retail brokerage client assets are in accounts that earn brokerage commissions, the fees from those accounts generally represent transactional commissions based on the number and size of transactions executed at the client's direction. Fees from advisory accounts are based on a percentage of the market value of the assets as of the beginning of the quarter, which vary across the account types based on the distinct services provided, and are affected by investment performance as well as asset inflows and outflows. A majority of our brokerage advisory, commissions and other fee income is earned from advisory accounts. Table 9d shows advisory account client assets as a percentage of total retail brokerage client assets at December 31, 2019, 2018 and 2017.

## Earnings Performance (continued)

**Table 9d: Retail Brokerage Client Assets**

(in billions)	Year ended December 31,		
	2019	2018	2017
Retail brokerage client assets	\$ 1,646.0	1,487.6	1,651.3
Advisory account client assets	589.5	501.1	542.8
Advisory account client assets as a percentage of total client assets	36%	34	33

Retail Brokerage advisory accounts include assets that are financial advisor-directed and separately managed by third-party managers, as well as certain client-directed brokerage assets where we earn a fee for advisory and other services, but do not have investment discretion. For the years ended December 31, 2019, 2018 and 2017, the average fee rate by account type

ranged from 80 to 120 basis points. Table 9e presents retail brokerage advisory account client assets activity by account type for the years ended December 31, 2019, 2018 and 2017. The activity in 2019 reflected higher market valuations and net outflows primarily from the correspondent clearing business.

**Table 9e: Retail Brokerage Advisory Account Client Assets**

(in billions)					Year ended
	Balance, beginning of period	Inflows (1)	Outflows (2)	Market impact (3)	Balance, end of period
<b>December 31, 2019</b>					
Client directed (4)	\$ 151.5	33.5	(41.8)	26.2	169.4
Financial advisor directed (5)	141.9	33.9	(34.7)	35.2	176.3
Separate accounts (6)	136.4	24.2	(29.7)	29.2	160.1
Mutual fund advisory (7)	71.3	11.8	(14.1)	14.7	83.7
<b>Total advisory client assets</b>	<b>\$ 501.1</b>	<b>103.4</b>	<b>(120.3)</b>	<b>105.3</b>	<b>589.5</b>
<b>December 31, 2018</b>					
Client directed (4)	\$ 170.9	33.6	(41.0)	(12.0)	151.5
Financial advisor directed (5)	147.0	30.0	(32.9)	(2.2)	141.9
Separate accounts (6)	149.1	23.8	(29.1)	(7.4)	136.4
Mutual fund advisory (7)	75.8	12.8	(13.8)	(3.5)	71.3
<b>Total advisory client assets</b>	<b>\$ 542.8</b>	<b>100.2</b>	<b>(116.8)</b>	<b>(25.1)</b>	<b>501.1</b>
<b>December 31, 2017</b>					
Client directed (4)	\$ 159.1	37.1	(39.2)	13.9	170.9
Financial advisor directed (5)	115.7	30.6	(24.5)	25.2	147.0
Separate accounts (6)	125.7	26.1	(23.5)	20.8	149.1
Mutual fund advisory (7)	63.3	13.1	(11.1)	10.5	75.8
<b>Total advisory client assets</b>	<b>\$ 463.8</b>	<b>106.9</b>	<b>(98.3)</b>	<b>70.4</b>	<b>542.8</b>

(1) Inflows include new advisory account assets, contributions, dividends and interest.

(2) Outflows include closed advisory account assets, withdrawals and client management fees.

(3) Market impact reflects gains and losses on portfolio investments.

(4) Investment advice and other services are provided to client, but decisions are made by the client and the fees earned are based on a percentage of the advisory account assets, not the number and size of transactions executed by the client.

(5) Professionally managed portfolios with fees earned based on respective strategies and as a percentage of certain client assets.

(6) Professional advisory portfolios managed by Wells Fargo Asset Management or third-party asset managers. Fees are earned based on a percentage of certain client assets.

(7) Program with portfolios constructed of load-waived, no-load and institutional share class mutual funds. Fees are earned based on a percentage of certain client assets.

**Trust and Investment Client Assets Under Management** We earn trust and investment management fees from managing and administering assets, including mutual funds, separate accounts, and personal trust assets, through our asset management and wealth businesses. Prior to the sale of our IRT business, which closed on July 1, 2019, we also earned fees from managing employee benefit trusts through the retirement business. Our asset management business is conducted by Wells Fargo Asset Management (WFAM), which offers Wells Fargo proprietary mutual funds and manages institutional separate accounts, and

our wealth business manages assets for high net worth clients. Substantially all of our trust and investment management fee income is earned from AUM where we have discretionary management authority over the investments and generate fees as a percentage of the market value of the AUM. For additional information on the sale of our IRT business, including its impact on our AUM, AUA and associated revenue and expenses, see the "Noninterest Income" section in this Report. Table 9f presents AUM activity for the years ended December 31, 2019, 2018 and 2017.

**Table 9f: WIM Trust and Investment – Assets Under Management**

(in billions)	Year ended				
	Balance, beginning of period	Inflows (1)	Outflows (2)	Market impact (3)	Balance, end of period
<b>December 31, 2019</b>					
<b>Assets managed by WFAM (4):</b>					
Money market funds (5)	\$ 112.4	18.2	—	—	130.6
Other assets managed	353.5	75.1	(86.1)	35.7	378.2
<b>Assets managed by Wealth and IRT (6)</b>	<b>170.7</b>	<b>33.6</b>	<b>(40.5)</b>	<b>23.6</b>	<b>187.4</b>
<b>Total assets under management</b>	<b>\$ 636.6</b>	<b>126.9</b>	<b>(126.6)</b>	<b>59.3</b>	<b>696.2</b>
<b>December 31, 2018</b>					
Assets managed by WFAM (4):					
Money market funds (5)	\$ 108.2	4.2	—	—	112.4
Other assets managed	395.7	85.5	(120.2)	(7.5)	353.5
<b>Assets managed by Wealth and IRT (6)</b>	<b>186.2</b>	<b>36.3</b>	<b>(39.5)</b>	<b>(12.3)</b>	<b>170.7</b>
<b>Total assets under management</b>	<b>\$ 690.1</b>	<b>126.0</b>	<b>(159.7)</b>	<b>(19.8)</b>	<b>636.6</b>
<b>December 31, 2017</b>					
Assets managed by WFAM (4):					
Money market funds (5)	\$ 102.6	5.6	—	—	108.2
Other assets managed	379.6	116.0	(130.9)	31.0	395.7
<b>Assets managed by Wealth and IRT (6)</b>	<b>168.5</b>	<b>41.1</b>	<b>(39.4)</b>	<b>16.0</b>	<b>186.2</b>
<b>Total assets under management</b>	<b>\$ 650.7</b>	<b>162.7</b>	<b>(170.3)</b>	<b>47.0</b>	<b>690.1</b>

(1) Inflows include new managed account assets, contributions, dividends and interest.

(2) Outflows include closed managed account assets, withdrawals and client management fees.

(3) Market impact reflects gains and losses on portfolio investments.

(4) Assets managed by WFAM consist of equity, alternative, balanced, fixed income, money market, and stable value, and include client assets that are managed or sub-advised on behalf of other Wells Fargo lines of business.

(5) Money Market funds activity is presented on a net inflow or net outflow basis, because the gross flows are not meaningful nor used by management as an indicator of performance.

(6) Includes \$5.0 billion, \$4.9 billion and \$5.5 billion as of December 31, 2019, 2018 and 2017, respectively, of client assets invested in proprietary funds managed by WFAM.

## Balance Sheet Analysis

At December 31, 2019, our assets totaled \$1.9 trillion, up \$31.7 billion from December 31, 2018. Asset growth was predominantly due to increases in federal funds sold and securities purchased under resale agreements, debt securities, and equity securities, which increased \$21.9 billion, \$12.4 billion, and \$13.1 billion, respectively, partially offset by a \$30.2 billion decline in interest-earning deposits with banks.

The following discussion provides additional information about the major components of our balance sheet. Information regarding our capital and changes in our asset mix is included in the “Earnings Performance – Net Interest Income” and “Capital Management” sections and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report.

### Available-for-Sale and Held-to-Maturity Debt Securities

**Table 10: Available-for-Sale and Held-to-Maturity Debt Securities**

(in millions)	December 31, 2019			December 31, 2018		
	Amortized cost	Net unrealized gain (loss)	Fair value	Amortized cost	Net unrealized gain (loss)	Fair value
Available-for-sale	\$ 260,060	3,399	263,459	272,471	(2,559)	269,912
Held-to-maturity	153,933	2,927	156,860	144,788	(2,673)	142,115
Total (1)	413,993	6,326	420,319	417,259	(5,232)	412,027

(1) Available-for-sale debt securities are carried on the balance sheet at fair value. Held-to-maturity debt securities are carried on the balance sheet at amortized cost.

Table 10 presents a summary of our available-for-sale and held-to-maturity debt securities, which increased \$2.7 billion in balance sheet carrying value from December 31, 2018, due to higher net unrealized gains, partially offset by paydowns, sales and maturities exceeding purchases.

The total net unrealized gains on available-for-sale debt securities were \$3.4 billion at December 31, 2019, up from net unrealized losses of \$2.6 billion at December 31, 2018, driven by lower interest rates and tighter credit spreads.

The size and composition of our available-for-sale and held-to-maturity debt securities is dependent upon the Company's liquidity and interest rate risk management objectives. Our business generates assets and liabilities, such as loans, deposits and long-term debt, which have different maturities, yields, repricing, prepayment characteristics and other provisions that expose us to interest rate and liquidity risk.

The available-for-sale debt securities portfolio primarily consists of liquid, high-quality U.S. Treasury and federal agency debt, and agency mortgage-backed securities (MBS), in addition to securities issued by U.S. states and political subdivisions, corporate debt securities, and highly rated collateralized loan obligations (CLOs). The available-for-sale debt securities portfolio can be used to meet funding needs that arise in the normal course of business or due to market stress. Changes in our interest rate risk profile may occur due to changes in overall economic or market conditions, which could influence loan origination demand, prepayment speeds, or deposit balances and mix. In response, the available-for-sale debt securities portfolio can be rebalanced to meet the Company's interest rate risk management objectives. In addition to meeting liquidity and interest rate risk management objectives, the available-for-sale debt securities portfolio may provide yield enhancement over other short-term assets. See the “Risk Management – Asset/Liability Management” section in this Report for more information on liquidity and interest rate risk.

The held-to-maturity debt securities portfolio predominantly consists of high-quality U.S. Treasury debt, agency MBS and securities issued by U.S. states and political subdivisions where our intent is to hold these securities to maturity and collect the contractual cash flows. The held-to-maturity debt securities portfolio may also provide yield enhancement over short-term assets.

We analyze debt securities for OTTI quarterly or more often if a potential loss-triggering event occurs. In 2019, we recognized \$63 million of OTTI write-downs on debt securities. For a discussion of our OTTI accounting policies and underlying considerations and analysis, see Note 1 (Summary of Significant Accounting Policies) and Note 5 (Available-for-Sale and Held-to-Maturity Debt Securities) to Financial Statements in this Report.

At December 31, 2019, debt securities included \$53.8 billion of municipal bonds, of which 96.9% were rated “A-” or better based predominantly on external ratings. Additionally, some of the debt securities in our total municipal bond portfolio are guaranteed against loss by bond insurers. These guaranteed bonds are predominantly investment grade and were generally underwritten in accordance with our own investment standards prior to the determination to purchase, without relying on the bond insurer's guarantee in making the investment decision. The credit quality of our municipal bond holdings are monitored as part of our ongoing impairment analysis.

The weighted-average expected maturity of debt securities available-for-sale was 4.7 years at December 31, 2019. The expected remaining maturity is shorter than the remaining contractual maturity for the 63.5% of this portfolio that is MBS because borrowers generally have the right to prepay obligations before the underlying mortgages mature. The estimated effects of a 200 basis point increase or decrease in interest rates on the fair value and the expected remaining maturity of the MBS available-for-sale portfolio are shown in Table 11.

**Table 11: Mortgage-Backed Securities Available for Sale**

(in billions)	Fair value	Net unrealized gain (loss)	Expected remaining maturity (in years)
At December 31, 2019			
Actual	167.2	2.2	4.6
Assuming a 200 basis point:			
Increase in interest rates	151.3	(13.7)	6.9
Decrease in interest rates	176.9	11.9	3.2

The weighted-average expected remaining maturity of debt securities held-to-maturity (HTM) was 4.9 years at December 31, 2019. HTM debt securities are measured at amortized cost and, therefore, changes in the fair value of our held-to-maturity MBS resulting from changes in interest rates are not recognized in earnings. See Note 5 (Available-for-Sale and Held-to-Maturity Debt Securities) to Financial Statements in this Report for a summary of debt securities by security type.

**Table 12: Loan Portfolios**

(in millions)	December 31, 2019	December 31, 2018
Commercial	\$ 515,719	513,405
Consumer	446,546	439,705
Total loans	962,265	953,110
Change from prior year	\$ 9,155	(3,660)

Average loan balances and a comparative detail of average loan balances is included in Table 5 under “Earnings Performance – Net Interest Income” earlier in this Report. Additional information on total loans outstanding by portfolio segment and class of financing receivable is included in the “Risk Management – Credit Risk Management” section in this Report. Period-end

**Table 13: Maturities for Selected Commercial Loan Categories**

(in millions)	December 31, 2019			
	Within one year	After one year through five years	After five years	Total
Selected loan maturities:				
Commercial and industrial	\$ 130,342	196,460	27,323	354,125
Real estate mortgage	27,951	64,506	29,367	121,824
Real estate construction	9,219	10,178	542	19,939
Total selected loans	\$ 167,512	271,144	57,232	495,888
Distribution of loans to changes in interest rates:				
Loans at fixed interest rates	\$ 22,660	28,688	18,479	69,827
Loans at floating/variable interest rates	144,852	242,456	38,753	426,061
Total selected loans	\$ 167,512	271,144	57,232	495,888

## Loan Portfolios

Table 12 provides a summary of total outstanding loans by portfolio segment. Total loans increased \$9.2 billion from December 31, 2018, largely driven by an increase in consumer loans.

Consumer loans were up \$6.8 billion from December 31, 2018, predominantly due to growth in the real estate 1-4 family first mortgage portfolio, as mortgage loan originations were partially offset by paydowns and \$4.0 billion of sales of PCI loans, predominantly Pick-a-Pay, in 2019. We also purchased \$3.3 billion of mortgage loans in 2019 as a result of exercising servicer cleanup calls. In addition, during 2019, we reclassified \$1.9 billion of existing mortgage loans to MLHFS in anticipation of future whole loan sales.

Commercial loans also increased from December 31, 2018, predominantly driven by growth in our commercial and industrial loan portfolio, reflecting growth in our Corporate and Investment Banking business and purchases of CLOs in loan form within our Credit Investment Portfolio, partially offset by declines in our Commercial Banking business.

balances and other loan related information are in Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

Table 13 shows contractual maturities for selected classes of commercial loans and the distribution of loans to changes in interest rates.

## Balance Sheet Analysis (continued)

### Deposits

Deposits were \$1.3 trillion at December 31, 2019, up \$36.5 billion from December 31, 2018, due to an increase in commercial deposits, consumer and small business banking deposits, and mortgage escrow deposits reflecting an inflow of higher mortgage payoffs to be remitted to investors in accordance with servicing contracts, partially offset by a decrease in other time deposits. The increase in commercial deposits was due to higher balances in corporate and investment banking deposits, and commercial real estate deposits. The

increase in consumer and small business banking deposits was due to higher balances in high-yield savings, certificates of deposit (CDs), and noninterest-bearing deposits, partially offset by declines in brokerage sweeps. Table 14 provides additional information regarding deposits. Information regarding the impact of deposits on net interest income and a comparison of average deposit balances is provided in the “Earnings Performance – Net Interest Income” section and Table 5 earlier in this Report.

**Table 14: Deposits**

(\$ in millions)	Dec 31, 2019	% of total deposits	Dec 31, 2018	% of total deposits	% Change
Noninterest-bearing	\$ 344,496	26%	\$ 349,534	27%	(1)
Interest-bearing checking	62,814	5	56,797	4	11
Market rate and other savings	751,080	57	703,338	55	7
Savings certificates	31,715	2	22,648	2	40
Other time deposits	78,609	6	95,602	7	(18)
Deposits in non-U.S. offices (1)	53,912	4	58,251	5	(7)
Total deposits	\$ 1,322,626	100%	\$ 1,286,170	100%	3

(1) Includes Eurodollar sweep balances of \$34.2 billion and \$31.8 billion at December 31, 2019 and 2018, respectively.

### Equity

Total equity was \$188.0 billion at December 31, 2019, compared with \$197.1 billion at December 31, 2018. The decrease was driven by a \$21.6 billion increase in treasury stock and a \$1.7 billion decline in preferred stock, partially offset by an \$8.5 billion increase in retained earnings net of dividends paid, and a \$5.0 billion increase in cumulative other comprehensive income predominantly due to fair value adjustments to available-for-sale debt securities. The increase in treasury stock was the result of the repurchase of 502.4 million shares of common stock in 2019, an increase of 34% from 2018.

## Off-Balance Sheet Arrangements

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In the ordinary course of business, we engage in financial transactions that are not recorded on the balance sheet, or may be recorded on the balance sheet in amounts that are different from the full contract or notional amount of the transaction. Our off-balance sheet arrangements include commitments to lend and purchase debt and equity securities, transactions with unconsolidated entities, guarantees, derivatives, and other commitments. These transactions are designed to (1) meet the financial needs of customers, (2) manage our credit, market or liquidity risks, and/or (3) diversify our funding sources.

### Commitments to Lend

We enter into commitments to lend to customers, which are usually at a stated interest rate, if funded, and for specific purposes and time periods. When we enter into commitments, we are exposed to credit risk. The maximum credit risk for these commitments will generally be lower than the contractual amount because a significant portion of these commitments are not funded. For more information, see Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

### Commitments to Purchase Debt and Equity Securities

We enter into commitments to purchase securities under resale agreements. We also may enter into commitments to purchase debt and equity securities to provide capital for customers' funding, liquidity or other future needs. For more information, see Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments) to Financial Statements in this Report.

### Transactions with Unconsolidated Entities

In the normal course of business, we enter into various types of on- and off-balance sheet transactions with special purpose entities (SPEs), which are corporations, trusts, limited liability companies or partnerships that are established for a limited purpose. Generally, SPEs are formed in connection with securitization transactions and are considered variable interest entities (VIEs). For more information, see Note 10 (Securitizations and Variable Interest Entities) to Financial Statements in this Report.

### Guarantees and Other Arrangements

Guarantees are contracts that contingently require us to make payments to a guaranteed party based on an event or a change in an underlying asset, liability, rate or index. Guarantees are generally in the form of standby letters of credit, direct pay letters of credit, written options, recourse obligations, exchange and clearing house guarantees, indemnifications, and other types of similar arrangements. For more information, see Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments) to Financial Statements in this Report.

### Derivatives

We use derivatives to manage exposure to market risk, including interest rate risk, credit risk and foreign currency risk, and to assist customers with their risk management objectives. Derivatives are recorded on the balance sheet at fair value, and volume can be measured in terms of the notional amount, which is generally not exchanged, but is used only as the basis on which interest and other payments are determined. The notional amount is not recorded on the balance sheet and is not, when viewed in isolation, a meaningful measure of the risk profile of the instruments. For more information, see Note 18 (Derivatives) to Financial Statements in this Report.

## Off-Balance Sheet Arrangements (continued)

### Contractual Cash Obligations

In the ordinary course of business, we enter into other contractual obligations that may require future cash payments, including debt issuances for the funding of operations and leases for premises and equipment.

Table 15 summarizes these contractual obligations as of

December 31, 2019, excluding accrued expenses and other liabilities, short-term borrowings and obligations for pension and postretirement benefit plans. For more information, see Note 14 (Short-Term Borrowings) and Note 23 (Employee Benefits and Other Expenses) to Financial Statements in this Report.

**Table 15: Contractual Cash Obligations**

		December 31, 2019						
(in millions)	Note(s) to Financial Statements	Less than 1 year	1-3 years	3-5 years	More than 5 years	Indeterminate maturity	Total	
Contractual payments by period:								
Deposits (1)	13	\$ 88,259	21,484	6,036	3,070	1,203,777	1,322,626	
Long-term debt (2)	15	39,646	73,329	29,776	85,440	—	228,191	
Interest (3)		6,805	8,748	5,733	19,648	—	40,934	
Operating leases	7	1,006	1,942	1,347	1,672	—	5,967	
Unrecognized tax obligations	24	5	—	—	—	3,676	3,681	
Commitments to purchase debt and equity securities (4)	16	2,706	—	—	18	—	2,724	
Purchase and other obligations (5)		855	1,009	438	314	—	2,616	
<b>Total contractual obligations</b>		<b>\$ 139,282</b>	<b>106,512</b>	<b>43,330</b>	<b>110,162</b>	<b>1,207,453</b>	<b>1,606,739</b>	

(1) Includes interest-bearing and noninterest-bearing checking, and market rate and other savings accounts.

(2) Balances are presented net of unamortized debt discounts and premiums and purchase accounting adjustments.

(3) Represents the future interest obligations related to interest-bearing time deposits and long-term debt in the normal course of business including a net reduction of \$7.1 billion related to hedges used to manage interest rate risk. These interest obligations assume no early debt redemption. We estimated variable interest rate payments using December 31, 2019, rates, which we held constant until maturity. We have excluded interest related to structured notes where our payment obligation is contingent on the performance of certain benchmarks.

(4) Includes unfunded commitments to purchase debt securities of \$18 million and equity securities of \$2.7 billion, respectively. Substantially all of our equity commitments are included in the 'Less than one year' category as there are no specified contribution dates in the agreements. These obligations may be requested at any time by the investment manager.

(5) Represents agreements related to unrecognized obligations to purchase goods or services.

We are subject to the income tax laws of the U.S., its states and municipalities, and those of the non-U.S. jurisdictions in which we operate. We have various unrecognized tax obligations related to these operations that may require future cash tax payments to various taxing authorities. Because of their uncertain nature, the expected timing and amounts of these payments generally are not reasonably estimable or determinable. We attempt to estimate the amount payable in the next 12 months based on the status of our tax examinations and settlement discussions. See Note 24 (Income Taxes) to Financial Statements in this Report for more information.



## Risk Management

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Wells Fargo manages a variety of risks that can significantly affect our financial performance and our ability to meet the expectations of our customers, shareholders, regulators and other stakeholders.

**Risk is Part of our Business Model** The Company measures and manages risk as part of our business, including in connection with the products and services we offer to our customers. The risks we take include financial, such as credit, interest rate, market, liquidity and funding risks, and non-financial, such as operational including compliance and model risks, strategic and reputation risks.

**Risk Profile** Our risk profile is a holistic view of all risks we hold at a point in time, including emerging risks. The Company monitors its risk profile, and the Board periodically reviews reports and analysis concerning our risk profile.

**Risk Capacity** Risk capacity refers to the maximum level of risk that the Company could assume given its current level of resources before triggering regulatory and other constraints on its capital and liquidity needs.

**Risk Appetite** Management defines and the Board approves the Company's risk appetite, which is the amount of risk the Company is comfortable taking given its current level of resources. Risk appetite defines which risks are acceptable and at what level and guides business and risk leaders. Risk appetite boundaries are set within the Company's risk capacity. The Company's risk appetite is articulated in a statement of risk appetite, which is approved at least annually by the Board. The Company continuously monitors its risk appetite, and the Board reviews periodic risk appetite reports and analysis.

**Risk and Strategy** The Company's risk profile, risk capacity, risk appetite, and risk management effectiveness (e.g., the holistic measure of the quality and effectiveness of the Company's risk management activities, including the functional or programmatic use of controls and capabilities to manage risks) are considered in the strategic planning process, which is closely linked with the Company's capital planning process. The Company's Independent Risk Management (IRM) organization participates in strategic planning at several points in the process, providing challenge to and independent assessment of the Company's self-assessment of the risks associated with strategic planning initiatives. IRM also independently assesses the impact of the strategic plan on risk capacity, risk appetite, and risk management effectiveness at the business group, enterprise function, and aggregate Company level. Risk decisions related to the strategic plan are approved by the Enterprise Risk & Control Committee (ERCC), a management governance committee that governs the management of all risk types. After a critical review, the strategic plan is presented to the Board each year for review and approval.

**Everyone Manages Risk** Every team member creates risk in the course of performing business activities and is required to manage that risk. Risk is everyone's responsibility. Every team member is required to comply with applicable laws, regulations, and Company policies.

**Risk and Culture** The Board holds management accountable for establishing and maintaining the right risk culture and effectively managing risk. Team members are strongly encouraged and expected to speak up when they see something that could cause harm to the Company's customers, communities, team members, shareholders, or reputation. Because risk management is everyone's responsibility, all team members are expected to challenge risk decisions when appropriate and to escalate their concerns when they have not been addressed. Team member performance evaluations are tied to, and take into account, effective risk management. The Company's performance management and incentive compensation programs are designed to establish a balanced framework for risk and reward under core principles that team members are expected to know and practice. The Board, through its Human Resources Committee, plays an important role in overseeing and providing credible challenge to the Company's performance management and incentive compensation programs.

**Risk Management Framework** The Company's risk management framework sets forth the core principles on how the Company seeks to manage and govern its risk. Many Company policies and documents anchor to the risk management framework's core principles. The Board's Risk Committee annually reviews and approves the risk management framework.

### Risk Governance

**Role of the Board** The Board oversees the Company's business, including its risk management. The Board assesses management's performance, provides credible challenge, and holds management accountable for maintaining an effective risk management program and for adhering to risk management expectations.

**Board Committee Structure** The Board carries out its risk oversight responsibilities directly and through its committees.

The Risk Committee approves the Company's risk management framework and oversees its implementation, including the processes established by management to identify, assess, measure, monitor, and manage risks. It also monitors the Company's adherence to its risk appetite. In addition, the Risk Committee oversees IRM and the performance of the Chief Risk Officer (CRO) who reports functionally to the Risk Committee and administratively to the CEO.

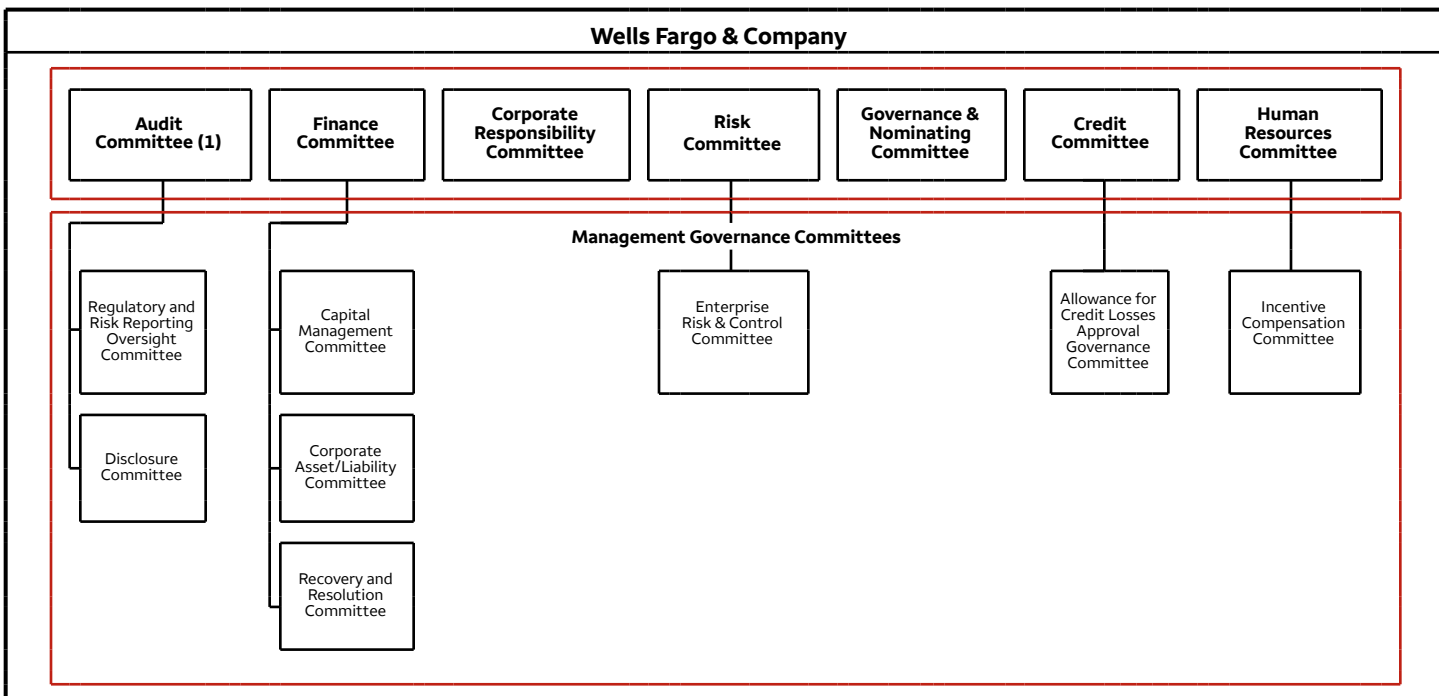
**Management Committee Structure** The Company has established management committees, including those focused on risk, that support management in carrying out its governance and risk management responsibilities. One type of management committee is a governance committee, which is a decision making body that operates for a particular purpose.

Each management governance committee is expected to discuss, document, and make decisions regarding significant risk issues, emerging risks, and risk acceptances; review and monitor progress related to critical and high-risk issues and remediation efforts within its scope, including lessons learned; and report key challenges, decisions, escalations, other actions, and open issues as appropriate.

## Risk Management (continued)

Table 16 below presents the structure of the Company's Board committees and management governance committees, including relevant reporting and escalation paths.

**Table 16: Board and Management-level Governance Committee Structure**



(1) The Audit Committee additionally oversees the internal audit function; external auditor independence, activities, and performance; and the disclosure framework for financial, regulatory and risk reports prepared for the Board, management, and bank regulatory agencies; and assists the Board in its oversight of the Company's compliance with legal and regulatory requirements.

**Management Governance Committees Reporting to the Risk Committee of the Board** The ERCC governs the management of all risk types, including financial risks and non-financial risks. The ERCC receives information about risk and control events, addresses escalated risks and issues, actively oversees risk control, and provides regular updates to the Risk Committee regarding current and emerging risks and management's assessment of the effectiveness of the Company's risk management program.

The ERCC is chaired by the CRO, with membership made up of the CEO and the heads of business groups and certain enterprise functions. The Chief Auditor attends all meetings of the ERCC. The ERCC has a direct escalation path to the Risk Committee. The ERCC also escalates credit risks and issues to the Credit Committee and certain human capital risks and issues to the Human Resources Committee. In addition, the CRO has the authority to escalate anything directly to the Board. Risks and issues are escalated to the ERCC in accordance with applicable policies and procedures governing escalations.

Each business group and enterprise function has a risk and control committee, which are management governance committees with mandates that align with the ERCC but with their scope limited to the relevant business groups or enterprise functions. The focus of these committees is on the risks that each business group or enterprise function generates and is responsible for managing, and the controls each business group or enterprise function is expected to have in place.

In addition to each risk and control committee, management governance committees dedicated to specific risk types and risk topics also report to the ERCC to help provide more comprehensive governance of risks.

## Risk Operating Model - Roles and Responsibilities

The Company has three lines of defense: the front line, Independent Risk Management, and Internal Audit. Our risk operating model creates necessary interaction, interdependencies, and ongoing engagement among the lines of defense:

- **Front Line** The front line, which is composed of business groups and certain activities of enterprise functions, is the first line of defense. In the course of its business activities, the front line identifies, measures and assesses, manages, controls, monitors, and reports on risk associated with its business activities and balances risk and reward in decision making while remaining within the Company's risk appetite.
- **Independent Risk Management** IRM is the second line of defense. It establishes and maintains the Company's risk management program and provides oversight, including challenge to and independent assessment of the front line's execution of its risk management responsibilities.
- **Internal Audit** Internal Audit is the third line of defense. It is responsible for acting as an independent assurance function and validates that the risk management program is adequately designed and functioning effectively.

## Risk Type Classifications

The Company uses common classifications, hierarchies, and ratings to enable consistency across risk management programs and aggregation of information. Risk type classifications permit the Company to identify and prioritize its risk exposures, including emerging risk exposures.

## Operational Risk Management

Operational risk, which in addition to those discussed in this section, includes compliance risk and model risk, is the risk resulting from inadequate or failed internal processes, people and systems, or from external events.

The Board's Risk Committee has primary oversight responsibility for all aspects of operational risk, including significant supporting programs and/or policies regarding the Company's business resiliency and disaster recovery, data management, information security, technology, and third-party risk management. As part of its oversight responsibilities, the Board's Risk Committee approves the operational risk statement of risk appetite including inner and outer boundary thresholds, reviews and approves significant operational risk policies, and oversees the Company's operational risk management program.

At the management level, the Operational Risk Group organization, which is part of IRM, has primary oversight responsibility for operational risk. The Operational Risk Group reports to the CRO and also provides periodic reports related to operational risk to the Board's Risk Committee. Technology, Third Party and Information Risk Oversight, which is part of the Operational Risk Group, has oversight responsibility for technology risk, third-party risk, information risk management, and information security risk. Enterprise Data Governance, which is part of the Operational Risk Group, has oversight responsibility for data management risk. Oversight of human capital risk, an operational risk, is performed by the Human Resources function with reporting paths to relevant management governance committees including to the ERCC.

Information security is a significant operational risk for financial institutions such as Wells Fargo, and includes the risk arising from unauthorized access, use, disclosure, disruption, modification, or destruction of information or information systems. The Board is actively engaged in the oversight of the Company's information security risk management and cyber defense programs. The Board's Risk Committee has primary oversight responsibility for information security risk and approves the Company's information security program, which includes the information security policy and the cyber defense program. A Technology Subcommittee of the Risk Committee assists the Risk Committee in providing oversight of technology, information security, and cybersecurity risks as well as data management risk. The Technology Subcommittee reviews and recommends to the Risk Committee for approval any significant supporting information security risk (including cybersecurity risk), technology risk, and data management risk programs and/or policies, including the Company's data management strategy. The Technology Subcommittee reports to the Risk Committee and both provide updates to the full Board.

Wells Fargo and other financial institutions continue to be the target of various evolving and adaptive cyber attacks, including malware and denial-of-service, as part of an effort to disrupt the operations of financial institutions, potentially test their cybersecurity capabilities, commit fraud, or obtain confidential, proprietary or other information. Cyber attacks have also focused on targeting online applications and services, such as online banking, as well as cloud-based services provided by third parties, and have targeted the infrastructure of the internet causing the widespread unavailability of websites and degrading website performance. Wells Fargo has not experienced any material losses relating to these or other types of cyber attacks. Cybersecurity risk is a priority for Wells Fargo, and we continue to develop and enhance our controls, processes and systems in order to protect our networks, computers, software and data from attack, damage or unauthorized access. Wells

Fargo is also proactively involved in industry cybersecurity efforts and working with other parties, including our third-party service providers and governmental agencies, to continue to enhance defenses and improve resiliency to cybersecurity threats. See the "Risk Factors" section in this Report for additional information regarding the risks associated with a failure or breach of our operational or security systems or infrastructure, including as a result of cyber attacks.

## Compliance Risk Management

Compliance risk (a type of operational risk) is the risk resulting from the failure to comply with laws (legislation, regulations and rules) and regulatory guidance, and the failure to appropriately address associated impacts, including to customers. Compliance risk encompasses violations of applicable internal policies, program requirements, procedures, and standards related to ethical principles applicable to the banking industry.

The Board's Risk Committee has primary oversight responsibility for all aspects of compliance risk, including financial crimes risk. As part of its oversight responsibilities, the Board's Risk Committee approves the compliance risk and financial crimes risk statement of risk appetites including inner and outer boundary thresholds, reviews and approves significant supporting compliance risk and financial crimes risk policies and programs, and oversees the Company's compliance risk management and financial crimes risk management programs. A Compliance Subcommittee of the Risk Committee assists the Risk Committee in providing oversight of the Company's compliance program and compliance risk management. The Compliance Subcommittee reports to the Risk Committee and both provide updates to the full Board.

Conduct risk, a sub-category of compliance risk, is the risk of inappropriate, unethical, or unlawful behavior on the part of team members or individuals acting on behalf of the Company, caused by deliberate or unintentional actions or business practices. The Board has enhanced its oversight of conduct risk to oversee the alignment of team member conduct to the Company's risk appetite (which the Board approves annually). The Board's Risk Committee has primary oversight responsibility for enterprise-wide conduct risk and risk management components of the Company's culture, while the responsibilities of the Board's Human Resources Committee include oversight of the Company's enterprise-wide culture, Code of Ethics and Business Conduct, conflicts of interest program, human capital management (including talent management and succession planning), performance management program, and incentive compensation risk management program.

At the management level, Wells Fargo Compliance, which is part of IRM, monitors the implementation of the Company's compliance and conduct risk programs. Financial Crimes Risk Management, which is part of Wells Fargo Compliance, oversees and monitors financial crimes risk. Wells Fargo Compliance reports to the CRO and also provides periodic reports related to compliance risk to the Board's Risk Committee and Compliance Subcommittee. We continue to enhance our oversight of operational and compliance risk management, including as required by the FRB's February 2, 2018, and the CFPB/OCC's April 20, 2018, consent orders.

## Model Risk Management

Model risk (a type of operational risk) is the risk arising from the potential for adverse consequences from decisions made based on model outputs that may be incorrect or used inappropriately.

The Board's Risk Committee has primary oversight responsibility for model risk. As part of its oversight

## Risk Management (continued)

responsibilities, the Board's Risk Committee oversees the Company's model risk management policy, model validation activities, model performance, model issue remediation status, and adherence to model risk appetite metrics.

At the management level, the Model Risk function, which is part of IRM, has primary oversight responsibility for model risk and is responsible for governance, validation and monitoring of model risk across the Company. The Model Risk function reports to the CRO and also provides periodic reports related to model risk to the Board's Risk Committee.

### Strategic Risk Management

Strategic risk is the risk to earnings, capital, or liquidity arising from adverse business decisions, improper implementation of strategic initiatives, or inadequate responses to changes in the external operating environment.

The Board has primary oversight responsibility for strategic planning and oversees management's development and implementation of and approves the Company's strategic plan, and considers whether it is aligned with the Company's risk appetite and risk management effectiveness. Management develops, executes and recommends strategic corporate transactions and the Board evaluates management's proposals, including their impact on the Company's risk profile and financial position. The Board's Risk Committee has primary oversight responsibility for the Company's strategic risk and the adequacy of the Company's strategic risk management program, including associated risk management practices, processes and controls. The Board's Risk Committee also receives updates from management regarding new business initiatives activity and risks related to new or changing products, as appropriate.

At the management level, the Strategic Risk Oversight function, which is part of IRM, has primary oversight responsibility for strategic risk. The Strategic Risk Oversight function reports into the CRO and also provides periodic reports related to strategic risk to the Board's Risk Committee.

### Reputation Risk Management

Reputation risk is the risk arising from the potential that negative stakeholder opinion or negative publicity regarding the Company's business practices, whether true or not, will adversely impact current or projected financial conditions and resilience, cause a decline in the customer base, or result in costly litigation. Stakeholders include team members, customers, communities, shareholders, regulators, elected officials, advocacy groups, and media organizations.

The Board's Risk Committee has primary oversight responsibility for company-wide reputation risk, while each Board committee has reputation risk oversight responsibilities related to their primary oversight responsibilities. As part of its oversight responsibilities, the Board's Risk Committee receives reports from management that help it monitor how effectively the Company is managing reputation risk. As part of its oversight responsibilities for social and public responsibility matters, the Board's Corporate Responsibility Committee also receives reports from management relating to the Company's brand and stakeholder perception of the Company.

At the management level, the Reputation Risk Oversight function, which is part of IRM, has primary oversight responsibility for reputation risk. The Reputation Risk Oversight function reports into the CRO and also provides periodic reports related to reputation risk to the Board's Risk Committee.

## Credit Risk Management

We define credit risk as the risk of loss associated with a borrower or counterparty default (failure to meet obligations in accordance with agreed upon terms). Credit risk exists with many of our assets and exposures such as debt security holdings, certain derivatives, and loans.

The Board's Credit Committee has primary oversight responsibility for credit risk. At the management level, Credit Risk, which is part of IRM, has primary oversight responsibility for credit risk. Credit Risk reports to the CRO and also provides periodic reports related to credit risk to the Board's Credit Committee.

The following discussion focuses on our loan portfolios, which represent the largest component of assets on our balance sheet for which we have credit risk. Table 17 presents our total loans outstanding by portfolio segment and class of financing receivable.

**Table 17: Total Loans Outstanding by Portfolio Segment and Class of Financing Receivable**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Commercial:</b>		
Commercial and industrial	\$ 354,125	350,199
Real estate mortgage	121,824	121,014
Real estate construction	19,939	22,496
Lease financing	19,831	19,696
Total commercial	515,719	513,405
<b>Consumer:</b>		
Real estate 1-4 family first mortgage	293,847	285,065
Real estate 1-4 family junior lien mortgage	29,509	34,398
Credit card	41,013	39,025
Automobile	47,873	45,069
Other revolving credit and installment	34,304	36,148
Total consumer	446,546	439,705
Total loans	\$ 962,265	953,110

We manage our credit risk by establishing what we believe are sound credit policies for underwriting new business, while monitoring and reviewing the performance of our existing loan portfolios. We employ various credit risk management and monitoring activities to mitigate risks associated with multiple risk factors affecting loans we hold, could acquire or originate including:

- Loan concentrations and related credit quality
- Counterparty credit risk
- Economic and market conditions
- Legislative or regulatory mandates
- Changes in interest rates
- Merger and acquisition activities
- Reputation risk

Our credit risk management oversight process is governed centrally, but provides for decentralized management and accountability by our lines of business. Our overall credit process includes comprehensive credit policies, disciplined credit underwriting, frequent and detailed risk measurement and modeling, extensive credit training programs, and a continual loan review and audit process.

A key to our credit risk management is adherence to a well-controlled underwriting process, which we believe is appropriate for the needs of our customers as well as investors who purchase the loans or securities collateralized by the loans.

**Credit Quality Overview** Solid credit quality continued in 2019, as our net charge-off rate remained low at 0.29% of average total loans. Our loss rate reflected improvements in the credit performance of our automobile portfolio, partially offset by a lower volume of recoveries in other loan portfolios. In particular:

- Nonaccrual loans were \$5.3 billion at December 31, 2019, down from \$6.5 billion at December 31, 2018. Commercial nonaccrual loans increased to \$2.3 billion at December 31, 2019, compared with \$2.2 billion at December 31, 2018, and consumer nonaccrual loans declined to \$3.1 billion at December 31, 2019, compared with \$4.3 billion at December 31, 2018. A decline in real estate 1-4 family mortgage nonaccrual loans reflecting an improved housing market, sales of nonaccrual mortgage loans, and the reclassification of nonaccrual mortgage loans to MLHFS was partially offset by an increase in commercial and industrial nonaccrual loans driven by the oil and gas portfolio. Nonaccrual loans represented 0.56% of total loans at December 31, 2019, compared with 0.68% at December 31, 2018.
- Net charge-offs as a percentage of our average commercial and consumer portfolios were 0.13% and 0.48%, respectively, in 2019, compared with 0.09% and 0.52% in 2018.
- Loans that are not government insured/guaranteed and 90 days or more past due and still accruing were \$78 million and \$855 million in our commercial and consumer portfolios, respectively, at December 31, 2019, compared with \$94 million and \$885 million at December 31, 2018.
- Our provision for credit losses was \$2.7 billion in 2019, compared with \$1.7 billion in 2018. The provision for credit losses in both 2019 and 2018 reflected continuing solid underlying credit performance. The provision for credit losses in 2018 also reflected a higher level of credit quality improvement compared with 2019, as well as an improvement in the outlook associated with 2017 hurricane-related losses.
- The allowance for credit losses declined to \$10.5 billion, or 1.09% of total loans, at December 31, 2019, compared with \$10.7 billion, or 1.12%, at December 31, 2018.

Additional information on our loan portfolios and our credit quality trends follows.

**PURCHASED CREDIT-IMPAIRED (PCI) LOANS** Loans acquired with evidence of credit deterioration since their origination and where it is probable that we will not collect all contractually required principal and interest payments are PCI loans. A nonaccretable difference is established for PCI loans to absorb losses expected on the contractual amounts of those loans. Amounts absorbed by the nonaccretable difference do not affect the income statement or the allowance for credit losses. The carrying value of PCI loans at December 31, 2019, totaled \$568 million, compared with \$5.0 billion at December 31, 2018. The decline in carrying value was due to the sale of \$4.0 billion of PCI loans, predominantly Pick-a-Pay, during 2019 and paydowns.

For additional information on PCI loans, see the “Risk Management – Credit Risk Management – Real Estate 1-4 Family Mortgage Loans – Pick-a-Pay Portfolio” section in this Report, Note 1 (Summary of Significant Accounting Policies) and Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

**Significant Loan Portfolio Reviews** Measuring and monitoring our credit risk is an ongoing process that tracks delinquencies, collateral values, Fair Isaac Corporation (FICO) scores, economic trends by geographic areas, loan-level risk grading for certain portfolios (typically commercial) and other indications of credit risk. Our credit risk monitoring process is designed to enable early identification of developing risk and to support our determination of an appropriate allowance for credit losses. The following discussion provides additional characteristics and analysis of our significant portfolios. See Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report for more analysis and credit metric information for each of the following portfolios.

**COMMERCIAL AND INDUSTRIAL LOANS AND LEASE FINANCING** For purposes of portfolio risk management, we aggregate commercial and industrial loans and lease financing according to market segmentation and standard industry codes. We generally subject commercial and industrial loans and lease financing to individual risk assessment using our internal borrower and collateral quality ratings. Our ratings are aligned to regulatory definitions of pass and criticized categories with criticized segmented among special mention, substandard, doubtful and loss categories.

The commercial and industrial loans and lease financing portfolio totaled \$374.0 billion, or 39% of total loans, at December 31, 2019. The net charge-off rate for this portfolio was 0.18% in 2019, compared with 0.13% in 2018. At December 31, 2019, 0.44% of this portfolio was nonaccruing, compared with 0.43% at December 31, 2018. Nonaccrual loans in this portfolio increased \$64 million in 2019, due to a customer in the utilities industry, as well as increases in the oil, gas and pipeline portfolio, partially offset by improvement across various industry categories. Also, \$16.6 billion of the commercial and industrial loan and lease financing portfolio was internally classified as criticized in accordance with regulatory guidance at December 31, 2019, compared with \$15.8 billion at December 31, 2018.

Most of our commercial and industrial loans and lease financing portfolio is secured by short-term assets, such as accounts receivable, inventory and debt securities, as well as long-lived assets, such as equipment and other business assets. Generally, the collateral securing this portfolio represents a secondary source of repayment.

## Risk Management – Credit Risk Management (continued)

Table 18 provides our commercial and industrial loans and lease financing by industry, and includes non-U.S. loans of \$71.7 billion and \$63.7 billion at December 31, 2019 and 2018, respectively. Significant industry concentrations of non-U.S. loans include \$31.2 billion and \$25.6 billion in the financials except banks category and \$19.9 billion and \$18.1 billion in the banks category at December 31, 2019 and 2018, respectively. The industry categories were updated in 2019 to align with industry groupings that our regulators use to monitor industry concentration risks.

Loans to financials except banks, our largest industry concentration, were \$117.3 billion, or 12% of total outstanding loans, at December 31, 2019, compared with \$105.9 billion, or

11% of total outstanding loans, at December 31, 2018. This industry category includes loans to investment firms, financial vehicles, and non-bank creditors, including those that invest in financial assets backed predominantly by commercial or residential real estate or consumer loan assets. We limit our loan amounts to a percentage of the value of the underlying assets considering underlying credit risk, asset duration, and ongoing performance.

Oil, gas and pipeline loans totaled \$13.6 billion, or 1% of total outstanding loans, at December 31, 2019, compared with \$12.8 billion, or 1% of total outstanding loans, at December 31, 2018.

**Table 18: Commercial and Industrial Loans and Lease Financing by Industry (1)**

(in millions)	December 31, 2019			December 31, 2018		
	Nonaccrual loans	Total portfolio	% of total loans	Nonaccrual loans	Total portfolio	% of total loans
Financials except banks	\$ 112	117,312	12%	\$ 305	105,925	11%
Equipment, machinery and parts manufacturing	36	23,457	2	47	20,850	2
Technology, telecom and media	28	22,447	2	26	25,681	3
Real estate and construction	47	22,011	2	31	23,380	2
Banks	—	20,070	2	—	18,407	2
Retail	105	19,923	2	87	19,541	2
Materials and commodities	33	16,375	2	136	18,688	2
Automobile related	24	15,996	2	16	16,801	2
Food and beverage manufacturing	9	14,991	2	48	15,448	2
Health care and pharmaceuticals	28	14,920	2	124	15,529	2
Oil, gas and pipelines	615	13,562	1	417	12,840	1
Entertainment and recreation	44	13,462	1	33	14,045	1
Transportation services	224	10,957	1	176	12,029	1
Commercial services	50	10,455	1	48	10,591	1
Agribusiness	35	7,539	1	46	7,996	1
Utilities	224	5,995	1	6	5,756	1
Insurance and fiduciaries	1	5,525	1	1	5,510	1
Government and education	6	5,363	1	3	6,160	1
Other (2)	19	13,596	1	26	14,718	1
<b>Total</b>	<b>\$ 1,640</b>	<b>373,956</b>	<b>39%</b>	<b>\$ 1,576</b>	<b>369,895</b>	<b>39%</b>

(1) Industry categories are based on the North American Industry Classification System and the amounts reported include non-U.S. loans. The industry categories were updated in 2019 to align with industry groupings that our regulators use to monitor industry concentration risks. The amounts for December 31, 2018, have been reclassified to conform with the current period presentation. See Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report for a breakout of non-U.S. commercial loans.

(2) No other single industry had total loans in excess of \$4.7 billion and \$4.5 billion at December 31, 2019 and 2018, respectively.

Risk mitigation actions, including the restructuring of repayment terms, securing collateral or guarantees, and entering into extensions, are based on a re-underwriting of the loan and our assessment of the borrower's ability to perform under the agreed-upon terms. Extension terms generally range from six to thirty-six months and may require that the borrower provide additional economic support in the form of partial repayment, or additional collateral or guarantees. In cases where the value of collateral or financial condition of the borrower is insufficient to repay our loan, we may rely upon the support of an outside repayment guarantee in providing the extension.

Our ability to seek performance under a guarantee is directly related to the guarantor's creditworthiness, capacity and willingness to perform, which is evaluated on an annual basis, or more frequently as warranted. Our evaluation is based on the most current financial information available and is focused on various key financial metrics, including net worth, leverage, and current and future liquidity. We consider the guarantor's reputation, creditworthiness, and willingness to work with us based on our analysis, as well as other lenders' experience with

the guarantor. Our assessment of the guarantor's credit strength is reflected in our loan risk ratings for such loans. The loan risk rating and accruing status are important factors in our allowance for credit losses methodology.

In considering the accrual status of the loan, we evaluate the collateral and future cash flows, as well as the anticipated support of any repayment guarantor. In many cases, the strength of the guarantor provides sufficient assurance that full repayment of the loan is expected. When full and timely collection of the loan becomes uncertain, including the performance of the guarantor, we place the loan on nonaccrual status. As appropriate, we also charge the loan down in accordance with our charge-off policies, generally to the net realizable value of the collateral securing the loan, if any.

**COMMERCIAL REAL ESTATE (CRE)** We generally subject CRE loans to individual risk assessment using our internal borrower and collateral quality ratings. Our ratings are aligned to regulatory definitions of pass and criticized categories with criticized segmented among special mention, substandard, doubtful and loss categories. The CRE portfolio, which included \$8.4 billion of non-U.S. CRE loans, totaled \$141.8 billion, or 15% of total loans, at December 31, 2019, and consisted of \$121.8 billion of mortgage loans and \$19.9 billion of construction loans.

Table 19 summarizes CRE loans by state and property type with the related nonaccrual totals. The portfolio is diversified both geographically and by property type. The largest

geographic concentrations of CRE loans are in California, New York, Florida and Texas, which combined represented 49% of the total CRE portfolio. By property type, the largest concentrations are office buildings at 26% and apartments at 17% of the portfolio. CRE nonaccrual loans totaled 0.43% of the CRE outstanding balance at both December 31, 2019, and December 31, 2018. At December 31, 2019, we had \$3.8 billion of criticized CRE mortgage loans, compared with \$4.5 billion at December 31, 2018, and \$187 million of criticized CRE construction loans, compared with \$289 million at December 31, 2018.

**Table 19: CRE Loans by State and Property Type**

(in millions)	December 31, 2019							% of total loans
	Real estate mortgage		Real estate construction		Total			
	Nonaccrual loans	Total portfolio	Nonaccrual loans	Total portfolio	Nonaccrual loans	Total portfolio		
By state:								
California	\$ 149	32,079	12	4,415	161	36,494		4%
New York	21	12,076	2	1,863	23	13,939		1
Florida	23	8,081	4	1,450	27	9,531		1
Texas	42	7,877	5	1,389	47	9,266		1
Arizona	70	4,212	—	303	70	4,515		1
Washington	9	3,757	—	709	9	4,466		1
North Carolina	17	3,823	4	540	21	4,363		1
Georgia	15	3,819	—	401	15	4,220		*
Virginia	6	2,808	—	680	6	3,488		*
New Jersey	16	2,846	—	628	16	3,474		*
Other	205	40,446	14	7,561	219	48,007	(1)	5
<b>Total</b>	<b>\$ 573</b>	<b>121,824</b>	<b>41</b>	<b>19,939</b>	<b>614</b>	<b>141,763</b>		<b>15%</b>
By property:								
Office buildings	\$ 105	34,188	6	2,919	111	37,107		4%
Apartments	9	18,243	—	6,415	9	24,658		3
Industrial/warehouse	81	15,813	2	1,492	83	17,305		2
Retail (excluding shopping center)	128	14,510	5	210	133	14,720		2
Shopping center	2	10,816	—	1,313	2	12,129		1
Hotel/motel	16	10,319	—	1,459	16	11,778		1
Mixed use properties (2)	92	6,377	1	487	93	6,864		1
Institutional	39	3,617	10	1,924	49	5,541		*
Collateral pool	—	2,328	—	198	—	2,526		*
Agriculture	91	2,116	—	10	91	2,126		*
Other	10	3,497	17	3,512	27	7,009		1
<b>Total</b>	<b>\$ 573</b>	<b>121,824</b>	<b>41</b>	<b>19,939</b>	<b>614</b>	<b>141,763</b>		<b>15%</b>

\* Less than 1%.

(1) Includes 40 states; no state had loans in excess of \$3.5 billion.

(2) Mixed use properties combines residential, commercial, cultural, and other usage within the same building. This also includes data centers, flexible spaces leased to multiple tenants, light manufacturing, and other specialized uses.

**NON-U.S. LOANS** Our classification of non-U.S. loans is based on whether the borrower's primary address is outside of the United States. At December 31, 2019, non-U.S. loans totaled \$80.5 billion, representing approximately 8% of our total consolidated loans outstanding, compared with \$71.9 billion, or approximately 8% of total consolidated loans outstanding, at December 31, 2018. Non-U.S. loans were approximately 4% of our consolidated total assets at both December 31, 2019, and December 31, 2018.

**COUNTRY RISK EXPOSURE** Our country risk monitoring process incorporates centralized monitoring of economic, political, social, legal, and transfer risks in countries where we do or plan to do

business, along with frequent dialogue with our customers, counterparties and regulatory agencies. We establish exposure limits for each country through a centralized oversight process based on customer needs, and through consideration of the relevant and distinct risk of each country. We monitor exposures closely and adjust our country limits in response to changing conditions.

We evaluate our individual country risk exposure based on our assessment of the borrower's ability to repay, which gives consideration for allowable transfers of risk, such as guarantees and collateral, and may be different from the reporting based on the borrower's primary address. Our largest single country exposure outside the U.S. based on our assessment of risk at

## Risk Management – Credit Risk Management (continued)

December 31, 2019, was the United Kingdom, which totaled \$31.6 billion, and included \$8.0 billion of sovereign claims. Our United Kingdom sovereign claims arise predominantly from deposits we have placed with the Bank of England pursuant to regulatory requirements in support of our London branch.

The United Kingdom withdrew from the European Union (Brexit) on January 31, 2020, and is currently subject to a transition period during which the terms and conditions of its exit are being negotiated. As the United Kingdom exits from the European Union, our primary goal is to continue to serve our existing clients in the United Kingdom and the European Union, as well as to continue to meet the needs of our domestic clients as they do business in those locations. We have an existing authorized bank in Ireland and an asset management entity in Luxembourg. Additionally, we established a broker dealer in France. We are in the process of leveraging these entities to continue to serve clients in the European Union and continue to take actions to update our business operations in the United Kingdom and European Union, including implementing new

supplier contracts and staffing arrangements. For additional information on risks associated with Brexit, see the “Risk Factors” section in this Report.

Table 20 provides information regarding our top 20 exposures by country (excluding the U.S.) and our Eurozone exposure, based on our assessment of risk, which gives consideration to the country of any guarantors and/or underlying collateral. With respect to Table 20:

- Lending exposure includes outstanding loans, unfunded credit commitments, and deposits with non-U.S. banks. These balances are presented prior to the deduction of allowance for credit losses or collateral received under the terms of the credit agreements, if any.
- Securities exposure represents debt and equity securities of non-U.S. issuers. Long and short positions are netted, and net short positions are reflected as negative exposure.
- Derivatives and other exposure represents foreign exchange contracts, derivative contracts, securities resale agreements, and securities lending agreements.

**Table 20: Select Country Exposures**

(in millions)	December 31, 2019								
	Lending		Securities		Derivatives and other		Total exposure		
	Sovereign	Non-sovereign	Sovereign	Non-sovereign	Sovereign	Non-sovereign	Sovereign	Non-sovereign (1)	Total
<b>Top 20 country exposures:</b>									
United Kingdom	\$ 7,989	21,617	—	881	2	1,067	7,991	23,565	31,556
Canada	36	17,661	(68)	194	—	272	(32)	18,127	18,095
Cayman Islands	—	7,442	—	31	—	126	—	7,599	7,599
Ireland	225	4,971	—	102	—	137	225	5,210	5,435
China	—	4,022	5	408	59	20	64	4,450	4,514
Luxembourg	—	3,636	—	654	—	83	—	4,373	4,373
Bermuda	—	3,824	—	103	—	54	—	3,981	3,981
Guernsey	—	3,554	—	1	—	65	—	3,620	3,620
Germany	—	2,773	—	128	3	42	3	2,943	2,946
Netherlands	—	2,019	—	364	20	126	20	2,509	2,529
South Korea	—	2,023	—	268	—	6	—	2,297	2,297
Brazil	—	2,075	—	1	1	1	1	2,077	2,078
France	—	1,882	—	137	29	9	29	2,028	2,057
Australia	—	1,720	—	145	—	8	—	1,873	1,873
India	—	1,734	—	130	—	—	—	1,864	1,864
Chile	—	1,698	—	(1)	—	—	—	1,697	1,697
Switzerland	—	1,482	—	(51)	—	57	—	1,488	1,488
Taiwan	—	1,369	—	(6)	1	2	1	1,365	1,366
United Arab Emirates	—	1,323	—	—	—	3	—	1,326	1,326
Hong Kong	—	1,333	—	(14)	1	2	1	1,321	1,322
Total top 20 country exposures	\$ 8,250	88,158	(63)	3,475	116	2,080	8,303	93,713	102,016
<b>Eurozone exposure:</b>									
Eurozone countries included in Top 20 above (2)	\$ 225	15,281	—	1,385	52	397	277	17,063	17,340
Spain	—	401	—	466	—	30	—	897	897
Belgium	—	766	—	(72)	—	1	—	695	695
Austria	—	305	—	—	—	—	—	305	305
Other Eurozone countries	—	230	—	55	—	1	—	286	286
Total Eurozone exposure	\$ 225	16,983	—	1,834	52	429	277	19,246	19,523

(1) For countries presented in the table, total non-sovereign exposure comprises \$53.1 billion exposure to financial institutions and \$42.8 billion to non-financial corporations at December 31, 2019.

(2) Consists of exposure to Ireland, Luxembourg, Germany, Netherlands and France, which are included in the Top 20 country exposures.



**REAL ESTATE 1-4 FAMILY MORTGAGE LOANS** Our real estate 1-4 family mortgage loan portfolio is composed of both first and junior lien mortgage loans, which are presented in Table 21.

**Table 21: Real Estate 1-4 Family Mortgage Loans**

(in millions)	December 31, 2019		December 31, 2018	
	Balance	% of portfolio	Balance	% of portfolio
Real estate 1-4 family first mortgage	\$ 293,847	91%	\$ 285,065	89%
Real estate 1-4 family junior lien mortgage	29,509	9	34,398	11
Total real estate 1-4 family mortgage loans	\$ 323,356	100%	\$ 319,463	100%

The real estate 1-4 family mortgage loan portfolio includes some loans with adjustable-rate features and some with an interest-only feature as part of the loan terms. Interest-only loans were approximately 3% and 4% of total loans at December 31, 2019 and 2018, respectively. We believe we have manageable adjustable-rate mortgage (ARM) reset risk across our mortgage loan portfolios. We do not offer option ARM products, nor do we offer variable-rate mortgage products with fixed payment amounts, commonly referred to within the financial services industry as negative amortizing mortgage loans. The option ARMs we do have are included in the Pick-a-Pay portfolio which was acquired from Wachovia. For more information, see the “Pick-a-Pay Portfolio” section in this Report.

We continue to modify real estate 1-4 family mortgage loans to assist homeowners and other borrowers experiencing financial difficulties. Loans are generally underwritten at the time of the modification in accordance with underwriting guidelines established for our loan modification programs. Under these programs, we may provide concessions such as interest rate reductions, forbearance of principal, and in some cases, principal forgiveness. These programs generally include trial payment periods of three to four months, and after successful completion and compliance with terms during this period, the loan is permanently modified. Loans included under these programs are accounted for as troubled debt restructurings (TDRs) at the start of a trial period or at the time of permanent modification, if no trial period is used. See the “Critical Accounting Policies – Allowance for Credit Losses” section in this Report for discussion on how we determine the allowance for credit losses attributable to our modified residential real estate portfolios.

Part of our credit monitoring includes tracking delinquency, current FICO scores and loan/combined loan to collateral values (LTV/CLTV) on the entire real estate 1-4 family mortgage loan portfolio. These credit risk indicators on the non-PCI mortgage portfolio exclude government insured/guaranteed loans. Loans 30 days or more delinquent at December 31, 2019, totaled \$3.0 billion, or 1% of total non-PCI mortgages, compared with \$4.0 billion, or 1%, at December 31, 2018. Loans with FICO scores lower than 640 totaled \$7.6 billion, or 2% of total non-PCI mortgages at December 31, 2019, compared with \$9.7 billion, or 3%, at December 31, 2018. Mortgages with a LTV/CLTV greater than 100% totaled \$2.5 billion at December 31, 2019, or 1% of total non-PCI mortgages, compared with \$3.9 billion, or 1%, at December 31, 2018. Information regarding credit quality indicators, including PCI credit quality indicators, can be found in Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

Real estate 1-4 family mortgage loans by state are presented in Table 22. Our real estate 1-4 family non-PCI mortgage loans to borrowers in California represented 13% of total loans at December 31, 2019, located predominantly within the larger metropolitan areas, with no single California metropolitan area consisting of more than 5% of total loans. We monitor changes in real estate values and underlying economic or market conditions for all geographic areas of our real estate 1-4 family mortgage portfolios as part of our credit risk management process. Our underwriting and periodic review of loans and lines secured by residential real estate collateral includes original appraisals adjusted for the change in Home Price Index (HPI) or estimates from automated valuation models (AVMs) to support property values. AVMs are computer-based tools used to estimate the market value of homes. AVMs are a lower-cost alternative to appraisals and support valuations of large numbers of properties in a short period of time using market comparables and price trends for local market areas. The primary risk associated with the use of AVMs is that the value of an individual property may vary significantly from the average for the market area. We have processes to periodically validate AVMs and specific risk management guidelines addressing the circumstances when AVMs may be used. AVMs are not allowed in real estate 1-4 family mortgage origination underwriting. Broker evaluations and enhanced desktop appraisal reports are allowed in junior lien originations and some first lien line of credit originations up to \$250,000. An appraisal is required for all real estate 1-4 family mortgage commitments greater than \$250,000. Additional information about appraisals, AVMs, and our policy for their use can be found in Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

## Risk Management – Credit Risk Management (continued)

**Table 22: Real Estate 1-4 Family Mortgage Loans by State**

(in millions)	December 31, 2019			
	Real estate 1-4 family first mortgage	Real estate 1-4 family junior lien mortgage	Total real estate 1-4 family mortgage	% of total loans
<b>Real estate 1-4 family mortgage loans (excluding PCI):</b>				
California	\$ 118,256	8,054	126,310	13%
New York	31,336	1,508	32,844	3
New Jersey	14,113	2,744	16,857	2
Florida	11,804	2,600	14,404	2
Washington	10,863	655	11,518	1
Virginia	8,857	1,712	10,569	1
Texas	8,963	596	9,559	1
North Carolina	5,839	1,388	7,227	1
Colorado	6,382	664	7,046	1
Other (1)	65,709	9,575	75,284	8
Government insured/guaranteed loans (2)	11,170	—	11,170	1
Real estate 1-4 family loans (excluding PCI)	293,292	29,496	322,788	34
<b>Real estate 1-4 family PCI loans</b>	555	13	568	—
<b>Total</b>	<b>\$ 293,847</b>	<b>29,509</b>	<b>323,356</b>	<b>34%</b>

(1) Consists of 41 states; no state had loans in excess of \$7.0 billion.

(2) Represents loans whose repayments are predominantly insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (VA).

**First Mortgage Portfolio** Our total real estate 1-4 family first lien mortgage portfolio (first mortgage) increased \$8.8 billion in 2019. Mortgage loan originations of \$67.4 billion in 2019 were partially offset by paydowns and \$4.0 billion of sales of PCI loans, predominantly Pick-a-Pay. Also, we purchased \$3.3 billion of mortgage loans in 2019 as a result of exercising servicer cleanup calls. In addition, during 2019, we reclassified \$1.9 billion of existing mortgage loans to MLHFS in anticipation of future whole loan sales. We also originated \$3.4 billion of nonconforming mortgage loan originations as MLHFS in 2019, in anticipation of the issuance of residential mortgage-backed securities.

The credit performance associated with our real estate 1-4 family first mortgage portfolio remained strong in 2019, as

measured through nonaccrual loans and net charge-offs. Nonaccrual loans decreased to \$2.2 billion at December 31, 2019, compared with \$3.2 billion at December 31, 2018, driven by nonaccrual loan sales, the reclassification of nonaccrual loans to MLHFS in anticipation of future sales, and overall continued credit improvement. Net charge-offs as a percentage of average real estate 1-4 family first mortgage loans was a net recovery of 0.02% in 2019, compared with a net recovery of 0.03% in 2018.

Table 23 shows certain delinquency and loss information for the first mortgage portfolio and lists the top five states by outstanding balance.

**Table 23: First Mortgage Portfolio Performance**

(in millions)	Outstanding balance		% of loans 30 days or more past due		Loss (recovery) rate	
	December 31,		December 31,		Year ended December 31,	
	2019	2018	2019	2018	2019	2018
California	\$ 118,256	109,092	0.48%	0.68	(0.02)	(0.06)
New York	31,336	28,954	0.83	1.12	0.02	0.04
New Jersey	14,113	13,811	1.40	1.91	0.02	0.03
Florida	11,804	12,350	1.81	2.58	(0.06)	(0.17)
Washington	10,863	9,677	0.29	0.57	(0.02)	(0.06)
Other	95,750	93,261	1.20	1.70	(0.02)	(0.02)
Total	282,122	267,145	0.86	1.23	(0.02)	(0.03)
Government insured/guaranteed loans	11,170	12,932				
PCI	555	4,988				
Total first mortgage portfolio	\$ 293,847	285,065				

**Pick-a-Pay Portfolio** The Pick-a-Pay portfolio was one of the consumer residential mortgage portfolios we acquired from Wachovia. The Pick-a-Pay portfolio is included in consumer real estate 1-4 family first mortgage loans throughout this Report. Pick-a-Pay option payment loans may have fixed or adjustable

rates with payment options that may include a minimum payment, an interest-only payment or fully amortizing payment (both 15- and 30-year options). Table 24 provides balances by types of loans as of December 31, 2019.

**Table 24: Pick-a-Pay Portfolio**

(in millions)	December 31,			
	2019		2018	
	Adjusted unpaid principal balance (1)	% of total	Adjusted unpaid principal balance (1)	% of total
Option payment loans	\$ 4,571	50%	\$ 8,813	50%
Non-option payment adjustable-rate and fixed-rate loans	2,161	24	2,848	16
Full-term loan modifications	2,320	26	6,080	34
Total adjusted unpaid principal balance	\$ 9,052	100%	\$ 17,741	100%
Total carrying value	\$ 8,936		\$ 16,115	

(1) Adjusted unpaid principal balance includes write-downs taken on loans where severe delinquency (normally 180 days) or other indications of severe borrower financial stress exist that indicate there will be a loss of contractually due amounts upon final resolution of the loan.

Our Pick-a-Pay portfolio included PCI loans with a carrying value of \$519 million at December 31, 2019, compared with \$4.9 billion at December 31, 2018. During 2019, we sold \$4.0 billion of Pick-a-Pay PCI loans that resulted in a gain of \$1.6 billion. The accretable yield balance of our Pick-a-Pay PCI loan portfolio was \$134 million (\$229 million for all PCI loans) at December 31, 2019, compared with \$2.8 billion (\$3.0 billion for all PCI loans) at December 31, 2018. The decrease was predominantly due to Pick-a-Pay PCI loan sales. The estimated weighted-average life was approximately 5.1 years and 5.5 years at December 31, 2019 and 2018, respectively. The accretable yield percentage for Pick-a-Pay PCI loans for fourth quarter 2019 was 11.69%.

For additional information on PCI loans, see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

## Risk Management – Credit Risk Management (continued)

**Junior Lien Mortgage Portfolio** The junior lien mortgage portfolio consists of residential mortgage lines and loans that are subordinate in rights to an existing lien on the same property. It is not unusual for these lines and loans to have draw periods, interest-only payments, balloon payments, adjustable rates and similar features. Junior lien loan products are mostly amortizing payment loans with fixed interest rates and repayment periods between five to 30 years.

We continuously monitor the credit performance of our junior lien mortgage portfolio for trends and factors that influence the frequency and severity of loss, such as junior lien mortgage performance when the first mortgage loan is delinquent. Table 25 shows certain delinquency and loss information for the junior lien mortgage portfolio and lists the top five states by outstanding balance. The decrease in outstanding balances since December 31, 2018, predominantly

reflected loan paydowns. As of December 31, 2019, 4% of the outstanding balance of the junior lien mortgage portfolio was associated with loans that had a combined loan to value (CLTV) ratio in excess of 100%. Of those junior lien mortgages with a CLTV ratio in excess of 100%, 3% were 30 days or more past due. CLTV means the ratio of the total loan balance of first mortgages and junior lien mortgages (including unused line amounts for credit line products) to property collateral value. The unsecured portion (the outstanding amount that was in excess of the most recent property collateral value) of the outstanding balances of these loans totaled 1% of the junior lien mortgage portfolio at December 31, 2019. For additional information on consumer loans by LTV/CLTV, see Table 6.12 in Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

**Table 25: Junior Lien Mortgage Portfolio Performance**

(in millions)	Outstanding balance		% of loans 30 days or more past due		Loss (recovery) rate	
	December 31,		December 31,		Year ended December 31,	
	2019	2018	2019	2018	2019	2018
California	\$ 8,054	9,338	1.62%	1.67	(0.44)	(0.46)
New Jersey	2,744	3,152	2.74	2.57	0.07	0.25
Florida	2,600	3,140	2.93	2.73	(0.09)	—
Virginia	1,712	2,020	1.97	1.91	(0.02)	0.19
Pennsylvania	1,674	1,929	2.16	2.10	(0.10)	0.15
Other	12,712	14,802	2.05	2.12	(0.18)	(0.07)
Total	29,496	34,381	2.07	2.08	(0.21)	(0.11)
PCI	13	17				
Total junior lien mortgage portfolio	\$ 29,509	34,398				

Our junior lien, as well as first lien, lines of credit portfolios generally have draw periods of 10, 15 or 20 years with variable interest rate and payment options available during the draw period of (1) interest-only or (2) 1.5% of outstanding principal balance plus accrued interest. As of December 31, 2019, lines of credit in a draw period primarily used the interest-only option. During the draw period, the borrower has the option of converting all or a portion of the line from a variable interest rate to a fixed rate with terms including interest-only payments for a fixed period between three to seven years or a fully amortizing payment with a fixed period between five to 30 years. At the end of the draw period, a line of credit generally converts to an amortizing payment schedule with repayment terms of up to 30 years based on the balance at time of conversion. Certain lines and loans have been structured with a balloon payment, which requires full repayment of the outstanding balance at the end of the term period. The conversion of lines or loans to fully amortizing or balloon payoff may result in a significant payment increase, which can affect some borrowers' ability to repay the outstanding balance.

On a monthly basis, we monitor the payment characteristics of borrowers in our first and junior lien lines of credit portfolios. In December 2019, approximately 46% of these borrowers paid only the minimum amount due and approximately 51% paid more than the minimum amount due. The rest were either

delinquent or paid less than the minimum amount due. For the borrowers with an interest-only payment feature, approximately 30% paid only the minimum amount due and approximately 65% paid more than the minimum amount due.

The lines that enter their amortization period may experience higher delinquencies and higher loss rates than the ones in their draw or term period. We have considered this increased inherent risk in our allowance for credit loss estimate.

In anticipation of our borrowers reaching the end of their contractual commitment, we have created a program to inform, educate and help these borrowers transition from interest-only to fully-amortizing payments or full repayment. We monitor the performance of the borrowers moving through the program in an effort to refine our ongoing program strategy.

Table 26 reflects the outstanding balance of our portfolio of junior lien mortgages, including lines and loans, and first lien lines segregated into scheduled end of draw or end of term periods and products that are currently amortizing, or in balloon repayment status. At December 31, 2019, \$488 million, or 2%, of lines in their draw period were 30 days or more past due, compared with \$399 million, or 4%, of amortizing lines of credit. Included in the amortizing amounts in Table 26 is \$46 million of end-of-term balloon payments which were past due. The unfunded credit commitments for junior and first lien lines totaled \$58.9 billion at December 31, 2019.

**Table 26: Junior Lien Mortgage Line and Loan and First Lien Mortgage Line Portfolios Payment Schedule**

(in millions)	Outstanding balance December 31, 2019	Scheduled end of draw/term							Amortizing
		2020	2021	2022	2023	2024	2025 and thereafter (1)		
Junior lien lines and loans	\$ 29,496	334	863	3,308	2,276	1,850	11,754	9,111	
First lien lines	10,384	139	414	1,618	1,214	956	4,328	1,715	
Total	\$ 39,880	473	1,277	4,926	3,490	2,806	16,082	10,826	
% of portfolios	100%	1	3	12	9	7	40	28	

(1) Substantially all lines and loans are scheduled to convert to amortizing loans by the end of 2029, with annual scheduled amounts through 2029 ranging from \$1.9 billion to \$4.8 billion and averaging \$3.2 billion per year.

**CREDIT CARDS** Our credit card portfolio totaled \$41.0 billion at December 31, 2019, which represented 4% of our total outstanding loans. The net charge-off rate for our credit card portfolio was 3.53% for 2019, compared with 3.51% for 2018.

**AUTOMOBILE** Our automobile portfolio totaled \$47.9 billion at December 31, 2019. The net charge-off rate for our automobile portfolio was 0.67% for 2019, compared with 1.21% for 2018. The decrease in the net charge-off rate for 2019, compared with 2018, was driven by lower early losses on higher quality originations.

**OTHER REVOLVING CREDIT AND INSTALLMENT** Other revolving credit and installment loans totaled \$34.3 billion at December 31, 2019, and largely included student and securities-based loans. Our private student loan portfolio totaled \$10.6 billion at December 31, 2019. The net charge-off rate for other revolving credit and installment loans was 1.59% for 2019, compared with 1.53% for 2018.

## Risk Management – Credit Risk Management (continued)

**NONPERFORMING ASSETS (NONACCRUAL LOANS AND FORECLOSED ASSETS)** Table 27 summarizes nonperforming assets (NPAs) for each of the last five years. We generally place loans on nonaccrual status when:

- the full and timely collection of interest or principal becomes uncertain (generally based on an assessment of the borrower's financial condition and the adequacy of collateral, if any), such as in bankruptcy or other circumstances;
- they are 90 days (120 days with respect to real estate 1-4 family mortgages) past due for interest or principal, unless both well-secured and in the process of collection;
- part of the principal balance has been charged off; or
- for junior lien mortgages, we have evidence that the related first lien mortgage may be 120 days past due or in the process of foreclosure regardless of the junior lien delinquency status.

Credit card loans are not placed on nonaccrual status, but are generally fully charged off when the loan reaches 180 days past due.

Note 1 (Summary of Significant Accounting Policies – Loans) to Financial Statements in this Report describes our accounting policy for nonaccrual and impaired loans and foreclosed assets. For additional information on impaired loans, see Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

Nonaccrual loans were \$5.3 billion at December 31, 2019, down \$1.2 billion from a year ago. Consumer nonaccrual loans were down \$1.2 billion from a year ago predominantly due to a decrease in real estate 1-4 family mortgage nonaccrual loans, reflecting broad-based credit improvement, sales of nonaccrual mortgage loans, and the reclassification of nonaccrual mortgage loans to MLHFS. Commercial nonaccrual loans increased \$66 million from a year ago, predominantly due to an increase in commercial and industrial nonaccrual loans, driven by a customer in the utilities industry, as well as increases in the oil, gas and pipeline portfolio, partially offset by credit improvement across various industry categories. Additionally, foreclosed assets decreased \$148 million from December 31, 2018, driven by sales of commercial assets.

**Table 27: Nonperforming Assets (Nonaccrual Loans and Foreclosed Assets)**

(in millions)	December 31,				
	2019	2018	2017	2016	2015
<b>Nonaccrual loans:</b>					
<b>Commercial:</b>					
Commercial and industrial	\$ 1,545	1,486	1,899	3,199	1,363
Real estate mortgage	573	580	628	685	969
Real estate construction	41	32	37	43	66
Lease financing	95	90	76	115	26
<b>Total commercial</b>	<b>2,254</b>	<b>2,188</b>	<b>2,640</b>	<b>4,042</b>	<b>2,424</b>
<b>Consumer:</b>					
Real estate 1-4 family first mortgage (1)	2,150	3,183	3,732	4,516	6,829
Real estate 1-4 family junior lien mortgage (1)	796	945	1,086	1,206	1,495
Automobile	106	130	130	106	121
Other revolving credit and installment	40	50	58	51	49
<b>Total consumer</b>	<b>3,092</b>	<b>4,308</b>	<b>5,006</b>	<b>5,879</b>	<b>8,494</b>
<b>Total nonaccrual loans (2)(3)</b>	<b>\$ 5,346</b>	<b>6,496</b>	<b>7,646</b>	<b>9,921</b>	<b>10,918</b>
<b>As a percentage of total loans</b>	<b>0.56%</b>	<b>0.68</b>	<b>0.80</b>	<b>1.03</b>	<b>1.19</b>
<b>Foreclosed assets:</b>					
Government insured/guaranteed (4)	\$ 50	88	120	197	446
Non-government insured/guaranteed	253	363	522	781	979
<b>Total foreclosed assets</b>	<b>303</b>	<b>451</b>	<b>642</b>	<b>978</b>	<b>1,425</b>
<b>Total nonperforming assets</b>	<b>\$ 5,649</b>	<b>6,947</b>	<b>8,288</b>	<b>10,899</b>	<b>12,343</b>
<b>As a percentage of total loans</b>	<b>0.59%</b>	<b>0.73</b>	<b>0.87</b>	<b>1.13</b>	<b>1.35</b>

(1) Real estate 1-4 family mortgage loans predominantly insured by the FHA or guaranteed by the VA are not placed on nonaccrual status because they are insured or guaranteed.

(2) Financial information for periods prior to December 31, 2018, has been revised to exclude mortgage loans held for sale (MLHFS), loans held for sale (LHFS) and loans held at fair value of \$390 million, \$463 million, and \$464 million at December 31, 2017, 2016, and 2015, respectively.

(3) Excludes PCI loans because they continue to earn interest income from accretable yield, independent of performance in accordance with their contractual terms.

(4) Consistent with regulatory reporting requirements, foreclosed real estate resulting from government insured/guaranteed loans are classified as nonperforming. Both principal and interest related to these foreclosed real estate assets are collectible because the loans were predominantly insured by the FHA or guaranteed by the VA. Receivables related to the foreclosure of certain government guaranteed real estate mortgage loans are excluded from this table and included in Accounts Receivable in Other Assets. For more information on the classification of certain government-guaranteed mortgage loans upon foreclosure, see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

Table 28 provides a summary of nonperforming assets during 2019.

**Table 28: Nonperforming Assets by Quarter During 2019**

(in millions)	December 31, 2019		September 30, 2019		June 30, 2019		March 31, 2019	
	Balance	% of total loans	Balance	% of total loans	Balance	% of total loans	Balance	% of total loans
<b>Nonaccrual loans:</b>								
Commercial:								
Commercial and industrial	\$ 1,545	0.44%	\$ 1,539	0.44%	\$ 1,634	0.47%	\$ 1,986	0.57%
Real estate mortgage	573	0.47	669	0.55	737	0.60	699	0.57
Real estate construction	41	0.21	32	0.16	36	0.17	36	0.16
Lease financing	95	0.48	72	0.37	63	0.33	76	0.40
Total commercial	2,254	0.44	2,312	0.45	2,470	0.48	2,797	0.55
Consumer:								
Real estate 1-4 family first mortgage (1)	2,150	0.73	2,261	0.78	2,425	0.85	3,026	1.06
Real estate 1-4 family junior lien mortgage (1)	796	2.70	819	2.66	868	2.71	916	2.77
Automobile	106	0.22	110	0.24	115	0.25	116	0.26
Other revolving credit and installment	40	0.12	43	0.12	44	0.13	50	0.14
Total consumer	3,092	0.69	3,233	0.73	3,452	0.79	4,108	0.94
Total nonaccrual loans (2)	5,346	0.56	5,545	0.58	5,922	0.62	6,905	0.73
<b>Foreclosed assets:</b>								
Government insured/guaranteed (3)	50		59		68		75	
Non-government insured/guaranteed	253		378		309		361	
Total foreclosed assets	303		437		377		436	
Total nonperforming assets	\$ 5,649	0.59%	\$ 5,982	0.63%	\$ 6,299	0.66%	\$ 7,341	0.77%
Change in NPAs from prior quarter	\$ (333)		(317)		(1,042)		394	

(1) Real estate 1-4 family mortgage loans predominantly insured by the FHA or guaranteed by the VA are not placed on nonaccrual status because they are insured or guaranteed.

(2) Excludes PCI loans because they continue to earn interest income from accretible yield, independent of performance in accordance with their contractual terms.

(3) Consistent with regulatory reporting requirements, foreclosed real estate resulting from government insured/guaranteed loans are classified as nonperforming. Both principal and interest related to these foreclosed real estate assets are collectible because the loans were predominantly insured by the FHA or guaranteed by the VA. Receivables related to the foreclosure of certain government guaranteed real estate mortgage loans are excluded from this table and included in Accounts Receivable in Other Assets. For more information on the classification of certain government-guaranteed residential mortgage loans upon foreclosure, see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

## Risk Management – Credit Risk Management (continued)

Table 29 provides an analysis of the changes in nonaccrual loans.

**Table 29: Analysis of Changes in Nonaccrual Loans**

(in millions)	Quarter ended				Year ended Dec 31,	
	Dec 31, 2019	Sep 30, 2019	Jun 30, 2019	Mar 31, 2019	2019	2018
<b>Commercial nonaccrual loans</b>						
Balance, beginning of period	\$ 2,312	2,470	2,797	2,188	2,188	2,640
Inflows	652	710	621	1,238	3,221	2,767
Outflows:						
Returned to accruing	(124)	(52)	(46)	(43)	(265)	(323)
Foreclosures	—	(78)	(2)	(15)	(95)	(12)
Charge-offs	(201)	(194)	(187)	(158)	(740)	(636)
Payments, sales and other	(385)	(544)	(713)	(413)	(2,055)	(2,248)
Total outflows	(710)	(868)	(948)	(629)	(3,155)	(3,219)
Balance, end of period	2,254	2,312	2,470	2,797	2,254	2,188
<b>Consumer nonaccrual loans</b>						
Balance, beginning of period	3,233	3,452	4,108	4,308	4,308	5,006
Inflows	473	448	437	552	1,910	2,433
Outflows:						
Returned to accruing	(227)	(274)	(250)	(248)	(999)	(1,304)
Foreclosures	(29)	(32)	(34)	(42)	(137)	(166)
Charge-offs	(45)	(44)	(34)	(49)	(172)	(292)
Payments, sales and other	(313)	(317)	(775)	(413)	(1,818)	(1,369)
Total outflows	(614)	(667)	(1,093)	(752)	(3,126)	(3,131)
Balance, end of period	3,092	3,233	3,452	4,108	3,092	4,308
Total nonaccrual loans	\$ 5,346	5,545	5,922	6,905	5,346	6,496

Typically, changes to nonaccrual loans period-over-period represent inflows for loans that are placed on nonaccrual status in accordance with our policy, offset by reductions for loans that are paid down, charged off, sold, foreclosed, or are no longer classified as nonaccrual as a result of continued performance and an improvement in the borrower's financial condition and loan repayment capabilities.

While nonaccrual loans are not free of loss content, we believe exposure to loss is significantly mitigated by the following factors at December 31, 2019:

- 86% of total commercial nonaccrual loans and 99% of total consumer nonaccrual loans are secured. Of the consumer nonaccrual loans, 95% are secured by real estate and 88% have a combined LTV (CLTV) ratio of 80% or less.
- losses of \$360 million and \$941 million have already been recognized on 19% of commercial nonaccrual loans and 35% of consumer nonaccrual loans, respectively, in accordance with our charge-off policies. Once we write down loans to the net realizable value (fair value of collateral less estimated costs to sell), we re-evaluate each loan regularly and record additional write-downs if needed.
- 71% of commercial nonaccrual loans were current on interest and 66% of commercial nonaccrual loans were current on both principal and interest. These commercial loans were on nonaccrual status because the full or timely collection of interest or principal had become uncertain.

- of the \$1.3 billion of consumer loans in bankruptcy or discharged in bankruptcy, and classified as nonaccrual, \$916 million were current.
- the remaining risk of loss of all nonaccrual loans has been considered and we believe is adequately covered by the allowance for loan losses.

We continue to work with our customers experiencing financial difficulty to determine if they can qualify for a loan modification so that they can stay in their homes. Under our proprietary modification programs, customers may be required to provide updated documentation, and some programs require completion of payment during trial periods to demonstrate sustained performance before the loan can be removed from nonaccrual status.

If interest due on all nonaccrual loans (including loans that were, but are no longer on nonaccrual status at year end) had been accrued under the original terms, approximately \$361 million of interest would have been recorded as income on these loans, compared with \$316 million actually recorded as interest income in 2019, versus \$446 million and \$426 million, respectively, in 2018.



Table 30 provides a summary of foreclosed assets and an analysis of changes in foreclosed assets.

**Table 30: Foreclosed Assets**

(in millions)	Quarter ended				Year ended Dec 31,	
	Dec 31, 2019	Sep 30, 2019	Jun 30, 2019	Mar 31, 2019	2019	2018
<b>Summary by loan segment</b>						
Government insured/guaranteed	\$ 50	59	68	75	50	88
Commercial	62	180	101	124	62	127
Consumer	191	198	208	237	191	236
Total foreclosed assets	303	437	377	436	303	451
<b>Analysis of changes in foreclosed assets</b>						
Balance, beginning of period	\$ 437	377	436	451	451	642
Net change in government insured/guaranteed (1)	(9)	(9)	(7)	(13)	(38)	(32)
Additions to foreclosed assets (2)	126	235	144	193	698	778
Reductions:						
Sales	(250)	(155)	(199)	(205)	(809)	(957)
Write-downs and gains (losses) on sales	(1)	(11)	3	10	1	20
Total reductions	(251)	(166)	(196)	(195)	(808)	(937)
Balance, end of period	\$ 303	437	377	436	303	451

(1) Foreclosed government insured/guaranteed loans are temporarily transferred to and held by us as servicer, until reimbursement is received from FHA or VA.

(2) Includes loans moved into foreclosed assets from nonaccrual status, PCI loans transitioned directly to foreclosed assets and repossessed automobiles.

Foreclosed assets at December 31, 2019, included \$222 million of foreclosed residential real estate, of which 23% is predominantly FHA insured or VA guaranteed and expected to have minimal or no loss content. The remaining amount of foreclosed assets has been written down to estimated net realizable value. Of the \$303 million in foreclosed assets at December 31, 2019, 69% have been in the foreclosed assets portfolio one year or less.

## Risk Management – Credit Risk Management (continued)

### TROUBLED DEBT RESTRUCTURINGS (TDRs)

**Table 31: Troubled Debt Restructurings (TDRs)**

(in millions)	December 31,				
	2019	2018	2017	2016	2015
<b>Commercial:</b>					
Commercial and industrial	<b>\$ 1,183</b>	1,623	2,096	2,584	1,123
Real estate mortgage	<b>669</b>	704	901	1,119	1,456
Real estate construction	<b>36</b>	39	44	91	125
Lease financing	<b>13</b>	56	35	6	1
Total commercial TDRs	<b>1,901</b>	2,422	3,076	3,800	2,705
<b>Consumer:</b>					
Real estate 1-4 family first mortgage	<b>7,589</b>	10,629	12,080	14,134	16,812
Real estate 1-4 family junior lien mortgage	<b>1,407</b>	1,639	1,849	2,074	2,306
Credit card	<b>520</b>	449	356	300	299
Automobile	<b>81</b>	89	87	85	105
Other revolving credit and installment	<b>170</b>	154	126	101	73
Trial modifications	<b>115</b>	149	194	299	402
Total consumer TDRs	<b>9,882</b>	13,109	14,692	16,993	19,997
Total TDRs	<b>\$ 11,783</b>	15,531	17,768	20,793	22,702
TDRs on nonaccrual status	<b>\$ 2,833</b>	4,058	4,801	6,193	6,506
<b>TDRs on accrual status:</b>					
Government insured/guaranteed	<b>1,190</b>	1,299	1,359	1,526	1,771
Non-government insured/guaranteed	<b>7,760</b>	10,174	11,608	13,074	14,425
Total TDRs	<b>\$ 11,783</b>	15,531	17,768	20,793	22,702

**Table 32: TDRs Balance by Quarter During 2019**

(in millions)	Dec 31, 2019	Sep 30, 2019	Jun 30, 2019	Mar 31, 2019
<b>Commercial:</b>				
Commercial and industrial	<b>\$ 1,183</b>	1,162	1,294	1,740
Real estate mortgage	<b>669</b>	598	620	681
Real estate construction	<b>36</b>	40	43	45
Lease financing	<b>13</b>	16	31	46
Total commercial TDRs	<b>1,901</b>	1,816	1,988	2,512
<b>Consumer:</b>				
Real estate 1-4 family first mortgage	<b>7,589</b>	7,905	8,218	10,343
Real estate 1-4 family junior lien mortgage	<b>1,407</b>	1,457	1,550	1,604
Credit card	<b>520</b>	504	486	473
Automobile	<b>81</b>	82	85	85
Other revolving credit and installment	<b>170</b>	167	159	156
Trial modifications	<b>115</b>	123	127	136
Total consumer TDRs	<b>9,882</b>	10,238	10,625	12,797
Total TDRs	<b>\$ 11,783</b>	12,054	12,613	15,309
TDRs on nonaccrual status	<b>\$ 2,833</b>	2,775	3,058	4,037
<b>TDRs on accrual status:</b>				
Government insured/guaranteed	<b>1,190</b>	1,199	1,209	1,275
Non-government insured/guaranteed	<b>7,760</b>	8,080	8,346	9,997
Total TDRs	<b>\$ 11,783</b>	12,054	12,613	15,309

Table 31 and Table 32 provide information regarding the recorded investment of loans modified in TDRs. The allowance for loan losses for TDRs was \$1.0 billion and \$1.2 billion at December 31, 2019 and 2018, respectively. See Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report for additional information regarding TDRs. In those situations where principal is forgiven, the entire amount of such

forgiveness is immediately charged off. When we delay the timing on the repayment of a portion of principal (principal forbearance), we charge off the amount of forbearance if that amount is not considered fully collectible.

Our nonaccrual policies are generally the same for all loan types when a restructuring is involved. We typically

re-underwrite loans at the time of restructuring to determine whether there is sufficient evidence of sustained repayment capacity based on the borrower's documented income, debt to income ratios, and other factors. Loans lacking sufficient evidence of sustained repayment capacity at the time of modification are charged down to the fair value of the collateral, if applicable. For an accruing loan that has been modified, if the borrower has demonstrated performance under the previous terms and the underwriting process shows the capacity to continue to perform under the restructured terms, the loan will generally remain in accruing status. Otherwise, the loan will be placed in nonaccrual status and may be returned to accruing status when the borrower demonstrates a sustained period of performance, generally six consecutive months of payments, or equivalent, inclusive of consecutive payments made prior to

modification. Loans will also be placed on nonaccrual status, and a corresponding charge-off is recorded to the loan balance, when we believe that principal and interest contractually due under the modified agreement will not be collectible.

Table 33 provides an analysis of the changes in TDRs. Loans modified more than once are reported as TDR inflows only in the period they are first modified. Other than resolutions such as foreclosures, sales and transfers to held for sale, we may remove loans held for investment from TDR classification, but only if they have been refinanced or restructured at market terms and qualify as a new loan.

TDRs of \$11.8 billion at December 31, 2019, decreased \$3.7 billion from December 31, 2018, due to paydowns, as well as a reclassification of \$1.7 billion in real estate 1-4 family first mortgage TDR loans to MLHFS.

**Table 33: Analysis of Changes in TDRs**

(in millions)	Quarter ended				Year ended Dec 31,	
	Dec 31, 2019	Sep 30, 2019	Jun 30, 2019	Mar 31, 2019	2019	2018
<b>Commercial TDRs</b>						
Balance, beginning of period	\$ 1,816	1,988	2,512	2,422	2,422	3,076
Inflows (1)	476	293	232	539	1,540	1,764
Outflows						
Charge-offs	(48)	(66)	(37)	(44)	(195)	(284)
Foreclosure	(1)	—	—	—	(1)	(15)
Payments, sales and other (2)	(342)	(399)	(719)	(405)	(1,865)	(2,119)
Balance, end of period	1,901	1,816	1,988	2,512	1,901	2,422
<b>Consumer TDRs</b>						
Balance, beginning of period	10,238	10,625	12,797	13,109	13,109	14,692
Inflows (1)	350	360	336	439	1,485	1,747
Outflows						
Charge-offs	(57)	(56)	(61)	(60)	(234)	(223)
Foreclosure	(61)	(70)	(74)	(86)	(290)	(470)
Payments, sales and other (2)	(580)	(617)	(2,364)	(593)	(4,154)	(2,591)
Net change in trial modifications (3)	(8)	(4)	(9)	(12)	(34)	(46)
Balance, end of period	9,882	10,238	10,625	12,797	9,882	13,109
Total TDRs	\$ 11,783	12,054	12,613	15,309	11,783	15,531

(1) Inflows include loans that modify, even if they resolve within the period, as well as gross advances on term loans that modified in a prior period and net advances on revolving TDRs that modified in a prior period.

(2) Other outflows include normal amortization/accretion of loan basis adjustments and loans transferred to held for sale. Occasionally, loans that have been refinanced or restructured at market terms qualify as new loans, which are also included as other outflows.

(3) Net change in trial modifications includes: inflows of new TDRs entering the trial payment period, net of outflows for modifications that either (i) successfully perform and enter into a permanent modification, or (ii) did not successfully perform according to the terms of the trial period plan and are subsequently charged-off, foreclosed upon or otherwise resolved.

## Risk Management – Credit Risk Management (continued)

**LOANS 90 DAYS OR MORE PAST DUE AND STILL ACCRUING** Loans 90 days or more past due are still accruing if they are (1) well-secured and in the process of collection or (2) real estate 1-4 family mortgage loans or consumer loans exempt under regulatory rules from being classified as nonaccrual until later delinquency, usually 120 days past due. PCI loans are not included in past due and still accruing loans even when they are 90 days or more contractually past due. These PCI loans are considered to be accruing because they continue to earn interest from accretable yield, independent of performance in accordance with their contractual terms.

Excluding insured/guaranteed loans, loans 90 days or more past due and still accruing at December 31, 2019, were down

\$46 million, or 5%, from December 31, 2018, due to payments, other loss mitigation activities, and credit stabilization.

Loans 90 days or more past due and still accruing whose repayments are predominantly insured by the FHA or guaranteed by the VA for mortgages were \$6.4 billion at December 31, 2019, down from \$7.7 billion at December 31, 2018, due to an improvement in delinquencies, as well as a reduction in the portfolio.

Table 34 reflects non-PCI loans 90 days or more past due and still accruing by class for loans not government insured/guaranteed. For additional information on delinquencies by loan class, see Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

**Table 34: Loans 90 Days or More Past Due and Still Accruing (1)**

(in millions)	December 31,				
	2019	2018	2017	2016	2015
Total (excluding PCI (2)):	\$ 7,285	8,704	11,532	11,437	13,866
Less: FHA insured/VA guaranteed (3)	6,352	7,725	10,475	10,467	12,863
Less: Student loans guaranteed under the FFELP (4)	—	—	—	3	26
<b>Total, not government insured/guaranteed</b>	<b>\$ 933</b>	<b>979</b>	<b>1,057</b>	<b>967</b>	<b>977</b>
By segment and class, not government insured/guaranteed:					
Commercial:					
Commercial and industrial	\$ 47	43	26	28	97
Real estate mortgage	31	51	23	36	13
Real estate construction	—	—	—	—	4
Total commercial	78	94	49	64	114
Consumer:					
Real estate 1-4 family first mortgage	112	124	213	170	220
Real estate 1-4 family junior lien mortgage	32	32	60	56	65
Credit card	546	513	492	452	397
Automobile	78	114	143	112	79
Other revolving credit and installment	87	102	100	113	102
Total consumer	855	885	1,008	903	863
<b>Total, not government insured/guaranteed</b>	<b>\$ 933</b>	<b>979</b>	<b>1,057</b>	<b>967</b>	<b>977</b>

- (1) Financial information for periods prior to December 31, 2018, has been revised to exclude MLHFS, LHFS and loans held at fair value, which reduced "Total, not government insured/guaranteed" by \$6 million, \$5 million and \$4 million at December 31, 2017, 2016 and 2015, respectively.
- (2) PCI loans totaled \$102 million, \$370 million, \$1.4 billion, \$2.0 billion and \$2.9 billion at December 31, 2019, 2018, 2017, 2016 and 2015, respectively.
- (3) Represents loans whose repayments are predominantly insured by the FHA or guaranteed by the VA.
- (4) Represents loans whose repayments are largely guaranteed by agencies on behalf of the U.S. Department of Education under the Federal Family Education Loan Program (FFELP). All remaining student loans guaranteed under the FFELP were sold as of March 31, 2017.

## NET CHARGE-OFFS

**Table 35: Net Charge-offs**

(\$ in millions)	Year ended						Quarter ended			
	December 31,		December 31,		September 30,		June 30,		March 31,	
	Net loan charge-offs	% of avg. loans	Net loan charge-offs	% of avg. loans (1)	Net loan charge-offs	% of avg. loans (1)	Net loan charge-offs	% of avg. loans (1)	Net loan charge-offs	% of avg. loans (1)
<b>2019</b>										
<b>Commercial:</b>										
Commercial and industrial	\$ 607	0.17%	\$ 168	0.19%	\$ 147	0.17%	\$ 159	0.18%	\$ 133	0.15%
Real estate mortgage	6	—	4	0.01	(8)	(0.02)	4	0.01	6	0.02
Real estate construction	(12)	(0.06)	—	—	(8)	(0.14)	(2)	(0.04)	(2)	(0.04)
Lease financing	51	0.26	31	0.63	8	0.17	4	0.09	8	0.17
<b>Total commercial</b>	<b>652</b>	<b>0.13</b>	<b>203</b>	<b>0.16</b>	<b>139</b>	<b>0.11</b>	<b>165</b>	<b>0.13</b>	<b>145</b>	<b>0.11</b>
<b>Consumer:</b>										
Real estate 1-4 family first mortgage	(50)	(0.02)	(3)	—	(5)	(0.01)	(30)	(0.04)	(12)	(0.02)
Real estate 1-4 family junior lien mortgage	(66)	(0.21)	(16)	(0.20)	(22)	(0.28)	(19)	(0.24)	(9)	(0.10)
Credit card	1,370	3.53	350	3.48	319	3.22	349	3.68	352	3.73
Automobile	306	0.67	87	0.73	76	0.65	52	0.46	91	0.82
Other revolving credit and installment	550	1.59	148	1.71	138	1.60	136	1.56	128	1.47
<b>Total consumer</b>	<b>2,110</b>	<b>0.48</b>	<b>566</b>	<b>0.51</b>	<b>506</b>	<b>0.46</b>	<b>488</b>	<b>0.45</b>	<b>550</b>	<b>0.51</b>
<b>Total</b>	<b>\$ 2,762</b>	<b>0.29%</b>	<b>\$ 769</b>	<b>0.32%</b>	<b>\$ 645</b>	<b>0.27%</b>	<b>\$ 653</b>	<b>0.28%</b>	<b>\$ 695</b>	<b>0.30%</b>
<b>2018</b>										
<b>Commercial:</b>										
Commercial and industrial	\$ 423	0.13%	\$ 132	0.15%	\$ 148	0.18%	\$ 58	0.07%	\$ 85	0.10%
Real estate mortgage	(28)	(0.02)	(12)	(0.04)	(1)	—	—	—	(15)	(0.05)
Real estate construction	(13)	(0.05)	(1)	(0.01)	(2)	(0.04)	(6)	(0.09)	(4)	(0.07)
Lease financing	47	0.24	13	0.26	7	0.14	15	0.32	12	0.25
<b>Total commercial</b>	<b>429</b>	<b>0.09</b>	<b>132</b>	<b>0.10</b>	<b>152</b>	<b>0.12</b>	<b>67</b>	<b>0.05</b>	<b>78</b>	<b>0.06</b>
<b>Consumer:</b>										
Real estate 1-4 family first mortgage	(88)	(0.03)	(22)	(0.03)	(25)	(0.04)	(23)	(0.03)	(18)	(0.03)
Real estate 1-4 family junior lien mortgage	(40)	(0.11)	(10)	(0.11)	(9)	(0.10)	(13)	(0.13)	(8)	(0.09)
Credit card	1,292	3.51	338	3.54	299	3.22	323	3.61	332	3.69
Automobile	584	1.21	133	1.16	130	1.10	113	0.93	208	1.64
Other revolving credit and installment	567	1.53	150	1.64	133	1.44	135	1.44	149	1.60
<b>Total consumer</b>	<b>2,315</b>	<b>0.52</b>	<b>589</b>	<b>0.53</b>	<b>528</b>	<b>0.47</b>	<b>535</b>	<b>0.49</b>	<b>663</b>	<b>0.60</b>
<b>Total</b>	<b>\$ 2,744</b>	<b>0.29%</b>	<b>\$ 721</b>	<b>0.30%</b>	<b>\$ 680</b>	<b>0.29%</b>	<b>\$ 602</b>	<b>0.26%</b>	<b>\$ 741</b>	<b>0.32%</b>

(1) Quarterly net charge-offs (recoveries) as a percentage of average respective loans are annualized.

Table 35 presents net charge-offs for the four quarters and full year of 2019 and 2018. Net charge-offs in 2019 were \$2.8 billion (0.29% of average total loans outstanding), compared with \$2.7 billion (0.29%) in 2018.

The increase in commercial and industrial net charge-offs in 2019 was driven by lower recoveries, and higher losses in our oil and gas portfolio. The decrease in consumer net charge-offs in 2019 was driven by lower losses, predominantly in the automobile portfolio, partially offset by a slight increase in losses in the credit card portfolio.

**ALLOWANCE FOR CREDIT LOSSES** The allowance for credit losses, which consists of the allowance for loan losses and the allowance for unfunded credit commitments, is management's estimate of credit losses inherent in the loan portfolio and unfunded credit commitments at the balance sheet date, excluding loans carried at fair value. The detail of the changes in the allowance for credit losses by portfolio segment (including charge-offs and recoveries by loan class) is in Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

We apply a disciplined process and methodology to establish our allowance for credit losses each quarter. This process takes into consideration many factors, including historical and forecasted loss trends, loan-level credit quality ratings and loan

grade-specific characteristics. The process involves subjective and complex judgments. In addition, we review a variety of credit metrics and trends. These credit metrics and trends, however, do not solely determine the amount of the allowance for credit losses as we use several analytical tools. Our estimation approach for the commercial portfolio reflects the estimated probability of default in accordance with the borrower's financial strength, and the severity of loss in the event of default, considering the quality of any underlying collateral. Probability of default and severity at the time of default are statistically derived through historical observations of defaults and losses after default within each credit risk rating. Our estimation approach for the consumer portfolio uses forecasted losses that represent our best estimate of inherent loss based on historical experience, quantitative and other mathematical techniques. For additional information on our allowance for credit losses, see the "Critical Accounting Policies – Allowance for Credit Losses" section and Note 1 (Summary of Significant Accounting Policies) and Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

## Risk Management – Credit Risk Management (continued)

Table 36 presents the allocation of the allowance for credit losses by loan segment and class for the last five years.

**Table 36: Allocation of the Allowance for Credit Losses (ACL)**

(in millions)	Dec 31, 2019		Dec 31, 2018		Dec 31, 2017		Dec 31, 2016		Dec 31, 2015	
	Loans as % of total ACL	Loans as % of total loans	Loans as % of total ACL	Loans as % of total loans	Loans as % of total ACL	Loans as % of total loans	Loans as % of total ACL	Loans as % of total loans	Loans as % of total ACL	Loans as % of total loans
<b>Commercial:</b>										
Commercial and industrial	\$ 3,600	37%	\$ 3,628	37%	\$ 3,752	35%	\$ 4,560	34%	\$ 4,231	33%
Real estate mortgage	1,236	13	1,282	13	1,374	13	1,320	14	1,264	13
Real estate construction	1,079	2	1,200	2	1,238	3	1,294	2	1,210	3
Lease financing	330	2	307	2	268	2	220	2	167	1
Total commercial	6,245	54	6,417	54	6,632	53	7,394	52	6,872	50
<b>Consumer:</b>										
Real estate 1-4 family first mortgage	692	30	750	30	1,085	30	1,270	29	1,895	30
Real estate 1-4 family junior lien mortgage	247	3	431	3	608	4	815	5	1,223	6
Credit card	2,252	4	2,064	4	1,944	4	1,605	4	1,412	4
Automobile	459	5	475	5	1,039	5	817	6	529	6
Other revolving credit and installment	561	4	570	4	652	4	639	4	581	4
Total consumer	4,211	46	4,290	46	5,328	47	5,146	48	5,640	50
Total	\$ 10,456	100%	\$ 10,707	100%	\$ 11,960	100%	\$ 12,540	100%	\$ 12,512	100%
<b>Components:</b>										
Allowance for loan losses	\$ 9,551		9,775		11,004		11,419		11,545	
Allowance for unfunded credit commitments	905		932		956		1,121		967	
Allowance for credit losses	\$ 10,456		10,707		11,960		12,540		12,512	
Allowance for loan losses as a percentage of total loans	0.99%		1.03		1.15		1.18		1.26	
Allowance for loan losses as a percentage of total net charge-offs	346		356		376		324		399	
Allowance for credit losses as a percentage of total loans	1.09		1.12		1.25		1.30		1.37	
Allowance for credit losses as a percentage of total nonaccrual loans	196		165		156		126		115	

In addition to the allowance for credit losses, there was \$387 million at December 31, 2019, and \$480 million at December 31, 2018, of nonaccretable difference to absorb losses on PCI loans of \$568 million at December 31, 2019, and \$5.0 billion at December 31, 2018. The allowance for credit losses is lower than otherwise would have been required without PCI loan accounting. As a result of PCI loans, certain ratios of the Company may not be directly comparable with credit-related metrics for other financial institutions. For additional information on PCI loans, see the “Risk Management – Credit Risk Management – Purchased Credit-Impaired Loans” section, Note 1 (Summary of Significant Accounting Policies) and Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

The ratio of the allowance for credit losses to total nonaccrual loans may fluctuate significantly from period to period due to such factors as the mix of loan types in the portfolio, borrower credit strength and the value and marketability of collateral.

The allowance for credit losses decreased \$251 million, or 2%, in 2019, due to improvement in the credit quality of our commercial and residential real estate portfolios, partially offset by an increase in the allowance for the credit card portfolio reflecting increased volume and a shift in portfolio mix. Total

provision for credit losses was \$2.7 billion in 2019 and \$1.7 billion in 2018. The provision for credit losses was \$75 million less than net charge-offs in 2019, reflecting the same changes mentioned above for the allowance for credit losses, compared with \$1.0 billion less than net charge-offs in 2018. For a discussion of our 2018 provision for credit losses compared with 2017, see the “Risk Management – Credit Risk Management – Allowance for Credit Losses” section of our Annual Report on Form 10-K for the year ended December 31, 2018.

We believe the allowance for credit losses of \$10.5 billion at December 31, 2019, was appropriate to cover credit losses inherent in the loan portfolio, including unfunded credit commitments, at that date. The entire allowance for credit losses is available to absorb credit losses inherent in the total loan portfolio. The allowance for credit losses is subject to change and reflects existing factors as of the date of determination, including economic or market conditions and ongoing internal and external examination processes. Due to the sensitivity of the allowance for credit losses to changes in the economic and business environment, it is possible that we will incur incremental credit losses not anticipated as of the balance sheet date. Future amounts of the allowance for credit losses will be based on a variety of factors, including loan growth, portfolio performance

and general economic conditions. Our process for determining the allowance for credit losses is discussed in the “Critical Accounting Policies – Allowance for Credit Losses” section and Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

**LIABILITY FOR MORTGAGE LOAN REPURCHASE LOSSES** We sell residential mortgage loans to various parties, including (1) government-sponsored entities (GSEs) Federal Home Loan Mortgage Corporation (FHLMC) and Federal National Mortgage Association (FNMA) who include the mortgage loans in GSE-guaranteed mortgage securitizations, (2) SPEs that issue private label MBS, and (3) other financial institutions that purchase mortgage loans for investment or private label securitization. In addition, we pool FHA-insured and VA-guaranteed mortgage loans that are then used to back securities guaranteed by the Government National Mortgage Association (GNMA). We may be required to repurchase these mortgage loans, indemnify the securitization trust, investor or insurer, or reimburse the securitization trust, investor or insurer for credit losses incurred on loans (collectively, repurchase) in the event of a breach of contractual representations or warranties that is not remedied within a period (usually 90 days or less) after we receive notice of the breach.

In connection with our sales and securitization of residential mortgage loans to various parties, we have established a mortgage repurchase liability, initially at fair value, related to various representations and warranties that reflect management’s estimate of losses for loans for which we could have a repurchase obligation, whether or not we currently service those loans, based on a combination of factors. Our mortgage repurchase liability estimation process also incorporates a forecast of repurchase demands associated with mortgage insurance rescission activity.

Customary with industry practice, we have the right of recourse against correspondent lenders from whom we have purchased loans with respect to representations and warranties. Historical recovery rates as well as projected lender performance are incorporated in the establishment of our mortgage repurchase liability.

We do not typically receive repurchase requests from GNMA, FHA and the Department of Housing and Urban Development (HUD) or VA. As an originator of an FHA-insured or VA-guaranteed loan, we are responsible for obtaining the insurance with the FHA or the guarantee with the VA. To the extent we are not able to obtain the insurance or the guarantee we must request permission to repurchase the loan from the GNMA pool. Such repurchases from GNMA pools typically represent a self-initiated process upon discovery of the uninsurable loan (usually within 180 days from funding of the loan). Alternatively, in lieu of repurchasing loans from GNMA pools, we may be asked by FHA/HUD or the VA to indemnify them (as applicable) for defects found in the Post Endorsement Technical Review process or audits performed by FHA/HUD or the VA. The Post Endorsement Technical Review is a process whereby HUD performs underwriting audits of closed/insured FHA loans for potential deficiencies. Our liability for mortgage loan repurchase losses incorporates probable losses associated with such indemnification.

**RISKS RELATING TO SERVICING ACTIVITIES** In addition to servicing loans in our portfolio, we act as servicer and/or master servicer of residential mortgage loans included in GSE-guaranteed mortgage securitizations, GNMA-guaranteed mortgage securitizations of FHA-insured/VA-guaranteed mortgages and

private label mortgage securitizations, as well as for unsecuritized loans owned by institutional investors. The following discussion summarizes the primary duties and requirements of servicing and related industry developments.

The loans we service were originated by us or by other mortgage loan originators. As servicer, our primary duties are typically to (1) collect payments due from borrowers, (2) advance certain delinquent payments of principal and interest on the mortgage loans, (3) maintain and administer any hazard, title or primary mortgage insurance policies relating to the mortgage loans, (4) maintain any required escrow accounts for payment of taxes and insurance and administer escrow payments, (5) foreclose on defaulted mortgage loans or, to the extent consistent with the related servicing agreement, consider alternatives to foreclosure, such as loan modifications or short sales, and (6) for loans sold into private label securitizations, manage the foreclosed property through liquidation. As master servicer, our primary duties are typically to (1) supervise, monitor and oversee the servicing of the mortgage loans by the servicer, (2) consult with each servicer and use reasonable efforts to cause the servicer to observe its servicing obligations, (3) prepare monthly distribution statements to security holders and, if required by the securitization documents, certain periodic reports required to be filed with the Securities and Exchange Commission (SEC), (4) if required by the securitization documents, calculate distributions and loss allocations on the mortgage-backed securities, (5) prepare tax and information returns of the securitization trust, and (6) advance amounts required by non-affiliated servicers who fail to perform their advancing obligations.

Each agreement under which we act as servicer or master servicer generally specifies a standard of responsibility for actions we take in such capacity and provides protection against expenses and liabilities we incur when acting in compliance with the specified standard. For example, private label securitization agreements under which we act as servicer or master servicer typically provide that the servicer and the master servicer are entitled to indemnification by the securitization trust for taking action or refraining from taking action in good faith or for errors in judgment. However, we are not indemnified, but rather are required to indemnify the securitization trustee, against any failure by us, as servicer or master servicer, to perform our servicing obligations or against any of our acts or omissions that involve willful misfeasance, bad faith or gross negligence in the performance of, or reckless disregard of, our duties. In addition, if we commit a material breach of our obligations as servicer or master servicer, we may be subject to termination if the breach is not cured within a specified period following notice, which can generally be given by the securitization trustee or a specified percentage of security holders. Whole loan sale contracts under which we act as servicer generally include similar provisions with respect to our actions as servicer. The standards governing servicing in GSE-guaranteed securitizations, and the possible remedies for violations of such standards, vary, and those standards and remedies are determined by servicing guides maintained by the GSEs, contracts between the GSEs and individual servicers and topical guides published by the GSEs from time to time. Such remedies could include indemnification or repurchase of an affected mortgage loan. In addition, in connection with our servicing activities, we could become subject to consent orders and settlement agreements with federal and state regulators for alleged servicing issues and practices. In general, these can require us to provide customers with loan modification relief, refinancing relief, and foreclosure prevention

## Risk Management – Credit Risk Management (continued)

and assistance, as well as can impose certain monetary penalties on us.

### Asset/Liability Management

Asset/liability management involves evaluating, monitoring and managing interest rate risk, market risk, liquidity and funding. Primary oversight of interest rate risk and market risk resides with the Finance Committee of our Board, which oversees the administration and effectiveness of financial risk management policies and processes used to assess and manage these risks. Primary oversight of liquidity and funding resides with the Risk Committee of the Board. At the management level, we utilize a Corporate Asset/Liability Committee (Corporate ALCO), which consists of management from finance, risk and business groups, to oversee these risks and provide periodic reports to the Board's Finance Committee and Risk Committee as appropriate. As discussed in more detail for market risk activities below, we employ separate management level oversight specific to market risk.

**INTEREST RATE RISK** Interest rate risk, which potentially can have a significant earnings impact, is an integral part of being a financial intermediary. We are subject to interest rate risk because:

- assets and liabilities may mature or reprice at different times (for example, if assets reprice faster than liabilities and interest rates are generally rising, earnings will initially increase);
- assets and liabilities may reprice at the same time but by different amounts (for example, when the general level of interest rates is rising, we may increase rates paid on checking and savings deposit accounts by an amount that is less than the general rise in market interest rates);
- short-term and long-term market interest rates may change by different amounts (for example, the shape of the yield curve may affect new loan yields and funding costs differently);
- the remaining maturity of various assets or liabilities may shorten or lengthen as interest rates change (for example, if long-term mortgage interest rates increase sharply, MBS held in the debt securities portfolio may pay down slower than anticipated, which could impact portfolio income); or
- interest rates may also have a direct or indirect effect on loan demand, collateral values, credit losses, mortgage origination volume, the fair value of MSRs and other financial instruments, the value of the pension liability and other items affecting earnings.

We assess interest rate risk by comparing outcomes under various net interest income simulations using many interest rate scenarios that differ in the direction of interest rate changes, the degree of change over time, the speed of change and the projected shape of the yield curve. These simulations require assumptions regarding drivers of earnings and balance sheet composition such as loan originations, prepayment speeds on loans and debt securities, deposit flows and mix, as well as pricing strategies.

Currently, our profile is such that we project net interest income will benefit modestly from higher interest rates as our assets would reprice faster and to a greater degree than our liabilities, while in the case of lower interest rates, our assets would reprice downward and to a greater degree than our liabilities.

Our most recent simulations estimate net interest income sensitivity over the next two years under a range of both lower

and higher interest rates. Measured impacts from standardized ramps (gradual changes) and shocks (instantaneous changes) are summarized in Table 37, indicating net interest income sensitivity relative to the Company's base net interest income plan. Ramp scenarios assume interest rates move gradually in parallel across the yield curve relative to the base scenario in year one, and the full amount of the ramp is held as a constant differential to the base scenario in year two. The following describes the simulation assumptions for the scenarios presented in Table 37:

- Simulations are dynamic and reflect anticipated growth across assets and liabilities.
- Other macroeconomic variables that could be correlated with the changes in interest rates are held constant.
- Mortgage prepayment and origination assumptions vary across scenarios and reflect only the impact of the higher or lower interest rates.
- Our base scenario deposit forecast incorporates mix changes consistent with the base interest rate trajectory. Deposit mix is modeled to be the same as in the base scenario across the alternative scenarios. In higher interest rate scenarios, customer activity that shifts balances into higher-yielding products could reduce expected net interest income.
- We hold the size of the projected debt and equity securities portfolios constant across scenarios.

**Table 37: Net Interest Income Sensitivity Over Next Two-Year Horizon Relative to Base Expectation**

(\$ in billions)	Base	Lower Rates		Higher Rates	
		100 bps Ramp Parallel Decrease	100 bps Instantaneous Parallel Increase	200 bps Ramp Parallel Increase	
<b>First Year of Forecasting Horizon</b>					
Net Interest Income Sensitivity to Base Scenario	\$	(1.8) - (1.3)	1.5 - 2.0	1.1 - 1.6	
<i>Key Rates at Horizon End</i>					
Fed Funds Target	1.87 %	0.87	2.87	3.87	
10-year CMT (1)	1.97	0.97	2.97	3.97	
<b>Second Year of Forecasting Horizon</b>					
Net Interest Income Sensitivity to Base Scenario	\$	(4.4) - (3.9)	2.0 - 2.5	2.7 - 3.2	
<i>Key Rates at Horizon End</i>					
Fed Funds Target	2.25 %	1.25	3.25	4.25	
10-year CMT (1)	2.36	1.36	3.36	4.36	

(1) U.S. Constant Maturity Treasury Rate

The sensitivity results above do not capture interest rate sensitive noninterest income and expense impacts. Our interest rate sensitive noninterest income and expense is predominantly driven by mortgage banking activities, and may move in the opposite direction of our net interest income. Mortgage originations generally decline in response to higher interest rates and generally increase, particularly refinancing activity, in response to lower interest rates. Mortgage results are also impacted by the valuation of MSRs and related hedge positions. See the "Risk Management – Asset/Liability Management – Mortgage Banking Interest Rate and Market Risk" section in this Report for more information.

Interest rate sensitive noninterest income also results from changes in earnings credit for noninterest-bearing deposits that



reduce treasury management deposit service fees. Additionally, for the trading portfolio, our trading assets are (before the effects of certain economic hedges) generally less sensitive to changes in interest rates than the related funding liabilities. As a result, net interest income from the trading portfolio contracts and expands as interest rates rise and fall, respectively. The impact to net interest income does not include the fair value changes of trading securities and loans, which, along with the effects of related economic hedges, are recorded in noninterest income.

We use the debt securities portfolio and exchange-traded and over-the-counter (OTC) interest rate derivatives to hedge our interest rate exposures. See the “Balance Sheet Analysis – Available-for-Sale and Held-to-Maturity Debt Securities” section in this Report for more information on the use of the available-for-sale and held-to-maturity securities portfolios. The notional or contractual amount, credit risk amount and fair value of the derivatives used to hedge our interest rate risk exposures as of December 31, 2019, and December 31, 2018, are presented in Note 18 (Derivatives) to Financial Statements in this Report. We use derivatives for asset/liability management in two main ways:

- to convert the cash flows from selected asset and/or liability instruments/portfolios including investments, commercial loans and long-term debt, from fixed-rate payments to floating-rate payments, or vice versa; and
- to economically hedge our mortgage origination pipeline, funded mortgage loans and MSR using interest rate swaps, swaptions, futures, forwards and options.

**MORTGAGE BANKING INTEREST RATE AND MARKET RISK** We originate, fund and service mortgage loans, which subjects us to various risks, including credit, liquidity and interest rate risks. Based on market conditions and other factors, we reduce credit and liquidity risks by selling or securitizing a majority of the long-term fixed-rate mortgage and ARM loans we originate. On the other hand, we may hold originated ARMs and fixed-rate mortgage loans in our loan portfolio as an investment for our deposits. We determine whether the loans will be held for investment or held for sale at the time of commitment. We may subsequently change our intent to hold loans for investment and sell some or all of our ARMs or fixed-rate mortgages as part of our corporate asset/liability management. We may also acquire and add to our securities available for sale a portion of the securities issued at the time we securitize MLHFS.

Interest rate and market risk can be substantial in the mortgage business. Changes in interest rates may potentially reduce total origination and servicing fees, the value of our residential MSR measured at fair value, the value of MLHFS and the associated income and loss reflected in mortgage banking noninterest income, the income and expense associated with instruments (economic hedges) used to hedge changes in the fair value of MSR and MLHFS, and the value of derivative loan commitments (interest rate “locks”) extended to mortgage applicants.

Interest rates affect the amount and timing of origination and servicing fees because consumer demand for new mortgages and the level of refinancing activity are sensitive to changes in mortgage interest rates. Typically, a decline in mortgage interest rates will lead to an increase in mortgage originations and fees and may also lead to an increase in servicing fee income, depending on the level of new loans added to the servicing portfolio and prepayments. Given the time it takes for consumer behavior to fully react to interest rate changes, as well as the time required for processing a new application, providing the commitment, and securitizing and selling the loan, interest

rate changes will affect origination and servicing fees with a lag. The amount and timing of the impact on origination and servicing fees will depend on the magnitude, speed and duration of the change in interest rates.

We measure originations of MLHFS at fair value where an active secondary market and readily available market prices exist to reliably support fair value pricing models used for these loans. Loan origination fees on these loans are recorded when earned, and related direct loan origination costs are recognized when incurred. We also measure at fair value certain of our other interests held related to residential loan sales and securitizations. We believe fair value measurement for MLHFS and other interests held, which we hedge with free-standing derivatives (economic hedges) along with our MSR measured at fair value, reduces certain timing differences and better matches changes in the value of these assets with changes in the value of derivatives used as economic hedges for these assets. During 2017, 2018, and 2019, in response to continued secondary market illiquidity, as well as our desire to retain high-quality loans on our balance sheet, we continued to originate certain prime non-agency loans to be substantially held for investment. We did however designate a small portion of our non-agency originations in 2018 and 2019 to MLHFS in support of future issuances of private label residential mortgage backed securities (RMBS). We issued \$2.4 billion and \$441 million of RMBS in 2019 and 2018, respectively.

We initially measure all of our MSR at fair value and carry substantially all of them at fair value depending on our strategy for managing interest rate risk. Under this method, the MSR are recorded at fair value at the time we sell or securitize the related mortgage loans. The carrying value of MSR carried at fair value reflects changes in fair value at the end of each quarter and changes are included in net servicing income, a component of mortgage banking noninterest income. If the fair value of the MSR increases, income is recognized; if the fair value of the MSR decreases, a loss is recognized. We use a dynamic and sophisticated model to estimate the fair value of our MSR and periodically benchmark our estimates to independent appraisals. The valuation of MSR can be highly subjective and involve complex judgments by management about matters that are inherently unpredictable. See “Critical Accounting Policies – Valuation of Residential Mortgage Servicing Rights” section in this Report for additional information. Changes in interest rates influence a variety of significant assumptions included in the periodic valuation of MSR, including prepayment speeds, expected returns and potential risks on the servicing asset portfolio, costs to service, the value of escrow balances and other servicing valuation elements. For key economic assumptions and the sensitivity of the fair value of MSR, see Table 10.6 in Note 10 (Securitizations and Variable Interest Entities) to Financial Statements in this Report.

An increase in interest rates generally reduces the propensity for refinancing, extends the expected duration of the servicing portfolio and, therefore, increases the estimated fair value of the MSR. However, an increase in interest rates can also reduce mortgage loan demand and, therefore, reduce origination income. A decline in interest rates generally increases the propensity for refinancing, reduces the expected duration of the servicing portfolio and therefore reduces the estimated fair value of MSR. This reduction in fair value causes a charge to income for MSR carried at fair value, net of any gains on free-standing derivatives (economic hedges) used to hedge MSR. We may choose not to fully hedge the entire potential decline in the value of our MSR resulting from a decline in interest rates because

## Risk Management – Asset/Liability Management (continued)

the potential increase in origination/servicing fees in that scenario provides a partial “natural business hedge.”

The price risk associated with our MSR assets is economically hedged with a combination of highly liquid interest rate forward instruments including mortgage forward contracts, interest rate swaps and interest rate options. All of the instruments included in the hedge are marked to fair value daily. Because the hedging instruments are traded in predominantly highly liquid markets, their prices are readily observable and are fully reflected in each quarter’s mark to market. Quarterly MSR hedging results include a combination of directional gain or loss due to market changes as well as any carry income generated. If the economic hedge is effective, its overall directional hedge gain or loss will offset the change in the valuation of the underlying MSR asset. Gains or losses associated with these economic hedges are included in mortgage banking noninterest income. Consistent with our longstanding approach to hedging interest rate risk in the mortgage business, the size of the hedge and the particular combination of forward hedging instruments at any point in time is designed to reduce the volatility of the mortgage business’s earnings over various time frames within a range of mortgage interest rates. Because market factors, the composition of the mortgage servicing portfolio and the relationship between the origination and servicing sides of our mortgage business change continually, the types of instruments used in our hedging are reviewed daily and rebalanced based on our evaluation of current market factors and the interest rate risk inherent in our MSR assets portfolio. Throughout 2019, our economic hedging strategy primarily used forward mortgage purchase contracts that were effective at offsetting the impact of interest rates on the value of the MSR asset.

Mortgage forward contracts are designed to pass the full economics of the underlying reference mortgage securities to the holder of the contract, including both the directional gain and loss from the forward delivery of the reference securities and the corresponding carry income. Carry income represents the contract’s price accretion from the forward delivery price to the spot price including both the yield earned on the reference securities and the market implied cost of financing during the period. The actual amount of carry income earned on the hedge each quarter will depend on the amount of the underlying asset that is hedged and the particular instruments included in the hedge. The level of carry income is driven by the slope of the yield curve and other market driven supply and demand factors affecting the specific reference securities. A steep yield curve generally produces higher carry income while a flat or inverted yield curve can result in lower or potentially negative carry income. The level of carry income is also affected by the type of instrument used. In general, mortgage forward contracts tend to produce higher carry income than interest rate swap contracts. Carry income is recognized over the life of the mortgage forward as a component of the contract’s mark to market gain or loss.

Hedging the various sources of interest rate risk in mortgage banking is a complex process that requires sophisticated modeling and constant monitoring. While we attempt to balance these various aspects of the mortgage business, there are several potential risks to earnings:

- Valuation changes for MSR assets associated with interest rate changes are recorded in earnings immediately within the accounting period in which those interest rate changes occur, whereas the impact of those same changes in interest rates on origination and servicing fees occur with a lag and over time. Thus, the mortgage business could be protected from adverse changes in interest rates over a period of time

on a cumulative basis but still display large variations in income from one accounting period to the next.

- The degree to which our net gains on loan originations offsets valuation changes for MSR assets is imperfect, varies at different points in the interest rate cycle, and depends not just on the direction of interest rates but on the pattern of quarterly interest rate changes.
- Origination volumes, the valuation of MSR assets and hedging results and associated costs are also affected by many factors. Such factors include the mix of new business between ARMs and fixed-rate mortgages, the relationship between short-term and long-term interest rates, the degree of volatility in interest rates, the relationship between mortgage interest rates and other interest rate markets, and other interest rate factors. Additional factors that can impact the valuation of the MSR assets include changes in servicing and foreclosure costs due to changes in investor or regulatory guidelines, as well as individual state foreclosure legislation, and changes in discount rates due to market participants requiring a higher return due to updated market expectations on costs and risks associated with investing in MSR assets. Many of these factors are hard to predict and we may not be able to directly or perfectly hedge their effect.
- While our hedging activities are designed to balance our mortgage banking interest rate risks, the financial instruments we use may not perfectly correlate with the values and income being hedged. For example, the change in the value of ARM production held for sale from changes in mortgage interest rates may or may not be fully offset by index-based financial instruments used as economic hedges for such ARMs. Hedge results may also be impacted as the overall level of hedges changes as interest rates change, or as there are other changes in the market for mortgage forwards that may affect the implied carry on the MSR assets. For example, the hedge-carry income on our economic hedges for the MSR assets did not continue at levels consistent with 2018 as the flat to inverted yield curve resulted in negative hedge carry in 2019.

The total carrying value of our residential and commercial MSR assets was \$12.9 billion and \$16.1 billion at December 31, 2019 and 2018, respectively. The weighted-average note rate on our portfolio of loans serviced for others was 4.25% and 4.32% at December 31, 2019 and 2018, respectively. The carrying value of our total MSR assets represented 0.79% and 0.94% of mortgage loans serviced for others at December 31, 2019 and 2018, respectively.

As part of our mortgage banking activities, we enter into commitments to fund residential mortgage loans at specified times in the future. A mortgage loan commitment can be either a floating rate commitment, where the interest rate is not yet determined, or it can be an interest rate lock that binds us to lend funds to a potential borrower at a specified interest rate and within a specified period of time, generally up to 60 days after inception of the rate lock. These loan commitments are derivative loan commitments if the loans that will result from the exercise of the commitments will be held for sale. These derivative loan commitments are recognized at fair value on the balance sheet with changes in their fair values recorded as part of mortgage banking noninterest income. The fair value of these commitments include, at inception and during the life of the loan commitment, the expected net future cash flows related to the associated servicing of the loan as part of the fair value measurement of derivative loan commitments. Changes

subsequent to inception are based on changes in fair value of the underlying loan resulting from the exercise of the commitment and changes in the probability that the loan will not fund within the terms of the commitment, referred to as a fall-out factor. The value of the underlying loan commitment is affected by changes in interest rates and the passage of time.

Outstanding derivative loan commitments (interest rate “locks”) expose us to the risk that the price of the mortgage loans underlying the commitments might decline due to increases in mortgage interest rates from inception of the rate lock to the funding of the loan. To minimize this risk, we employ mortgage forwards and options and Eurodollar futures and options contracts as economic hedges against the potential decreases in the values of the loans. We expect that these derivative financial instruments will experience changes in fair value that will either fully or partially offset the changes in fair value of the derivative loan commitments. However, changes in investor demand, such as concerns about credit risk, can also cause changes in the spread relationships between underlying loan value and the derivative financial instruments that cannot be hedged.

**MARKET RISK** Market risk is the risk of possible economic loss from adverse changes in market risk factors such as interest rates, credit spreads, foreign exchange rates, equity and commodity prices, and the risk of possible loss due to counterparty exposure. This applies to implied volatility risk, basis risk, and market liquidity risk. It also includes price risk in the trading book, mortgage servicing rights and the hedge effectiveness risk associated with the mortgage book, and impairment on private equity investments.

The Board’s Finance Committee has primary oversight responsibility for market risk and oversees the Company’s market risk exposure and market risk management strategies. In addition, the Board’s Risk Committee has certain oversight responsibilities with respect to market risk, including adjusting the Company’s market risk appetite with input from the Finance Committee. The Finance Committee also reports key market risk matters to the Risk Committee.

At the management level, the Market and Counterparty Risk Management function, which is part of IRM, has primary oversight responsibility for market risk. The Market and Counterparty Risk Management function reports into the CRO and also provides periodic reports related to market risk to the Board’s Finance Committee.

**MARKET RISK – TRADING ACTIVITIES** We engage in trading activities to accommodate the investment and risk management activities of our customers and to execute economic hedging to manage certain balance sheet risks. These trading activities predominantly occur within our Wholesale Banking businesses and to a lesser extent other divisions of the Company. Debt securities held for trading, equity securities held for trading, trading loans and trading derivatives are financial instruments used in our trading activities, and all are carried at fair value. Income earned on the financial instruments used in our trading activities include net interest income, changes in fair value and realized gains and losses. Net interest income earned from our trading activities is reflected in the interest income and interest expense components of our income statement. Changes in fair value of the financial instruments used in our trading activities are reflected in net gains on trading activities, a component of noninterest income in our income statement. For more information on the financial instruments used in our trading activities and the income from these trading activities, see Note 4 (Trading Activities) to Financial Statements in this Report.

Value-at-risk (VaR) is a statistical risk measure used to estimate the potential loss from adverse moves in the financial markets. The Company uses VaR metrics complemented with sensitivity analysis and stress testing in measuring and monitoring market risk. These market risk measures are monitored at both the business unit level and at aggregated levels on a daily basis. Our corporate market risk management function aggregates and monitors all exposures to ensure risk measures are within our established risk appetite. Changes to the market risk profile are analyzed and reported on a daily basis. The Company monitors various market risk exposure measures from a variety of perspectives, including line of business, product, risk type, and legal entity.

Trading VaR is the measure used to provide insight into the market risk exhibited by the Company’s trading positions. The Company calculates Trading VaR for risk management purposes to establish line of business and Company-wide risk limits. Trading VaR is calculated based on all trading positions on our balance sheet.

## Risk Management – Asset/Liability Management (continued)

Table 38 shows the Company's Trading General VaR by risk category. Our Trading General VaR uses a historical simulation model which assumes that historical changes in market values are representative of the potential future outcomes and measures the expected earnings loss of the Company over a 1-day time interval at a 99% confidence level. Our historical simulation model is based on equally weighted data from a 12-month historical look-back period. We believe using a 12-month look-back period helps ensure the Company's VaR is

responsive to current market conditions. The 99% confidence level equates to an expectation that the Company would incur single-day trading losses in excess of the VaR estimate on average once every 100 trading days.

Average Company Trading General VaR was \$22 million for the year ended December 31, 2019, compared with \$15 million for the year ended December 31, 2018. The increase in average Company Trading General VaR for the year ended December 31, 2019, was mainly driven by changes in portfolio composition.

**Table 38: Trading 1-Day 99% General VaR by Risk Category**

(in millions)	Year ended							
	December 31, 2019				December 31, 2018			
	Period end	Average	Low	High	Period end	Average	Low	High
<b>Company Trading General VaR Risk Categories</b>								
Credit	\$ 15	17	11	30	18	16	10	55
Interest rate	14	27	9	49	28	17	6	52
Equity	5	5	4	11	5	8	2	16
Commodity	2	2	1	6	2	1	1	4
Foreign exchange	1	1	1	1	1	1	0	3
Diversification benefit (1)	(13)	(30)			(33)	(28)		
Company Trading General VaR	\$ 24	22			21	15		

(1) The period-end VaR was less than the sum of the VaR components described above, which is due to portfolio diversification. The diversification effect arises because the risks are not perfectly correlated causing a portfolio of positions to usually be less risky than the sum of the risks of the positions alone. The diversification benefit is not meaningful for low and high metrics since they may occur on different days.

**Sensitivity Analysis** Given the inherent limitations of the VaR models, the Company uses other measures, including sensitivity analysis, to measure and monitor risk. Sensitivity analysis is the measure of exposure to a single risk factor, such as a 0.01% increase in interest rates or a 1% increase in equity prices. We conduct and monitor sensitivity on interest rates, credit spreads, volatility, equity, commodity, and foreign exchange exposure. Sensitivity analysis complements VaR as it provides an indication of risk relative to each factor irrespective of historical market moves.

**Stress Testing** While VaR captures the risk of loss due to adverse changes in markets using recent historical market data, stress testing is designed to capture the Company's exposure to extreme but low probability market movements. Stress scenarios estimate the risk of losses based on management's assumptions of abnormal but severe market movements such as severe credit spread widening or a large decline in equity prices. These scenarios assume that the market moves happen instantaneously and no repositioning or hedging activity takes place to mitigate losses as events unfold (a conservative approach since experience demonstrates otherwise).

An inventory of scenarios is maintained representing both historical and hypothetical stress events that affect a broad range of market risk factors with varying degrees of correlation and differing time horizons. Hypothetical scenarios assess the impact of large movements in financial variables on portfolio values. Typical examples include a 1% (100 basis point) increase across the yield curve or a 10% decline in equity market indexes. Historical scenarios utilize an event-driven approach: the stress scenarios are based on plausible but rare events, and the analysis addresses how these events might affect the risk factors relevant to a portfolio.

The Company's stress testing framework is also used in calculating results in support of the Federal Reserve Board's Comprehensive Capital Analysis and Review (CCAR) and internal

stress tests. Stress scenarios are regularly reviewed and updated to address potential market events or concerns. For more detail on the CCAR process, see the "Capital Management" section in this Report.

**MARKET RISK – EQUITY SECURITIES** We are directly and indirectly affected by changes in the equity markets. We make and manage direct investments in start-up businesses, emerging growth companies, management buy-outs, acquisitions and corporate recapitalizations. We also invest in non-affiliated funds that make similar private equity investments. These private equity investments are made within capital allocations approved by management and the Board. The Board's policy is to review business developments, key risks and historical returns for the private equity investment portfolio at least annually. Management reviews these investments at least quarterly and assesses them for possible OTTI and observable price changes. For nonmarketable equity securities, the analysis is based on facts and circumstances of each individual investment and the expectations for that investment's cash flows, capital needs, the viability of its business model, our exit strategy, and observable price changes that are similar to the investments held. Investments in nonmarketable equity securities include private equity investments accounted for under the equity method, fair value through net income, and the measurement alternative.

In conjunction with the March 2008 initial public offering (IPO) of Visa, Inc. (Visa), we received approximately 20.7 million shares of Visa Class B common stock, the class which was apportioned to member banks of Visa at the time of the IPO. To manage our exposure to Visa and realize the value of the appreciated Visa shares, we incrementally sold these shares through a series of sales, thereby eliminating this position as of September 30, 2015. As part of these sales, we agreed to compensate the buyer for any additional contributions to a litigation settlement fund for the litigation matters associated with the Class B shares we sold. Our exposure to this retained

litigation risk has been updated quarterly and is reflected on our balance sheet. For additional information about the associated litigation matters, see the “Interchange Litigation” section in Note 17 (Legal Actions) to Financial Statements in this Report.

As part of our business to support our customers, we trade public equities, listed/OTC equity derivatives and convertible bonds. We have parameters that govern these activities. We also have marketable equity securities that include investments relating to our venture capital activities. We manage these marketable equity securities within capital risk limits approved by management and the Board and monitored by Corporate ALCO and the Market Risk Committee. The fair value changes in these marketable equity securities are recognized in net income. For more information, see Note 8 (Equity Securities) to Financial Statements in this Report.

Changes in equity market prices may also indirectly affect our net income by (1) the value of third-party assets under management and, hence, fee income, (2) borrowers whose ability to repay principal and/or interest may be affected by the stock market, or (3) brokerage activity, related commission income and other business activities. Each business line monitors and manages these indirect risks.

**LIQUIDITY AND FUNDING** The objective of effective liquidity management is to ensure that we can meet customer loan requests, customer deposit maturities/withdrawals and other cash commitments efficiently under both normal operating conditions and under periods of Wells Fargo-specific and/or market stress. To achieve this objective, the Board establishes liquidity guidelines that require sufficient asset-based liquidity to cover potential funding requirements and to avoid over-dependence on volatile, less reliable funding markets. These guidelines are monitored on a monthly basis by the Corporate ALCO and on a quarterly basis by the Board. These guidelines are established and monitored for both the consolidated company and for the Parent on a stand-alone basis to ensure that the Parent is a source of strength for its regulated, deposit-taking banking subsidiaries.

**Liquidity Standards** We are subject to a rule, issued by the FRB, OCC and FDIC, that includes a quantitative liquidity requirement consistent with the liquidity coverage ratio (LCR) established by the Basel Committee on Banking Supervision (BCBS). The rule requires banking institutions, such as Wells Fargo, to hold high-quality liquid assets (HQLA), such as central bank reserves and government and corporate debt that can be converted easily and quickly into cash, in an amount equal to or greater than its projected net cash outflows during a 30-day stress period. The rule is applicable to the Company on a consolidated basis and to our insured depository institutions (IDIs) with total assets greater than \$10 billion. In addition, rules issued by the FRB

impose enhanced liquidity management standards on large bank holding companies (BHC) such as Wells Fargo.

The FRB, OCC and FDIC have proposed a rule that would implement a stable funding requirement, the net stable funding ratio (NSFR), which would require large banking organizations, such as Wells Fargo, to maintain a sufficient amount of stable funding in relation to their assets, derivative exposures and commitments over a one-year horizon period.

**Liquidity Coverage Ratio** As of December 31, 2019, the consolidated Company and Wells Fargo Bank, N.A., were above the minimum LCR requirement of 100%, which is calculated as HQLA divided by projected net cash outflows, as each is defined under the LCR rule. Table 39 presents the Company’s quarterly average values for the daily-calculated LCR and its components calculated pursuant to the LCR rule requirements.

**Table 39: Liquidity Coverage Ratio**

(in millions, except ratio)	Average for Quarter ended December 31, 2019
HQLA (1)(2)	\$ 373,362
Projected net cash outflows	312,019
LCR	120%

- (1) Excludes excess HQLA at Wells Fargo Bank, N.A.  
(2) Net of applicable haircuts required under the LCR rule.

**Liquidity Sources** We maintain liquidity in the form of cash, cash equivalents and unencumbered high-quality, liquid debt securities. These assets make up our primary sources of liquidity which are presented in Table 40. Our primary sources of liquidity are substantially the same in composition as HQLA under the LCR rule; however, our primary sources of liquidity will generally exceed HQLA calculated under the LCR rule due to the applicable haircuts to HQLA and the exclusion of excess HQLA at our subsidiary IDIs required under the LCR rule.

Our cash is predominantly on deposit with the Federal Reserve. Debt securities included as part of our primary sources of liquidity are comprised of U.S. Treasury and federal agency debt, and mortgage-backed securities issued by federal agencies within our debt securities portfolio. We believe these debt securities provide quick sources of liquidity through sales or by pledging to obtain financing, regardless of market conditions. Some of these debt securities are within the held-to-maturity portion of our debt securities portfolio and as such are not intended for sale but may be pledged to obtain financing. Some of the legal entities within our consolidated group of companies are subject to various regulatory, tax, legal and other restrictions that can limit the transferability of their funds. We believe we maintain adequate liquidity for these entities in consideration of such funds transfer restrictions.

**Table 40: Primary Sources of Liquidity**

(in millions)	December 31, 2019			December 31, 2018		
	Total	Encumbered	Unencumbered	Total	Encumbered	Unencumbered
Interest-earning deposits with banks	\$ 119,493	—	119,493	149,736	—	149,736
Debt securities of U.S. Treasury and federal agencies	61,099	3,107	57,992	57,688	1,504	56,184
Mortgage-backed securities of federal agencies (1)	258,589	41,135	217,454	244,211	35,656	208,555
Total	\$ 439,181	44,242	394,939	451,635	37,160	414,475

- (1) Included in encumbered securities at December 31, 2019, were securities with a fair value of \$263 million which were purchased in December 2019, but settled in January 2020.

## Risk Management – Asset/Liability Management (continued)

In addition to our primary sources of liquidity shown in Table 40, liquidity is also available through the sale or financing of other debt securities including trading and/or available-for-sale debt securities, as well as through the sale, securitization or financing of loans, to the extent such debt securities and loans are not encumbered. In addition, other debt securities in our held-to-maturity portfolio, to the extent not encumbered, may be pledged to obtain financing.

Deposits have historically provided a sizable source of relatively low-cost funds. Deposits were 137% of total loans at December 31, 2019, and 135% at December 31, 2018.

Additional funding is provided by long-term debt and short-term borrowings. Table 41 shows selected information for short-term borrowings, which generally mature in less than 30 days. For additional information, see Note 14 (Short-Term Borrowings) to Financial Statements in this Report.

**Table 41: Short-Term Borrowings**

(in millions)	Quarter ended				
	Dec 31, 2019	Sep 30, 2019	Jun 30, 2019	Mar 31, 2019	Dec 31, 2018
<b>Balance, period end</b>					
Federal funds purchased and securities sold under agreements to repurchase	\$ 92,403	110,399	102,560	93,896	92,430
Other short-term borrowings	12,109	13,509	12,784	12,701	13,357
Total	\$ 104,512	123,908	115,344	106,597	105,787
<b>Average daily balance for period</b>					
Federal funds purchased and securities sold under agreements to repurchase	\$ 103,614	109,499	102,557	95,721	93,483
Other short-term borrowings	12,335	12,343	12,197	12,930	12,479
Total	\$ 115,949	121,842	114,754	108,651	105,962
<b>Maximum month-end balance for period</b>					
Federal funds purchased and securities sold under agreements to repurchase (1)	\$ 111,727	110,399	105,098	97,650	93,918
Other short-term borrowings (2)	12,708	13,509	12,784	14,129	13,357

(1) Highest month-end balance in each of the last five quarters was in October, September, May and January 2019, and November 2018.

(2) Highest month-end balance in each of the last five quarters was in October, September, June, and February 2019, and December 2018.

**Long-Term Debt** We access domestic and international capital markets for long-term funding (generally greater than one year) through issuances of registered debt securities, private placements and asset-backed secured funding. We issue long-term debt in a variety of maturities and currencies to achieve cost-efficient funding and to maintain an appropriate maturity profile. Proceeds from securities issued were used for general corporate purposes, and, unless otherwise specified in the applicable prospectus or prospectus supplement, we expect the proceeds from securities issued in the future will be used for the same purposes. Depending on market conditions, we may purchase our outstanding debt securities from time to time in privately negotiated or open market transactions, by tender offer, or otherwise. We issued \$53.4 billion of long-term debt in 2019 and \$9.7 billion in January and February of 2020. For additional information, see Note 15 (Long-Term Debt) to Financial Statements in this Report.

**Credit Ratings** Investors in the long-term capital markets, as well as other market participants, generally will consider, among other factors, a company's debt rating in making investment decisions. Rating agencies base their ratings on many quantitative and qualitative factors, including capital adequacy,

liquidity, asset quality, business mix, the level and quality of earnings, and rating agency assumptions regarding the probability and extent of federal financial assistance or support for certain large financial institutions. Adverse changes in these factors could result in a reduction of our credit rating; however, our debt securities do not contain credit rating covenants.

On October 21, 2019, DBRS Morningstar confirmed the Company's ratings and maintained the stable trend for all ratings. On December 16, 2019, Fitch Ratings, Inc., affirmed the Company's ratings and maintained the stable outlook for all ratings. Both the Parent and Wells Fargo Bank, N.A., remain among the highest-rated financial firms in the United States.

See the "Risk Factors" section in this Report for additional information regarding our credit ratings and the potential impact a credit rating downgrade would have on our liquidity and operations, as well as Note 18 (Derivatives) to Financial Statements in this Report for information regarding additional collateral and funding obligations required for certain derivative instruments in the event our credit ratings were to fall below investment grade.

The credit ratings of the Parent and Wells Fargo Bank, N.A., as of December 31, 2019, are presented in Table 42.

**Table 42: Credit Ratings as of December 31, 2019**

	Wells Fargo & Company		Wells Fargo Bank, N.A.	
	Senior debt	Short-term borrowings	Long-term deposits	Short-term borrowings
Moody's	A2	P-1	Aa1	P-1
S&P Global Ratings	A-	A-2	A+	A-1
Fitch Ratings, Inc.	A+	F1	AA	F1+
DBRS Morningstar	AA (low)	R-1 (middle)	AA	R-1 (high)

**FEDERAL HOME LOAN BANK MEMBERSHIP** The Federal Home Loan Banks (the FHLBs) are a group of cooperatives that lending institutions use to finance housing and economic development in local communities. We are a member of the FHLBs based in Dallas, Des Moines and San Francisco. Each member of the FHLBs is required to maintain a minimum investment in capital stock of the applicable FHLB. The board of directors of each FHLB can increase the minimum investment requirements in the event it has concluded that additional capital is required to allow it to meet its own regulatory capital requirements. Any increase in the minimum investment requirements outside of specified ranges requires the approval of the Federal Housing Finance Agency. Because the extent of any obligation to increase our investment in any of the FHLBs depends entirely upon the occurrence of a future event, potential future payments to the FHLBs are not determinable.

**LIBOR TRANSITION** Due to uncertainty surrounding the suitability and sustainability of the London Interbank Offered Rate (LIBOR), central banks and global regulators have called for financial market participants to prepare for the discontinuation of LIBOR by the end of 2021. LIBOR is a widely-referenced benchmark rate, which is published in five currencies and a range of tenors, and seeks to estimate the cost at which banks can borrow on an unsecured basis from other banks. We have a significant number of assets and liabilities referenced to LIBOR and other interbank offered rates (IBORs) such as commercial loans, adjustable-rate mortgage loans, derivatives, debt securities, and long-term debt. As of December 31, 2019, we had over \$500 billion of assets, consisting mostly of commercial loans, over \$80 billion of liabilities, and over \$400 billion of off-balance sheet commitments linked to IBORs. These amounts exclude derivative assets and liabilities on our consolidated balance sheet. As of December 31, 2019, the notional amount of our IBOR-linked interest rate derivative contracts was over \$10 trillion, of which over \$8 trillion related to contracts with central counterparty clearinghouses. Each of the IBOR-linked amounts referenced above will vary in future periods as current contracts expire with potential replacement contracts using either IBOR or an alternative reference rate. As of December 31, 2019, U.S. dollar LIBOR represented substantially all of the IBOR-linked amounts referenced above; however, we had exposure to all primary IBORs.

Accordingly, we established a LIBOR Transition Office (LTO) in February 2018, with senior management and Board oversight. The LTO is responsible for developing a coordinated strategy to transition the IBOR-linked contracts and processes across Wells Fargo to alternative reference rates and serves as primary conduit between Wells Fargo and relevant industry groups, such as the Alternative Reference Rates Committee (ARRC). Among other activities, the program structure created by the LTO is designed to (i) identify the types of exposures (e.g., products, systems, models) and risks associated with the transition, (ii) assess the provisions in our contracts that could apply in connection with the transition, (iii) incorporate more robust IBOR fallback language (contractual provisions that provide for transition to alternative reference rates upon defined trigger events) into new IBOR-linked product contracts, (iv) coordinate alternative reference rate product design, (v) appraise operational and infrastructure enhancements necessary to use alternative reference rates, (vi) facilitate systems and application revisions, including model development and validation, (vii) assess the funding issues, basis risk, and other finance, accounting, and tax impacts of transitioning away from IBORs, (viii) develop plans to minimize negative financial outcomes, (ix)

coordinate an enterprise-wide process for managing outreach and communications with our customers, and (x) implement a process to escalate key risks. When assessing risks associated with the transition away from IBORs, the LTO is reviewing both orderly and disorderly transition scenarios.

In an effort to mitigate the risks associated with a transition away from IBORs, the LTO is in the process of implementing the following initiatives: (i) compiling an enterprise contract inventory of IBOR-related terms, (ii) implementing more robust fallback language and disclosures related to LIBOR transition, (iii) developing a plan to amend legacy contracts to reference alternative reference rates, (iv) enhancing systems to support new fallback language and new products linked to alternative reference rates, (v) preparing internal and external communications regarding an IBOR transition, (vi) developing internal guidance focused on issues related to IBORs and alternative reference rate products, and (vii) evaluating policies and procedures in light of the transition away from LIBOR and other IBORs and the introduction of new products linked to alternative reference rates.

In addition, the Company is actively working with regulators, industry working groups (such as the ARRC) and trade associations that are developing guidance to facilitate an orderly transition away from the use of LIBOR. We continue to assess the risks and related impacts associated with a transition away from IBORs. See the "Risk Factors" section in this Report for additional information regarding the potential impact of a benchmark rate, such as LIBOR, or other referenced financial metric being significantly changed, replaced, or discontinued.

Although the Company did not issue any long-term debt with an interest rate indexed to the Secured Overnight Financing Rate (SOFR) in 2019, we did issue \$1.0 billion of long-term debt indexed to SOFR in 2018. SOFR is published by the Federal Reserve Bank of New York as an alternative to U.S. dollar LIBOR and is a broad measure of the cost of borrowing cash overnight collateralized by U.S. Treasury securities.

## Capital Management

We have an active program for managing capital through a comprehensive process for assessing the Company's overall capital adequacy. Our objective is to maintain capital at an amount commensurate with our risk profile and risk tolerance objectives, and to meet both regulatory and market expectations. We primarily fund our working capital needs through the retention of earnings net of both dividends and share repurchases, as well as through the issuance of preferred stock and long and short-term debt. Retained earnings increased \$8.5 billion from December 31, 2018, predominantly from Wells Fargo net income of \$19.5 billion, less common and preferred stock dividends of \$9.9 billion. During 2019, we issued 48.8 million shares of common stock, excluding conversions of preferred shares. During 2019, we repurchased 502.4 million shares of common stock at a cost of \$24.5 billion. The amount of our repurchases are subject to various factors as discussed in the "Securities Repurchases" section below. For additional information about share repurchases, see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

In third quarter 2019, we redeemed \$1.6 billion of our Preferred Stock, Series K. In January 2020, we issued \$2.0 billion of our Preferred Stock, Series Z. In February 2020, we announced a redemption of the remaining outstanding shares of our Preferred Stock, Series K, and a partial redemption of our Preferred Stock, Series T. For more information, see Note 20 (Preferred Stock) to Financial Statements in this Report.

### Regulatory Capital Guidelines

The Company and each of our IDIs are subject to various regulatory capital adequacy requirements administered by the FRB and the OCC. Risk-based capital (RBC) guidelines establish a risk-adjusted ratio relating capital to different categories of assets and off-balance sheet exposures as discussed below.

**RISK-BASED CAPITAL AND RISK-WEIGHTED ASSETS** The Company is subject to rules issued by federal banking regulators to implement Basel III capital requirements for U.S. banking organizations. The federal banking regulators' capital rules, among other things, require on a fully phased-in basis:

- a minimum Common Equity Tier 1 (CET1) ratio of 9.00%, comprised of a 4.50% minimum requirement plus a capital conservation buffer of 2.50% and for us, as a global systemically important bank (G-SIB), a capital surcharge of 2.00%;
- a minimum tier 1 capital ratio of 10.50%, comprised of a 6.00% minimum requirement plus the capital conservation buffer of 2.50% and the G-SIB capital surcharge of 2.00%;
- a minimum total capital ratio of 12.50%, comprised of a 8.00% minimum requirement plus the capital conservation buffer of 2.50% and the G-SIB capital surcharge of 2.00%;
- a potential countercyclical buffer of up to 2.50% to be added to the minimum capital ratios, which could be imposed by regulators at their discretion if it is determined that a period of excessive credit growth is contributing to an increase in systemic risk; and
- a minimum tier 1 leverage ratio of 4.00%.

The Basel III capital requirements for calculating CET1 and tier 1 capital, along with risk-weighted assets (RWAs), are fully phased-in. However, the requirements for determining tier 2 and total capital are still in accordance with Transition Requirements and are scheduled to be fully phased-in by the end of 2021. The Basel III capital rules contain two frameworks for calculating capital requirements, a Standardized Approach and an Advanced Approach applicable to certain institutions, including Wells Fargo. Accordingly, in the assessment of our capital adequacy, we must report the lower of our CET1, tier 1 and total capital ratios calculated under the Standardized Approach and under the Advanced Approach.

On April 10, 2018, the FRB issued a proposed rule that would add a stress capital buffer and a stress leverage buffer to the minimum capital and tier 1 leverage ratio requirements. The buffers would be calculated based on the decrease in a financial institution's risk-based capital and tier 1 leverage ratios under the supervisory severely adverse scenario in CCAR, plus four quarters of planned common stock dividends. The stress capital buffer would replace the 2.50% capital conservation buffer under the Standardized Approach, whereas the stress leverage buffer would be added to the current 4.00% minimum tier 1 leverage ratio.

As a G-SIB, we are also subject to the FRB's rule implementing the additional capital surcharge of between 1.00-4.50% on the minimum capital requirements of G-SIBs. Under the rule, we must annually calculate our surcharge under two methods and use the higher of the two surcharges. The first method (method one) considers our size, interconnectedness, cross-jurisdictional activity, substitutability, and complexity, consistent with the methodology developed by the BCBS and the Financial Stability Board (FSB). The second (method two) uses similar inputs, but replaces substitutability with use of short-term wholesale funding and will generally result in higher surcharges than the BCBS methodology. Because the G-SIB capital surcharge is calculated annually based on data that can differ over time, the amount of the surcharge is subject to change in future years.

The tables that follow provide information about our risk-based capital and related ratios as calculated under Basel III capital guidelines. Although we continue to report certain capital amounts and ratios in accordance with Transition Requirements for banking industry regulatory reporting purposes, we are managing our capital on a fully phased-in basis. For information about our capital requirements calculated in accordance with Transition Requirements, see Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report.



Table 43 summarizes our CET1, tier 1 capital, total capital, RWAs and capital ratios on a fully phased-in basis at December 31, 2019 and 2018.

**Table 43: Capital Components and Ratios (Fully Phased-In) (1)**

(in millions, except ratios)		December 31, 2019			December 31, 2018	
		Required Minimum Capital Ratios	Advanced Approach	Standardized Approach	Advanced Approach	Standardized Approach
Common Equity Tier 1	(A)		\$ 138,760	138,760	146,363	146,363
Tier 1 Capital	(B)		158,949	158,949	167,866	167,866
Total Capital (2)	(C)		187,813	195,703	198,103	206,346
Risk-Weighted Assets	(D)		1,230,066	1,245,853	1,177,350	1,247,210
Common Equity Tier 1 Capital Ratio	(A)/(D)	9.00%	11.28	11.14 *	12.43	11.74 *
Tier 1 Capital Ratio	(B)/(D)	10.50	12.92	12.76 *	14.26	13.46 *
Total Capital Ratio (2)	(C)/(D)	12.50	15.27 *	15.71	16.83	16.54 *

\* Denotes the lowest capital ratio as determined under the Advanced and Standardized Approaches.

(1) See Table 44 for information regarding the calculation and components of CET1, tier 1 capital, total capital and RWAs.

(2) The fully phased-in total capital amounts and ratios are considered non-GAAP financial measures that are used by management, bank regulatory agencies, investors and analysts to assess and monitor the Company's capital position. See Table 44 for information regarding the calculation and components of our fully phased-in total capital amounts, including a corresponding reconciliation to GAAP financial measures.

## Capital Management (continued)

Table 44 provides information regarding the calculation and composition of our risk-based capital under the Advanced and Standardized Approaches at December 31, 2019 and December 31, 2018.

**Table 44: Risk-Based Capital Calculation and Components**

(in millions)	December 31, 2019		December 31, 2018	
	Advanced Approach	Standardized Approach	Advanced Approach	Standardized Approach
Total equity	\$ 187,984	187,984	197,066	197,066
Adjustments:				
Preferred stock	(21,549)	(21,549)	(23,214)	(23,214)
Additional paid-in capital on ESOP preferred stock	(71)	(71)	(95)	(95)
Unearned ESOP shares	1,143	1,143	1,502	1,502
Noncontrolling interests	(838)	(838)	(900)	(900)
Total common stockholders' equity	166,669	166,669	174,359	174,359
Adjustments:				
Goodwill	(26,390)	(26,390)	(26,418)	(26,418)
Certain identifiable intangible assets (other than MSRs)	(437)	(437)	(559)	(559)
Goodwill and other intangibles on nonmarketable equity securities (included in other assets)	(2,146)	(2,146)	(2,187)	(2,187)
Applicable deferred taxes related to goodwill and other intangible assets (1)	810	810	785	785
Other	254	254	383	383
Common Equity Tier 1	138,760	138,760	146,363	146,363
Common Equity Tier 1	\$ 138,760	138,760	146,363	146,363
Preferred stock	21,549	21,549	23,214	23,214
Additional paid-in capital on ESOP preferred stock	71	71	95	95
Unearned ESOP shares	(1,143)	(1,143)	(1,502)	(1,502)
Other	(288)	(288)	(304)	(304)
Total Tier 1 capital (A)	158,949	158,949	167,866	167,866
Long-term debt and other instruments qualifying as Tier 2	26,515	26,515	27,946	27,946
Qualifying allowance for credit losses (2)	2,566	10,456	2,463	10,706
Other	(217)	(217)	(172)	(172)
Total Tier 2 capital (Fully Phased-In) (B)	28,864	36,754	30,237	38,480
Effect of Transition Requirements	520	520	695	695
Total Tier 2 capital (Transition Requirements)	\$ 29,384	37,274	30,932	39,175
Total qualifying capital (Fully Phased-In) (A)+(B)	\$ 187,813	195,703	198,103	206,346
Total Effect of Transition Requirements	520	520	695	695
Total qualifying capital (Transition Requirements)	\$ 188,333	196,223	198,798	207,041
Risk-Weighted Assets (RWAs) (3)(4):				
Credit risk	\$ 790,784	1,210,209	803,273	1,201,246
Market risk	35,644	35,644	45,964	45,964
Operational risk	403,638	—	328,113	—
Total RWAs	\$ 1,230,066	1,245,853	1,177,350	1,247,210

- (1) Determined by applying the combined federal statutory rate and composite state income tax rates to the difference between book and tax basis of the respective goodwill and intangible assets at period end.
- (2) Under the Advanced Approach, the allowance for credit losses that exceeds expected credit losses is eligible for inclusion in Tier 2 Capital, to the extent the excess allowance does not exceed 0.60% of Advanced credit RWAs, and under the Standardized Approach, the allowance for credit losses is includable in Tier 2 Capital up to 1.25% of Standardized credit RWAs, with any excess allowance for credit losses being deducted from total RWAs.
- (3) RWAs calculated under the Advanced Approach utilize a risk-sensitive methodology, which relies upon the use of internal credit models based upon our experience with internal rating grades. Advanced Approach also includes an operational risk component, which reflects the risk of operating loss resulting from inadequate or failed internal processes or systems.
- (4) Under the regulatory guidelines for risk-based capital, on-balance sheet assets and credit equivalent amounts of derivatives and off-balance sheet items are assigned to one of several broad risk categories according to the obligor, or, if relevant, the guarantor or the nature of any collateral. The aggregate dollar amount in each risk category is then multiplied by the risk weight associated with that category. The resulting weighted values from each of the risk categories are aggregated for determining total RWAs.

Table 45 presents the changes in Common Equity Tier 1 under the Advanced Approach for the year ended December 31, 2019.

**Table 45: Analysis of Changes in Common Equity Tier 1 (Advanced Approach)**

(in millions)	
Common Equity Tier 1 at December 31, 2018	\$ 146,363
Net income applicable to common stock	17,938
Common stock dividends	(8,444)
Common stock issued, repurchased, and stock compensation-related items	(21,719)
Changes in cumulative other comprehensive income	4,544
Cumulative effect from change in accounting policies (1)	(11)
Goodwill	27
Certain identifiable intangible assets (other than MSRs)	122
Goodwill and other intangibles on nonmarketable equity securities (included in other assets)	41
Applicable deferred taxes related to goodwill and other intangible assets (2)	26
Other	(127)
Change in Common Equity Tier 1	(7,603)
Common Equity Tier 1 at December 31, 2019	\$ 138,760

(1) Effective January 1, 2019, we adopted Accounting Standards Update (ASU) 2016-02 – Leases (Topic 842) and subsequent related Updates, ASU 2017-08 – Receivables – Nonrefundable Fees and Other Costs (Subtopic 310-20): *Premium Amortization on Purchased Callable Debt Securities*. See Note 1 (Summary of Significant Accounting Policies) for more information.

(2) Determined by applying the combined federal statutory rate and composite state income tax rates to the difference between book and tax basis of the respective goodwill and intangible assets at period end.

Table 46 presents net changes in the components of RWAs under the Advanced and Standardized Approaches for the year ended December 31, 2019.

**Table 46: Analysis of Changes in RWAs**

(in millions)	Advanced Approach	Standardized Approach
RWAs at December 31, 2018	\$ 1,177,350	1,247,210
Net change in credit risk RWAs	(12,489)	8,963
Net change in market risk RWAs	(10,320)	(10,320)
Net change in operational risk RWAs	75,525	—
Total change in RWAs	52,716	(1,357)
RWAs at December 31, 2019	\$ 1,230,066	1,245,853

## Capital Management (continued)

**TANGIBLE COMMON EQUITY** We also evaluate our business based on certain ratios that utilize tangible common equity. Tangible common equity is a non-GAAP financial measure and represents total equity less preferred equity, noncontrolling interests, goodwill, certain identifiable intangible assets (other than MSRs) and goodwill and other intangibles on nonmarketable equity securities, net of applicable deferred taxes. These tangible common equity ratios are as follows:

- Tangible book value per common share, which represents tangible common equity divided by common shares outstanding; and
- Return on average tangible common equity (ROTCE), which represents our annualized earnings contribution as a percentage of tangible common equity.

The methodology of determining tangible common equity may differ among companies. Management believes that tangible book value per common share and return on average tangible common equity, which utilize tangible common equity, are useful financial measures because they enable investors and others to assess the Company's use of equity.

Table 47 provides a reconciliation of these non-GAAP financial measures to GAAP financial measures.

**Table 47: Tangible Common Equity**

(in millions, except ratios)		Balance at period end			Average balance for the year ended		
		Dec 31, 2019	Dec 31, 2018	Dec 31, 2017	Dec 31, 2019	Dec 31, 2018	Dec 31, 2017
Total equity		\$ 187,984	197,066	208,079	197,621	203,356	205,654
Adjustments:							
Preferred stock		(21,549)	(23,214)	(25,358)	(22,522)	(24,956)	(25,592)
Additional paid-in capital on ESOP preferred stock		(71)	(95)	(122)	(81)	(125)	(139)
Unearned ESOP shares		1,143	1,502	1,678	1,306	2,159	2,143
Noncontrolling interests		(838)	(900)	(1,143)	(962)	(929)	(948)
Total common stockholders' equity	(A)	166,669	174,359	183,134	175,362	179,505	181,118
Adjustments:							
Goodwill		(26,390)	(26,418)	(26,587)	(26,409)	(26,453)	(26,629)
Certain identifiable intangible assets (other than MSRs)		(437)	(559)	(1,624)	(493)	(1,088)	(2,176)
Goodwill and other intangibles on nonmarketable equity securities (included in other assets)		(2,146)	(2,187)	(2,155)	(2,174)	(2,197)	(2,184)
Applicable deferred taxes related to goodwill and other intangible assets (1)		810	785	962	792	866	1,570
Tangible common equity	(B)	\$ 138,506	145,980	153,730	147,078	150,633	151,699
Common shares outstanding	(C)	4,134.4	4,581.3	4,891.6	N/A	N/A	N/A
Net income applicable to common stock	(D)	N/A	N/A	N/A	\$ 17,938	20,689	20,554
Book value per common share	(A)/(C)	\$ 40.31	38.06	37.44	N/A	N/A	N/A
Tangible book value per common share	(B)/(C)	33.50	31.86	31.43	N/A	N/A	N/A
Return on average common stockholders' equity (ROE)	(D)/(A)	N/A	N/A	N/A	10.23%	11.53	11.35
Return on average tangible common equity (ROTCE)	(D)/(B)	N/A	N/A	N/A	12.20	13.73	13.55

(1) Determined by applying the combined federal statutory rate and composite state income tax rates to the difference between book and tax basis of the respective goodwill and intangible assets at period end.

**SUPPLEMENTARY LEVERAGE RATIO** As a BHC, we are required to maintain a supplementary leverage ratio (SLR) of at least 5.00% (comprised of a 3.00% minimum requirement plus a supplementary leverage buffer of 2.00%) to avoid restrictions on capital distributions and discretionary bonus payments. Our IDIs are required to maintain a SLR of at least 6.00% to be considered well-capitalized under applicable regulatory capital adequacy guidelines. In April 2018, the FRB and OCC proposed rules (the “Proposed SLR Rules”) that would replace the 2.00% supplementary leverage buffer with a buffer equal to one-half of our G-SIB capital surcharge. The Proposed SLR Rules would similarly tailor the current 6.00% SLR requirement for our IDIs. At December 31, 2019, our SLR for the Company was 7.07%, and we also exceeded the applicable SLR requirements for each of our IDIs. See Table 48 for information regarding the calculation and components of the SLR.

**Table 48: Supplementary Leverage Ratio**

(in millions, except ratio)		Quarter ended December 31, 2019	
<b>Tier 1 capital</b>	(A)	\$	158,949
Total average assets			1,941,843
Less: Goodwill and other permitted Tier 1 capital deductions (net of deferred tax liabilities)			28,546
Total adjusted average assets			1,913,297
Plus adjustments for off-balance sheet exposures:			
Derivatives (1)			67,645
Repo-style transactions (2)			5,162
Other (3)			261,625
Total off-balance sheet exposures			334,432
<b>Total leverage exposure</b>	(B)	\$	2,247,729
<b>Supplementary leverage ratio</b>	(A)/(B)		7.07%

- (1) Adjustment represents derivatives and collateral netting exposures as defined for supplementary leverage ratio determination purposes.
- (2) Adjustment represents counterparty credit risk for repo-style transactions where Wells Fargo & Company is the principal (i.e., principal counterparty facing the client).
- (3) Adjustment represents credit equivalent amounts of other off-balance sheet exposures not already included as derivatives and repo-style transactions exposures.

**OTHER REGULATORY CAPITAL MATTERS** As a G-SIB, we are required to have a minimum amount of equity and unsecured long-term debt for purposes of resolvability and resiliency, often referred to as Total Loss Absorbing Capacity (TLAC). U.S. G-SIBs are required to have a minimum TLAC amount (consisting of CET1 capital and additional tier 1 capital issued directly by the top-tier or covered BHC plus eligible external long-term debt) equal to the greater of (i) 18.00% of RWAs and (ii) 7.50% of total leverage exposure (the denominator of the SLR calculation). Additionally, U.S. G-SIBs are required to maintain (i) a TLAC buffer equal to 2.50% of RWAs plus our applicable G-SIB capital surcharge calculated under method one plus any applicable countercyclical buffer to be added to the 18.00% minimum and (ii) an external TLAC leverage buffer equal to 2.00% of total leverage exposure to be added to the 7.50% minimum, in order to avoid restrictions on capital distributions and discretionary bonus payments. U.S. G-SIBs are also required to have a minimum amount of eligible unsecured long-term debt equal to the greater of (i) 6.00% of RWAs plus our applicable G-SIB capital surcharge calculated under method two and (ii) 4.50% of the total leverage exposure. Under the Proposed SLR Rules, the 2.00% external TLAC leverage buffer would be replaced with a buffer equal to one-half of our applicable G-SIB capital surcharge, and the leverage component for calculating the minimum amount of eligible unsecured long-term debt would be

modified from 4.50% of total leverage exposure to 2.50% of total leverage exposure plus one-half of our applicable G-SIB capital surcharge. As of December 31, 2019, our eligible external TLAC as a percentage of total risk-weighted assets was 23.28% compared with a required minimum of 22.00%. Similar to the risk-based capital requirements, we determine minimum required TLAC based on the greater of RWAs determined under the Standardized and Advanced approaches.

In addition, as discussed in the “Risk Management – Asset/Liability Management – Liquidity and Funding – Liquidity Standards” section in this Report, federal banking regulators have issued a final rule regarding the U.S. implementation of the Basel III LCR and a proposed rule regarding the NSFR.

### Capital Planning and Stress Testing

Our planned long-term capital structure is designed to meet regulatory and market expectations. We believe that our long-term targeted capital structure enables us to invest in and grow our business, satisfy our customers’ financial needs in varying environments, access markets, and maintain flexibility to return capital to our shareholders. Our long-term targeted capital structure also considers capital levels sufficient to exceed capital requirements including the G-SIB capital surcharge. Accordingly, based on the final Basel III capital rules under the lower of the Standardized or Advanced Approaches CET1 capital ratios, we currently target a long-term CET1 capital ratio at or in excess of 10.00%, which includes a 2.00% G-SIB capital surcharge. Our capital targets are subject to change based on various factors, including changes to the regulatory capital framework and expectations for large banks promulgated by bank regulatory agencies, planned capital actions, changes in our risk profile and other factors. As discussed above in the “Capital Management – Regulatory Capital Guidelines – Risk-Based Capital and Risk-Weighted Assets” section of this Report, the FRB has proposed including a stress capital buffer to replace the current 2.50% capital conservation buffer. Under the proposal, it is expected that the adoption of current expected credit loss (CECL) accounting would be included in the calculation of the stress capital buffer. We expect that implementation of the stress capital buffer may increase the level and volatility of minimum capital ratio requirements, which may cause our current long-term CET1 capital ratio target of 10.00% to increase.

Under the FRB’s capital plan rule, large BHCs are required to submit capital plans annually for review to determine if the FRB has any objections before making any capital distributions. The rule requires updates to capital plans in the event of material changes in a BHC’s risk profile, including as a result of any significant acquisitions. The FRB assesses, among other things, the overall financial condition, risk profile, and capital adequacy of BHCs when evaluating capital plans.

Our 2019 capital plan, which was submitted on April 4, 2019, as part of CCAR, included a comprehensive capital outlook supported by an assessment of expected sources and uses of capital over a given planning horizon under a range of expected and stress scenarios. As part of the 2019 CCAR, the FRB also generated a supervisory stress test, which assumed a sharp decline in the economy and significant decline in asset pricing using the information provided by the Company to estimate performance. The FRB reviewed the supervisory stress results both as required under the Dodd-Frank Act using a common set of capital actions for all large BHCs and by taking into account the Company’s proposed capital actions. The FRB published its supervisory stress test results as required under the Dodd-Frank Act on June 21, 2019. On June 27, 2019, the FRB notified us that it did not object to our capital plan included in the 2019 CCAR.

## Capital Management (continued)

Federal banking regulators require stress tests to evaluate whether an institution has sufficient capital to continue to operate during periods of adverse economic and financial conditions. These stress testing requirements set forth the timing and type of stress test activities large BHCs and banks must undertake as well as rules governing stress testing controls, oversight and disclosure requirements. The rules also limit a large BHC's ability to make capital distributions to the extent its actual capital issuances were less than amounts indicated in its capital plan. Under the FRB's stress testing rule, we were required to submit a mid-cycle stress test based on second quarter data and scenarios developed by the Company. We submitted the results of the mid-cycle stress test to the FRB and disclosed a summary of the results in October 2019. In October 2019, the FRB finalized rules that eliminate the mid-cycle stress test requirement for banks beginning in 2020.

### Securities Repurchases

From time to time the Board authorizes the Company to repurchase shares of our common stock. Although we announce when the Board authorizes share repurchases, we typically do not give any public notice before we repurchase our shares. Future stock repurchases may be private or open-market repurchases, including block transactions, accelerated or delayed block transactions, forward repurchase transactions, and similar transactions. Additionally, we may enter into plans to purchase stock that satisfy the conditions of Rule 10b5-1 of the Securities Exchange Act of 1934. Various factors determine the amount of our share repurchases, including our capital requirements, the number of shares we expect to issue for employee benefit plans

and acquisitions, market conditions (including the trading price of our stock), and regulatory and legal considerations, including the FRB's response to our capital plan and to changes in our risk profile. Due to the various factors impacting the amount of our share repurchases and the fact that we tend to be in the market regularly to satisfy repurchase considerations under our capital plan, our share repurchases occur at various price levels. We may suspend share repurchase activity at any time.

In October 2018, the Board authorized the repurchase of 350 million shares of our common stock. In July 2019, the Board authorized the repurchase of an additional 350 million shares of our common stock. At December 31, 2019, we had remaining authority to repurchase approximately 243 million shares, subject to regulatory and legal conditions. For more information about share repurchases during fourth quarter 2019, see Part II, Item 5 in our 2019 Form 10-K.

Historically, our policy has been to repurchase shares under the "safe harbor" conditions of Rule 10b-18 of the Securities Exchange Act of 1934 including a limitation on the daily volume of repurchases. Rule 10b-18 imposes an additional daily volume limitation on share repurchases during a pending merger or acquisition in which shares of our stock will constitute some or all of the consideration. Our management may determine that during a pending stock merger or acquisition when the safe harbor would otherwise be available, it is in our best interest to repurchase shares in excess of this additional daily volume limitation. In such cases, we intend to repurchase shares in compliance with the other conditions of the safe harbor, including the standing daily volume limitation that applies whether or not there is a pending stock merger or acquisition.

## Regulatory Matters

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Since the enactment of the Dodd-Frank Act in 2010, the U.S. financial services industry has been subject to a significant increase in regulation and regulatory oversight initiatives. This increased regulation and oversight has substantially changed how most U.S. financial services companies conduct business and has increased their regulatory compliance costs. The following highlights the more significant regulations and regulatory oversight initiatives that have affected or may affect our business. For additional information about the regulatory matters discussed below and other regulations and regulatory oversight matters, see Part I, Item 1 "Regulation and Supervision" of our 2019 Form 10-K, and the "Capital Management," "Forward-Looking Statements" and "Risk Factors" sections and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report.

### Dodd-Frank Act

The Dodd-Frank Act is the most significant financial reform legislation since the 1930s and is driving much of the current U.S. regulatory reform efforts. The following provides additional information on the Dodd-Frank Act, including certain of its rulemaking initiatives.

- *Enhanced supervision and regulation of systemically important firms.* The Dodd-Frank Act grants broad authority to federal banking regulators to establish enhanced supervisory and regulatory requirements for systemically important firms. The FRB has finalized a number of regulations implementing enhanced prudential requirements for large bank holding companies (BHCs) like Wells Fargo regarding risk-based capital and leverage, risk and liquidity management, and

- imposing debt-to-equity limits on any BHC that regulators determine poses a grave threat to the financial stability of the United States. The FRB and OCC have also finalized rules implementing stress testing requirements for large BHCs and national banks. The FRB has also finalized enhanced prudential standards that implement single counterparty credit limits, and has proposed a rule to establish remediation requirements for large BHCs experiencing financial distress. Similarly, the FRB has proposed additional requirements regarding effective risk management practices at large BHCs, including its expectations for boards of directors and senior management. In addition to the authorization of enhanced supervisory and regulatory requirements for systemically important firms, the Dodd-Frank Act also established the Financial Stability Oversight Council and the Office of Financial Research, which may recommend new systemic risk management requirements and require new reporting of systemic risks. The OCC, under separate authority, has also finalized guidelines establishing heightened governance and risk management standards for large national banks such as Wells Fargo Bank, N.A. The OCC guidelines require covered banks to establish and adhere to a written risk governance framework in order to manage and control their risk-taking activities. The guidelines also formalize roles and responsibilities for risk management practices within covered banks and create certain risk oversight responsibilities for their boards of directors.
- *Regulation of consumer financial products.* The Dodd-Frank Act established the Consumer Financial Protection Bureau (CFPB) to ensure consumers receive clear and accurate

disclosures regarding financial products and to protect them from hidden fees and unfair, deceptive or abusive practices. With respect to residential mortgage lending, the CFPB issued a number of final rules implementing new origination, notification, disclosure and other requirements, as well as additional limitations on the fees and charges that may be increased from the estimates provided by lenders. The CFPB finalized amendments to the rule implementing the Home Mortgage Disclosure Act, resulting in a significant expansion of the data points lenders are required to collect and report to the CFPB. The CFPB also expanded the transactions covered by the rule and increased the reporting frequency from annual to quarterly for large volume lenders, such as Wells Fargo, beginning January 1, 2020. With respect to other financial products, the CFPB finalized rules, most of which became effective on April 1, 2019, to make prepaid cards subject to similar consumer protections as those provided by more traditional debit and credit cards such as fraud protection and expanded access to account information. In addition to these rulemaking activities, the CFPB is continuing its on-going supervisory examination activities of the financial services industry with respect to a number of consumer businesses and products, including mortgage lending and servicing, fair lending requirements, student lending activities, and automobile finance.

- **Volcker Rule.** The Volcker Rule, with certain exceptions, prohibits banking entities from engaging in proprietary trading or owning any interest in or sponsoring or having certain relationships with a hedge fund, a private equity fund or certain structured transactions that are deemed covered funds. Federal banking regulators, the SEC, and the Commodity Futures Trading Commission (CFTC) jointly released a final rule to implement the Volcker Rule's restrictions, and have adopted amendments to the rule to streamline and tailor the requirements for compliance.
- **Regulation of swaps and other derivatives activities.** The Dodd-Frank Act established a comprehensive framework for regulating over-the-counter derivatives and authorized the CFTC and the SEC to regulate swaps and security-based swaps, respectively. The CFTC has adopted rules applicable to our provisionally registered swap dealer, Wells Fargo Bank, N.A., that require, among other things, extensive regulatory and public reporting of swaps, central clearing and trading of swaps on exchanges or other multilateral platforms, and compliance with comprehensive internal and external business conduct standards. The SEC has implemented parallel rules applicable to security-based swaps, and is expected to implement additional related rules. In addition, federal regulators have adopted final rules establishing initial and variation margin requirements for swaps and security-based swaps not centrally cleared, rules placing restrictions on a party's right to exercise default rights under derivatives and other qualified financial contracts against applicable banking organizations, and record-keeping requirements for qualified financial contracts. All of these new rules, as well as others being considered by regulators in other jurisdictions, may negatively impact customer demand for over-the-counter derivatives, impact our ability to offer customers new derivatives or amendments to existing derivatives, and may increase our costs for engaging in swaps, security-based swaps, and other derivatives activities.
- **Regulation of interchange transaction fees (the Durbin Amendment).** The FRB has enacted a rule to implement the Durbin Amendment to the Dodd-Frank Act, which limits

debit card interchange transaction fees to those reasonable and proportional to the cost of the transaction. The rule generally established that the maximum allowable interchange fee that an issuer may receive or charge for an electronic debit transaction is the sum of 21 cents per transaction and 5 basis points multiplied by the value of the transaction.

### **Regulatory Capital Guidelines and Capital Plans**

The Company and each of our insured depository institutions are subject to various regulatory capital adequacy requirements administered by the FRB and the OCC. For example, the Company is subject to rules issued by federal banking regulators to implement Basel III capital requirements for U.S. banking organizations. The Company and its insured depository institutions are also required to maintain specified supplementary leverage ratios. Federal banking regulators have also issued a final rule regarding the U.S. implementation of the Basel III liquidity coverage ratio. For more information on the final capital, leverage and liquidity rules, and additional capital requirements applicable to us, see the "Capital Management" and "Risk Management – Asset/Liability Management – Liquidity and Funding – Liquidity Standards" sections in this Report.

### **"Living Will" Requirements and Related Matters**

Rules adopted by the FRB and the FDIC under the Dodd-Frank Act require large financial institutions, including Wells Fargo, to prepare and periodically submit resolution plans, also known as "living wills," that would facilitate their rapid and orderly resolution in the event of material financial distress or failure. Under the rules, rapid and orderly resolution means a reorganization or liquidation of the covered company under the U.S. Bankruptcy Code that can be accomplished in a reasonable period of time and in a manner that substantially mitigates the risk that failure would have serious adverse effects on the financial stability of the United States. In addition to the Company's resolution plan, our national bank subsidiary, Wells Fargo Bank, N.A. (the "Bank"), is also required to prepare and periodically submit a resolution plan. If the FRB and/or FDIC determine that our resolution plan has deficiencies, they may impose more stringent capital, leverage or liquidity requirements on us or restrict our growth, activities or operations until we adequately remedy the deficiencies. If the FRB and/or FDIC ultimately determine that we have been unable to remedy any deficiencies, they could require us to divest certain assets or operations. On June 27, 2019, we submitted our resolution plan to the FRB and FDIC. On December 17, 2019, the FRB and FDIC announced that the Company's 2019 resolution plan did not have any deficiencies, but they identified a specific shortcoming that would need to be addressed.

If Wells Fargo were to fail, it may be resolved in a bankruptcy proceeding or, if certain conditions are met, under the resolution regime created by the Dodd-Frank Act known as the "orderly liquidation authority." The orderly liquidation authority allows for the appointment of the FDIC as receiver for a systemically important financial institution that is in default or in danger of default if, among other things, the resolution of the institution under the U.S. Bankruptcy Code would have serious adverse effects on financial stability in the United States. If the FDIC is appointed as receiver for Wells Fargo & Company (the "Parent"), then the orderly liquidation authority, rather than the U.S. Bankruptcy Code, would determine the powers of the receiver and the rights and obligations of our security holders. The FDIC's orderly liquidation authority requires that security holders of a company in receivership bear all losses before U.S. taxpayers are

## Regulatory Matters (continued)

exposed to any losses, and allows the FDIC to disregard the strict priority of creditor claims under the U.S. Bankruptcy Code in certain circumstances.

The strategy described in our most recent resolution plan is a single point of entry strategy, in which the Parent would likely be the only material legal entity to enter resolution proceedings. However, we are not obligated to maintain a single point of entry strategy, and the strategy described in our resolution plan is not binding in the event of an actual resolution of Wells Fargo, whether conducted under the U.S. Bankruptcy Code or by the FDIC under the orderly liquidation authority. The FDIC has announced that a single point of entry strategy may be a desirable strategy under its implementation of the orderly liquidation authority, but not all aspects of how the FDIC might exercise this authority are known and additional rulemaking is possible.

To facilitate the orderly resolution of systemically important financial institutions in case of material distress or failure, federal banking regulations require that institutions, such as Wells Fargo, maintain a minimum amount of equity and unsecured debt to absorb losses and recapitalize operating subsidiaries. Federal banking regulators have also required measures to facilitate the continued operation of operating subsidiaries notwithstanding the failure of their parent companies, such as limitations on parent guarantees, and have issued guidance encouraging institutions to take legally binding measures to provide capital and liquidity resources to certain subsidiaries in order to facilitate an orderly resolution. In response to the regulators' guidance and to facilitate the orderly resolution of the Company, on June 28, 2017, the Parent entered into a support agreement, as amended and restated on June 26, 2019 (the "Support Agreement"), with WFC Holdings, LLC, an intermediate holding company and subsidiary of the Parent (the "IHC"), the Bank, Wells Fargo Securities, LLC ("WFS"), Wells Fargo Clearing Services, LLC ("WFCS"), and certain other direct and indirect subsidiaries of the Parent designated as material entities for resolution planning purposes (the "Covered Entities") or identified as related support entities in our resolution plan (the "Related Support Entities"). Pursuant to the Support Agreement, the Parent transferred a significant amount of its assets, including the majority of its cash, deposits, liquid securities and intercompany loans (but excluding its equity interests in its subsidiaries and certain other assets), to the IHC and will continue to transfer those types of assets to the IHC from time to time. In the event of our material financial distress or failure, the IHC will be obligated to use the transferred assets to provide capital and/or liquidity to the Bank, WFS, WFCS, and the Covered Entities pursuant to the Support Agreement. Under the Support Agreement, the IHC will also provide funding and liquidity to the Parent through subordinated notes and a committed line of credit, which, together with the issuance of dividends, is expected to provide the Parent, during business as usual operating conditions, with the same access to cash necessary to service its debts, pay dividends, repurchase its shares, and perform its other obligations as it would have had if it had not entered into these arrangements and transferred any assets. If certain liquidity and/or capital metrics fall below defined triggers, or if the Parent's board of directors authorizes it to file a case under the U.S. Bankruptcy Code, the subordinated notes would be forgiven, the committed line of credit would terminate, and the IHC's ability to pay dividends to the Parent would be restricted, any of which could materially and adversely impact the Parent's liquidity and its ability to satisfy its debts and other obligations, and could result in the commencement of bankruptcy proceedings by the Parent at an earlier time than

might have otherwise occurred if the Support Agreement were not implemented. The respective obligations under the Support Agreement of the Parent, the IHC, the Bank, and the Related Support Entities are secured pursuant to a related security agreement.

In addition to our resolution plans, we must also prepare and submit to the FRB a recovery plan that identifies a range of options that we may consider during times of idiosyncratic or systemic economic stress to remedy any financial weaknesses and restore market confidence without extraordinary government support. Recovery options include the possible sale, transfer or disposal of assets, securities, loan portfolios or businesses. The Bank must also prepare and submit to the OCC a recovery plan that sets forth the Bank's plan to remain a going concern when the Bank is experiencing considerable financial or operational stress, but has not yet deteriorated to the point where liquidation or resolution is imminent. If either the FRB or the OCC determines that our recovery plan is deficient, they may impose fines, restrictions on our business or ultimately require us to divest assets.

### Other Regulatory Related Matters

- *Broker-dealer standards of conduct.* In June 2019, the SEC finalized a rule that requires broker-dealers to act in the best interest of a retail customer when making a recommendation of any securities transaction or investment strategy involving securities. This rule impacts the manner in which business is conducted with customers seeking investment advice and may affect certain investment product offerings.
- *Community Reinvestment Act (CRA) rating.* In March 2017, we announced that the OCC had downgraded our most recent CRA rating, which covers the years 2009 – 2012, to "Needs to Improve" due to previously issued regulatory consent orders. A "Needs to Improve" rating imposes regulatory restrictions and limitations on certain of the Company's nonbank activities, including its ability to engage in certain nonbank mergers and acquisitions or undertake new financial in nature activities, and CRA performance is taken into account by regulators in reviewing applications to establish bank branches and for approving proposed bank mergers and acquisitions. The rating also results in the loss of expedited processing of applications to undertake certain activities, and requires the Company to receive prior regulatory approval for certain activities, including to issue or prepay certain subordinated debt obligations, open or relocate bank branches, or make certain public welfare investments. In addition, a "Needs to Improve" rating could have an impact on the Company's relationships with certain states, counties, municipalities or other public agencies to the extent applicable law, regulation or policy limits, restricts or influences whether such entity may do business with a company that has a below "Satisfactory" rating.
- *FRB consent order regarding governance oversight and compliance and operational risk management.* On February 2, 2018, the Company entered into a consent order with the FRB. As required by the consent order, the Board submitted to the FRB a plan to further enhance the Board's governance and oversight of the Company, and the Company submitted to the FRB a plan to further improve the Company's compliance and operational risk management program. The Company continues to engage with the FRB as the Company works to address the consent order provisions. The consent order also requires the Company, following the FRB's acceptance and approval of the plans and the Company's



adoption and implementation of the plans, to complete an initial third-party review of the enhancements and improvements provided for in the plans. Until this third-party review is complete and the plans are approved and implemented to the satisfaction of the FRB, the Company's total consolidated assets will be limited to the level as of December 31, 2017. Compliance with this asset cap will be measured on a two-quarter daily average basis to allow for management of temporary fluctuations. Additionally, after removal of the asset cap, a second third-party review must also be conducted to assess the efficacy and sustainability of the enhancements and improvements.

- *Consent orders with the CFPB and OCC regarding compliance risk management program, automobile collateral protection insurance policies, and mortgage interest rate lock extensions.* On April 20, 2018, the Company entered into consent orders with the CFPB and OCC to pay an aggregate of \$1 billion in civil money penalties to resolve matters regarding the Company's compliance risk management program and past practices involving certain automobile collateral protection insurance policies and certain

mortgage interest rate lock extensions. As required by the consent orders, the Company submitted to the CFPB and OCC an enterprise-wide compliance risk management plan and a plan to enhance the Company's internal audit program with respect to federal consumer financial law and the terms of the consent orders. In addition, as required by the consent orders, the Company submitted for non-objection plans to remediate customers affected by the automobile collateral protection insurance and mortgage interest rate lock matters, as well as a plan for the management of remediation activities conducted by the Company.

- *OCC approval of director and senior executive officer appointments and certain post-termination payments.* Under the April 2018 consent order with the OCC, Wells Fargo Bank, N.A., remains subject to requirements that were originally imposed in November 2016 to provide prior written notice to, and obtain non-objection from, the OCC with respect to changes in directors and senior executive officers, and remains subject to certain regulatory limitations on post-termination payments to certain individuals and employees.

## Critical Accounting Policies

Our significant accounting policies (see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report) are fundamental to understanding our results of operations and financial condition because they require that we use estimates and assumptions that may affect the value of our assets or liabilities and financial results. Five of these policies are critical because they require management to make difficult, subjective and complex judgments about matters that are inherently uncertain and because it is likely that materially different amounts would be reported under different conditions or using different assumptions. These policies govern:

- the allowance for credit losses;
- the valuation of residential MSRs;
- the fair value of financial instruments;
- income taxes; and
- liability for contingent litigation losses.

Management and the Board's Audit Committee have reviewed and approved these critical accounting policies.

### Allowance for Credit Losses

We maintain an allowance for credit losses, which consists of the allowance for loan losses and the allowance for unfunded credit commitments, which is management's estimate of credit losses inherent in the loan portfolio, including unfunded credit commitments, at the balance sheet date, excluding loans carried at fair value. For a description of our related accounting policies, see Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

Changes in the allowance for credit losses and, therefore, in the related provision for credit losses, can materially affect net income. In applying the judgment and review required to determine the allowance for credit losses, management considers changes in economic conditions, customer behavior, and collateral value, among other influences. From time to time, economic factors or business decisions, such as the addition or liquidation of a loan product or business unit, may affect the loan portfolio, causing management to increase or decrease the allowance for credit losses. While our methodology attributes portions of the allowance for credit losses to specific portfolio

segments (commercial and consumer), the entire allowance for credit losses is available to absorb credit losses inherent in the total loan portfolio and unfunded credit commitments.

Judgment is specifically applied in:

- *Credit risk ratings applied to individual commercial loans and unfunded credit commitments.* We estimate the probability of default in accordance with the borrower's financial strength using a borrower quality rating and the severity of loss in the event of default using a collateral quality rating. Collectively, these ratings are referred to as credit risk ratings and are assigned to our commercial loans. Probability of default and severity at the time of default are statistically derived through historical observations of defaults and losses after default within each credit risk rating. Commercial loan risk ratings are evaluated based on each situation by experienced senior credit officers and are subject to periodic review by an internal team of credit specialists.
- *Economic assumptions applied to pools of consumer loans (statistically modeled).* Losses are estimated using economic variables to represent our best estimate of inherent loss. Our forecasted losses are modeled using a range of economic scenarios.
- *Selection of a credit loss estimation model that fits the credit risk characteristics of its portfolio.* We use both internally developed and vendor supplied models in this process. We often use expected loss, transition rate, flow rate, competing hazard, vintage maturation, and time series or statistical trend models, including those with economic correlations. Management must use judgment in establishing additional input metrics for the modeling processes, considering further stratification into reference data time series, sub-product, origination channel, vintage, loss type, geographic location and other predictive characteristics. The models used to determine the allowance for credit losses are validated in accordance with Company policies by an internal model validation group.
- *Assessment of limitations to credit loss estimation models.* We apply our judgment to adjust our modeled estimates to

## Critical Accounting Policies (continued)

reflect other risks that may be identified from current conditions and developments in selected portfolios.

- *Identification and measurement of impaired loans, including loans modified in a TDR.* Our experienced senior credit officers may consider a loan impaired based on their evaluation of current information and events, including loans modified in a TDR. The measurement of impairment is typically based on an analysis of the present value of expected future cash flows. The development of these expectations requires significant management judgment and review.
- *An amount for imprecision or uncertainty which reflects management's overall estimate of the effect of quantitative and qualitative factors on inherent credit losses.* This amount represents management's judgment of risks inherent in the processes and assumptions used in establishing the allowance for credit losses. This imprecision considers economic environmental factors, modeling assumptions and performance, process risk, and other subjective factors, including industry trends and emerging risk assessments.

**SENSITIVITY TO CHANGES** Table 49 demonstrates the impact of the sensitivity of our estimates on our allowance for credit losses.

**Table 49: Allowance for Credit Losses Sensitivity Summary**

(in billions)	December 31, 2019	
	Estimated increase/(decrease) in allowance	
<b>Assumption:</b>		
Favorable (1)	\$	(3.1)
Adverse (2)		7.1

- (1) Represents a one risk rating upgrade throughout our commercial portfolio segment and a more optimistic economic outlook for modeled losses on our consumer portfolio segment.
- (2) Represents a one risk rating downgrade throughout our commercial portfolio segment, a more pessimistic economic outlook for modeled losses on our consumer portfolio segment, and incremental deterioration for PCI loans.

The sensitivity analyses provided in the previous table are hypothetical scenarios and are not considered probable. They do not represent management's view of inherent losses in the portfolio as of the balance sheet date. Because significant judgment is used, it is possible that others performing similar analyses could reach different conclusions. See the "Risk Management – Credit Risk Management – Allowance for Credit Losses" section and Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report for further discussion of our allowance for credit losses.

### Valuation of Residential Mortgage Servicing Rights (MSRs)

MSRs are assets that represent the rights to service mortgage loans for others. We recognize MSRs when we purchase servicing rights from third parties, or retain servicing rights in connection with the sale or securitization of loans we originate (asset transfers). We also have acquired MSRs in the past under co-issuer agreements that provide for us to service loans that were originated and securitized by third-party correspondents.

We carry our MSRs related to residential mortgage loans at fair value. Periodic changes in our residential MSRs and the economic hedges used to hedge our residential MSRs are reflected in earnings.

We use a model to estimate the fair value of our residential MSRs. The model is validated by an internal model

validation group operating in accordance with Company policies. The model calculates the present value of estimated future net servicing income and incorporates inputs and assumptions that market participants use in estimating fair value. Certain significant inputs and assumptions generally are not observable in the market and require judgment to determine. If observable market indications do become available, these are factored into the estimates as appropriate:

- *The mortgage loan prepayment speed used to estimate future net servicing income.* The prepayment speed is the annual rate at which borrowers are forecasted to repay their mortgage loan principal; this rate also includes estimated borrower defaults. We use models to estimate prepayment speeds and borrower defaults which are influenced by changes in mortgage interest rates and borrower behavior.
- *The discount rate used to present value estimated future net servicing income.* The discount rate is the required rate of return investors in the market would expect for an asset with similar risk. To determine the discount rate, we consider the risk premium for uncertainties in the cash flow estimates such as from servicing operations (e.g., possible changes in future servicing costs, ancillary income and earnings on escrow accounts).
- *The expected cost to service loans used to estimate future net servicing income.* The cost to service loans includes estimates for unreimbursed expenses, such as delinquency and foreclosure costs, which considers the number of defaulted loans as well as changes in servicing processes associated with default and foreclosure management.

Both prepayment speed and discount rate assumptions can, and generally will, change quarterly as market conditions and mortgage interest rates change. For example, an increase in either the prepayment speed or discount rate assumption results in a decrease in the fair value of the MSRs, while a decrease in either assumption would result in an increase in the fair value of the MSRs. In recent years, there have been significant market-driven fluctuations in loan prepayment speeds and the discount rate. These fluctuations can be rapid and may be significant in the future. Additionally, while our current valuation reflects our best estimate of servicing costs, future regulatory or investor changes in servicing standards, as well as changes in individual state foreclosure legislation or additional market participant information regarding servicing cost assumptions, may have an impact on our servicing cost assumption and our MSR valuation in future periods.

For a description of our valuation and sensitivity of MSRs, see Note 1 (Summary of Significant Accounting Policies), Note 10 (Securitized and Variable Interest Entities), Note 11 (Mortgage Banking Activities) and Note 19 (Fair Values of Assets and Liabilities) to Financial Statements in this Report.

### Fair Value of Financial Instruments

Fair value represents the price that would be received to sell the financial asset or paid to transfer the financial liability in an orderly transaction between market participants at the measurement date.

We use fair value measurements to record fair value adjustments to certain financial instruments and to determine fair value disclosures. For example, assets and liabilities held for trading purposes, marketable equity securities not held for trading purposes, debt securities available for sale, derivatives and most of our residential MLHFS are carried at fair value each period. Other financial instruments, such as certain MLHFS, most nonmarketable equity securities and substantially all of

our loans held for investment, are not carried at fair value each period but may require nonrecurring fair value adjustments due to application of lower-of-cost-or-market accounting, measurement alternative accounting or write-downs of individual assets. We also disclose our estimate of fair value for financial instruments not recorded at fair value, such as loans held for investment or issuances of long-term debt.

The accounting requirements for fair value measurements include a three-level hierarchy for disclosure of assets and liabilities recorded at fair value. The classification of assets and liabilities within the hierarchy is based on whether the inputs to the valuation methodology used for measurement are observable or unobservable. Observable inputs reflect market-derived or market-based information obtained from independent sources, while unobservable inputs reflect our estimates about market data. For additional information on fair value levels, see Note 19 (Fair Values of Assets and Liabilities) to Financial Statements in this Report.

When developing fair value measurements, we maximize the use of observable inputs and minimize the use of unobservable inputs. When available, we use quoted prices in active markets to measure fair value. If quoted prices in active markets are not available, fair value measurement is based upon models that generally use market-based or independently sourced market parameters, including interest rate yield curves, prepayment speeds, option volatilities and currency rates. However, when observable market data is limited or not available, fair value estimates are typically determined using internally-developed models based on unobservable inputs. Internal models used to determine fair value are validated in accordance with Company policies by an internal model validation group. Additionally, we use third-party pricing services to obtain fair values, which are used to either record the price of an instrument or to corroborate internally-developed prices. Third-party price validation procedures are performed over the reasonableness of the fair value measurements. For additional information on our use of pricing services, see Note 19 (Fair Value of Assets and Liabilities) to Financial Statements in this Report.

When using internally-developed models based on unobservable inputs, management judgment is necessary as we are required to make judgments about significant assumptions market participants would use to estimate fair value. Determination of these assumptions includes consideration of market conditions and liquidity levels. Changes in the market conditions, such as reduced liquidity in the capital markets or changes in secondary market activities, may reduce the availability and reliability of quoted prices or observable data used to determine fair value. In such cases, it may be appropriate to adjust available quoted prices or observable market data. For example, we adjust the vendor or broker price using internal models based on discounted cash flows when the impact of illiquid markets has not already been incorporated in the fair value measurement. Additionally, for certain residential MLHFS and certain debt and equity securities where the significant inputs have become unobservable due to illiquid markets and vendor or broker pricing is not used, our discounted cash flow model uses a discount rate that reflects what we believe a market participant would require in light of the illiquid market.

We continually assess the level and volume of market activity in our debt and equity security classes in determining adjustments, if any, to price quotes. Given market conditions can change over time, our determination of which securities markets are considered active or inactive can change. If we determine a market to be inactive, the degree to which price quotes require adjustment, can also change.

Significant judgment is also required to determine whether certain assets measured at fair value are classified as Level 2 or Level 3 of the fair value hierarchy as described in Note 1 (Summary of Significant Accounting Policies) to Financial Statements in this Report.

When making this judgment, we consider available information, including observable market data, indications of market liquidity and orderliness, and our understanding of the valuation techniques and significant inputs used to estimate fair value. The classification of Level 2 or Level 3 is based upon the specific facts and circumstances of each instrument or instrument category and judgments are made regarding the significance of the Level 3 inputs to each instrument's fair value measurement in its entirety. If Level 3 inputs are considered significant, the instrument is classified as Level 3.

Table 50 presents our (1) assets and liabilities recorded at fair value on a recurring basis and (2) Level 3 assets and liabilities recorded at fair value on a recurring basis, both presented as a percentage of our total assets and total liabilities.

**Table 50: Fair Value Level 3 Summary**

	December 31, 2019		December 31, 2018	
	Total balance	Level 3 (1)	Total balance	Level 3 (1)
(\$ in billions)				
Assets carried at fair value	\$ 428.6	24.3	408.4	25.3
As a percentage of total assets	22%	1	22	1
Liabilities carried at fair value	\$ 26.5	1.8	28.2	1.6
As a percentage of total liabilities	2%	*	2	*

\* Less than 1%.

(1) Before derivative netting adjustments.

See Note 19 (Fair Values of Assets and Liabilities) to Financial Statements in this Report for a complete discussion on our fair value of financial instruments, our related measurement techniques and the impact to our financial statements.

## Income Taxes

We file consolidated and separate company U.S. federal income tax returns, non-U.S. tax returns and various combined and separate company state tax returns.

We evaluate two components of income tax expense: current and deferred income tax expense. Current income tax expense represents our estimated taxes to be paid or refunded for the current period and includes income tax expense related to our uncertain tax positions. Uncertain tax positions that meet the more likely than not recognition threshold are measured to determine the amount of benefit to recognize. An uncertain tax position is measured at the largest amount of benefit that management believes has a greater than 50% likelihood of realization upon settlement. Tax benefits not meeting our realization criteria represent unrecognized tax benefits.

Deferred income tax expense results from changes in deferred tax assets and liabilities between periods. We determine deferred income taxes using the balance sheet method. Under this method, the net deferred tax asset or liability is based on the tax effects of the differences between the book and tax basis of assets and liabilities, and recognizes enacted changes in tax rates and laws in the period in which they occur. Deferred tax assets are recognized subject to management's judgment that realization is more likely than not.

We do not intend to distribute earnings of certain non-U.S. subsidiaries in a taxable manner, and therefore intend to limit

## Critical Accounting Policies (continued)

distributions of non-U.S. earnings previously taxed in the U.S., that would qualify for the 100% dividends received deduction, and that would not result in any significant state or non-U.S. taxes. All other undistributed non-U.S. earnings will continue to be permanently reinvested outside the U.S. and the related tax liability on these earnings is insignificant.

The income tax laws of the jurisdictions in which we operate are complex and subject to different interpretations by the taxpayer and the relevant government taxing authorities. In establishing a provision for income tax expense, we must make judgments and interpretations about the application of these inherently complex tax laws. We must also make estimates about when in the future certain items will affect taxable income in the various tax jurisdictions, both domestic and international. Our interpretations may be subjected to review during examination by taxing authorities and disputes may arise over the respective tax positions. We attempt to resolve these disputes during the tax examination and audit process and ultimately through the court systems when applicable.

We monitor relevant tax authorities and revise our estimate of accrued income taxes due to changes in income tax laws and their interpretation by the courts and regulatory authorities on a quarterly basis. Revisions of our estimate of accrued income taxes also may result from our own income tax planning and from the resolution of income tax controversies. Such revisions in our estimates may be material to our operating results for any given quarter.

See Note 24 (Income Taxes) to Financial Statements in this Report for a further description of our provision for income taxes and related income tax assets and liabilities.

### Liability for Contingent Litigation Losses

The Company is involved in a number of judicial, regulatory, governmental, arbitration and other proceedings or investigations concerning matters arising from the conduct of its business activities, and many of those proceedings and investigations expose the Company to potential financial loss. We establish accruals for legal actions when potential losses associated with the actions become probable and the costs can be reasonably estimated. For such accruals, we record the amount we consider to be the best estimate within a range of potential losses that are both probable and estimable; however, if we cannot determine a best estimate, then we record the low end of the range of those potential losses. The actual costs of resolving legal actions may be substantially higher or lower than the amounts accrued for those actions.

We apply judgment when establishing an accrual for potential losses associated with legal actions and in establishing the range of reasonably possible losses in excess of the accrual. Our judgment in establishing accruals and the range of reasonably possible losses in excess of the Company's accrual for probable and estimable losses is influenced by our understanding of information currently available related to the legal evaluation and potential outcome of actions, including input and advice on these matters from our internal counsel, external counsel and senior management. These matters may be in various stages of investigation, discovery or proceedings. They may also involve a wide variety of claims across our businesses, legal entities and jurisdictions. The eventual outcome may be a scenario that was not considered or was considered remote in anticipated occurrence. Accordingly, our estimate of potential losses will change over time and the actual losses may vary significantly.

The outcomes of legal actions are unpredictable and subject to significant uncertainties, and it is inherently difficult to determine whether any loss is probable or even possible. It is also inherently difficult to estimate the amount of any loss and there may be matters for which a loss is probable or reasonably possible but not currently estimable. Accordingly, actual losses may be in excess of the established accrual or the range of reasonably possible loss.

See Note 17 (Legal Actions) to Financial Statements in this Report for further information.

## Current Accounting Developments

Table 51 provides the significant accounting updates applicable to us that have been issued by the Financial Accounting Standards Board (FASB) but are not yet effective.

**Table 51: Current Accounting Developments – Issued Standards**

Description	Effective date and financial statement impact
<b>ASU 2018-12 – Financial Services – Insurance (Topic 944): Targeted Improvements to the Accounting for Long-Duration Contracts and subsequent related updates</b>	
<p>The Update requires all features in long-duration insurance contracts that meet the definition of a market risk benefit to be measured at fair value through earnings with changes in fair value attributable to our own credit risk recognized in other comprehensive income. Currently, two measurement models exist for these features, fair value and insurance accrual. The Update requires the use of a standardized discount rate and routine updates for insurance assumptions used in valuing the liability for future policy benefits for traditional long-duration contracts. The Update also simplifies the amortization of deferred acquisition costs.</p>	<p>The guidance becomes effective on January 1, 2022. Certain of our variable annuity reinsurance products meet the definition of market risk benefits and will require the associated insurance related reserves for these products to be measured at fair value as of the earliest period presented, with the cumulative effect on fair value for changes attributable to our own credit risk recognized in the beginning balance of accumulated other comprehensive income. The cumulative effect of the difference between fair value and carrying value, excluding the effect of our own credit, will be recognized in the opening balance of retained earnings. As of December 31, 2019, we held \$1.1 billion in insurance-related reserves of which \$489 million was in scope of the Update. A total of \$429 million was associated with products that meet the definition of market risk benefits, and of this amount, \$17 million was measured at fair value under current accounting standards. The market risk benefits are largely indexed to U.S. equity and fixed income markets. Upon adoption, we may incur periodic earnings volatility from changes in the fair value of market risk benefits generally due to the long duration of these contracts. We plan to economically hedge this volatility, where feasible. The ultimate impact of these changes will depend on the composition of our market risk benefits portfolio at the date of adoption. Changes in the accounting for the liability of future policy benefits for traditional long-duration contracts and deferred acquisition costs will be applied to all outstanding long-duration contracts on the basis of their existing carrying amounts at the beginning of the earliest period presented, and are not expected to be material.</p>
<b>ASU 2016-13 – Financial Instruments – Credit Losses (Topic 326): Measurement of Credit Losses on Financial Instruments and subsequent related updates</b>	
<p>The Update changes the accounting for the measurement of credit losses on loans and debt securities. For loans and held-to-maturity debt securities, the Update requires a current expected credit loss (CECL) measurement to estimate the allowance for credit losses (ACL) for the remaining contractual term, adjusted for prepayments, of the financial asset (including off-balance sheet credit exposures) using historical experience, current conditions, and reasonable and supportable forecasts. The Update eliminates the existing guidance for PCI loans, but requires an allowance for purchased financial assets with more than an insignificant deterioration of credit since origination. In addition, the Update modifies the other-than-temporary impairment model for available-for-sale debt securities to require an allowance for credit impairment instead of a direct write-down, which allows for reversal of credit impairments in future periods based on improvements in credit.</p>	<p>We adopted the guidance on January 1, 2020. Our implementation process included development of loss forecasting models, evaluation of technical accounting topics, updates to our allowance documentation, reporting processes, and related internal controls.</p> <p>Upon adoption, we recognized an overall decrease in our ACL of approximately \$1.3 billion, as a cumulative effect adjustment from change in accounting policies. This adjustment, net of income tax adjustments, increased our retained earnings and regulatory capital amounts and ratios. For more information on the impact of CECL by type of financial asset, see Table 51b (ASU 2016-03 Adoption Impact to Allowance for Credit Losses (ACL)) in this Report.</p> <p>Our approach for estimating expected life-time credit losses for loans and debt securities includes the following key components:</p> <ul style="list-style-type: none"> <li>• An initial loss forecast period of one year for all portfolio segments and classes of financing receivables and off-balance-sheet credit exposures. This period reflects management's expectation of losses based on forward-looking economic scenarios over that time.</li> <li>• A historical loss forecast period covering the remaining contractual term, adjusted for prepayments, by portfolio segment and class of financing receivables based on the change in key historical economic variables during representative historical expansionary and recessionary periods.</li> <li>• A reversion period of up to two years connecting the initial loss forecast to the historical loss forecast based on economic conditions at the measurement date.</li> <li>• Utilization of discounted cash flow (DCF) methods to measure credit impairment for loans modified in a troubled debt restructuring, unless they are collateral dependent and measured at the fair value of collateral. The DCF methods obtain estimated life-time credit losses using the conceptual components described above.</li> <li>• For available-for-sale debt securities and certain beneficial interests classified as held-to-maturity, we utilize the DCF methods to measure the ACL, which incorporate expected credit losses using the conceptual components described above. The ACL on available-for-sale debt securities is subject to a limitation based on the fair value of the debt securities.</li> </ul>
<p>We expect future changes in our ACL to be more volatile under CECL. Future amounts of the ACL will be based on a variety of factors, including changes in loan volumes, portfolio credit quality, and general economic conditions. General economic conditions will be forecasted using economic variables, which will create volatility as those variables change over time. See Table 51a for key economic variables used for our loan portfolios.</p>	

## Current Accounting Developments (continued)

**Table 51a: Key Economic Variables**

Loan Portfolio	Key economic variables
Total commercial	<ul style="list-style-type: none"> <li>Gross domestic product</li> <li>Commercial real estate asset prices, where applicable</li> </ul>
Real estate 1-4 family mortgage	<ul style="list-style-type: none"> <li>Home price index</li> <li>Unemployment rate</li> </ul>
Other consumer (including credit card, automobile, and other revolving credit and installment)	<ul style="list-style-type: none"> <li>Unemployment rate</li> </ul>

**Table 51b: ASU 2016-13 Adoption Impact to Allowance for Credit Losses (ACL) (1)**

(in billions)	Dec 31, 2019			ASU 2016-13 Adoption Impact	Jan 1, 2020	
	Balance Outstanding	ACL Balance	Coverage		ACL Balance	Coverage
Total commercial (2)	\$ 515.7	6.2	1.2%	\$ (2.9)	3.4	0.7%
Real estate 1-4 family mortgage (3)	323.4	0.9	0.3	—	0.9	0.3
Credit card (4)	41.0	2.3	5.5	0.7	2.9	7.1
Automobile (4)	47.9	0.5	1.0	0.3	0.7	1.5
Other revolving credit and installment (4)	34.3	0.6	1.6	0.6	1.2	3.5
Total consumer	446.5	4.2	0.9	1.5	5.7	1.3
Total loans	962.3	10.5	1.1	(1.3)	9.1	0.9
Available-for-sale and held-to-maturity debt securities and other assets (5)	420.0	0.1	NM	—	0.1	NM
Total	\$ 1,382.3	10.6	NM	\$ (1.3)	9.3	NM

NM – Not meaningful

(1) Amounts presented in this table may not equal the sum of its components due to rounding.

(2) Decrease reflecting shorter contractual maturities given limitation to contractual term.

(3) Impact reflects an increase due to longer contractual term, offset by expectation of recoveries in collateral value on mortgage loans previously written down significantly below current recovery value.

(4) Increase due to longer contractual term or indeterminate maturities.

(5) Excludes other financial assets in the scope of CECL that do not have an allowance for credit losses based on the nature of the asset.

### Other Accounting Developments

The following Updates are applicable to us but are not expected to have a material impact on our consolidated financial statements:

- ASU 2020-01 – Investments - Equity Securities (Topic 321), Investments – Equity Method and Joint Ventures (Topic 323), and Derivatives and Hedging (Topic 815): *Clarifying the Interactions between Topic 321, Topic 323, and Topic 815 (a consensus of the FASB Emerging Issues Task Force)*
- ASU 2019-12 – Income Taxes (Topic 740): *Simplifying the Accounting for Income Taxes*
- ASU 2019-04 – Codification Improvements to Topic 326, *Financial Instruments – Credit Losses*, Topic 815, *Derivatives and Hedging*, and Topic 825, *Financial Instruments*. This Update includes guidance on recoveries of financial assets, which has been included in the discussion for ASU 2016-13 above.
- ASU 2018-17 – Consolidation (Topic 810): *Targeted Improvements to Related Party Guidance for Variable Interest Entities*
- ASU 2018-15 – Intangibles – Goodwill and Other – Internal-Use Software (Subtopic 350-40): *Customer’s Accounting for Implementation Costs Incurred in a Cloud Computing Arrangement That Is a Service Contract (a consensus of the FASB Emerging Issues Task Force)*
- ASU 2018-13 – Fair Value Measurement (Topic 820): *Disclosure Framework – Changes to the Disclosure Requirements for Fair Value Measurement*. We fully adopted this guidance in first quarter 2020.
- ASU 2017-04 – Intangibles – Goodwill and Other (Topic 350): *Simplifying the Test for Goodwill Impairment*

## Forward-Looking Statements

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This document contains forward-looking statements. In addition, we may make forward-looking statements in our other documents filed or furnished with the SEC, and our management may make forward-looking statements orally to analysts, investors, representatives of the media and others. Forward-looking statements can be identified by words such as “anticipates,” “intends,” “plans,” “seeks,” “believes,” “estimates,” “expects,” “target,” “projects,” “outlook,” “forecast,” “will,” “may,” “could,” “should,” “can” and similar references to future periods. In particular, forward-looking statements include, but are not limited to, statements we make about: (i) the future operating or financial performance of the Company, including our outlook for future growth; (ii) our noninterest expense and efficiency ratio; (iii) future credit quality and performance, including our expectations regarding future loan losses and our allowance for credit losses; (iv) the appropriateness of the allowance for credit losses; (v) our expectations regarding net interest income and net interest margin; (vi) loan growth or the reduction or mitigation of risk in our loan portfolios; (vii) future capital or liquidity levels or targets, our estimated Common Equity Tier 1 ratio, and our estimated total loss absorbing capacity ratio; (viii) the performance of our mortgage business and any related exposures; (ix) the expected outcome and impact of legal, regulatory and legislative developments, as well as our expectations regarding compliance therewith; (x) future common stock dividends, common share repurchases and other uses of capital; (xi) our targeted range for return on assets, return on equity, and return on tangible common equity; (xii) expectations regarding our effective income tax rate; (xiii) the outcome of contingencies, such as legal proceedings; and (xiv) the Company’s plans, objectives and strategies.

Forward-looking statements are not based on historical facts but instead represent our current expectations and assumptions regarding our business, the economy and other future conditions. Because forward-looking statements relate to the future, they are subject to inherent uncertainties, risks and changes in circumstances that are difficult to predict. Our actual results may differ materially from those contemplated by the forward-looking statements. We caution you, therefore, against relying on any of these forward-looking statements. They are neither statements of historical fact nor guarantees or assurances of future performance. While there is no assurance that any list of risks and uncertainties or risk factors is complete, important factors that could cause actual results to differ materially from those in the forward-looking statements include the following, without limitation:

- current and future economic and market conditions, including the effects of declines in housing prices, high unemployment rates, U.S. fiscal debt, budget and tax matters, geopolitical matters, and any slowdown in global economic growth;
- our capital and liquidity requirements (including under regulatory capital standards, such as the Basel III capital standards) and our ability to generate capital internally or raise capital on favorable terms;
- financial services reform and other current, pending or future legislation or regulation that could have a negative effect on our revenue and businesses, including the Dodd-Frank Act and other legislation and regulation relating to bank products and services;
- developments in our mortgage banking business, including the extent of the success of our mortgage loan modification efforts, the amount of mortgage loan repurchase demands that we receive, any negative effects relating to our mortgage servicing, loan modification or foreclosure practices, and the effects of regulatory or judicial requirements or guidance impacting our mortgage banking business and any changes in industry standards;
- our ability to realize any efficiency ratio or expense target as part of our expense management initiatives, including as a result of business and economic cyclicality, seasonality, changes in our business composition and operating environment, growth in our businesses and/or acquisitions, and unexpected expenses relating to, among other things, litigation and regulatory matters;
- the effect of the current interest rate environment or changes in interest rates or in the level or composition of our assets or liabilities on our net interest income, net interest margin and our mortgage originations, mortgage servicing rights and mortgage loans held for sale;
- significant turbulence or a disruption in the capital or financial markets, which could result in, among other things, reduced investor demand for mortgage loans, a reduction in the availability of funding or increased funding costs, and declines in asset values and/or recognition of other-than-temporary impairment on securities held in our debt securities and equity securities portfolios;
- the effect of a fall in stock market prices on our investment banking business and our fee income from our brokerage, asset and wealth management businesses;
- negative effects from the retail banking sales practices matter and from other instances where customers may have experienced financial harm, including on our legal, operational and compliance costs, our ability to engage in certain business activities or offer certain products or services, our ability to keep and attract customers, our ability to attract and retain qualified team members, and our reputation;
- resolution of regulatory matters, litigation, or other legal actions, which may result in, among other things, additional costs, fines, penalties, restrictions on our business activities, reputational harm, or other adverse consequences;
- a failure in or breach of our operational or security systems or infrastructure, or those of our third-party vendors or other service providers, including as a result of cyber attacks;
- the effect of changes in the level of checking or savings account deposits on our funding costs and net interest margin;
- fiscal and monetary policies of the Federal Reserve Board;
- changes to U.S. tax guidance and regulations, as well as the effect of discrete items on our effective income tax rate;
- our ability to develop and execute effective business plans and strategies; and
- the other risk factors and uncertainties described under “Risk Factors” in this Report.

In addition to the above factors, we also caution that the amount and timing of any future common stock dividends or repurchases will depend on the earnings, cash requirements and financial condition of the Company, market conditions, capital requirements (including under Basel capital standards), common stock issuance requirements, applicable law and regulations (including federal securities laws and federal banking regulations), and other factors deemed relevant by the

## Forward-Looking Statements (continued)

Company's Board of Directors, and may be subject to regulatory approval or conditions.

For more information about factors that could cause actual results to differ materially from our expectations, refer to our reports filed with the Securities and Exchange Commission, including the discussion under "Risk Factors" in this Report, as filed with the Securities and Exchange Commission and available on its website at [www.sec.gov](http://www.sec.gov).

Any forward-looking statement made by us speaks only as of the date on which it is made. Factors or events that could cause our actual results to differ may emerge from time to time, and it is not possible for us to predict all of them. We undertake no obligation to publicly update any forward-looking statement, whether as a result of new information, future developments or otherwise, except as may be required by law.

Forward-looking Non-GAAP Financial Measures. From time to time management may discuss forward-looking non-GAAP financial measures, such as forward-looking estimates or targets for return on average tangible common equity. We are unable to provide a reconciliation of forward-looking non-GAAP financial measures to their most directly comparable GAAP financial measures because we are unable to provide, without unreasonable effort, a meaningful or accurate calculation or estimation of amounts that would be necessary for the reconciliation due to the complexity and inherent difficulty in forecasting and quantifying future amounts or when they may occur. Such unavailable information could be significant to future results.

## Risk Factors

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An investment in the Company involves risk, including the possibility that the value of the investment could fall substantially and that dividends or other distributions on the investment could be reduced or eliminated. We discuss below risk factors that could adversely affect our financial results and condition, and the value of, and return on, an investment in the Company.

### **RISKS RELATED TO THE ECONOMY, FINANCIAL MARKETS, INTEREST RATES AND LIQUIDITY**

**As one of the largest lenders in the U.S. and a provider of financial products and services to consumers and businesses across the U.S. and internationally, our financial results have been, and will continue to be, materially affected by general economic conditions, and a deterioration in economic conditions or in the financial markets may materially adversely affect our lending and other businesses and our financial results and condition.** We generate revenue from the interest and fees we charge on the loans and other products and services we sell, and a substantial amount of our revenue and earnings comes from the net interest income and fee income that we earn from our consumer and commercial lending and banking businesses, including our mortgage banking business. These businesses have been, and will continue to be, materially affected by the state of the U.S. economy, particularly unemployment levels and home prices. Although the U.S. economy has continued to gradually improve from the depressed levels of 2008 and early 2009, economic growth has at times been slow and uneven. In addition, the negative effects and continued uncertainty stemming from U.S. fiscal and political matters, including concerns about deficit levels, taxes and U.S. debt ratings, have impacted and may continue to impact the global economic recovery. Moreover, geopolitical matters, including international political unrest or disturbances, Britain's vote to withdraw from the European Union, as well as continued concerns over commodity prices, restrictions on international trade and corresponding retaliatory measures, and global economic difficulties, may impact the stability of financial markets and the global economy. In particular, Britain's withdrawal from the European Union and the final terms of its exit following the existing transition period could increase economic barriers between Britain and the European Union, limit our ability to conduct business in the European Union, impose additional costs on us, subject us to different laws, regulations and/or regulatory authorities, or adversely impact our business,

financial results and operating model. For example, certain operations of our broker-dealer in London may be impacted by the terms and conditions of Britain's exit. Although we are transitioning certain of these operations to other European countries, there is no guarantee that we will be able to operate or conduct business in the European Union in the same manner or with the same effectiveness following the end of the transition period for Britain's withdrawal. A prolonged period of slow growth in the global economy, particularly in the U.S., or any deterioration in general economic conditions and/or the financial markets resulting from the above matters or any other events or factors that may disrupt or dampen the global economic recovery, could materially adversely affect our financial results and condition.

A weakening in business or economic conditions, including higher unemployment levels or declines in home prices, can also adversely affect our borrowers' ability to repay their loans, which can negatively impact our credit performance. If unemployment levels worsen or if home prices fall we would expect to incur elevated charge-offs and provision expense from increases in our allowance for credit losses. These conditions may adversely affect not only consumer loan performance but also commercial and CRE loans, especially for those business borrowers that rely on the health of industries that may experience deteriorating economic conditions. The ability of these and other borrowers to repay their loans may deteriorate, causing us, as one of the largest commercial and CRE lenders in the U.S., to incur significantly higher credit losses. In addition, weak or deteriorating economic conditions make it more challenging for us to increase our consumer and commercial loan portfolios by making loans to creditworthy borrowers at attractive yields. Furthermore, weak economic conditions, as well as competition and/or increases in interest rates, could soften demand for our loans resulting in our retaining a much higher amount of lower yielding liquid assets on our balance sheet. If economic conditions do not continue to improve or if the economy worsens and unemployment rises, which also would likely result in a decrease in consumer and business confidence and spending, the demand for our credit products, including our mortgages, may fall, reducing our interest and noninterest income and our earnings.

A deterioration in business and economic conditions, which may erode consumer and investor confidence levels, and/or increased volatility of financial markets, also could adversely affect financial results for our fee-based businesses, including our investment advisory, mutual fund, securities brokerage,



wealth management, and investment banking businesses. In 2019, approximately 25% of our revenue was fee income, which included trust and investment fees, card fees and other fees. We earn fee income from managing assets for others and providing brokerage and other investment advisory and wealth management services. Because investment management fees are often based on the value of assets under management, a fall in the market prices of those assets could reduce our fee income. Changes in stock market prices could affect the trading activity of investors, reducing commissions and other fees we earn from our brokerage business. In addition, adverse market conditions may negatively affect the performance of products we have provided to customers, which may expose us to legal actions or additional costs. The U.S. stock market experienced all-time highs in 2019, but also experienced significant volatility and there is no guarantee that high price levels will continue or that price levels will stabilize. Poor economic conditions and volatile or unstable financial markets also can negatively affect our debt and equity underwriting and advisory businesses, as well as our trading activities and venture capital businesses. Any deterioration in global financial markets and economies, including as a result of any international political unrest or disturbances, may adversely affect the revenues and earnings of our international operations, particularly our global financial institution and correspondent banking services.

For more information, refer to the “Risk Management – Asset/Liability Management” and “– Credit Risk Management” sections in this Report.

**Changes in interest rates and financial market values could reduce our net interest income and earnings, as well as our other comprehensive income, including as a result of recognizing losses on the debt and equity securities that we hold in our portfolio or trade for our customers.** Our net interest income is the interest we earn on loans, debt securities and other assets we hold less the interest we pay on our deposits, long-term and short-term debt, and other liabilities. Net interest income is a measure of both our net interest margin – the difference between the yield we earn on our assets and the interest rate we pay for deposits and our other sources of funding – and the amount of earning assets we hold. Changes in either our net interest margin or the amount or mix of earning assets we hold could affect our net interest income and our earnings. Changes in interest rates can affect our net interest margin. Although the yield we earn on our assets and our funding costs tend to move in the same direction in response to changes in interest rates, one can rise or fall faster than the other, causing our net interest margin to expand or contract. If our funding costs rise faster than the yield we earn on our assets or if the yield we earn on our assets falls faster than our funding costs, our net interest margin could contract.

The amount and type of earning assets we hold can affect our yield and net interest margin. We hold earning assets in the form of loans and debt and equity securities, among other assets. As noted above, if the economy worsens we may see lower demand for loans by creditworthy customers, reducing our net interest income and yield. In addition, our net interest income and net interest margin can be negatively affected by a prolonged low interest rate environment as it may result in us holding lower yielding loans and securities on our balance sheet, particularly if we are unable to replace the maturing higher yielding assets with similar higher yielding assets. Increases in interest rates, however, may negatively affect loan demand and could result in higher credit losses as borrowers may have more difficulty making higher interest payments. As described below,

changes in interest rates also affect our mortgage business, including the value of our MSRs.

Changes in the slope of the “yield curve” – or the spread between short-term and long-term interest rates – could also reduce our net interest margin. Normally, the yield curve is upward sloping, meaning short-term rates are lower than long-term rates. When the yield curve flattens, or even inverts, our net interest margin could decrease if the cost of our short-term funding increases relative to the yield we can earn on our long-term assets. Moreover, a negative interest rate environment, in which interest rates drop below zero, could reduce our net interest margin and net interest income due to a likely decline in the interest we could earn on loans and other earning assets, while also likely requiring us to pay to maintain our deposits with the FRB.

The interest we earn on our loans may be tied to U.S.-denominated interest rates such as the federal funds rate while the interest we pay on our debt may be based on international rates such as LIBOR. If the federal funds rate were to fall without a corresponding decrease in LIBOR, we might earn less on our loans without any offsetting decrease in our funding costs. This could lower our net interest margin and our net interest income.

We assess our interest rate risk by estimating the effect on our earnings under various scenarios that differ based on assumptions about the direction, magnitude and speed of interest rate changes and the slope of the yield curve. We hedge some of that interest rate risk with interest rate derivatives. We also rely on the “natural hedge” that our mortgage loan originations and servicing rights can provide.

We generally do not hedge all of our interest rate risk. There is always the risk that changes in interest rates, credit spreads or option volatility could reduce our net interest income and earnings, as well as our other comprehensive income, in material amounts, especially if actual conditions turn out to be materially different than what we assumed. For example, if interest rates rise or fall faster than we assumed or the slope of the yield curve changes, we may incur significant losses on debt securities we hold as investments. To reduce our interest rate risk, we may rebalance our portfolios of debt securities, equity securities and loans, refinance our debt and take other strategic actions. We may incur losses when we take such actions.

We hold debt and equity securities, including U.S. Treasury and federal agency securities and federal agency MBS, securities of U.S. states and political subdivisions, residential and commercial MBS, corporate debt securities, other asset-backed securities and marketable equity securities, including securities relating to our venture capital activities. Because of changing economic and market conditions, as well as credit ratings, affecting issuers and the performance of any collateral underlying the securities, we may be required to recognize OTTI in future periods on the securities we hold. Furthermore, the value of the debt securities we hold can fluctuate due to changes in interest rates, issuer creditworthiness, and other factors. Our net income also is exposed to changes in interest rates, credit spreads, foreign exchange rates, and equity and commodity prices in connection with our trading activities, which are conducted primarily to accommodate the investment and risk management activities of our customers, as well as when we execute economic hedging to manage certain balance sheet risks. Trading debt securities and equity securities held for trading are carried at fair value with realized and unrealized gains and losses recorded in noninterest income. As part of our business to support our customers, we trade public debt and equity securities that are subject to market fluctuations with gains and losses recognized in net income. In addition, although

## Risk Factors (continued)

high market volatility can increase our exposure to trading-related losses, periods of low volatility may have an adverse effect on our businesses as a result of reduced customer activity levels. Although we have processes in place to measure and monitor the risks associated with our trading activities, including stress testing and hedging strategies, there can be no assurance that our processes and strategies will be effective in avoiding losses that could have a material adverse effect on our financial results.

The value of our marketable and nonmarketable equity securities can fluctuate from quarter to quarter. Marketable equity securities are carried at fair value with unrealized gains and losses reflected in earnings. Nonmarketable equity securities are carried under the cost method, equity method, or measurement alternative, while others are carried at fair value with unrealized gains and losses reflected in earnings. Earnings from our equity securities portfolio may be volatile and hard to predict, and may have a significant effect on our earnings from period to period. When, and if, we recognize gains may depend on a number of factors, including general economic and market conditions, the prospects of the companies in which we invest, when a company goes public, the size of our position relative to the public float, and whether we are subject to any resale restrictions.

Nonmarketable equity securities include our private equity and venture capital investments that could result in significant OTTI losses for those investments carried under the measurement alternative or equity method. If we determine there is OTTI for an investment, we write-down the carrying value of the investment, resulting in a charge to earnings, which could be significant.

For more information, refer to the “Risk Management – Asset/Liability Management – Interest Rate Risk”, “– Mortgage Banking Interest Rate and Market Risk”, “– Market Risk – Trading Activities”, and “– Market Risk – Equity Securities” and the “Balance Sheet Analysis – Available-for-Sale and Held-to-Maturity Debt Securities” sections in this Report and Note 4 (Trading Activities), Note 5 (Available-for-Sale and Held-to-Maturity Debt Securities) and Note 8 (Equity Securities) to Financial Statements in this Report.

**Uncertainty about the future of the London Interbank Offered Rate (LIBOR) may adversely affect our business, results of operations, and financial condition.** Due to uncertainty surrounding the suitability and sustainability of LIBOR, central banks and global regulators have called for financial market participants to prepare for the discontinuation of LIBOR by the end of 2021. We have a significant number of assets and liabilities referenced to LIBOR and other interbank offered rates such as commercial loans, adjustable-rate mortgage loans, derivatives, debt securities, and long-term debt. When any such benchmark rate or other referenced financial metric is significantly changed, replaced or discontinued, or ceases to be recognized as an acceptable market benchmark rate or financial metric, there may be uncertainty or differences in the calculation of the applicable interest rate or payment amount depending on the terms of the governing instrument.

This could impact the financial performance of previously booked transactions, result in losses on financial instruments we hold, require different hedging strategies or result in ineffective or increased basis risk on existing hedges, impact the overall interest rate environment and the availability or cost of floating-rate funding, and affect our capital and liquidity planning and management. In addition, the transition to using any new benchmark rate or other financial metric may require changes to

existing transaction data, products, systems, models, operations, and pricing processes, require substantial changes to existing documentation and the renegotiation of a substantial volume of previously booked transactions, and could result in significant operational, systems, or other practical challenges, increased compliance, legal and operational costs, heightened expectations and scrutiny from regulators, reputational harm, or other adverse consequences. Furthermore, the transition away from widely used benchmark rates like LIBOR could result in customers or other market participants challenging the determination of their interest payments, disputing the interpretation or implementation of contract “fallback” provisions and other transition related changes, or entering into fewer transactions or postponing their financing needs, which could reduce our revenue and adversely affect our business. Moreover, to the extent borrowers with loans referenced to LIBOR, such as adjustable rate mortgage loans, experience higher interest payments as a result of the transition to a new benchmark rate, our customers’ ability to repay their loans may be adversely affected, which can negatively impact our credit performance.

For additional information on the discontinuation of LIBOR and the steps we are taking to address and mitigate the risks we have identified, refer to the “Risk Management - Asset/Liability Management - LIBOR Transition” section in this Report.

**Effective liquidity management, which ensures that we can meet customer loan requests, customer deposit maturities/ withdrawals and other cash commitments, including principal and interest payments on our debt, efficiently under both normal operating conditions and other unpredictable circumstances of industry or financial market stress, is essential for the operation of our business, and our financial results and condition could be materially adversely affected if we do not effectively manage our liquidity.** Our liquidity is

essential for the operation of our business. We primarily rely on bank deposits to be a low-cost and stable source of funding for the loans we make and the operation of our business. Customer deposits, which include noninterest-bearing deposits, interest-bearing checking, savings certificates, certain market rate and other savings, and certain non-U.S. deposits, have historically provided us with a sizable source of relatively stable and low-cost funds. In addition to customer deposits, our sources of liquidity include certain debt and equity securities, our ability to sell or securitize loans in secondary markets and to pledge loans to access secured borrowing facilities through the FHLB and the FRB, and our ability to raise funds in domestic and international money through capital markets.

Our liquidity and our ability to fund and run our business could be materially adversely affected by a variety of conditions and factors, including financial and credit market disruption and volatility or a lack of market or customer confidence in financial markets in general similar to what occurred during the financial crisis in 2008 and early 2009, which may result in a loss of customer deposits or outflows of cash or collateral and/or our inability to access capital markets on favorable terms. Market disruption and volatility could impact our credit spreads, which are the amount in excess of the interest rate of U.S. Treasury securities, or other benchmark securities, of the same maturity that we need to pay to our funding providers. Increases in interest rates and our credit spreads could significantly increase our funding costs. Other conditions and factors that could materially adversely affect our liquidity and funding include a lack of market or customer confidence in the Company or negative news about the Company or the financial services industry generally which also may result in a loss of deposits and/or

negatively affect our ability to access the capital markets; our inability to sell or securitize loans or other assets; disruptions or volatility in the repurchase market which also may increase our short-term funding costs; and, as described below, reductions in one or more of our credit ratings. Many of the above conditions and factors may be caused by events over which we have little or no control. While market conditions have improved since the financial crisis, there can be no assurance that significant disruption and volatility in the financial markets will not occur in the future. For example, concerns over geopolitical issues, commodity and currency prices, as well as global economic conditions, may cause financial market volatility.

In addition, concerns regarding U.S. government debt levels and any associated downgrade of U.S. government debt ratings may cause uncertainty and volatility as well. A downgrade of the sovereign debt ratings of the U.S. government or the debt ratings of related institutions, agencies or instrumentalities, as well as other fiscal or political events could, in addition to causing economic and financial market disruptions, materially adversely affect the market value of the U.S. government securities that we hold, the availability of those securities as collateral for borrowing, and our ability to access capital markets on favorable terms, as well as have other material adverse effects on the operation of our business and our financial results and condition.

As noted above, we rely heavily on bank deposits for our funding and liquidity. We compete with banks and other financial services companies for deposits. If our competitors raise the rates they pay on deposits our funding costs may increase, either because we raise our rates to avoid losing deposits or because we lose deposits and must rely on more expensive sources of funding. Higher funding costs reduce our net interest margin and net interest income. Checking and savings account balances and other forms of customer deposits may decrease when customers perceive alternative investments, such as the stock market, as providing a better risk/return tradeoff. When customers move money out of bank deposits and into other investments, we may lose a relatively low-cost source of funds, increasing our funding costs and negatively affecting our liquidity.

If we are unable to continue to fund our assets through customer bank deposits or access capital markets on favorable terms or if we suffer an increase in our borrowing costs or otherwise fail to manage our liquidity effectively (including on an intraday basis), our liquidity, net interest margin, financial results and condition may be materially adversely affected. As we did during the financial crisis, we may also need, or be required by our regulators, to raise additional capital through the issuance of common stock, which could dilute the ownership of existing stockholders, or reduce or even eliminate our common stock dividend to preserve capital or in order to raise additional capital.

For more information, refer to the “Risk Management – Asset/Liability Management” section in this Report.

**Adverse changes in our credit ratings could have a material adverse effect on our liquidity, cash flows, financial results and condition.** Our borrowing costs and ability to obtain funding are influenced by our credit ratings. Reductions in one or more of our credit ratings could adversely affect our ability to borrow funds and raise the costs of our borrowings substantially and could cause creditors and business counterparties to raise collateral requirements or take other actions that could adversely affect our ability to raise funding. Credit ratings and credit ratings agencies’ outlooks are based on the ratings agencies’ analysis of many quantitative and qualitative factors, such as our capital adequacy, liquidity, asset quality, business mix, the level and quality of our earnings, rating agency assumptions regarding the

probability and extent of federal financial assistance or support, and other rating agency specific criteria. In addition to credit ratings, our borrowing costs are affected by various other external factors, including market volatility and concerns or perceptions about the financial services industry generally. There can be no assurance that we will maintain our credit ratings and outlooks and that credit ratings downgrades in the future would not materially affect our ability to borrow funds and borrowing costs.

Downgrades in our credit ratings also may trigger additional collateral or funding obligations which could negatively affect our liquidity, including as a result of credit-related contingent features in certain of our derivative contracts. Although a one or two notch downgrade in our current credit ratings would not be expected to trigger a material increase in our collateral or funding obligations, a more severe credit rating downgrade of our long-term and short-term credit ratings could increase our collateral or funding obligations and the effect on our liquidity could be material.

For information on our credit ratings, see the “Risk Management – Asset/Liability Management – Liquidity and Funding – Credit Ratings” section and for information regarding additional collateral and funding obligations required of certain derivative instruments in the event our credit ratings were to fall below investment grade, see Note 18 (Derivatives) to Financial Statements in this Report.

**We rely on dividends from our subsidiaries for liquidity, and federal and state law, as well as certain contractual arrangements, can limit those dividends.** Wells Fargo & Company, the parent holding company (the “Parent”), is a separate and distinct legal entity from its subsidiaries. It receives substantially all of its funding and liquidity from dividends and other distributions from its subsidiaries. We generally use these dividends and distributions, among other things, to pay dividends on our common and preferred stock and interest and principal on our debt. Federal and state laws limit the amount of dividends and distributions that our bank and some of our nonbank subsidiaries, including our broker-dealer subsidiaries, may pay to the Parent. In addition, under a Support Agreement dated June 28, 2017, as amended and restated on June 26, 2019, among the Parent, WFC Holdings, LLC, an intermediate holding company and subsidiary of the Parent (the “IHC”), Wells Fargo Bank, N.A., Wells Fargo Securities, LLC, Wells Fargo Clearing Services, LLC, and certain other direct and indirect subsidiaries of the Parent designated as material entities for resolution planning purposes or identified as related support entities in our resolution plan, the IHC may be restricted from making dividend payments to the Parent if certain liquidity and/or capital metrics fall below defined triggers or if the Parent’s board of directors authorizes it to file a case under the U.S. Bankruptcy Code. Also, our right to participate in a distribution of assets upon a subsidiary’s liquidation or reorganization is subject to the prior claims of the subsidiary’s creditors.

For more information, refer to the “Regulation and Supervision – Dividend Restrictions” and “– Holding Company Structure” sections in our 2019 Form 10-K and to Note 3 (Cash, Loan and Dividend Restrictions) and Note 29 (Regulatory and Agency Capital Requirements) to Financial Statements in this Report.

## Risk Factors (continued)

### RISKS RELATED TO FINANCIAL REGULATORY REFORM AND OTHER LEGISLATION AND REGULATIONS

**Enacted legislation and regulation, including the Dodd-Frank Act, as well as future legislation and/or regulation, could require us to change certain of our business practices, reduce our revenue and earnings, impose additional costs on us or otherwise adversely affect our business operations and/or competitive position.** Our parent company, our subsidiary banks and many of our nonbank subsidiaries such as those related to our brokerage and mutual fund businesses, are subject to significant and extensive regulation under state and federal laws in the U.S., as well as the applicable laws of the various jurisdictions outside of the U.S. where they conduct business. These regulations protect depositors, federal deposit insurance funds, consumers, investors, team members, and the banking and financial system as a whole, not necessarily our security holders. Economic, market and political conditions during the past few years have led to a significant amount of legislation and regulation in the U.S. and abroad affecting the financial services industry, as well as heightened expectations and scrutiny of financial services companies from banking regulators. These laws and regulations may continue to affect the manner in which we do business and the products and services that we provide, affect or restrict our ability to compete in our current businesses or our ability to enter into or acquire new businesses, reduce or limit our revenue in businesses or impose additional fees, assessments or taxes on us, intensify the regulatory supervision of us and the financial services industry, and adversely affect our business operations or have other negative consequences. Our businesses and revenues in non-U.S. jurisdictions are also subject to risks from political, economic and social developments in those jurisdictions, including sanctions or business restrictions, asset freezes or confiscation, unfavorable political or diplomatic developments, or financial or social instability. In addition, greater government oversight and scrutiny of financial services companies has increased our operational and compliance costs as we must continue to devote substantial resources to enhancing our procedures and controls and meeting heightened regulatory standards and expectations. Any failure to meet regulatory requirements, standards or expectations, either in the U.S. or in non-U.S. jurisdictions, could result in fees, penalties, restrictions on our ability to engage in certain business activities, or other adverse consequences.

On July 21, 2010, the Dodd-Frank Act, which, among other things, imposes significant requirements and restrictions impacting the financial services industry, became law. The Dodd-Frank Act has resulted in significant rulemaking by federal regulators, including the FRB, OCC, CFPB, FDIC, SEC and CFTC, which may continue to impact our business, including the types of products and services we can provide, the manner in which we operate our businesses, and our compliance and risk management activities. The Dodd-Frank Act, including the rules implementing its provisions and the interpretation of those rules, may continue to result in a loss of revenue, require us to change certain of our business practices, limit our ability to pursue certain business opportunities, increase our capital requirements and impose additional assessments and costs on us and otherwise adversely affect our business operations and have other negative consequences.

Our consumer businesses, including our mortgage, automobile, credit card and other consumer lending and non-lending businesses, are subject to numerous and, in many cases, highly complex consumer protection laws and regulations, as well as enhanced regulatory scrutiny and more and expanded

regulatory examinations and/or investigations. In particular, the CFPB's rules, which primarily impact our consumer businesses, may continue to increase our compliance costs and require changes in our business practices, which could limit or negatively affect the products and services that we offer our customers. If we fail to meet enhanced regulatory requirements and expectations with respect to our consumer businesses, we may be subject to increased costs, fines, penalties, restrictions on our business activities including the products and services we can provide, and/or harm to our reputation.

The Dodd-Frank Act's proposed prohibitions or limitations on proprietary trading and private fund investment activities, known as the "Volcker Rule," also may reduce our revenue. Federal banking regulators, the SEC and the CFTC jointly released a final rule to implement the Volcker Rule's restrictions, and have adopted amendments to the rule to streamline and tailor the requirements for compliance.

In addition, the Dodd-Frank Act established a comprehensive framework for regulating over-the-counter derivatives and federal regulators, including the CFTC and SEC, have adopted rules regulating swaps, security-based swaps, derivatives activities, and other broker-dealer conduct and activities. These rules may continue to negatively impact customer demand for over-the-counter derivatives, impact our ability to offer customers new derivatives or amendments to existing derivatives, and increase our costs for engaging in swaps, security-based swaps, and other derivatives activities. Moreover, these rules may impact the manner in which we conduct business with customers seeking investment advice and may affect certain investment product offerings.

We are also subject to various rules and regulations related to the prevention of financial crimes and combating terrorism, including the U.S. Patriot Act of 2001. These rules and regulations require us to, among other things, implement policies and procedures related to anti-money laundering, anti-bribery and corruption, fraud, compliance, suspicious activities, currency transaction reporting and due diligence on customers. Although we have policies and procedures designed to comply with these rules and regulations, to the extent they are not fully effective or do not meet heightened regulatory standards or expectations, we may be subject to fines, penalties, restrictions on certain activities, reputational harm, or other adverse consequences.

Our businesses are also subject to laws and regulations enacted by U.S. and non-U.S. regulators and governmental authorities relating to the privacy of the information of customers, team members and others. These laws and regulations, among other things, increase our compliance obligations; have a significant impact on our businesses' collection, processing, sharing, use, and retention of personal data and reporting of data breaches; and provide for significantly increased penalties for non-compliance.

In March 2017, we announced that the OCC had downgraded our most recent Community Reinvestment Act (CRA) rating, which covers the years 2009-2012, to "Needs to Improve" due to previously issued regulatory consent orders. A "Needs to Improve" rating imposes regulatory restrictions and limitations on certain of the Company's nonbank activities, including its ability to engage in certain nonbank mergers and acquisitions or undertake new financial in nature activities, and CRA performance is taken into account by regulators in reviewing applications to establish bank branches and for approving proposed bank mergers and acquisitions. The rating also results in the loss of expedited processing of applications to undertake certain activities, and requires the Company to receive

prior regulatory approval for certain activities, including to issue or prepay certain subordinated debt obligations, open or relocate bank branches, or make certain public welfare investments. In addition, a “Needs to Improve” rating could have an impact on the Company’s relationships with certain states, counties, municipalities or other public agencies to the extent applicable law, regulation or policy limits, restricts or influences whether such entity may do business with a company that has a below “Satisfactory” rating.

In addition, we are subject to consent orders with certain of our regulators, including a February 2018 consent order with the FRB regarding the Board’s governance and oversight of the Company, and the Company’s compliance and operational risk management program. The consent order limits the Company’s total consolidated assets to the level as of December 31, 2017, until certain conditions are met. This limitation could adversely affect our results of operations or financial condition. We are also subject to April 2018 consent orders with the CFPB and OCC regarding the Company’s compliance risk management program and past practices involving certain automobile collateral protection insurance policies and certain mortgage interest rate lock extensions.

Under the April 2018 consent order with the OCC, Wells Fargo Bank, N.A., remains subject to requirements that were originally imposed in November 2016 to provide prior written notice to, and obtain non-objection from, the OCC with respect to changes in directors and senior executive officers, and remains subject to certain regulatory limitations on post-termination payments to certain individuals and employees.

The Company may be subject to further actions, including the imposition of consent orders or similar regulatory agreements or civil money penalties, by other federal regulators regarding similar issues, including the Company’s risk management policies and procedures. Compliance with the February 2018 FRB consent order, the April 2018 CFPB and OCC consent orders, and any other consent orders or regulatory actions, as well as the implementation of their requirements, may continue to increase the Company’s costs, require the Company to reallocate resources away from growing its existing businesses, and require the Company to undergo significant changes to its business, products and services. For more information on the February 2018 FRB consent order and the April 2018 CFPB and OCC consent orders, refer to the “Regulatory Matters” section in this Report.

Other future regulatory initiatives that could significantly affect our business include proposals to reform the housing finance market in the United States. These proposals, among other things, consider ending the conservatorships of the GSEs and reducing or eliminating over time the role of the GSEs in buying mortgage loans or guaranteeing mortgage-backed securities (MBS), as well as the implementation of reforms relating to borrowers, lenders, and investors in the mortgage market. Regulatory changes to limit certain products, phase in a minimum down payment requirement for borrowers, tighten underwriting standards, or change the loan types and MBS pools included in the securitization process are also possible. Congress also may consider legislation to reform the mortgage finance market in an effort to assist borrowers experiencing difficulty making mortgage payments or refinancing their mortgages. The extent and timing of any regulatory reform or the adoption of any legislation regarding the GSEs and/or the home mortgage market, as well as any effect on the Company’s business and financial results, are uncertain.

Any other future legislation and/or regulation, if adopted, also could significantly change our regulatory environment and

increase our cost of doing business, limit the activities we may pursue or affect the competitive balance among banks, savings associations, credit unions, and other financial services companies, and have a material adverse effect on our financial results and condition.

For more information on the significant regulations and regulatory oversight initiatives that have affected or may affect our business, refer to the “Regulatory Matters” section in this Report and the “Regulation and Supervision” section in our 2019 Form 10-K.

**We could be subject to more stringent capital, leverage or liquidity requirements or restrictions on our growth, activities or operations if regulators determine that our resolution or recovery plan is deficient.** Pursuant to rules adopted by the FRB and the FDIC, Wells Fargo has prepared and submitted a resolution plan, also known as a “living will,” that is designed to facilitate our rapid and orderly resolution in the event of material financial distress or failure. There can be no assurance that the FRB or FDIC will respond favorably to the Company’s resolution plans. If the FRB and/or FDIC determine that our resolution plan has deficiencies, they may impose more stringent capital, leverage or liquidity requirements on us or restrict our growth, activities or operations until we adequately remedy the deficiencies. If the FRB and/or FDIC ultimately determine that we have been unable to remedy any deficiencies, they could require us to divest certain assets or operations. On December 17, 2019, the FRB and FDIC announced that the Company’s 2019 resolution plan did not have any deficiencies, but they identified a specific shortcoming that would need to be addressed.

In addition to our resolution plans, we must also prepare and submit to the FRB a recovery plan that identifies a range of options that we may consider during times of idiosyncratic or systemic economic stress to remedy any financial weaknesses and restore market confidence without extraordinary government support. Our insured national bank subsidiary, Wells Fargo Bank, N.A. (the “Bank”), must also prepare and submit to the OCC a recovery plan. If either the FRB or the OCC determines that our recovery plan is deficient, they may impose fines, restrictions on our business or ultimately require us to divest assets.

**Our security holders may suffer losses in a resolution of Wells Fargo, whether in a bankruptcy proceeding or under the orderly liquidation authority of the FDIC, even if creditors of our subsidiaries are paid in full.** If Wells Fargo were to fail, it may be resolved in a bankruptcy proceeding or, if certain conditions are met, under the resolution regime created by the Dodd-Frank Act known as the “orderly liquidation authority.” The orderly liquidation authority allows for the appointment of the FDIC as receiver for a systemically important financial institution that is in default or in danger of default if, among other things, the resolution of the institution under the U.S. Bankruptcy Code would have serious adverse effects on financial stability in the United States. If the FDIC is appointed as receiver for the Parent, then the orderly liquidation authority, rather than the U.S. Bankruptcy Code, would determine the powers of the receiver and the rights and obligations of our security holders. The FDIC’s orderly liquidation authority requires that security holders of a company in receivership bear all losses before U.S. taxpayers are exposed to any losses, and allows the FDIC to disregard the strict priority of creditor claims under the U.S. Bankruptcy Code in certain circumstances.

The strategy described in our most recent resolution plan is a single point of entry strategy, in which the Parent would likely

## Risk Factors (continued)

be the only material legal entity to enter resolution proceedings. However, we are not obligated to maintain a single point of entry strategy, and the strategy described in our resolution plan is not binding in the event of an actual resolution of Wells Fargo, whether conducted under the U.S. Bankruptcy Code or by the FDIC under the orderly liquidation authority. The FDIC has announced that a single point of entry strategy may be a desirable strategy under its implementation of the orderly liquidation authority, but not all aspects of how the FDIC might exercise this authority are known and additional rulemaking is possible.

To facilitate the orderly resolution of systemically important financial institutions in case of material distress or failure, federal banking regulations require that institutions, such as Wells Fargo, maintain a minimum amount of equity and unsecured debt to absorb losses and recapitalize operating subsidiaries. Federal banking regulators have also required measures to facilitate the continued operation of operating subsidiaries notwithstanding the failure of their parent companies, such as limitations on parent guarantees, and have issued guidance encouraging institutions to take legally binding measures to provide capital and liquidity resources to certain subsidiaries in order to facilitate an orderly resolution. In response to the regulators' guidance and to facilitate the orderly resolution of the Company, on June 28, 2017, the Parent entered into a support agreement, as amended and restated on June 26, 2019 (the "Support Agreement"), with WFC Holdings, LLC, an intermediate holding company and subsidiary of the Parent (the "IHC"), the Bank, Wells Fargo Securities, LLC ("WFS"), Wells Fargo Clearing Services, LLC ("WFCS"), and certain other direct and indirect subsidiaries of the Parent designated as material entities for resolution planning purposes (the "Covered Entities") or identified as related support entities in our resolution plan. Pursuant to the Support Agreement, the Parent transferred a significant amount of its assets, including the majority of its cash, deposits, liquid securities and intercompany loans (but excluding its equity interests in its subsidiaries and certain other assets), to the IHC and will continue to transfer those types of assets to the IHC from time to time. In the event of our material financial distress or failure, the IHC will be obligated to use the transferred assets to provide capital and/or liquidity to the Bank, WFS, WFCS, and the Covered Entities pursuant to the Support Agreement. Under the Support Agreement, the IHC will also provide funding and liquidity to the Parent through subordinated notes and a committed line of credit, which, together with the issuance of dividends, is expected to provide the Parent, during business as usual operating conditions, with the same access to cash necessary to service its debts, pay dividends, repurchase its shares, and perform its other obligations as it would have had if it had not entered into these arrangements and transferred any assets. If certain liquidity and/or capital metrics fall below defined triggers, or if the Parent's board of directors authorizes it to file a case under the U.S. Bankruptcy Code, the subordinated notes would be forgiven, the committed line of credit would terminate, and the IHC's ability to pay dividends to the Parent would be restricted, any of which could materially and adversely impact the Parent's liquidity and its ability to satisfy its debts and other obligations, and could result in the commencement of bankruptcy proceedings by the Parent at an earlier time than might have otherwise occurred if the Support Agreement were not implemented.

Any resolution of the Company will likely impose losses on shareholders, unsecured debt holders and other creditors of the Parent, while the Parent's subsidiaries may continue to operate. Creditors of some or all of our subsidiaries may receive

significant or full recoveries on their claims, while the Parent's security holders could face significant or complete losses. This outcome may arise whether the Company is resolved under the U.S. Bankruptcy Code or by the FDIC under the orderly liquidation authority, and whether the resolution is conducted using a single point of entry strategy or using a multiple point of entry strategy, in which the Parent and one or more of its subsidiaries would each undergo separate resolution proceedings. Furthermore, in a single point of entry or multiple point of entry strategy, losses at some or all of our subsidiaries could be transferred to the Parent and borne by the Parent's security holders. Moreover, if either resolution strategy proved to be unsuccessful, our security holders could face greater losses than if the strategy had not been implemented.

For more information, refer to the "Regulatory Matters - 'Living Will' Requirements and Related Matters" section in this Report.

**Bank regulations, including Basel capital and liquidity standards and FRB guidelines and rules, may require higher capital and liquidity levels, limiting our ability to pay common stock dividends, repurchase our common stock, invest in our business, or provide loans or other products and services to our customers.** The Company and each of our insured depository institutions are subject to various regulatory capital adequacy requirements administered by federal banking regulators. In particular, the Company is subject to rules issued by federal banking regulators to implement Basel III capital requirements for U.S. banking organizations. These capital rules, among other things, establish required minimum ratios relating capital to different categories of assets and exposures. Federal banking regulators have also finalized rules to impose a supplementary leverage ratio on large BHCs like Wells Fargo and our insured depository institutions. The FRB has also finalized rules to address the amount of equity and unsecured long-term debt a U.S. G-SIB must hold to improve its resolvability and resiliency, often referred to as total loss absorbing capacity (TLAC). Similarly, federal banking regulators have issued a final rule that implements a liquidity coverage ratio.

In addition, as part of its obligation to impose enhanced capital and risk-management standards on large financial firms pursuant to the Dodd-Frank Act, the FRB issued a final capital plan rule that requires large BHCs, including the Company, to submit annual capital plans for review and to obtain regulatory approval before making capital distributions. There can be no assurance that the FRB would respond favorably to the Company's future capital plans. The FRB has also finalized a number of regulations implementing enhanced prudential requirements for large BHCs like Wells Fargo regarding risk-based capital and leverage, risk and liquidity management, and imposing debt-to-equity limits on any BHC that regulators determine poses a grave threat to the financial stability of the United States. The FRB and OCC have also finalized rules implementing stress testing requirements for large BHCs and national banks. The FRB has also finalized enhanced prudential standards that implement single counterparty credit limits, and has proposed a rule to establish remediation requirements for large BHCs experiencing financial distress. The OCC, under separate authority, has also established heightened governance and risk management standards for large national banks, such as Wells Fargo Bank, N.A.

The Basel standards and federal regulatory capital and liquidity requirements may limit or otherwise restrict how we utilize our capital, including common stock dividends and stock repurchases, and may require us to increase our capital and/or

liquidity. Any requirement that we increase our regulatory capital, regulatory capital ratios or liquidity, including as a result of business growth, acquisitions or a change in our risk profile, could require us to liquidate assets or otherwise change our business, product offerings and/or investment plans, which may negatively affect our financial results. Although not currently anticipated, proposed capital requirements and/or our regulators may require us to raise additional capital in the future. Issuing additional common stock may dilute the ownership of existing stockholders. In addition, federal banking regulations may continue to increase our compliance costs as well as limit our ability to invest in our business or provide loans or other products and services to our customers.

For more information, refer to the “Capital Management,” “Risk Management – Asset/Liability Management – Liquidity and Funding – Liquidity Standards,” and “Regulatory Matters” sections in this Report and the “Regulation and Supervision” section in our 2019 Form 10-K.

**FRB policies, including policies on interest rates, can significantly affect business and economic conditions and our financial results and condition.** The FRB regulates the supply of money in the United States. Its policies determine in large part our cost of funds for lending and investing and the return we earn on those loans and investments, both of which affect our net interest income and net interest margin. The FRB’s interest rate policies also can materially affect the value of financial instruments we hold, such as debt securities and MSRs. In addition, its policies can affect our borrowers, potentially increasing the risk that they may fail to repay their loans. Changes in FRB policies, including its target range for the federal funds rate or actions taken to increase or decrease the size of its balance sheet, are beyond our control and can be hard to predict. The FRB has stated that in determining the timing and size of any adjustments to the target range for the federal funds rate, the FRB will assess realized and expected economic conditions relative to its objectives of maximum employment and 2% inflation. As noted above, a declining or low interest rate environment and a flattening yield curve which may result from the FRB’s actions could negatively affect our net interest income and net interest margin as it may result in us holding lower yielding loans and debt securities on our balance sheet.

## CREDIT RISK

**As one of the largest lenders in the U.S., increased credit risk, including as a result of a deterioration in economic conditions or changes in market conditions, could require us to increase our provision for credit losses and allowance for credit losses and could have a material adverse effect on our results of operations and financial condition.** When we loan money or commit to loan money we incur credit risk, or the risk of losses if our borrowers do not repay their loans. As one of the largest lenders in the U.S., the credit performance of our loan portfolios significantly affects our financial results and condition. As noted above, if the current economic environment were to deteriorate, more of our customers may have difficulty in repaying their loans or other obligations which could result in a higher level of credit losses and provision for credit losses. We reserve for credit losses by establishing an allowance through a charge to earnings. The amount of this allowance is based on our assessment of credit losses inherent in our loan portfolio (including unfunded credit commitments). The process for determining the amount of the allowance is critical to our financial results and condition. It requires difficult, subjective and complex judgments about the

future, including forecasts of economic or market conditions that might impair the ability of our borrowers to repay their loans. We might increase the allowance because of changing economic conditions, including falling home prices and higher unemployment, significant loan growth, changes in consumer behavior or other market conditions that adversely affect borrowers, or other factors. Additionally, the regulatory environment or external factors, such as natural disasters, disease pandemics, or political or social matters, also can influence recognition of credit losses in our loan portfolios and impact our allowance for credit losses.

Future allowance levels may increase or decrease based on a variety of factors, including loan growth, portfolio performance and general economic conditions. While we believe that our allowance for credit losses was appropriate at December 31, 2019, there is no assurance that it will be sufficient to cover future credit losses, especially if housing and employment conditions worsen. In the event of significant deterioration in economic conditions or if we experience significant loan growth, we may be required to build reserves in future periods, which would reduce our earnings.

For more information, refer to the “Risk Management – Credit Risk Management” and “Critical Accounting Policies – Allowance for Credit Losses” sections in this Report.

**We may have more credit risk and higher credit losses to the extent our loans are concentrated by loan type, industry segment, borrower type, or location of the borrower or collateral.** Our credit risk and credit losses can increase if our loans are concentrated to borrowers engaged in the same or similar activities or to borrowers who individually or as a group may be uniquely or disproportionately affected by economic or market conditions. Similarly, challenging economic or market conditions, or trade policies, affecting a particular industry or geography may also impact related or dependent industries or the ability of borrowers living in such affected areas or working in such industries to meet their financial obligations. We experienced the effect of concentration risk in 2009 and 2010 when we incurred greater than expected losses in our residential real estate loan portfolio due to a housing slowdown and greater than expected deterioration in residential real estate values in many markets, including the Central Valley California market and several Southern California metropolitan statistical areas. As California is our largest banking state in terms of loans and deposits, deterioration in real estate values and underlying economic conditions in those markets or elsewhere in California could result in materially higher credit losses. In addition, changes in consumer behavior or other market conditions, such as in response to climate change and other environmental and sustainability concerns, may adversely affect borrowers in certain industries or sectors, which may increase our credit risk and reduce the demand by these borrowers for our products and services. Moreover, deterioration in macro-economic conditions generally across the country could result in materially higher credit losses, including for our residential real estate loan portfolio, which includes nonconforming mortgage loans we retain on our balance sheet. We may experience higher delinquencies and higher loss rates as our consumer real estate secured lines of credit reach their contractual end of draw period and begin to amortize.

We are currently one of the largest CRE lenders in the U.S. A deterioration in economic conditions that negatively affects the business performance of our CRE borrowers, including increases in interest rates, declines in commercial property values, and/or changes in consumer behavior or other market conditions, could

## Risk Factors (continued)

result in materially higher credit losses and have a material adverse effect on our financial results and condition.

Challenges and/or changes in non-U.S. economic conditions may increase our non-U.S. credit risk. Our non-U.S. loan exposure represented approximately 8% of our total consolidated outstanding loans and 4% of our total assets at December 31, 2019. Economic difficulties in non-U.S. jurisdictions could also indirectly have a material adverse effect on our credit performance and results of operations and financial condition to the extent they negatively affect the U.S. economy and/or our borrowers who have non-U.S. operations.

Due to regulatory requirements, we must clear certain derivative transactions through central counterparty clearinghouses (CCPs), which results in credit exposure to these CCPs. Similarly, because we are a member of various CCPs, we may be required to pay a portion of any losses incurred by the CCP in the event that one or more members of the CCP defaults on its obligations. In addition, we are exposed to the risk of non-performance by our clients for which we clear transactions through CCPs to the extent such non-performance is not sufficiently covered by available collateral.

In order to reduce credit risk and obtain additional funding, from time to time we may securitize or sell similar types or categories of loans that we originate, such as mortgage loans and automobile loans. The agreements under which we do this generally contain various representations and warranties regarding the origination and characteristics of the loans. We may be required to repurchase the loans, reimburse investors and others, or incur other losses, including regulatory fines and penalties, as a result of any breaches in these contractual representations and warranties. For more information about our repurchase obligations with respect to mortgage loans, refer to the “Risk Factors – Risks Related to Our Mortgage Business” section in this Report.

For more information regarding credit risk, refer to the “Risk Management – Credit Risk Management” section and Note 6 (Loans and Allowance for Credit Losses) to Financial Statements in this Report.

## OPERATIONAL AND LEGAL RISK

**A failure in or breach of our operational or security systems, controls or infrastructure, or those of our third-party vendors and other service providers, could disrupt our businesses, damage our reputation, increase our costs and cause losses.** As a large financial institution that serves customers through numerous physical locations, ATMs, the internet, mobile banking and other distribution channels across the U.S. and internationally, we depend on our ability to process, record and monitor a large number of customer transactions on a continuous basis. As our customer base and locations have expanded throughout the U.S. and internationally, as we have increasingly used the internet and mobile banking to provide products and services to our customers, and as customer, public, legislative and regulatory expectations regarding operational and information security have increased, our operational systems, controls and infrastructure must continue to be safeguarded and monitored for potential failures, disruptions and breakdowns. Our business, financial, accounting, data processing systems or other operating systems and facilities may stop operating properly, become insufficient based on our evolving business needs, or become disabled or damaged as a result of a number of factors including events that are wholly or partially beyond our control. For example, there could be sudden increases in customer transaction volume; electrical or telecommunications

outages; degradation or loss of internet, website or mobile banking availability; climate change related impacts and natural disasters such as earthquakes, tornados, and hurricanes; disease pandemics; events arising from local or larger scale political or social matters, including terrorist acts; and, as described below, cyber attacks or other information security breaches. Furthermore, enhancements and upgrades to our infrastructure or operating systems may be time-consuming, entail significant costs, and create risks associated with implementing new systems and integrating them with existing ones. Due to the complexity and interconnectedness of our systems, the process of enhancing our infrastructure and operating systems, including their security measures and controls, can itself create a risk of system disruptions and security issues. Similarly, we may not be able to timely recover critical business processes or operations that have been disrupted, which may further increase any associated costs and consequences of such disruptions. Although we have business continuity plans and other safeguards in place to help provide operational resiliency, our business operations may be adversely affected by significant and widespread disruption to our physical infrastructure or operating systems that support our businesses and customers. For example, on February 7, 2019, we experienced system issues caused by an automatic power shutdown at one of our main data center facilities. Although applications and related workloads were systematically re-routed to back-up data centers throughout the day, certain of our services, including our online and mobile banking systems, certain mortgage origination systems, and certain ATM functions, experienced disruptions that delayed service to our customers.

As a result of financial institutions and technology systems becoming more interconnected and complex, any operational incident at a third party may increase the risk of loss or material impact to us or the financial industry as a whole. Furthermore, third parties on which we rely, including those that facilitate our business activities or to which we outsource operations, such as exchanges, clearing houses, financial intermediaries or vendors that provide services or security solutions for our operations, could also be sources of operational risk to us, including from information breaches or loss, breakdowns, disruptions or failures of their own systems or infrastructure, or any deficiencies in the performance of their responsibilities. We are also exposed to the risk that a disruption or other operational incident at a common service provider to those third parties could impede their ability to provide services or perform their responsibilities for us. In addition, we must meet regulatory requirements and expectations regarding our use of third-party service providers, and any failure by our third-party service providers to meet their obligations to us or to comply with applicable laws, rules, regulations, or Wells Fargo policies could result in fines, penalties, restrictions on our business, or other negative consequences.

Disruptions or failures in the physical infrastructure, controls or operating systems that support our businesses and customers, failures of the third parties on which we rely to adequately or appropriately provide their services or perform their responsibilities, or our failure to effectively manage or oversee our third-party relationships, could result in business disruptions, loss of revenue or customers, legal or regulatory proceedings, compliance and other costs, violations of applicable privacy and other laws, reputational damage, or other adverse consequences, any of which could materially adversely affect our results of operations or financial condition.



**A cyber attack or other information security breach of our technologies, computer systems or networks, or those of our third-party vendors and other service providers, could disrupt our businesses, result in the disclosure or misuse of confidential or proprietary information, damage our reputation, increase our costs and cause losses.**

Information security risks for large financial institutions such as Wells Fargo have generally increased in recent years in part because of the proliferation of new technologies, the use of the internet, mobile devices, and cloud technologies to conduct financial transactions, and the increased sophistication and activities of organized crime, hackers, terrorists, activists, and other external parties, including foreign state-sponsored parties. Those parties also may continue to attempt to misrepresent personal or financial information to obtain loans or other financial products from us or attempt to fraudulently induce employees, customers, or other users of our systems to disclose confidential information in order to gain access to our data or that of our customers. As noted above, our operations rely on the secure processing, transmission and storage of confidential information in our computer systems and networks. Our banking, brokerage, investment advisory, and capital markets businesses rely on our digital technologies, computer and email systems, software, hardware, and networks to conduct their operations. In addition, to access our products and services, our customers may use personal smartphones, tablets, and other mobile devices that are beyond our control systems. Although we believe we have robust information security procedures and controls, our technologies, systems, networks, and our customers' devices may become the target of cyber attacks or other information security breaches that could result in the unauthorized release, gathering, monitoring, misuse, loss or destruction of Wells Fargo's or our customers' confidential, proprietary and other information, or otherwise disrupt Wells Fargo's or its customers' or other third parties' business operations. For example, various retailers have reported they were victims of cyber attacks in which large amounts of their customers' data, including debit and credit card information, was obtained. In these situations, we generally incur costs to replace compromised cards and address fraudulent transaction activity affecting our customers. We are also exposed to the risk that a team member or other person acting on behalf of the Company fails to comply with applicable policies and procedures and inappropriately circumvents controls for personal gain or other improper purposes.

Due to the increasing interconnectedness and complexity of financial institutions and technology systems, an information security incident at a third party may increase the risk of loss or material impact to us or the financial industry as a whole. In addition, third parties on which we rely, including those that facilitate our business activities or to which we outsource operations, such as internet, mobile technology and cloud service providers, could be sources of information security risk to us. If those third parties fail to adequately or appropriately safeguard their technologies, systems, and networks, we may suffer material harm, including business disruptions, losses or remediation costs, reputational damage, legal or regulatory proceedings, or other adverse consequences.

To date we have not experienced any material losses relating to cyber attacks or other information security breaches, but there can be no assurance that we will not suffer such losses in the future. Our risk and exposure to these matters remains heightened because of, among other things, the evolving nature of these threats, the prominent size and scale of Wells Fargo and its role in the financial services industry, our plans to continue to implement our digital and mobile banking channel strategies and

develop additional remote connectivity solutions to serve our customers when and how they want to be served, our expanded geographic footprint and international presence, the outsourcing of some of our business operations, and the current global economic and political environment. For example, Wells Fargo and other financial institutions continue to be the target of various evolving and adaptive cyber attacks, including malware and denial-of-service, as part of an effort to disrupt the operations of financial institutions, potentially test their cybersecurity capabilities, commit fraud, or obtain confidential, proprietary or other information. Cyber attacks have also focused on targeting online applications and services, such as online banking, as well as cloud-based services provided by third parties, and have targeted the infrastructure of the internet, causing the widespread unavailability of websites and degrading website performance. As a result, information security and the continued development and enhancement of our controls, processes and systems designed to protect our networks, computers, software and data from attack, damage or unauthorized access remain a priority for Wells Fargo. We are also proactively involved in industry cybersecurity efforts and working with other parties, including our third-party service providers and governmental agencies, to continue to enhance defenses and improve resiliency to cybersecurity and other information security threats. As these threats continue to evolve, we may continue to be required to expend significant additional resources to continue to modify or enhance our protective measures or to investigate and remediate any information security vulnerabilities or incidents. Because the investigation of any information security breach is inherently unpredictable and would require time to complete, we may not be able to immediately address the consequences of a breach, which may further increase any associated costs and consequences. Moreover, to the extent our insurance covers aspects of information security risk, such insurance may not be sufficient to cover all losses associated with an information security breach.

Cyber attacks or other information security breaches affecting us or third parties on which we rely, including those that facilitate our business activities or to which we outsource operations, or security breaches of the networks, systems or devices that our customers use to access our products and services, could result in business disruptions, loss of revenue or customers, legal or regulatory proceedings, compliance and other costs, violations of applicable privacy and other laws, reputational damage, or other adverse consequences, any of which could materially adversely affect our results of operations or financial condition.

**Our framework for managing risks may not be fully effective in mitigating risk and loss to us.**

Our risk management framework seeks to mitigate risk and loss to us. We have established processes and procedures intended to identify, measure, monitor, report and analyze the types of risk to which we are subject, including liquidity risk, credit risk, market risk, interest rate risk, operational risk, legal and compliance risk, and reputational risk, among others. However, as with any risk management framework, there are inherent limitations to our risk management strategies as there may exist, or develop in the future, risks that we have not appropriately anticipated, identified or managed. Our risk management framework is also dependent on ensuring that effective operational controls and a sound culture exist throughout the Company. The inability to develop effective operational controls or to foster the appropriate culture in each of our lines of business, including the inability to align performance management and compensation to

## Risk Factors (continued)

achieve the desired culture, could adversely impact the effectiveness of our risk management framework. Similarly, if we are unable to effectively manage our business or operations, we may be exposed to increased risks or unexpected losses. We are also exposed to risks if we do not accurately or completely execute a process or transaction, whether due to human error or otherwise, or if a team member fails to comply with applicable policies and procedures or inappropriately circumvents controls. In certain instances, we rely on models to measure, monitor and predict risks, such as market and interest rate risks, as well as to help inform business decisions; however, there is no assurance that these models will appropriately or sufficiently capture all relevant risks or accurately predict future events or exposures. Furthermore, certain of our models are subject to regulatory review and approval, and any failure to meet regulatory standards or expectations could result in fines, penalties, restrictions on our ability to engage in certain business activities, or other adverse consequences, and any required modifications or changes to these models can impact our capital ratios and requirements and result in increased operational and compliance costs. In addition, we rely on data to aggregate and assess our various risk exposures and business activities, and any issues with the quality or effectiveness of our data, including our aggregation, management, and validation procedures, could result in ineffective risk management practices, business decisions or customer service, inefficient use of resources, or inaccurate regulatory or other risk reporting. We also use artificial intelligence to help further inform our business decisions and risk management practices, but there is no assurance that artificial intelligence will appropriately or sufficiently replicate certain outcomes or accurately predict future events or exposures. The recent financial and credit crisis and resulting regulatory reform highlighted both the importance and some of the limitations of managing unanticipated risks, and our regulators remain focused on ensuring that financial institutions build and maintain robust risk management policies and practices. If our risk management framework proves ineffective, we could suffer unexpected losses which could materially adversely affect our results of operations or financial condition.

**Risks related to sales practices and other instances where customers may have experienced financial harm.** Various government entities and offices have undertaken formal or informal inquiries, investigations or examinations arising out of certain sales practices of the Company that were the subject of settlements with the CFPB, the Office of the Comptroller of the Currency, and the Office of the Los Angeles City Attorney announced by the Company on September 8, 2016. In addition to imposing monetary penalties and other sanctions, regulatory authorities may require admissions of wrongdoing and compliance with other conditions in connection with such matters, which can lead to restrictions on our ability to engage in certain business activities or offer certain products or services, limitations on our ability to access capital markets, limitations on capital distributions, the loss of customers, and/or other direct and indirect adverse consequences. A number of lawsuits have also been filed by non-governmental parties seeking damages or other remedies related to these sales practices. The ultimate resolution of any of these pending legal proceedings or government investigations, depending on the sanctions and remedy sought and granted, could materially adversely affect our results of operations and financial condition. We may continue to incur additional costs and expenses in order to address and defend these pending legal proceedings and government

investigations, and we may continue to have increased compliance and other costs related to these matters. Furthermore, negative publicity or public opinion resulting from these matters may increase the risk of reputational harm to our business, which can impact our ability to keep and attract customers, affect our ability to attract and retain qualified team members, result in the loss of revenue, or have other material adverse effects on our results of operations and financial condition.

Furthermore, our priority of rebuilding trust has included an ongoing effort to identify other areas or instances where customers may have experienced financial harm. For example, we have identified certain issues related to past practices involving certain automobile collateral protection insurance policies and certain issues related to the unused portion of guaranteed automobile protection waiver or insurance agreements. The identification of such other areas or instances where customers may have experienced financial harm could lead to, and in some cases has already resulted in, additional remediation costs, loss of revenue or customers, legal or regulatory proceedings, compliance and other costs, reputational damage, or other adverse consequences.

For more information, refer to the “Overview – Retail Sales Practices Matters” and “– Other Customer Remediation Activities” sections and Note 17 (Legal Actions) to Financial Statements in this Report.

**We may incur fines, penalties and other negative consequences from regulatory violations, possibly even inadvertent or unintentional violations, or from any failure to meet regulatory standards or expectations.** We maintain systems and procedures designed to ensure that we comply with applicable laws and regulations. However, we are subject to heightened compliance and regulatory oversight and expectations, particularly due to the evolving and increasing regulatory landscape we operate in. We are also subject to consent orders with regulators that subject us to various conditions and restrictions. In addition, a single event or issue may give rise to numerous and overlapping investigations and proceedings, either by multiple federal and state agencies in the U.S. or by multiple regulators and other governmental entities in different jurisdictions. Also, the laws and regulations in jurisdictions in which we operate may be different or even conflict with each other, such as differences between U.S. federal and state law or differences between U.S. and non-U.S. laws as to the products and services we may offer or other business activities we may engage in, which can lead to compliance difficulties or issues. Furthermore, many legal and regulatory regimes require us to report transactions and other information to regulators and other governmental authorities, self-regulatory organizations, exchanges, clearing houses and customers. We may be subject to fines, penalties, restrictions on our business, or other negative consequences if we do not timely, completely, or accurately provide regulatory reports, customer notices or disclosures. Moreover, some legal/regulatory frameworks provide for the imposition of fines or penalties for noncompliance even though the noncompliance was inadvertent or unintentional and even though there was in place at the time systems and procedures designed to ensure compliance. For example, we are subject to regulations issued by the Office of Foreign Assets Control (OFAC) that prohibit financial institutions from participating in the transfer of property belonging to the governments of certain non-U.S. countries and designated nationals of those countries. OFAC may impose penalties or restrictions on certain activities for inadvertent or unintentional

violations even if reasonable processes are in place to prevent the violations. Any violation of these or other applicable laws or regulatory requirements, even if inadvertent or unintentional, or any failure to meet regulatory standards or expectations, including any failure to satisfy the conditions of any consent orders, could result in fees, penalties, restrictions on our ability to engage in certain business activities, reputational harm, loss of customers or other negative consequences.

**Reputational harm, including as a result of our actual or alleged conduct or public opinion of the financial services industry generally, could adversely affect our business, results of operations, and financial condition.** Reputation risk, or the risk to our business, earnings and capital from negative public opinion, is inherent in our business and has increased substantially because of the financial crisis, our size and profile in the financial services industry, and sales practices related matters and other instances where customers may have experienced financial harm. Negative public opinion about the financial services industry generally or Wells Fargo specifically could adversely affect our reputation and our ability to keep and attract customers. Negative public opinion could result from our actual or alleged conduct in any number of activities, including sales practices; mortgage, automobile or other consumer lending practices; loan origination or servicing activities; mortgage foreclosure actions; management of client accounts or investments; lending, investing or other business relationships; identification and management of potential conflicts of interest from transactions, obligations and interests with and among our customers; corporate governance; regulatory compliance; risk management; incentive compensation practices; and disclosure, sharing or inadequate protection or improper use of customer information, and from actions taken by government regulators and community or other organizations in response to that conduct. Although we have policies and procedures in place intended to detect and prevent conduct by team members and third-party service providers that could potentially harm customers or our reputation, there is no assurance that such policies and procedures will be fully effective in preventing such conduct. Furthermore, our actual or perceived failure to address or prevent any such conduct or otherwise to effectively manage our business or operations could result in significant reputational harm. In addition, because we conduct most of our businesses under the “Wells Fargo” brand, negative public opinion about one business also could affect our other businesses. Moreover, actions by the financial services industry generally or by certain members or individuals in the industry also can adversely affect our reputation. The proliferation of social media websites utilized by Wells Fargo and other third parties, as well as the personal use of social media by our team members and others, including personal blogs and social network profiles, also may increase the risk that negative, inappropriate or unauthorized information may be posted or released publicly that could harm our reputation or have other negative consequences, including as a result of our team members interacting with our customers in an unauthorized manner in various social media outlets.

Wells Fargo and other financial institutions have been targeted from time to time by protests and demonstrations, which have included disrupting the operation of our retail banking locations and have resulted in negative public commentary about financial institutions, including the fees charged for various products and services. Wells Fargo and other financial institutions have also been subject to negative publicity as a result of providing financial services to or making investments in industries or organizations subject to stakeholder

concerns. There can be no assurance that continued protests or negative public opinion of the Company specifically or large financial institutions generally will not harm our reputation and adversely affect our business, results of operations, and financial condition.

**Risks related to legal actions.** Wells Fargo and some of its subsidiaries are involved in judicial, regulatory, governmental, arbitration, and other proceedings or investigations concerning matters arising from the conduct of our business activities, and many of those proceedings and investigations expose Wells Fargo to potential financial loss. Although we believe we have a meritorious defense in all significant legal actions pending against us, there can be no assurance as to the ultimate outcome. We establish accruals for legal actions when potential losses associated with the actions become probable and the costs can be reasonably estimated. We may still incur costs for a legal action even if we have not established an accrual. In addition, the actual cost of resolving a legal action may be substantially higher than any amounts accrued for that action. The ultimate resolution of a pending legal proceeding or investigation, depending on the remedy sought and granted, could materially adversely affect our results of operations and financial condition.

As noted above, we are subject to heightened regulatory oversight and scrutiny, which may lead to regulatory investigations, proceedings or enforcement actions. In addition to imposing monetary penalties and other sanctions, regulatory authorities may require criminal pleas or other admissions of wrongdoing and compliance with other conditions in connection with settling such matters, which can lead to reputational harm, loss of customers, restrictions on the ability to access capital markets, limitations on capital distributions, the inability to engage in certain business activities or offer certain products or services, and/or other direct and indirect adverse effects.

For more information, refer to Note 17 (Legal Actions) to Financial Statements in this Report.

## **RISKS RELATED TO OUR MORTGAGE BUSINESS**

**Our mortgage banking revenue can be volatile from quarter to quarter, including from the impact of changes in interest rates on our origination activity and on the value of our MSR, MLHFS and associated economic hedges, and we rely on the GSEs to purchase our conforming loans to reduce our credit risk and provide liquidity to fund new mortgage loans.** We are one of the largest mortgage originators and residential mortgage servicers in the U.S., and we earn revenue from fees we receive for originating mortgage loans and for servicing mortgage loans. As a result of our mortgage servicing business, we have a sizable portfolio of MSRs, which we initially measure and carry using the fair value measurement method. Fair value is the present value of estimated future net servicing income, calculated based on a number of variables, including assumptions about the likelihood of prepayment by borrowers. Changes in interest rates can affect prepayment assumptions and thus fair value. When interest rates fall, borrowers are usually more likely to prepay their mortgage loans by refinancing them at a lower rate. As the likelihood of prepayment increases, the fair value of our MSRs can decrease. Each quarter we evaluate the fair value of our MSRs, and any decrease in fair value reduces earnings in the period in which the decrease occurs. We also measure at fair value MLHFS for which an active secondary market and readily available market prices exist. In addition, we measure at fair value certain other interests we hold related to residential loan sales

## Risk Factors (continued)

and securitizations. Similar to other interest-bearing securities, the value of these MLHFS and other interests may be negatively affected by changes in interest rates. For example, if market interest rates increase relative to the yield on these MLHFS and other interests, their fair value may fall.

When rates rise, the demand for mortgage loans usually tends to fall, reducing the revenue we receive from loan originations. Under the same conditions, revenue from our MSR's can increase through increases in fair value. When rates fall, mortgage originations usually tend to increase and the value of our MSR's usually tends to decline, also with some offsetting revenue effect. Even though they can act as a "natural hedge," the hedge is not perfect, either in amount or timing. For example, the negative effect on revenue from a decrease in the fair value of residential MSR's is generally immediate, but any offsetting revenue benefit from more originations and the MSR's relating to the new loans would generally accrue over time. It is also possible that, because of economic conditions and/or a weak or deteriorating housing market, even if interest rates were to fall or remain low, mortgage originations may also fall or any increase in mortgage originations may not be enough to offset the decrease in the MSR's value caused by the lower rates.

We typically use derivatives and other instruments to hedge our mortgage banking interest rate risk. We may not hedge all of our risk, and we may not be successful in hedging any of the risk. Hedging is a complex process, requiring sophisticated models and constant monitoring, and is not a perfect science. We may use hedging instruments that may not perfectly correlate with the value or income being hedged. We could incur significant losses from our hedging activities. There may be periods where we elect not to use derivatives and other instruments to hedge mortgage banking interest rate risk.

We rely on the GSEs to purchase mortgage loans that meet their conforming loan requirements and on the Federal Housing Authority (FHA) to insure loans that meet their policy requirements. In order to meet customer needs, we also originate loans that do not conform to either the GSEs or FHA standards, which are referred to as "nonconforming" loans. We generally retain these nonconforming loans on our balance sheet. When we retain a loan on our balance sheet not only do we keep the credit risk of the loan but we also do not receive any sale proceeds that could be used to generate new loans. If we were unable or unwilling to retain nonconforming loans on our balance sheet, whether due to regulatory, business or other reasons, our ability to originate new nonconforming loans may be reduced, thereby reducing the interest income we could earn from these loans. Similarly, if the GSEs or FHA were to limit or reduce their purchases or insuring of loans, our ability to fund, and thus originate new mortgage loans, could also be reduced. We cannot assure that the GSEs or FHA will not materially limit their purchases or insuring of conforming loans or change their criteria for what constitutes a conforming loan (e.g., maximum loan amount or borrower eligibility). Each of the GSEs is currently in conservatorship, with its primary regulator, the Federal Housing Finance Agency (FHFA) acting as conservator. While the FHFA has stated that it intends to end the conservatorship, we cannot predict if, when or precisely how the conservatorship will end, or any associated changes to the GSEs business structure and operations that could result. As noted above, there are various proposals to reform the housing finance market in the U.S., including the role of the GSEs in the housing finance market. The impact of any such regulatory reform regarding the housing finance market and the GSEs, including any changes to the GSE's structure, capital requirements, or market presence, as well as

any effect on the Company's business and financial results, are uncertain.

For more information, refer to the "Risk Management – Asset/Liability Management – Mortgage Banking Interest Rate and Market Risk," "Critical Accounting Policies – Valuation of Residential Mortgage Servicing Rights" and "Critical Accounting Policies - Fair Value of Financial Instruments" sections in this Report.

**We may be required to repurchase mortgage loans or reimburse investors and others as a result of breaches in contractual representations and warranties, and we may incur other losses as a result of real or alleged violations of statutes or regulations applicable to the origination of our residential mortgage loans.** We often sell residential mortgage loans that we originate to various parties, including GSEs, SPEs that issue private label MBS, and other financial institutions that purchase mortgage loans for investment or private label securitization. We may also pool FHA-insured and VA-guaranteed mortgage loans which back securities guaranteed by GNMA. The agreements under which we sell mortgage loans and the insurance or guaranty agreements with the FHA and VA contain various representations and warranties regarding the origination and characteristics of the mortgage loans. We may be required to repurchase mortgage loans, indemnify the securitization trust, investor or insurer, or reimburse the securitization trust, investor or insurer for credit losses incurred on loans in the event of a breach of contractual representations or warranties that is not remedied within a period (usually 90 days or less) after we receive notice of the breach. We establish a mortgage repurchase liability related to the various representations and warranties that reflect management's estimate of losses for loans which we have a repurchase obligation. Because the level of mortgage loan repurchase losses depends upon economic factors, investor demand strategies and other external conditions that may change over the life of the underlying loans, the level of the liability for mortgage loan repurchase losses is difficult to estimate, requires considerable management judgment, and is subject to change. If economic conditions or the housing market worsen or future investor repurchase demand and our success at appealing repurchase requests differ from past experience, we could have increased repurchase obligations and increased loss severity on repurchases, requiring significant additions to the repurchase liability.

Additionally, for residential mortgage loans that we originate, borrowers may allege that the origination of the loans did not comply with applicable laws or regulations in one or more respects and assert such violation as an affirmative defense to payment or to the exercise by us of our remedies, including foreclosure proceedings, or in an action seeking statutory and other damages in connection with such violation. If we are not successful in demonstrating that the loans in dispute were originated in accordance with applicable statutes and regulations, we could become subject to monetary damages and other civil penalties, including the loss of certain contractual payments or the inability to exercise certain remedies under the loans.

For more information, refer to the "Risk Management – Credit Risk Management – Liability for Mortgage Loan Repurchase Losses" section in this Report.

**We may be terminated as a servicer or master servicer, be required to repurchase a mortgage loan or reimburse investors for credit losses on a mortgage loan, or incur costs, liabilities, fines and other sanctions if we fail to satisfy our servicing obligations, including our obligations with respect to mortgage loan foreclosure actions.** We act as servicer and/or master servicer for mortgage loans included in securitizations and for unsecuritized mortgage loans owned by investors. As a servicer or master servicer for those loans we have certain contractual obligations to the securitization trusts, investors or other third parties, including certain foreclosure obligations or, if applicable, considering alternatives to foreclosure such as loan modifications or short-sales, as well as certain servicing obligations for properties that fall within a flood zone. If we fail to satisfy our servicing obligations, we may face a number of consequences, including termination as servicer or master servicer, requirements to indemnify the securitization trustee against losses from any failure by us to perform our servicing obligations, and/or contractual obligations to repurchase a mortgage loan or reimburse investors for credit losses, any of which could significantly reduce our net servicing income.

We may incur costs, liabilities to borrowers, title insurers and/or securitization investors, legal proceedings, or other adverse consequences if we fail to meet our obligations with respect to mortgage foreclosure actions or we experience delays in the foreclosure process. Our net servicing income and the fair value of our MSRMs may be negatively affected to the extent our servicing costs increase because of higher foreclosure or other servicing related costs. We may be subject to fines and other sanctions imposed by federal or state regulators as a result of actual or perceived deficiencies in our mortgage servicing practices, including with respect to our foreclosure practices or our servicing of flood zone properties. Any of these actions may harm our reputation, negatively affect our residential mortgage origination or servicing business, or result in material fines, penalties, equitable remedies, or other enforcement actions.

For more information, refer to the “Risk Management – Credit Risk Management – Liability for Mortgage Loan Repurchase Losses” and “– Risks Relating to Servicing Activities,” and “Critical Accounting Policies – Valuation of Residential Mortgage Servicing Rights” sections and Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments) and Note 17 (Legal Actions) to Financial Statements in this Report.

## **RISKS RELATED TO OUR INDUSTRY’S COMPETITIVE OPERATING ENVIRONMENT**

**We face significant and increasing competition in the rapidly evolving financial services industry.** We compete with other financial institutions in a highly competitive industry that is undergoing significant changes as a result of financial regulatory reform, technological advances, increased public scrutiny stemming from the financial crisis, and current economic conditions. Our success depends on our ability to develop and maintain deep and enduring relationships with our customers based on the quality of our customer service, the wide variety of products and services that we can offer our customers and the ability of those products and services to satisfy our customers’ needs and preferences, the pricing of our products and services, the extensive distribution channels available for our customers, our innovation, and our reputation. Continued or increased competition in any one or all of these areas may negatively affect our customer relationships, market share and results of operations and/or cause us to increase our capital investment in our businesses in order to remain competitive. In addition, our

ability to reposition or reprice our products and services from time to time may be limited and could be influenced significantly by the current economic, regulatory and political environment for large financial institutions as well as by the actions of our competitors. Furthermore, any changes in the types of products and services that we offer our customers and/or the pricing for those products and services could result in a loss of customer relationships and market share and could materially adversely affect our results of operations.

Continued technological advances and the growth of e-commerce have made it possible for non-depository institutions to offer products and services that traditionally were banking products, and for financial institutions and other companies to provide electronic and internet-based financial solutions, including electronic securities trading, lending and payment solutions. In addition, technological advances, including digital currencies, may diminish the importance of depository institutions and other financial intermediaries in the transfer of funds between parties. We may not respond effectively to these and other competitive threats from existing and new competitors and may be forced to sell products at lower prices, increase our investment in our business to modify or adapt our existing products and services, and/or develop new products and services to respond to our customers’ needs and preferences. To the extent we are not successful in developing and introducing new products and services or responding or adapting to the competitive landscape or to changes in customer preferences, we may lose customer relationships and our revenue growth and results of operations may be materially adversely affected.

**Our ability to attract and retain qualified team members is critical to the success of our business and failure to do so could adversely affect our business performance, competitive position and future prospects.** The success of Wells Fargo is heavily dependent on the talents and efforts of our team members, including our senior leaders, and in many areas of our business, including commercial banking, brokerage, investment advisory, capital markets, risk management and technology, the competition for highly qualified personnel is intense. We also seek to retain a pipeline of team members to provide continuity of succession for our senior leadership positions. In order to attract and retain highly qualified team members, we must provide competitive compensation and effectively manage team member performance and development. As a large financial institution and additionally to the extent we remain subject to consent orders we may be subject to limitations on compensation by our regulators that may adversely affect our ability to attract and retain these qualified team members, especially if some of our competitors may not be subject to these same compensation limitations. If we are unable to continue to attract and retain qualified team members, including successors for senior leadership positions, our business performance, competitive position and future prospects may be adversely affected.

## **RISKS RELATED TO OUR FINANCIAL STATEMENTS**

**Changes in accounting policies or accounting standards, and changes in how accounting standards are interpreted or applied, could materially affect how we report our financial results and condition.** Our accounting policies are fundamental to determining and understanding our financial results and condition. As described below, some of these policies require use of estimates and assumptions that may affect the value of our assets or liabilities and financial results. Any changes in our

## Risk Factors (continued)

accounting policies could materially affect our financial statements.

From time to time the FASB and the SEC change the financial accounting and reporting standards that govern the preparation of our external financial statements. For example, on January 1, 2020, we adopted Accounting Standards Update 2016-13 – *Financial Instruments-Credit Losses* (Topic 326), which replaced the previous “incurred loss” model for the allowance for credit losses with an “expected loss” model referred to as the Current Expected Credit Loss model, or CECL.

In addition, accounting standard setters and those who interpret the accounting standards (such as the FASB, SEC, banking regulators and our outside auditors) may change or even reverse their previous interpretations or positions on how these standards should be applied. Changes in financial accounting and reporting standards and changes in current interpretations may be beyond our control, can be hard to predict and could materially affect how we report our financial results and condition. We may be required to apply a new or revised standard retroactively or apply an existing standard differently, also retroactively, in each case potentially resulting in our restating prior period financial statements in material amounts.

For more information, including information on our adoption of CECL, refer to the “Current Accounting Developments” section in this Report.

### **Our financial statements are based in part on assumptions and estimates which, if wrong, could cause unexpected losses in the future, and our financial statements depend on our internal controls over financial reporting.**

Pursuant to U.S. GAAP, we are required to use certain assumptions and estimates in preparing our financial statements, including in determining credit loss reserves, reserves for mortgage repurchases, reserves related to litigation and the fair value of certain assets and liabilities, among other items. Several of our accounting policies are critical because they require management to make difficult, subjective and complex judgments about matters that are inherently uncertain and because it is likely that materially different amounts would be reported under different conditions or using different assumptions. For a description of these policies, refer to the “Critical Accounting Policies” section in this Report. If assumptions or estimates underlying our financial statements are incorrect, we may experience material losses.

Certain of our financial instruments, including derivative assets and liabilities, debt securities, certain loans, MSRs, private equity investments, structured notes and certain repurchase and resale agreements, among other items, require a determination of their fair value in order to prepare our financial statements. Where quoted market prices are not available, we may make fair value determinations based on internally developed models or other means which ultimately rely to some degree on management judgment, and there is no assurance that our models will capture or appropriately reflect all relevant inputs required to accurately determine fair value. Some of these and other assets and liabilities may have no direct observable price levels, making their valuation particularly subjective, being based on significant estimation and judgment. In addition, sudden illiquidity in markets or declines in prices of certain loans and securities may make it more difficult to value certain balance sheet items, which may lead to the possibility that such valuations will be subject to further change or adjustment and could lead to declines in our earnings.

The Sarbanes-Oxley Act of 2002 (Sarbanes-Oxley) requires our management to evaluate the Company’s disclosure controls and procedures and its internal control over financial reporting

and requires our auditors to issue a report on our internal control over financial reporting. We are required to disclose, in our annual report on Form 10-K, the existence of any “material weaknesses” in our internal controls. We cannot assure that we will not identify one or more material weaknesses as of the end of any given quarter or year, nor can we predict the effect on our stock price of disclosure of a material weakness. In addition, our customers may rely on the effectiveness of our internal controls as a service provider, and any deficiency in those controls could affect our customers and damage our reputation or business. Sarbanes-Oxley also limits the types of non-audit services our outside auditors may provide to us in order to preserve their independence from us. If our auditors were found not to be “independent” of us under SEC rules, we could be required to engage new auditors and re-file financial statements and audit reports with the SEC. We could be out of compliance with SEC rules until new financial statements and audit reports were filed, limiting our ability to raise capital and resulting in other adverse consequences.

## RISKS RELATED TO STRATEGIC DECISIONS

### **If we are unable to develop and execute effective business plans or strategies or manage change effectively, our competitive standing and results of operations could suffer.**

We are subject to rapid changes in technology, regulation, and product innovation, face intense competition for customers, sources of revenue, capital, services, qualified team members, and other essential business resources, and are subject to heightened regulatory expectations particularly with respect to compliance and risk management. In order to meet these challenges, we may undertake business plans or strategies related to, among other things, our organizational structure, our compliance and risk management framework, our expenses and efficiency, the types of products and services we offer, the types of businesses we engage in, the geographies in which we operate, the manner in which we serve our clients and customers, the third parties with which we do business, and the methods and distribution channels by which we offer our products and services. Accomplishing these business plans or strategies may be complex, time intensive, require significant financial, technological, management and other resources, and may divert management attention and resources away from other areas of the Company, and there is no guarantee that any business plans or strategies will ultimately be successful. To the extent we are unable to develop or execute effective business plans or strategies or manage change effectively, our competitive position, reputation, prospects for growth, and results of operations may be adversely affected.

In addition, we regularly explore opportunities to expand our products, services, and assets through strategic acquisitions of companies or businesses in the financial services industry. We generally must receive federal regulatory approvals before we can acquire a bank, bank holding company, or certain other financial services businesses. We cannot be certain when or if, or on what terms and conditions, any required regulatory approvals will be granted. We might be required to sell banks, branches and/or business units or assets or issue additional equity as a condition to receiving regulatory approval for an acquisition. When we do announce an acquisition, our stock price may fall depending on the size of the acquisition, the type of business to be acquired, the purchase price, and the potential dilution to existing stockholders or our earnings per share if we issue common stock in connection with the acquisition. Furthermore, difficulty in integrating an acquired company or business may

cause us not to realize expected revenue increases, cost savings, increases in geographic or product presence, and other projected benefits from the acquisition. The integration could result in higher than expected deposit attrition, loss of key team members, an increase in our compliance costs or risk profile, disruption of our business or the acquired business, or otherwise harm our ability to retain customers and team members or achieve the anticipated benefits of the acquisition. Time and resources spent on integration may also impair our ability to grow our existing businesses. Many of the foregoing risks may be increased if the acquired company or business operates internationally or in a geographic location where we do not already have significant business operations and/or team members. Similarly, from time to time, we may decide to divest certain businesses or assets. Difficulties in executing a divestiture may cause us not to realize any expected cost savings or other benefits from the divestiture, or may result in higher than expected losses of team members or harm our ability to retain customers.

\* \* \*

Any factor described in this Report or in any of our other SEC filings could by itself, or together with other factors, adversely affect our financial results and condition. Refer to our quarterly reports on Form 10-Q filed with the SEC in 2020 for material changes to the above discussion of risk factors. There are factors not discussed above or elsewhere in this Report that could adversely affect our financial results and condition.

## Controls and Procedures

### Disclosure Controls and Procedures

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The Company's management evaluated the effectiveness, as of December 31, 2019, of the Company's disclosure controls and procedures. The Company's chief executive officer and chief financial officer participated in the evaluation. Based on this evaluation, the Company's chief executive officer and chief financial officer concluded that the Company's disclosure controls and procedures were effective as of December 31, 2019.

### Internal Control Over Financial Reporting

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Internal control over financial reporting is defined in Rule 13a-15(f) promulgated under the Securities Exchange Act of 1934 as a process designed by, or under the supervision of, the Company's principal executive and principal financial officers and effected by the Company's Board, management and other personnel, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with U.S. generally accepted accounting principles (GAAP) and includes those policies and procedures that:

- pertain to the maintenance of records that in reasonable detail accurately and fairly reflect the transactions and dispositions of assets of the Company;
- provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with GAAP, and that receipts and expenditures of the Company are being made only in accordance with authorizations of management and directors of the Company; and
- provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of the Company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate. No change occurred during any quarter in 2019 that has materially affected, or is reasonably likely to materially affect, the Company's internal control over financial reporting. Management's report on internal control over financial reporting is set forth below and should be read with these limitations in mind.

### Management's Report on Internal Control over Financial Reporting

The Company's management is responsible for establishing and maintaining adequate internal control over financial reporting for the Company. Management assessed the effectiveness of the Company's internal control over financial reporting as of December 31, 2019, using the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in *Internal Control – Integrated Framework (2013)*. Based on this assessment, management concluded that as of December 31, 2019, the Company's internal control over financial reporting was effective.

KPMG LLP, the independent registered public accounting firm that audited the Company's financial statements included in this Annual Report, issued an audit report on the Company's internal control over financial reporting. KPMG's audit report appears on the following page.



## Report of Independent Registered Public Accounting Firm

To the Stockholders and Board of Directors  
Wells Fargo & Company:

### *Opinion on Internal Control Over Financial Reporting*

We have audited Wells Fargo & Company and subsidiaries' (the Company) internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission. In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the consolidated balance sheets of the Company as of December 31, 2019 and 2018, the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes (collectively, the consolidated financial statements), and our report dated February 26, 2020 expressed an unqualified opinion on those consolidated financial statements.

### *Basis for Opinion*

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Management's Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

### *Definition and Limitations of Internal Control Over Financial Reporting*

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ KPMG LLP \_\_\_\_\_

San Francisco, California  
February 26, 2020

# Financial Statements

Wells Fargo & Company and Subsidiaries

## Consolidated Statement of Income

(in millions, except per share amounts)	Year ended December 31,		
	2019	2018	2017
<b>Interest income</b>			
Debt securities	\$ 14,955	14,406	12,946
Mortgage loans held for sale	813	777	786
Loans held for sale	79	140	50
Loans	44,146	43,974	41,388
Equity securities	962	992	799
Other interest income	5,128	4,358	2,940
Total interest income	66,083	64,647	58,909
<b>Interest expense</b>			
Deposits	8,635	5,622	3,013
Short-term borrowings	2,316	1,717	758
Long-term debt	7,350	6,703	5,157
Other interest expense	551	610	424
Total interest expense	18,852	14,652	9,352
<b>Net interest income</b>	47,231	49,995	49,557
Provision for credit losses	2,687	1,744	2,528
Net interest income after provision for credit losses	44,544	48,251	47,029
<b>Noninterest income</b>			
Service charges on deposit accounts	4,798	4,716	5,111
Trust and investment fees	14,072	14,509	14,495
Card fees	4,016	3,907	3,960
Other fees	3,084	3,384	3,557
Mortgage banking	2,715	3,017	4,350
Insurance	378	429	1,049
Net gains from trading activities	993	602	542
Net gains on debt securities (1)	140	108	479
Net gains from equity securities (2)	2,843	1,515	1,779
Lease income	1,612	1,753	1,907
Other	3,181	2,473	1,603
Total noninterest income	37,832	36,413	38,832
<b>Noninterest expense</b>			
Salaries	18,382	17,834	17,363
Commission and incentive compensation	10,828	10,264	10,442
Employee benefits	5,874	4,926	5,566
Technology and equipment	2,763	2,444	2,237
Net occupancy	2,945	2,888	2,849
Core deposit and other intangibles	108	1,058	1,152
FDIC and other deposit assessments	526	1,110	1,287
Other	16,752	15,602	17,588
Total noninterest expense	58,178	56,126	58,484
<b>Income before income tax expense</b>	24,198	28,538	27,377
Income tax expense	4,157	5,662	4,917
<b>Net income before noncontrolling interests</b>	20,041	22,876	22,460
Less: Net income from noncontrolling interests	492	483	277
<b>Wells Fargo net income</b>	\$ 19,549	22,393	22,183
Less: Preferred stock dividends and other	1,611	1,704	1,629
<b>Wells Fargo net income applicable to common stock</b>	\$ 17,938	20,689	20,554
<b>Per share information</b>			
Earnings per common share	\$ 4.08	4.31	4.14
Diluted earnings per common share	4.05	4.28	4.10
<b>Average common shares outstanding</b>	4,393.1	4,799.7	4,964.6
<b>Diluted average common shares outstanding</b>	4,425.4	4,838.4	5,017.3

(1) Total other-than-temporary impairment (OTTI) losses were \$64 million, \$17 million and \$205 million for the years ended December 31, 2019, 2018 and 2017, respectively. Of total OTTI, losses of \$63 million, \$28 million and \$262 million were recognized in earnings, and losses (reversal of losses) of \$1 million, \$(11) million and \$(57) million were recognized as non-credit-related OTTI in other comprehensive income for the years ended December 31, 2019, 2018 and 2017, respectively.

(2) Includes OTTI losses of \$245 million, \$352 million and \$344 million for the years ended December 31, 2019, 2018 and 2017, respectively.

The accompanying notes are an integral part of these statements.

Wells Fargo & Company and Subsidiaries

**Consolidated Statement of Comprehensive Income**

(in millions)	Year ended December 31,		
	2019	2018	2017
Wells Fargo net income	\$ 19,549	22,393	22,183
Other comprehensive income (loss), before tax:			
Debt securities (1):			
Net unrealized gains (losses) arising during the period	5,439	(4,493)	2,719
Reclassification of net (gains) losses to net income	122	248	(737)
Derivatives and hedging activities:			
Net unrealized losses arising during the period	(24)	(532)	(540)
Reclassification of net (gains) losses on cash flow hedges to net income	299	294	(543)
Defined benefit plans adjustments:			
Net actuarial and prior service gains (losses) arising during the period	(40)	(434)	49
Amortization of net actuarial loss, settlements and other to net income	133	253	153
Foreign currency translation adjustments:			
Net unrealized gains (losses) arising during the period	73	(156)	96
<b>Other comprehensive income (loss), before tax</b>	<b>6,002</b>	<b>(4,820)</b>	<b>1,197</b>
Income tax benefit (expense) related to other comprehensive income	(1,458)	1,144	(434)
<b>Other comprehensive income (loss), net of tax</b>	<b>4,544</b>	<b>(3,676)</b>	<b>763</b>
Less: Other comprehensive loss from noncontrolling interests	—	(2)	(62)
<b>Wells Fargo other comprehensive income (loss), net of tax</b>	<b>4,544</b>	<b>(3,674)</b>	<b>825</b>
<b>Wells Fargo comprehensive income</b>	<b>24,093</b>	<b>18,719</b>	<b>23,008</b>
Comprehensive income from noncontrolling interests	492	481	215
<b>Total comprehensive income</b>	<b>\$ 24,585</b>	<b>19,200</b>	<b>23,223</b>

(1) The year ended December 31, 2017, includes net unrealized gains (losses) arising during the period from equity securities of \$81 million and reclassification of net (gains) losses to net income related to equity securities of \$(456) million. In connection with our adoption in first quarter 2018 of Accounting Standards Update (ASU) 2016-01, the years ended December 31, 2018, and December 31, 2019, reflect net unrealized gains (losses) arising during the period and reclassification of net (gains) losses to net income from only debt securities.

The accompanying notes are an integral part of these statements.

Wells Fargo & Company and Subsidiaries

**Consolidated Balance Sheet**

(in millions, except shares)	Dec 31, 2019	Dec 31, 2018
<b>Assets</b>		
Cash and due from banks	\$ 21,757	23,551
Interest-earning deposits with banks	119,493	149,736
Total cash, cash equivalents, and restricted cash	141,250	173,287
Federal funds sold and securities purchased under resale agreements	102,140	80,207
Debt securities:		
Trading, at fair value	79,733	69,989
Available-for-sale, at fair value	263,459	269,912
Held-to-maturity, at cost (fair value \$156,860 and \$142,115)	153,933	144,788
Mortgage loans held for sale (includes \$16,606 and \$11,771 carried at fair value) (1)	23,342	15,126
Loans held for sale (includes \$972 and \$1,469 carried at fair value) (1)	977	2,041
Loans (includes \$171 and \$244 carried at fair value) (1)	962,265	953,110
Allowance for loan losses	(9,551)	(9,775)
Net loans	952,714	943,335
Mortgage servicing rights:		
Measured at fair value	11,517	14,649
Amortized	1,430	1,443
Premises and equipment, net	9,309	8,920
Goodwill	26,390	26,418
Derivative assets	14,203	10,770
Equity securities (includes \$41,936 and \$29,556 carried at fair value) (1)	68,241	55,148
Other assets	78,917	79,850
Total assets (2)	\$ 1,927,555	1,895,883
<b>Liabilities</b>		
Noninterest-bearing deposits	\$ 344,496	349,534
Interest-bearing deposits	978,130	936,636
Total deposits	1,322,626	1,286,170
Short-term borrowings	104,512	105,787
Derivative liabilities	9,079	8,499
Accrued expenses and other liabilities	75,163	69,317
Long-term debt	228,191	229,044
Total liabilities (3)	1,739,571	1,698,817
<b>Equity</b>		
Wells Fargo stockholders' equity:		
Preferred stock	21,549	23,214
Common stock – \$1-2/3 par value, authorized 9,000,000,000 shares; issued 5,481,811,474 shares	9,136	9,136
Additional paid-in capital	61,049	60,685
Retained earnings	166,697	158,163
Cumulative other comprehensive income (loss)	(1,311)	(6,336)
Treasury stock – 1,347,385,537 shares and 900,557,866 shares	(68,831)	(47,194)
Unearned ESOP shares	(1,143)	(1,502)
Total Wells Fargo stockholders' equity	187,146	196,166
Noncontrolling interests	838	900
Total equity	187,984	197,066
Total liabilities and equity	\$ 1,927,555	1,895,883

(1) Parenthetical amounts represent assets and liabilities that we are required to carry at fair value or have elected the fair value option.

(2) Our consolidated assets at December 31, 2019 and 2018, include the following assets of certain variable interest entities (VIEs) that can only be used to settle the liabilities of those VIEs: Cash and due from banks, \$16 million and \$139 million; Interest-bearing deposits with banks, \$284 million and \$8 million; Debt securities, \$540 million and \$562 million; Net loans, \$13.2 billion and \$13.6 billion; Derivative assets, \$1 million and \$0 million; Equity securities, \$118 million and \$85 million; Other assets, \$239 million and \$227 million; and Total assets, \$14.4 billion and \$14.6 billion, respectively. Prior period balances have been conformed to current period presentation.

(3) Our consolidated liabilities at December 31, 2019 and 2018, include the following VIE liabilities for which the VIE creditors do not have recourse to Wells Fargo: Short-term borrowings, \$401 million and \$493 million; Derivative liabilities, \$3 million and \$0 million; Accrued expenses and other liabilities, \$235 million and \$199 million; Long-term debt, \$587 million and \$816 million; and Total liabilities, \$1.2 billion and \$1.5 billion, respectively. Prior period balances have been conformed to current period presentation.

The accompanying notes are an integral part of these statements.

**Consolidated Statement of Changes in Equity**

(in millions, except shares)	Preferred stock		Common stock	
	Shares	Amount	Shares	Amount
<b>Balance December 31, 2016</b>	11,532,712	\$ 24,551	5,016,109,326	\$ 9,136
Cumulative effect from change in hedge accounting (1)				
<b>Balance January 1, 2017</b>	11,532,712	24,551	5,016,109,326	9,136
Net income				
Other comprehensive income (loss), net of tax				
Noncontrolling interests				
Common stock issued			57,257,564	
Common stock repurchased			(196,519,707)	
Preferred stock issued to ESOP	950,000	950		
Preferred stock released by ESOP				
Preferred stock converted to common shares	(833,077)	(833)	14,769,445	
Common stock warrants repurchased/exercised				
Preferred stock issued	27,600	690		
Common stock dividends				
Preferred stock dividends				
Stock incentive compensation expense				
Net change in deferred compensation and related plans				
Net change	144,523	807	(124,492,698)	—
<b>Balance December 31, 2017</b>	11,677,235	\$ 25,358	4,891,616,628	\$ 9,136
Cumulative effect from change in accounting policies (2)				
<b>Balance January 1, 2018</b>	11,677,235	\$ 25,358	4,891,616,628	\$ 9,136
Adoption of accounting standard related to certain tax effects stranded in accumulated other comprehensive income (loss)(3)				
Net income				
Other comprehensive income (loss), net of tax				
Noncontrolling interests				
Common stock issued			41,082,047	
Common stock repurchased			(375,477,998)	
Preferred stock redeemed (4)	(2,150,375)	(1,995)		
Preferred stock issued to ESOP	1,100,000	1,100		
Preferred stock released by ESOP				
Preferred stock converted to common shares	(1,249,644)	(1,249)	24,032,931	
Common stock warrants repurchased/exercised				
Preferred stock issued	—	—		
Common stock dividends				
Preferred stock dividends				
Stock incentive compensation expense				
Net change in deferred compensation and related plans				
Net change	(2,300,019)	(2,144)	(310,363,020)	—
<b>Balance December 31, 2018</b>	9,377,216	\$ 23,214	4,581,253,608	\$ 9,136

- (1) Effective January 1, 2017, we adopted changes in hedge accounting pursuant to ASU 2017-12 – Derivatives and Hedging (Topic 815): Targeted Improvements to Accounting for Hedging Activities.
- (2) Effective January 1, 2018, we adopted ASU 2016-04 – Liabilities – Extinguishments of Liabilities (Subtopic 405-20): Recognition of Breakage for Certain Prepaid Stored-Value Products, ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): Recognition and Measurement of Financial Assets and Financial Liabilities, and ASU 2014-09 – Revenue from Contracts With Customers (Topic 606) and subsequent related Updates.
- (3) Represents the reclassification from other comprehensive income to retained earnings as a result of our adoption of ASU 2018-02 – Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income, in third quarter 2018.
- (4) Represents the impact of the redemption of preferred stock, series J, in third quarter 2018.

The accompanying notes are an integral part of these statements.

(continued on following pages)

## Wells Fargo stockholders' equity

Additional paid-in capital	Retained earnings	Cumulative other comprehensive income (loss)	Treasury stock	Unearned ESOP shares	Total Wells Fargo stockholders' equity	Noncontrolling interests	Total equity
60,234	133,075	(3,137)	(22,713)	(1,565)	199,581	916	200,497
	(381)	168			(213)		(213)
60,234	132,694	(2,969)	(22,713)	(1,565)	199,368	916	200,284
	22,183				22,183	277	22,460
		825			825	(62)	763
—					—	12	12
(133)	(277)		2,758		2,348		2,348
750			(10,658)		(9,908)		(9,908)
31				(981)	—		—
(35)				868	833		833
97			736		—		—
(133)					(133)		(133)
(13)					677		677
50	(7,708)				(7,658)		(7,658)
	(1,629)				(1,629)		(1,629)
875					875		875
(830)			(15)		(845)		(845)
659	12,569	825	(7,179)	(113)	7,568	227	7,795
60,893	145,263	(2,144)	(29,892)	(1,678)	206,936	1,143	208,079
	94	(118)			(24)		(24)
60,893	145,357	(2,262)	(29,892)	(1,678)	206,912	1,143	208,055
	400	(400)			—		—
	22,393				22,393	483	22,876
		(3,674)			(3,674)	(2)	(3,676)
7					7	(724)	(717)
(76)	(321)		2,073		1,676		1,676
—			(20,633)		(20,633)		(20,633)
	(155)				(2,150)		(2,150)
43				(1,143)	—		—
(70)				1,319	1,249		1,249
6			1,243		—		—
(325)					(325)		(325)
—					—		—
66	(7,955)				(7,889)		(7,889)
	(1,556)				(1,556)		(1,556)
1,041					1,041		1,041
(900)			15		(885)		(885)
(208)	12,806	(4,074)	(17,302)	176	(10,746)	(243)	(10,989)
60,685	158,163	(6,336)	(47,194)	(1,502)	196,166	900	197,066

(continued from previous pages)

Wells Fargo & Company and Subsidiaries

**Consolidated Statement of Changes in Equity**

(in millions, except shares)	Preferred stock		Common stock	
	Shares	Amount	Shares	Amount
<b>Balance December 31, 2018</b>	<b>9,377,216</b>	<b>\$ 23,214</b>	<b>4,581,253,608</b>	<b>\$ 9,136</b>
<b>Cumulative effect from change in accounting policies (1)</b>				
<b>Balance January 1, 2019</b>	<b>9,377,216</b>	<b>23,214</b>	<b>4,581,253,608</b>	<b>9,136</b>
<b>Net income</b>				
<b>Other comprehensive income (loss), net of tax</b>				
<b>Noncontrolling interests</b>				
<b>Common stock issued</b>			<b>48,771,064</b>	
<b>Common stock repurchased</b>			<b>(502,418,179)</b>	
<b>Preferred stock redeemed (2)</b>	<b>(1,550,000)</b>	<b>(1,330)</b>		
<b>Preferred stock issued to ESOP</b>	<b>—</b>	<b>—</b>		
<b>Preferred stock released by ESOP</b>				
<b>Preferred stock converted to common shares</b>	<b>(335,047)</b>	<b>(335)</b>	<b>6,819,444</b>	
<b>Common stock warrants repurchased/exercised</b>				
<b>Preferred stock issued</b>	<b>—</b>	<b>—</b>		
<b>Common stock dividends</b>				
<b>Preferred stock dividends</b>				
<b>Stock incentive compensation expense</b>				
<b>Net change in deferred compensation and related plans</b>				
<b>Net change</b>	<b>(1,885,047)</b>	<b>(1,665)</b>	<b>(446,827,671)</b>	<b>—</b>
<b>Balance December 31, 2019</b>	<b>7,492,169</b>	<b>\$ 21,549</b>	<b>4,134,425,937</b>	<b>\$ 9,136</b>

- (1) Effective January 1, 2019, we adopted ASU 2016-02 – Leases (Topic 842) and subsequent related Updates, ASU 2017-08 – Receivables – Nonrefundable Fees and Other Costs (Subtopic 310-20): *Premium Amortization on Purchased Callable Debt Securities*. See Note 1 (Summary of Significant Accounting Policies) in this Report for more information.
- (2) Represents the impact of the partial redemption of preferred stock, series K, in third quarter 2019.

The accompanying notes are an integral part of these statements.

Wells Fargo stockholders' equity							
Additional paid-in capital	Retained earnings	Cumulative other comprehensive income (loss)	Treasury stock	Unearned ESOP shares	Total Wells Fargo stockholders' equity	Noncontrolling interests	Total equity
60,685	158,163	(6,336)	(47,194)	(1,502)	196,166	900	197,066
	(492)	481			(11)		(11)
60,685	157,671	(5,855)	(47,194)	(1,502)	196,155	900	197,055
	19,549				19,549	492	20,041
		4,544			4,544	—	4,544
—					—	(554)	(554)
9	(382)		2,530		2,157		2,157
—			(24,533)		(24,533)		(24,533)
	(220)				(1,550)		(1,550)
—					—		—
(24)				359	335		335
(16)			351		—		—
—					—		—
—					—		—
86	(8,530)				(8,444)		(8,444)
	(1,391)				(1,391)		(1,391)
1,234					1,234		1,234
(925)			15		(910)		(910)
364	9,026	4,544	(21,637)	359	(9,009)	(62)	(9,071)
61,049	166,697	(1,311)	(68,831)	(1,143)	187,146	838	187,984



Wells Fargo & Company and Subsidiaries

**Consolidated Statement of Cash Flows**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Cash flows from operating activities:</b>			
Net income before noncontrolling interests	\$ 20,041	22,876	22,460
Adjustments to reconcile net income to net cash provided by operating activities:			
Provision for credit losses	2,687	1,744	2,528
Changes in fair value of MSRs, MLHFS and LHFS carried at fair value	3,702	453	886
Depreciation, amortization and accretion	7,075	5,593	5,406
Other net gains	(5,500)	(7,630)	(1,518)
Stock-based compensation	2,274	2,255	2,046
Originations and purchases of mortgage loans held for sale	(158,673)	(152,832)	(181,269)
Proceeds from sales of and paydowns on mortgage loans held for sale	112,718	119,097	134,984
Net change in:			
Debt and equity securities, held for trading	22,066	35,054	33,505
Loans held for sale	788	(960)	327
Deferred income taxes	(3,246)	1,970	666
Derivative assets and liabilities	(2,665)	1,513	(5,025)
Other assets	3,034	7,805	(1,214)
Other accrued expenses and liabilities	2,429	(865)	4,837
Net cash provided by operating activities	6,730	36,073	18,619
<b>Cash flows from investing activities:</b>			
Net change in:			
Federal funds sold and securities purchased under resale agreements	(21,933)	(1,184)	(21,497)
Available-for-sale debt securities:			
Proceeds from sales	9,386	7,320	42,067
Prepayments and maturities	46,542	36,725	45,688
Purchases	(57,015)	(60,067)	(103,656)
Held-to-maturity securities:			
Paydowns and maturities	13,684	10,934	10,673
Purchases	(8,649)	—	—
Equity securities, not held for trading:			
Proceeds from sales and capital returns	6,143	6,242	5,451
Purchases	(6,865)	(6,433)	(3,735)
Loans:			
Loans originated by banking subsidiaries, net of principal collected	(23,698)	(18,619)	317
Proceeds from sales (including participations) of loans held for investment	12,038	16,294	10,439
Purchases (including participations) of loans	(2,033)	(2,088)	(3,702)
Principal collected on nonbank entities' loans	3,912	6,791	7,448
Loans originated by nonbank entities	(5,274)	(6,482)	(6,814)
Proceeds from sales of foreclosed assets and short sales	2,666	3,592	5,198
Other, net (1)	1,465	(779)	(1,029)
Net cash used by investing activities	(29,631)	(7,754)	(13,152)
<b>Cash flows from financing activities:</b>			
Net change in:			
Deposits	36,137	(48,034)	29,912
Short-term borrowings	(1,275)	2,531	14,020
Long-term debt:			
Proceeds from issuance	53,381	47,595	43,575
Repayment	(60,996)	(40,565)	(80,802)
Preferred stock:			
Proceeds from issuance	—	—	677
Redeemed	(1,550)	(2,150)	—
Cash dividends paid	(1,391)	(1,622)	(1,629)
Common stock:			
Proceeds from issuance	380	632	1,211
Stock tendered for payment of withholding taxes	(302)	(331)	(393)
Repurchased	(24,533)	(20,633)	(9,908)
Cash dividends paid	(8,198)	(7,692)	(7,480)
Net change in noncontrolling interests	(513)	(462)	30
Other, net	(276)	(248)	(133)
Net cash used by financing activities	(9,136)	(70,979)	(10,920)
<b>Net change in cash, cash equivalents, and restricted cash</b>	<b>(32,037)</b>	<b>(42,660)</b>	<b>(5,453)</b>
Cash, cash equivalents, and restricted cash at beginning of year	173,287	215,947	221,400
<b>Cash, cash equivalents, and restricted cash at end of year</b>	<b>\$ 141,250</b>	<b>173,287</b>	<b>215,947</b>
<b>Supplemental cash flow disclosures:</b>			
Cash paid for interest	\$ 18,834	14,366	9,103
Cash paid for income taxes	7,557	1,977	6,592

(1) Prior periods have been revised to conform to the current period presentation.

The accompanying notes are an integral part of these statements. See Note 1 (Summary of Significant Accounting Policies) for noncash activities.

# Notes to Financial Statements

See the Glossary of Acronyms at the end of this Report for terms used throughout the Financial Statements and related Notes.

## Note 1: Summary of Significant Accounting Policies

Wells Fargo & Company is a diversified financial services company. We provide banking, investment and mortgage products and services, as well as consumer and commercial finance, through banking locations and offices, the internet and other distribution channels to individuals, businesses and institutions in all 50 states, the District of Columbia, and in countries outside the U.S. When we refer to “Wells Fargo,” “the Company,” “we,” “our” or “us,” we mean Wells Fargo & Company and Subsidiaries (consolidated). Wells Fargo & Company (the Parent) is a financial holding company and a bank holding company.

Our accounting and reporting policies conform with U.S. generally accepted accounting principles (GAAP) and practices in the financial services industry. To prepare the financial statements in conformity with GAAP, management must make estimates based on assumptions about future economic and market conditions (for example, unemployment, market liquidity, real estate prices, etc.) that affect the reported amounts of assets and liabilities at the date of the financial statements, income and expenses during the reporting period and the related disclosures. Although our estimates contemplate current conditions and how we expect them to change in the future, it is reasonably possible that actual conditions could be worse than anticipated in those estimates, which could materially affect our results of operations and financial condition. Management has made significant estimates in several areas, including:

- allowance for credit losses (Note 6 (Loans and Allowance for Credit Losses));
- valuations of residential mortgage servicing rights (MSRs) (Note 10 (Securitizations and Variable Interest Entities) and Note 11 (Mortgage Banking Activities));
- valuations of financial instruments (Note 18 (Derivatives) and Note 19 (Fair Values of Assets and Liabilities));
- liabilities for contingent litigation losses (Note 17 (Legal Actions)); and
- income taxes (Note 24 (Income Taxes)).

Actual results could differ from those estimates.

### Accounting Standards Adopted in 2019

In 2019, we adopted the following new accounting guidance:

- Accounting Standards Update (ASU or Update) 2018-16 – Derivatives and Hedging (Topic 815): *Inclusion of the Secured Overnight Financing Rate (SOFR) Overnight Index Swap (OIS) Rate as a Benchmark Interest Rate for Hedge Accounting Purposes*
- ASU 2017-08 – Receivables – Nonrefundable Fees and Other Costs (Subtopic 310-20): *Premium Amortization on Purchased Callable Debt Securities*
- ASU 2016-02 – Leases (Topic 842) and subsequent related Updates, including early adoption of ASU 2019-01 – Leases (Topic 842): *Codification Improvements*

**ASU 2018-16** expands the list of U.S. benchmark interest rates permitted in the application of hedge accounting. The Update adds the OIS rate based on SOFR as a U.S. benchmark interest rate to facilitate the London Interbank Offered Rate (LIBOR) to SOFR transition and provide sufficient lead time for entities to prepare for changes to interest rate risk hedging strategies for both risk management and hedge accounting purposes. The Update is applied prospectively for qualifying new or re-designated hedging relationships entered into on or after adoption date.

We adopted the guidance in first quarter 2019. The Update has not had an impact as we have not designated SOFR OIS as a benchmark interest rate in any hedging relationships.

**ASU 2017-08** changes the interest income recognition model for purchased callable debt securities carried at a premium, as the premium will be amortized to the earliest call date rather than to the contractual maturity date. Accounting for purchased callable debt securities held at a discount does not change, as the discount will continue to accrete to the contractual maturity date. The Update impacted our investments in purchased callable debt securities classified as available-for-sale (AFS) and held-to-maturity (HTM), which predominantly consist of debt securities of U.S. states and political subdivisions.

We adopted the Update in first quarter 2019 and recorded a cumulative-effect adjustment as of January 1, 2019, that decreased total stockholders' equity by \$111 million. Retained earnings was reduced by \$592 million which reflects both the incremental premium amortization under the new guidance from the acquisition date of our impacted AFS and HTM debt securities through the date of adoption and the fact that the incremental premium amortization is not deductible for federal income tax purposes. Other comprehensive income (OCI) was increased by \$481 million which reflects the corresponding adjustment to the adoption date unrealized gain or loss of impacted AFS debt securities. Going forward, interest income recognized prior to the call date will be reduced because the premium will be amortized over a shorter period.

**ASU 2016-02** modifies the guidance used by lessors and lessees to account for leasing transactions. For our transition to the new guidance, we elected several available practical expedients, including to not reassess the classification of our existing leases, any initial direct costs associated with our leases, or whether any existing contracts are or contain leases. In addition, we elected not to provide a comparative presentation for 2018 and 2017 financial statements.

We adopted the Update in first quarter 2019 and recorded a cumulative-effect adjustment that increased retained earnings by \$100 million related to deferred gains on our prior sale-leaseback transactions. We also recognized operating lease right-of-use (ROU) assets and liabilities, substantially all of which relate to our leasing of real estate as a lessee, of \$4.9 billion and \$5.6 billion, respectively.

Table 1.1 summarizes financial assets and liabilities by form and measurement accounting model.

**Table 1.1: Accounting Model for Financial Assets and Financial Liabilities**

Balance sheet caption	Measurement model(s)	Financial statement Note reference
Cash and due from banks	Amortized cost	Note 3: Cash, Loan and Dividend Restrictions
Interest-earning deposits with banks	Amortized cost	Note 3: Cash, Loan and Dividend Restrictions
Federal funds sold and securities purchased under resale agreements	Amortized cost	N/A
Debt securities:		
Trading	FV-NI (1)	Note 4: Trading Activities Note 19: Fair Values of Assets and Liabilities
Available-for-sale	FV-OCI (2)	Note 5: Available-for-Sale and Held-to-Maturity Debt Securities Note 19: Fair Values of Assets and Liabilities
Held-to-maturity	Amortized cost	Note 5: Available-for-Sale and Held-to-Maturity Debt Securities
Mortgage loans held for sale	FV-NI (1) LOCOM (3)	Note 19: Fair Values of Assets and Liabilities
Loans held for sale	FV-NI (1) LOCOM (3)	Note 19: Fair Values of Assets and Liabilities
Loans	Amortized cost FV-NI (1)	Note 6: Loans and Allowance for Credit Losses Note 19: Fair Values of Assets and Liabilities
Derivative assets and liabilities	FV-NI (1) FV-OCI (2)	Note 4: Trading Activities Note 18: Derivatives Note 19: Fair Values of Assets and Liabilities
Equity securities:		
Marketable	FV-NI (1)	Note 4: Trading Activities Note 8: Equity Securities Note 19: Fair Values of Assets and Liabilities
Nonmarketable	FV-NI (1) Cost method Equity method MA (4)	Note 4: Trading Activities Note 8: Equity Securities Note 19: Fair Values of Assets and Liabilities
Other assets	Amortized cost (5)	Note 9: Premises, Equipment, and Other Assets
Deposits	Amortized cost	Note 13: Deposits
Short-term borrowings	Amortized cost	Note 14: Short-Term Borrowings
Accrued expenses and other liabilities	Amortized cost (6)	Note 4: Trading Activities Note 7: Leasing Activity Note 19: Fair Values of Assets and Liabilities
Long-term debt	Amortized cost	Note 15: Long-Term Debt

(1) FV-NI represents the fair value through net income accounting model.

(2) FV-OCI represents the fair value through other comprehensive income accounting model.

(3) LOCOM represents the lower of cost or fair value accounting model.

(4) MA represents the measurement alternative accounting model.

(5) Other assets are generally measured at amortized cost, except for bank-owned life insurance which is measured at cash surrender value.

(6) Accrued expenses and other liabilities are generally measured at amortized cost, except for trading short-sale liabilities which are measured at FV-NI.

## Consolidation

Our consolidated financial statements include the accounts of the Parent and our subsidiaries in which we have a controlling financial interest. When our consolidated subsidiaries follow specialized industry accounting, that accounting is retained in consolidation.

We are also a variable interest holder in certain entities in which equity investors do not have the characteristics of a controlling financial interest or where the entity does not have enough equity at risk to finance its activities without additional subordinated financial support from other parties (collectively referred to as variable interest entities (VIEs)). Our variable interest arises from contractual, ownership or other monetary interests in the entity, which change with fluctuations in the fair value of the entity's net assets. We consolidate a VIE if we are the primary beneficiary, which is when we have both the power to direct the activities that most significantly impact the VIE and a variable interest that could potentially be significant to the VIE. To determine whether or not a variable interest we hold could potentially be significant to the VIE, we consider both qualitative and quantitative factors regarding the nature, size and form of

our involvement with the VIE. We assess whether or not we are the primary beneficiary of a VIE on an ongoing basis.

Significant intercompany accounts and transactions are eliminated in consolidation. When we have significant influence over operating and financing decisions for a company but do not own a majority of the voting equity interests, we account for the investment using the equity method of accounting, which requires us to recognize our proportionate share of the company's earnings. If we do not have significant influence, we account for the equity security under the fair value method, cost method or measurement alternative.

## Cash, Cash Equivalents and Restricted Cash

Cash, cash equivalents and restricted cash include cash on hand, cash items in transit, and amounts due from or held with other depository institutions. See Note 3 (Cash, Loan and Dividend Restrictions) for the nature of our restrictions on cash and cash equivalents.

## Note 1: Summary of Significant Accounting Policies (continued)

### Trading Activities

We engage in trading activities to accommodate the investment and risk management activities of our customers. These activities predominantly occur in our Wholesale Banking businesses and, to a lesser extent, other divisions of the Company. Trading assets and liabilities include debt securities, equity securities, loans, derivatives and short sales, which are reported within the balance sheet based on the accounting classification of the instrument. In addition, debt securities that are held for investment purposes that we have elected to account for under the fair value method, are classified as trading.

Our trading assets and liabilities are carried on the balance sheet at fair value with changes in fair value recognized in net gains from trading activities and interest income and interest expense recognized in net interest income.

Customer accommodation trading activities include our actions as an intermediary to buy and sell financial instruments and market-making activities. We also take positions to manage our exposure to customer accommodation activities. We hold financial instruments for trading in long positions, as well as short positions, to facilitate our trading activities. As an intermediary, we interact with market buyers and sellers to facilitate the purchase and sale of financial instruments to meet the anticipated or current needs of our customers. For example, we may purchase or sell a derivative to a customer who wants to manage interest rate risk exposure. We typically enter into an offsetting derivative or security position to manage our exposure to the customer transaction. We earn income based on the transaction price difference between the customer transaction and the offsetting position, which is reflected in earnings where the fair value changes and related interest income and expense of the positions are recorded.

Our market-making activities include taking long and short trading positions to facilitate customer order flow. These activities are typically executed on a short-term basis. As a market-maker we earn income due to: (1) the difference between the price paid or received for the purchase and sale of the security (bid-ask spread), (2) the net interest income of the positions, and (3) the changes in fair value of the trading positions held on our balance sheet. Additionally, we may enter into separate derivative or security positions to manage our exposure related to our long and short trading positions taken in our market-making activities. Income earned on these market-making activities are reflected in earnings where the fair value changes and related interest income and expense of the positions are recorded.

### Debt Securities

Our investments in debt securities that are not held for trading purposes are classified as either debt securities available-for-sale (AFS) or held-to-maturity (HTM).

#### AVAILABLE-FOR-SALE DEBT SECURITIES

Investments in debt securities for which the Company does not have the positive intent and ability to hold to maturity are classified as AFS. AFS debt securities are measured at fair value with unrealized gains and losses reported in cumulative OCI, net of applicable income taxes.

We conduct other-than-temporary impairment (OTTI) analysis on a quarterly basis or more often if a potential loss-triggering event occurs. The initial indicator of OTTI is a decline in fair value below the amortized cost of the debt security. We recognize OTTI in earnings as a reduction to the amortized cost of the security. OTTI related to AFS debt securities is classified as

net gains (losses) from debt securities within noninterest income.

We recognize OTTI for an AFS debt security that has a decline in fair value below amortized cost if we: (1) have the intent to sell the security, (2) it is more likely than not that we will be required to sell the security before recovery of its amortized cost basis, or (3) we do not expect to recover the entire amortized cost basis of the security.

Estimating recovery of the amortized cost basis of an AFS debt security is based upon an assessment of the cash flows expected to be collected. If the present value of cash flows expected to be collected discounted at the security's effective yield is less than amortized cost, an OTTI has occurred. In performing an assessment of the cash flows expected to be collected, we consider all relevant information, including:

- the length of time and the extent to which the fair value has been less than the amortized cost basis;
- the historical and implied volatility of the fair value of the security;
- the cause of the price decline, such as the general level of interest rates or adverse conditions specifically related to the security, an industry or a geographic area;
- the issuer's financial condition, near-term prospects and ability to service the debt;
- the payment structure of the debt security and the likelihood of the issuer being able to make payments that increase in the future;
- for asset-backed securities, the credit performance of the underlying collateral, including delinquency rates, level of non-performing assets, cumulative losses to date, collateral value and the remaining credit enhancement compared with expected credit losses;
- any change in rating agencies' credit ratings and any likely imminent action;
- independent analyst reports and forecasts, sector credit ratings and other independent market data; and
- recoveries or additional declines in fair value subsequent to the balance sheet date.

If we intend to sell the security, or if it is more likely than not we will be required to sell the security before recovery of amortized cost basis, OTTI is recognized in earnings equal to the entire difference between the amortized cost basis and fair value of the security. For a debt security that is considered other-than-temporarily impaired that we do not intend to sell or it is more likely than not that we will not be required to sell before recovery, OTTI is separated into an amount representing the credit loss, which is recognized in earnings, and the amount related to all other factors, which is recognized in OCI. The measurement of the credit loss component is equal to the difference between the debt security's amortized cost basis and the present value of its expected future cash flows discounted at the security's effective yield. The remaining difference between the security's fair value and the present value of expected future cash flows is due to all other factors. We believe that we will fully collect the carrying value of securities on which we have recorded a non-credit-related impairment in OCI.

Following the recognition of OTTI, the security's new amortized cost basis is the previous basis less any OTTI recognized in earnings.

We recognize realized gains and losses on the sale of AFS debt securities in net gains (losses) on debt securities using the specific identification method.

Unamortized premiums and discounts are recognized in interest income over the contractual life of the security using the

effective interest method, except for purchased callable debt securities carried at a premium. For purchased callable debt securities carried at a premium, the premium is amortized into interest income to the earliest call date using the effective interest method. As principal repayments are received on securities (e.g., mortgage-backed securities (MBS)) a proportionate amount of the related premium or discount is recognized in income so that the effective interest rate on the remaining portion of the security continues unchanged.

**HELD-TO-MATURITY DEBT SECURITIES** Investments in debt securities for which the Company has the positive intent and ability to hold to maturity are classified as HTM. HTM debt securities are measured at historical cost adjusted for amortization of premiums and accretion of discounts under the same methods described for AFS debt securities. We recognize OTTI when there is a decline in fair value below amortized cost and we do not expect to recover the entire amortized cost basis of the debt security. The amortized cost is written-down to fair value with the credit loss component recorded to earnings and the remaining component recognized in OCI. The OTTI assessment related to intent to sell, required to sell, whether we expect recovery of the amortized cost basis and determination of any credit loss component recognized in earnings for HTM debt securities is the same as described for AFS debt securities. OTTI related to HTM debt securities is classified as net gains (losses) from debt securities within noninterest income. AFS debt securities transferred to the HTM classification are recorded at fair value and the unrealized gains or losses resulting from the transfer of these securities continue to be reported in cumulative OCI. The cumulative OCI balance is amortized into earnings over the same period as the unamortized premiums and discounts using the effective interest method. The HTM amortized cost basis used in the OTTI analysis includes the unamortized OCI balances related to previous security transfers from AFS to HTM.

### Securities Purchased and Sold Agreements

Securities purchased under resale agreements and securities sold under repurchase agreements are accounted for as collateralized financing transactions and are recorded at the acquisition or sale price plus accrued interest. We monitor the fair value of securities purchased and sold as well as the collateral pledged and received. Additional collateral is pledged or returned to maintain the appropriate collateral position for the transactions. These financing transactions do not create material credit risk given the collateral provided and the related monitoring process.

### Mortgage Loans and Loans Held for Sale

Mortgage loans held for sale (MLHFS) include commercial and residential mortgages originated for sale in the securitization or whole loan market. We have elected the fair value option for substantially all residential MLHFS (see Note 19 (Fair Values of Assets and Liabilities)). The remaining residential MLHFS are held at the lower of cost or fair value (LOCOM) and are measured on an aggregate portfolio basis. Commercial MLHFS are held at LOCOM and are measured on an individual loan basis.

Loans held for sale (LHFS) include commercial loans originated for sale and purchased loans used in market-making activities in our trading business. The loans held for trading purposes are carried at fair value, with the remainder of LHFS recorded at LOCOM. LHFS are measured on an individual loan basis.

Gains and losses on MLHFS are generally recorded in mortgage banking noninterest income. Gains and losses on LHFS

used in trading activities are recognized in net gains from trading activities. Gains and losses on LHFS not used in trading activities are recognized in other noninterest income. Direct loan origination costs and fees for MLHFS and LHFS under the fair value option are recognized in earnings at origination. For MLHFS and LHFS recorded at LOCOM, loan costs and fees are deferred at origination and are recognized in earnings at time of sale. Interest income on MLHFS and LHFS is calculated based upon the note rate of the loan and is recorded in interest income.

Our lines of business are authorized to originate held-for-investment loans that meet or exceed established loan product profitability criteria, including minimum positive net interest margin spreads in excess of funding costs. When a determination is made at the time of commitment to originate loans as held for investment, it is our intent to hold these loans to maturity or for the “foreseeable future,” subject to periodic review under our management evaluation processes, including corporate asset/liability management. In determining the “foreseeable future” for loans, management considers (1) the current economic environment and market conditions, (2) our business strategy and current business plans, (3) the nature and type of the loan receivable, including its expected life, and (4) our current financial condition and liquidity demands. If subsequent changes, including changes in interest rates, significantly impact the ongoing profitability of certain loan products, we may subsequently change our intent to hold these loans, and we would take actions to sell such loans. Upon such management determination, we immediately transfer these loans to the MLHFS or LHFS portfolio at LOCOM.

### Loans

Loans are reported at their outstanding principal balances net of any unearned income, cumulative charge-offs, unamortized deferred fees and costs on originated loans and unamortized premiums or discounts on purchased loans. Purchased credit-impaired (PCI) loans are reported net of any remaining purchase accounting adjustments. See the “Purchased Credit-Impaired Loans” section in this Note for our accounting policy for PCI loans.

Unearned income, deferred fees and costs, and discounts and premiums are amortized to interest income over the contractual life of the loan using the effective interest method. Loan commitment fees are generally deferred and amortized into noninterest income on a straight-line basis over the commitment period.

Loans also include financing leases where we are the lessor. See the “Leasing Activity” section in this Note for our accounting policy for leases.

**NONACCRUAL AND PAST DUE LOANS** We generally place loans on nonaccrual status when:

- the full and timely collection of interest or principal becomes uncertain (generally based on an assessment of the borrower’s financial condition and the adequacy of collateral, if any), such as in bankruptcy or other circumstances;
- they are 90 days (120 days with respect to real estate 1-4 family mortgages) past due for interest or principal, unless both well-secured and in the process of collection;
- part of the principal balance has been charged off; or
- for junior lien mortgages, we have evidence that the related first lien mortgage may be 120 days past due or in the process of foreclosure regardless of the junior lien delinquency status.

## Note 1: Summary of Significant Accounting Policies (continued)

Credit card loans are not placed on nonaccrual status, but are generally fully charged off when the loan reaches 180 days past due.

PCI loans are written down at acquisition to fair value using an estimate of cash flows deemed to be collectible and an accretable yield is established. Accordingly, such loans are not classified as nonaccrual because they continue to earn interest from accretable yield, independent of performance in accordance of their contractual terms, and we expect to fully collect the new carrying values of such loans (that is, the new cost basis arising out of purchase accounting).

When we place a loan on nonaccrual status, we reverse the accrued unpaid interest receivable against interest income and suspend amortization of any net deferred fees. If the ultimate collectability of the recorded loan balance is in doubt on a nonaccrual loan, the cost recovery method is used and cash collected is applied to first reduce the carrying value of the loan. Otherwise, interest income may be recognized to the extent cash is received. Generally, we return a loan to accrual status when all delinquent interest and principal become current under the terms of the loan agreement and collectability of remaining principal and interest is no longer doubtful.

We typically re-underwrite modified loans at the time of a restructuring to determine if there is sufficient evidence of sustained repayment capacity based on the borrower's financial strength, including documented income, debt to income ratios and other factors. If the borrower has demonstrated performance under the previous terms and the underwriting process shows the capacity to continue to perform under the restructured terms, the loan will generally remain in accruing status. When a loan classified as a troubled debt restructuring (TDR) performs in accordance with its modified terms, the loan either continues to accrue interest (for performing loans) or will return to accrual status after the borrower demonstrates a sustained period of performance (generally six consecutive months of payments, or equivalent, inclusive of consecutive payments made prior to the modification). Loans will be placed on nonaccrual status and a corresponding charge-off is recorded if we believe it is probable that principal and interest contractually due under the modified terms of the agreement will not be collectible.

Our loans are considered past due when contractually required principal or interest payments have not been made on the due dates.

**LOAN CHARGE-OFF POLICIES** For commercial loans, we generally fully charge off or charge down to net realizable value (fair value of collateral, less estimated costs to sell) for loans secured by collateral when:

- management judges the loan to be uncollectible;
- repayment is deemed to be protracted beyond reasonable time frames;
- the loan has been classified as a loss by either our internal loan review process or our banking regulatory agencies;
- the customer has filed bankruptcy and the loss becomes evident owing to a lack of assets; or
- the loan is 180 days past due unless both well-secured and in the process of collection.

For consumer loans, we fully charge off or charge down to net realizable value when deemed uncollectible due to bankruptcy or other factors, or no later than reaching a defined number of days past due, as follows:

- Real estate 1-4 family mortgages – We generally charge down to net realizable value when the loan is 180 days past due.
- Automobile loans – We generally fully charge off when the loan is 120 days past due.
- Credit card loans – We generally fully charge off when the loan is 180 days past due.
- Unsecured loans (closed end) – We generally fully charge off when the loan is 120 days past due.
- Unsecured loans (open end) – We generally fully charge off when the loan is 180 days past due.
- Other secured loans – We generally fully or partially charge down to net realizable value when the loan is 120 days past due.

**IMPAIRED LOANS** We consider a loan to be impaired when, based on current information and events, we determine that we will not be able to collect all amounts due according to the loan contract, including scheduled interest payments. This evaluation is generally based on delinquency information, an assessment of the borrower's financial condition and the adequacy of collateral, if any. Our impaired loans predominantly include loans on nonaccrual status in the commercial portfolio segment and loans modified in a TDR, whether on accrual or nonaccrual status.

When we identify a loan as impaired, we generally measure the impairment, if any, based on the difference between the recorded investment in the loan (net of previous charge-offs, deferred loan fees or costs and unamortized premium or discount) and the present value of expected future cash flows, discounted at the loan's pre-modification effective interest rate. When the value of an impaired loan is calculated by discounting expected cash flows, interest income is recognized using the loan's pre-modification effective interest rate over the remaining life of the loan. When collateral is the sole source of repayment for the impaired loan, rather than the borrower's income or other sources of repayment, we charge down to net realizable value.

**TROUBLED DEBT RESTRUCTURINGS** In situations where, for economic or legal reasons related to a borrower's financial difficulties, we grant a concession for other than an insignificant period of time to the borrower that we would not otherwise consider, the related loan is classified as a TDR. These modified terms may include interest rate reductions, principal forgiveness, term extensions, payment forbearance and other actions intended to minimize our economic loss and to avoid foreclosure or repossession of the collateral, if applicable. For modifications where we forgive principal, the entire amount of such principal forgiveness is immediately charged off. Loans classified as TDRs, including loans in trial payment periods (trial modifications), are considered impaired loans. Other than resolutions such as foreclosures, sales and transfers to held-for-sale, we may remove loans held for investment from TDR classification, but only if they have been refinanced or restructured at market terms and qualify as a new loan.

**PURCHASED CREDIT-IMPAIRED LOANS** Loans acquired with evidence of credit deterioration since their origination and where it is probable that we will not collect all contractually required principal and interest payments are PCI loans. PCI loans are recorded at fair value at the date of acquisition, and the historical allowance for credit losses related to these loans is not carried over. Fair value at date of acquisition is generally determined using a discounted cash flow method and any excess cash flow expected to be collected over the carrying value (estimated fair value at acquisition date) is referred to as the accretable yield

and is recognized in interest income using an effective yield method over the remaining life of the loan, or pool of loans if aggregated based on common risk characteristics. The difference between contractually required payments and the cash flows expected to be collected at acquisition, considering the impact of prepayments, is referred to as the nonaccretable difference. Based on quarterly evaluations of remaining cash flows expected to be collected, expected decreases may result in recording a provision for loss and expected increases may result in a prospective yield adjustment after first reversing any allowance for losses related to the loan, or pool of loans.

Resolutions of loans may include sales of loans to third parties, receipt of payments in settlement with the borrower, or foreclosure of the collateral. For individual PCI loans, gains or losses on sales to third parties are included in other noninterest income, and gains or losses as a result of a settlement with the borrower are included in interest income. Our policy is to remove an individual loan from a pool based on comparing the amount received from its resolution with its contractual amount. Any difference between these amounts is absorbed by the nonaccretable difference for the entire pool, which assumes that the amount received from resolution approximates pool performance expectations. Any material change in remaining effective yield caused by this removal method is addressed by our quarterly cash flow evaluation process for each pool. We may also sell groups of loans from a pool and include any gains or losses on sales to third parties in other noninterest income. Any difference between the amount received from the buyer and the contractual amount due from the customer is absorbed by the nonaccretable difference for the entire pool. We maintain the effective yield for the remaining loans in the pool consistent with the yield immediately prior to the sale.

Modified PCI loans are not removed from a pool even if those loans would otherwise be deemed TDRs. Modified PCI loans that are accounted for individually are considered TDRs and removed from PCI accounting if there has been a concession granted in excess of the original nonaccretable difference. We include these TDRs in our impaired loans.

**FORECLOSED ASSETS** Foreclosed assets obtained through our lending activities primarily include real estate. Generally, loans have been written down to their net realizable value prior to foreclosure. Any further reduction to their net realizable value is recorded with a charge to the allowance for credit losses at foreclosure. We allow up to 90 days after foreclosure to finalize determination of net realizable value. Thereafter, changes in net realizable value are recorded to noninterest expense. The net realizable value of these assets is reviewed and updated periodically depending on the type of property. Certain government-guaranteed mortgage loans upon foreclosure are included in accounts receivable, not foreclosed assets. These receivables were loans insured by the FHA or guaranteed by the VA and are measured based on the balance expected to be recovered from the FHA or VA.

**ALLOWANCE FOR CREDIT LOSSES** The allowance for credit losses (ACL) is management's estimate of credit losses inherent in the loan portfolio, including unfunded credit commitments, at the balance sheet date. We have an established process to determine the appropriateness of the ACL that assesses the losses inherent in our portfolio and related unfunded credit commitments. We develop and document our ACL methodology at the portfolio segment level – commercial loan portfolio and consumer loan portfolio. While we attribute portions of the ACL to our respective commercial and consumer portfolio segments, the

entire ACL is available to absorb credit losses inherent in the total loan portfolio and unfunded credit commitments.

Our process involves procedures to appropriately consider the unique risk characteristics of our commercial and consumer loan portfolio segments. For each portfolio segment, losses are estimated collectively for groups of loans with similar characteristics, individually or pooled for impaired loans or, for PCI loans, based on the changes in cash flows expected to be collected.

Our ACL amounts are influenced by loan volumes, loan grade migration or delinquency status, historic loss experience and other conditions influencing loss expectations, such as economic conditions.

**Commercial Portfolio Segment ACL Methodology** Generally, commercial loans are assessed for estimated losses by grading each loan using various risk factors as identified through periodic reviews. Our estimation approach for the commercial portfolio reflects the estimated probability of default in accordance with the borrower's financial strength and the severity of loss in the event of default, considering the quality of any underlying collateral. Probability of default and severity at the time of default are statistically derived through historical observations of default and losses after default within each credit risk rating. These estimates are adjusted as appropriate based on additional analysis of long-term average loss experience compared to previously forecasted losses, external loss data or other risks identified from current economic conditions and credit quality trends. The estimated probability of default and severity at the time of default are applied to loan equivalent exposures to estimate losses for unfunded credit commitments.

The ACL also includes an amount for the estimated impairment on nonaccrual commercial loans and commercial loans modified in a TDR, whether on accrual or nonaccrual status.

**Consumer Portfolio Segment ACL Methodology** For consumer loans that are not identified as a TDR, we generally determine the ACL on a collective basis utilizing forecasted losses to represent our best estimate of inherent loss. We pool loans, generally by product types with similar risk characteristics, such as residential real estate mortgages and credit cards. As appropriate and to achieve greater accuracy, we may further stratify selected portfolios by sub-product, origination channel, vintage, loss type, geographic location and other predictive characteristics. Models designed for each pool are utilized to develop the loss estimates. We use assumptions for these pools in our forecast models, such as historic delinquency and default, loss severity, home price trends, unemployment trends, and other key economic variables that may influence the frequency and severity of losses in the pool.

We separately estimate impairment for consumer loans that have been modified in a TDR (including trial modifications), whether on accrual or nonaccrual status.

**Other ACL Matters** The ACL for both portfolio segments includes an amount for imprecision or uncertainty that may change from period to period. This amount represents management's judgment of risks inherent in the processes and assumptions used in establishing the ACL. This imprecision considers economic environmental factors, modeling assumptions and performance, process risk, and other subjective factors, including industry trends and emerging risk assessments.

## Note 1: Summary of Significant Accounting Policies (continued)

### Leasing Activity

**AS LESSOR** We lease equipment to our customers under financing or operating leases. Financing leases are presented in loans and are recorded at the discounted amounts of lease payments receivable plus the estimated residual value of the leased asset. Leveraged leases, which are a form of financing leases, are reduced by related non-recourse debt from third-party investors. Lease payments receivable reflect contractual lease payments adjusted for renewal or termination options that we believe the customer is reasonably certain to exercise. The residual value reflects our best estimate of the expected sales price for the equipment at lease termination based on sales history adjusted for recent trends in the expected exit markets. Many of our leases allow the customer to extend the lease at prevailing market terms or purchase the asset for fair value at lease termination.

Our allowance for loan losses for financing leases considers both the collectability of the lease payments receivable as well as the estimated residual value of the leased asset. We typically purchase residual value insurance on our financing leases so that our risk of loss at lease termination will be less than 10% of the initial value of the lease. In addition, we have several channels for re-leasing or marketing those assets.

In connection with a lease, we may finance the customer's purchase of other products or services from the equipment vendor and allocate the contract consideration between the use of the asset and the purchase of those products or services based on information obtained from the vendor. Amounts allocated to financing of vendor products or services are reported in loans as commercial and industrial loans, rather than as lease financing.

Our primary income from financing leases is interest income recognized using the effective interest method. Variable lease revenues, such as reimbursement for property taxes associated with the leased asset, are included in lease income within noninterest income.

Operating lease assets are presented in other assets, net of accumulated depreciation. Periodic depreciation expense is recorded on a straight-line basis to the estimated residual value over the estimated useful life of the leased asset. On a periodic basis, operating lease assets are reviewed for impairment and impairment loss is recognized if the carrying amount of operating lease assets exceeds fair value and is not recoverable. The carrying amount of leased assets is deemed not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the lease payments and the estimated residual value upon the eventual disposition of the equipment. Depreciation of leased assets and impairment loss are presented in operating leases expense within other noninterest expense.

Operating lease rental income for leased assets is recognized in lease income within noninterest income on a straight-line basis over the lease term. Variable revenues on operating leases include reimbursements of costs, including property taxes, which fluctuate over time, as well as rental revenue based on usage. For leases of railcars, revenue for maintenance services provided under the lease is recognized in lease income.

We elected to exclude from revenues and expenses any sales tax incurred on lease payments which are reimbursed by the lessee. Substantially all of our leased assets are protected against casualty loss through third-party insurance.

**AS LESSEE** We enter into lease agreements to obtain the right to use assets for our business operations, substantially all of which are real estate. Lease liabilities and ROU assets are recognized

when we enter into operating or financing leases and represent our obligations and rights to use these assets over the period of the leases and may be re-measured for certain modifications, resolution of certain contingencies involving variable consideration, or our exercise of options (renewal, extension, or termination) under the lease.

Operating lease liabilities include fixed and in-substance fixed payments for the contractual duration of the lease, adjusted for renewals or terminations which were considered probable of exercise when measured. The lease payments are discounted using a rate determined when the lease is recognized. As we typically do not know the discount rate implicit in the lease, we estimate a discount rate that we believe approximates a collateralized borrowing rate for the estimated duration of the lease. The discount rate is updated when re-measurement events occur. The related operating lease ROU assets may differ from operating lease liabilities due to initial direct costs, deferred or prepaid lease payments and lease incentives.

We present operating lease liabilities in accrued expenses and other liabilities and the related operating lease ROU assets in other assets. The amortization of operating lease ROU assets and the accretion of operating lease liabilities are reported together as fixed lease expense and are included in net occupancy expense within noninterest expense. The fixed lease expense is recognized on a straight-line basis over the life of the lease.

Some of our operating leases include variable lease payments which are periodic adjustments of our payments for the use of the asset based on changes in factors such as consumer price indices, fair market value rents, tax rates imposed by taxing authorities, or lessor cost of insurance. To the extent not included in operating lease liabilities and operating lease ROU assets, these variable lease payments are recognized as incurred in net occupancy expense within noninterest expense.

For substantially all of our leased assets, we account for consideration paid under the contract for maintenance or other services as lease payments. In addition, for certain asset classes, we have elected to exclude leases with original terms of less than one year from the operating lease ROU assets and lease liabilities. The related short-term lease expense is included in net occupancy expense.

Finance lease (formerly capital lease) liabilities are presented in long-term debt and the associated finance ROU assets are presented in premises and equipment.

### Securitizations and Beneficial Interests

Securitizations are transactions in which financial assets are sold to a Special Purpose Entity (SPE), which then issues beneficial interests in the form of senior and subordinated interests collateralized by the transferred financial assets. In some cases, we may obtain beneficial interests issued by the SPE. Additionally, from time to time, we may re-securitize certain financial assets in a new securitization transaction.

The assets and liabilities transferred to an SPE are excluded from our consolidated balance sheet if the transfer qualifies as a sale and we are not required to consolidate the SPE.

For transfers of financial assets recorded as sales, we recognize and initially measure at fair value all assets obtained (including beneficial interests or mortgage servicing rights) and all liabilities incurred. We record a gain or loss in noninterest income for the difference between assets obtained (net of liabilities incurred) and the carrying amount of the assets sold. Interests obtained from, and liabilities incurred in, securitizations with off-balance sheet entities may include debt and equity securities, loans, MSRs, derivative assets and liabilities, other



assets, and other obligations such as liabilities for mortgage repurchase losses or long-term debt and are accounted for as described within this Note.

### **Mortgage Servicing Rights**

We recognize the rights to service mortgage loans for others, or mortgage servicing rights (MSRs), as assets whether we purchase the MSRs or the MSRs result from a sale or securitization of loans we originate (asset transfers). We initially record all of our MSRs at fair value. Subsequently, residential loan MSRs are carried at fair value. All of our MSRs related to our commercial mortgage loans are subsequently measured at LOCOM. The valuation and sensitivity of MSRs is discussed further in Note 10 (Securitized and Variable Interest Entities), Note 11 (Mortgage Banking Activities) and Note 19 (Fair Values of Assets and Liabilities).

For MSRs carried at fair value, changes in fair value are reported in mortgage banking noninterest income in the period in which the change occurs. MSRs subsequently measured at LOCOM are amortized in proportion to, and over the period of, estimated net servicing income. The amortization of MSRs is reported in mortgage banking noninterest income, analyzed monthly and adjusted to reflect changes in prepayment speeds, as well as other factors.

MSRs accounted for at LOCOM are periodically evaluated for impairment based on the fair value of those assets. For purposes of impairment evaluation and measurement, we stratify MSRs based on the predominant risk characteristics of the underlying loans, including investor and product type. If, by individual stratum, the carrying amount of these MSRs exceeds fair value, a valuation allowance is established. The valuation allowance is adjusted as the fair value changes.

### **Premises and Equipment**

Premises and equipment are carried at cost less accumulated depreciation and amortization. We use the straight-line method of depreciation and amortization. Estimated useful lives range up to 40 years for buildings, up to 10 years for furniture and equipment, and the shorter of the estimated useful life (up to 8 years) or the lease term for leasehold improvements.

### **Goodwill and Identifiable Intangible Assets**

Goodwill is recorded in business combinations under the purchase method of accounting when the purchase price is higher than the fair value of net assets, including identifiable intangible assets.

We assess goodwill for impairment at a reporting unit level on an annual basis or more frequently in certain circumstances. We have determined that our reporting units are one level below the operating segments and distinguish these reporting units based on how the segments and reporting units are managed, taking into consideration the economic characteristics, nature of the products, and customers of the segments and reporting units. At the time we acquire a business, we allocate goodwill to applicable reporting units based on their relative fair value, and if we have a significant business reorganization, we may reallocate the goodwill. If we sell a business, a portion of goodwill is included with the carrying amount of the divested business.

We have the option of performing a qualitative assessment of goodwill. We may also elect to bypass the qualitative test and proceed directly to a quantitative test. If we perform a qualitative assessment of goodwill to test for impairment and conclude it is more likely than not that a reporting unit's fair value is greater than its carrying amount, quantitative tests are not required. However, if we determine it is more likely than not

that a reporting unit's fair value is less than its carrying amount, we complete a quantitative assessment to determine if there is goodwill impairment. We apply various quantitative valuation methodologies, including discounted cash flow and earnings multiple approaches, to determine the estimated fair value, which is compared to the carrying value of each reporting unit. If the fair value is less than the carrying amount, an additional test is required to measure the amount of impairment. We recognize impairment losses as a charge to other noninterest expense (unless related to discontinued operations) and an adjustment to the carrying value of the goodwill asset. Subsequent reversals of goodwill impairment are prohibited.

We amortize customer relationship intangible assets on an accelerated basis over useful lives not exceeding 10 years. We review intangible assets for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. Impairment is indicated if the sum of undiscounted estimated future net cash flows is less than the carrying value of the asset. Impairment is permanently recognized by writing down the asset to the extent that the carrying value exceeds the estimated fair value.

### **Derivatives and Hedging Activities**

**DERIVATIVES** We recognize all derivatives on the balance sheet at fair value. On the date we enter into a derivative contract, we categorize the derivative as either an accounting hedge, economic hedge or part of our customer accommodation trading and other portfolio.

Accounting hedges are either fair value or cash flow hedges. Fair value hedges represent the hedge of the fair value of a recognized asset or liability or an unrecognized firm commitment, including hedges of foreign currency exposure. Cash flow hedges represent the hedge of a forecasted transaction or the variability of cash flows to be paid or received related to a recognized asset or liability.

Economic hedges and customer accommodation trading and other derivatives do not qualify for, or we have elected not to apply, hedge accounting. Economic hedges are derivatives we use to manage interest rate, foreign currency and certain other risks associated with our non-trading activities. Customer accommodation trading and other derivatives primarily represents derivatives related to our trading business activities. We report changes in the fair values of these derivatives in noninterest income.

**FAIR VALUE HEDGES** We record changes in the fair value of the derivative in income, except for certain derivatives in which a portion is recorded to OCI. We record basis adjustments to the amortized cost of the hedged asset or liability due to the changes in fair value related to the hedged risk with the offset recorded in earnings. We present derivative gains or losses in the same income statement category as the hedged asset or liability, as follows:

- For fair value hedges of interest rate risk, amounts are reflected in net interest income;
- For hedges of foreign currency risk, amounts representing the fair value changes less the accrual for periodic cash flow settlements are reflected in noninterest income. The periodic cash flow settlements are reflected in net interest income;
- For hedges of both interest rate risk and foreign currency risk, amounts representing the fair value change less the accrual for periodic cash flow settlements is attributed to both net interest income and noninterest income. The

## Note 1: Summary of Significant Accounting Policies (continued)

periodic cash flow settlements are reflected in net interest income.

The entire derivative gain or loss is included in the assessment of hedge effectiveness for all fair value hedge relationships, except for hedges of foreign-currency denominated AFS debt securities and long-term debt liabilities hedged with cross-currency swaps. The change in fair value of these swaps attributable to cross-currency basis spread changes is excluded from the assessment of hedge effectiveness. The initial fair value of the excluded component is amortized to net interest income and the difference between changes in fair value of the excluded component and the amount recorded in earnings is recorded in OCI.

**CASH FLOW HEDGES** We record changes in the fair value of the derivative in OCI. We subsequently reclassify gains and losses from these changes in fair value from OCI to earnings in the same period(s) that the hedged transaction affects earnings and in the same income statement category as the hedged item. For cash flow hedges of interest rate risk associated with floating-rate commercial loans and long-term debt, these amounts are reflected in net interest income. For cash flow hedges of foreign currency risk associated with fixed-rate long-term debt, these amounts are reflected in net interest income. The entire gain or loss on these derivatives is included in the assessment of hedge effectiveness.

### **DOCUMENTATION AND EFFECTIVENESS ASSESSMENT FOR ACCOUNTING HEDGES**

For fair value and cash flow hedges qualifying for hedge accounting, we formally document at inception the relationship between hedging instruments and hedged items, our risk management objective, strategy and our evaluation of effectiveness for our hedge transactions. This process includes linking all derivatives designated as fair value or cash flow hedges to specific assets and liabilities on the balance sheet or to specific forecasted transactions. We assess hedge effectiveness using regression analysis, both at inception of the hedging relationship and on an ongoing basis. For fair value hedges, the regression analysis involves regressing the periodic change in fair value of the hedging instrument against the periodic changes in fair value of the asset or liability being hedged due to changes in the hedged risk(s). For cash flow hedges, the regression analysis involves regressing the periodic changes in fair value of the hedging instrument against the periodic changes in fair value of a hypothetical derivative. The hypothetical derivative has terms that identically match and offset the cash flows of the forecasted transaction being hedged due to changes in the hedged risk(s). The initial assessment for fair value and cash flow hedges includes an evaluation of the quantitative measures of the regression results used to validate the conclusion of high effectiveness. Periodically, as required, we also formally assess whether the derivative we designated in each hedging relationship is expected to be and has been highly effective in offsetting changes in fair values or cash flows of the hedged item using the regression analysis method.

**DISCONTINUING HEDGE ACCOUNTING** We discontinue hedge accounting prospectively when (1) a derivative is no longer highly effective in offsetting changes in the fair value or cash flows of a hedged item, (2) a derivative expires or is sold, terminated or exercised, (3) we elect to discontinue the designation of a derivative as a hedge, or (4) in a cash flow hedge, a derivative is de-designated because it is no longer probable that a forecasted transaction will occur.

When we discontinue fair value hedge accounting, we no longer adjust the previously hedged asset or liability for changes in fair value. The remaining cumulative adjustments to the hedged item and accumulated amounts reported in OCI are accounted for in the same manner as other components of the carrying amount of the asset or liability. For example, for financial debt instruments such as AFS debt securities, loans or long-term debt, these amounts are amortized into net interest income over the remaining life of the asset or liability similar to other amortized cost basis adjustments. If the hedged item is derecognized, the accumulated amounts reported in OCI are immediately reclassified to net interest income. If the derivative continues to be held after fair value hedge accounting ceases, we carry the derivative on the balance sheet at its fair value with changes in fair value included in noninterest income.

When we discontinue cash flow hedge accounting and it is probable that the forecasted transaction will occur, the accumulated amount reported in OCI at the de-designation date continues to be reported in OCI until the forecasted transaction affects earnings at which point the related OCI amount is reclassified to net interest income. If cash flow hedge accounting is discontinued and it is probable the forecasted transaction will no longer occur, the accumulated gains and losses reported in OCI at the de-designation date is immediately reclassified to noninterest income. If the derivative continues to be held after cash flow hedge accounting ceases, we carry the derivative on the balance sheet at its fair value with changes in fair value included in noninterest income.

**EMBEDDED DERIVATIVES** We may purchase or originate financial instruments that contain an embedded derivative. At inception of the financial instrument, we assess (1) if the economic characteristics of the embedded derivative are not clearly and closely related to the economic characteristics of the host contract, (2) if the financial instrument that embodies both the embedded derivative and the host contract is not measured at fair value with changes in fair value reported in earnings, and (3) if a separate instrument with the same terms as the embedded instrument would meet the definition of a derivative. If the embedded derivative meets all of these conditions, we separate it from the hybrid contract by recording the bifurcated derivative at fair value and the remaining host contract at the difference between the basis of the hybrid instrument and the fair value of the bifurcated derivative. The bifurcated derivative is carried at fair value with changes recorded in noninterest income and reported within the balance sheet as a derivative asset or liability. The accounting for the remaining host contract is the same as other assets and liabilities of a similar type and reported within the balance sheet based upon the accounting classification of the instrument.

**COUNTERPARTY CREDIT RISK AND NETTING** By using derivatives, we are exposed to counterparty credit risk, which is the risk that counterparties to the derivative contracts do not perform as expected. If a counterparty fails to perform, our counterparty credit risk is equal to the amount reported as a derivative asset on our balance sheet. The amounts reported as a derivative asset are derivative contracts in a gain position, and to the extent subject to legally enforceable master netting arrangements, net of derivatives in a loss position with the same counterparty and cash collateral received. We minimize counterparty credit risk through credit approvals, limits, monitoring procedures, executing master netting arrangements and obtaining collateral, where appropriate. Counterparty credit risk related to derivatives is considered in determining fair value and our

assessment of hedge effectiveness. To the extent derivatives subject to master netting arrangements meet the applicable requirements, including determining the legal enforceability of the arrangement, it is our policy to present derivative balances and related cash collateral amounts net on the balance sheet. We incorporate adjustments to reflect counterparty credit risk (credit valuation adjustments (CVA)) in determining the fair value of our derivatives. CVA, which considers the effects of enforceable master netting agreements and collateral arrangements, reflects market-based views of the credit quality of each counterparty. We estimate CVA based on observed credit spreads in the credit default swap market and indices indicative of the credit quality of the counterparties to our derivatives.

Cash collateral exchanged related to our interest rate derivatives, and certain commodity and equity derivatives, with centrally cleared counterparties is recorded as a reduction of the derivative fair value asset and liability balances, as opposed to separate non-derivative receivables or payables. This cash collateral, also referred to as variation margin, is exchanged based upon derivative fair value changes, typically on a one-day lag. For additional information on our derivatives and hedging activities, see Note 18 (Derivatives).

### Equity Securities

Equity securities exclude investments that represent a controlling interest in the investee. Marketable equity securities have readily determinable fair values and include, but are not limited to securities used in our trading activities. Marketable equity securities are recorded at fair value with unrealized gains and losses, due to changes in fair value, reflected in net gains (losses) on equity securities within noninterest income. Realized and unrealized gains and losses from marketable equity securities related to our trading activity are recognized in net gains from trading activities. The remaining marketable equity securities realized and unrealized gains and losses are recognized in net gains from equity securities. Dividend income from marketable equity securities is recognized in interest income.

Nonmarketable equity securities do not have readily determinable fair values. These securities are accounted for under one of the following accounting methods:

- Fair value: This method is an election. The securities are recorded at fair value with unrealized gains or losses reflected in noninterest income;
- Equity method: This method is applied when we have the ability to exert significant influence over the investee. These securities are carried at cost and adjusted for our share of the investee's earnings or losses, less any dividends received and/or impairments;
- Cost method: This method is required for specific securities, such as Federal Reserve Bank stock and Federal Home Loan Bank stock. These investments are held at amortized cost less any impairments. If impaired, the carrying value is written down to the fair value of the security;
- Measurement alternative: This method is followed by all remaining nonmarketable equity securities. These securities are initially carried at amortized cost and are remeasured to fair value as of the date of an orderly observable transaction of the same or similar security of the same issuer. These securities are also adjusted for any impairments.

Equity method adjustments for our share of the investee's earnings or losses are recognized in other noninterest income. All other realized and unrealized gains and losses, including impairment losses, from nonmarketable equity securities are recognized in net gains from equity securities. Dividends from

equity method securities are recognized as a reduction of the investment carrying value. Dividend income from all other nonmarketable equity securities is recognized in interest income.

Our review for impairment for equity method, cost method and measurement alternative securities includes an analysis of the facts and circumstances of each security, the intent or requirement to sell the security, the expectations of cash flows, capital needs and the viability of its business model. For equity method and cost method investments, we reduce the asset's carrying value when we consider declines in value to be other than temporary. For securities accounted for under the measurement alternative, we reduce the asset value when the fair value is less than carrying value, without the consideration of recovery.

### Pension Accounting

We sponsor a frozen noncontributory qualified defined benefit retirement plan, the Wells Fargo & Company Cash Balance Plan (Cash Balance Plan), which covers eligible employees of Wells Fargo. We also sponsor nonqualified defined benefit plans that provide supplemental defined benefit pension benefits to certain eligible employees. We account for our defined benefit pension plans using an actuarial model. Two principal assumptions in determining net periodic pension cost are the discount rate and the expected long-term rate of return on plan assets.

A discount rate is used to estimate the present value of our future pension benefit obligations. We use a consistent methodology to determine the discount rate using a yield curve with maturity dates that closely match the estimated timing of the expected benefit payments for our plans. The yield curve is derived from a broad-based universe of high-quality corporate bonds as of the measurement date.

Our determination of the reasonableness of our expected long-term rate of return on plan assets is highly quantitative by nature. We evaluate the current asset allocations and expected returns under two sets of conditions: (1) projected returns using several forward-looking capital market assumptions, and (2) historical returns for the main asset classes dating back to 1970 or the earliest period for which historical data was readily available for the asset classes included. Using long-term historical data allows us to capture multiple economic environments, which we believe is relevant when using historical returns. We place greater emphasis on the forward-looking return and risk assumptions than on historical results. We use the resulting projections to derive a base line expected rate of return and risk level for the Cash Balance Plan's prescribed asset mix. We evaluate the portfolio based on: (1) the established target asset allocations over short term (one-year) and longer term (ten-year) investment horizons, and (2) the range of potential outcomes over these horizons within specific standard deviations. We perform the above analyses to assess the reasonableness of our expected long-term rate of return on plan assets. We consider the expected rate of return to be a long-term average view of expected returns.

At year end, we re-measure our defined benefit plan liabilities and related plan assets and recognize any resulting actuarial gain or loss in other comprehensive income. We generally amortize net actuarial gain or loss in excess of a 5% corridor from accumulated OCI into net periodic pension cost over the estimated average remaining participation period, which at December 31, 2019, is 19 years. See Note 23 (Employee Benefits and Other Expenses) for additional information on our pension accounting.

## Note 1: Summary of Significant Accounting Policies (continued)

### Income Taxes

We file consolidated and separate company U.S. federal income tax returns, non-U.S. tax returns and various combined and separate company state tax returns.

We evaluate two components of income tax expense: current and deferred income tax expense. Current income tax expense represents our estimated taxes to be paid or refunded for the current period and includes income tax expense related to our uncertain tax positions. Uncertain tax positions that meet the more likely than not recognition threshold are measured to determine the amount of benefit to recognize. An uncertain tax position is measured at the largest amount of benefit that management believes has a greater than 50% likelihood of realization upon settlement. Tax benefits not meeting our realization criteria represent unrecognized tax benefits.

Deferred income tax expense results from changes in deferred tax assets and liabilities between periods. We determine deferred income taxes using the balance sheet method. Under this method, the net deferred tax asset or liability is based on the tax effects of the differences between the book and tax basis of assets and liabilities, and enacted changes in tax rates and laws are recognized in the period in which they occur. Deferred tax assets are recognized subject to management's judgment that realization is more likely than not.

See Note 24 (Income Taxes) to Financial Statements in this Report for a further description of our provision for income taxes and related income tax assets and liabilities.

### Stock-Based Compensation

We have stock-based employee compensation plans as more fully discussed in Note 21 (Common Stock and Stock Plans). Our Long-Term Incentive Compensation Plan provides for awards of incentive and nonqualified stock options, stock appreciation rights, restricted shares, restricted share rights (RSRs), performance share awards (PSAs) and stock awards without restrictions. We measure the cost of employee services received in exchange for an award of equity instruments, such as stock options, RSRs or PSAs, based on the fair value of the award on the grant date. The cost is recognized in commission and incentive compensation in our income statement normally over the vesting period of the award; awards with graded vesting are expensed on a straight-line method. Awards to team members who are retirement eligible at the grant date are subject to immediate expensing upon grant. Awards to team members who become retirement eligible before the final vesting date are expensed between the grant date and the date the team member becomes retirement eligible. Except for retirement and other limited circumstances, RSRs are canceled when employment ends.

Beginning in 2013, certain RSRs and all PSAs granted include discretionary conditions that can result in forfeiture and are measured at fair value initially and subsequently until the discretionary conditions end. For these awards, the associated compensation expense fluctuates with changes in our stock price. For PSAs, compensation expense also fluctuates based on the estimated outcome of meeting the performance conditions. The total expense that will be recognized on these awards cannot be finalized until the determination of the awards that will vest.

### Earnings Per Common Share

We compute earnings per common share by dividing net income applicable to common stock (net income less dividends on preferred stock and the excess of consideration transferred over carrying value of preferred stock redeemed, if any) by the average number of common shares outstanding during the period. We compute diluted earnings per common share using net income applicable to common stock and adding the effect of common stock equivalents (e.g., stock options, restricted share rights, convertible debentures and warrants) that are dilutive to the average number of common shares outstanding during the period.

### Fair Value of Assets and Liabilities

Fair value is defined as the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Fair value is based on the exit price notion while maximizing the use of observable inputs and minimizing the use of unobservable inputs.

We measure our assets and liabilities at fair value when we are required to record them at fair value, when we have elected the fair value option, and to fulfill fair value disclosure requirements. Assets and liabilities are recorded at fair value on a recurring or nonrecurring basis. Assets and liabilities that are recorded at fair value on a recurring basis require a fair value measurement at each reporting period. Those that are recorded at fair value on a nonrecurring basis are adjusted to fair value only as required through the application of an accounting method such as LOCOM, the measurement alternative, or write-downs of individual assets. Measurements of fair value prioritize observable inputs, where available.

We classify our assets and liabilities measured at fair value based upon a three-level hierarchy that assigns the highest priority to unadjusted quoted prices in active markets and the lowest priority to unobservable inputs. The three levels are as follows:

- Level 1 - Valuation is based upon quoted prices for identical instruments traded in active markets.
- Level 2 - Valuation is based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant assumptions are observable in the market.
- Level 3 - Valuation is generated from techniques that use significant assumptions that are not observable in the market. These unobservable assumptions reflect estimates of assumptions that market participants would use in pricing the asset or liability. Valuation techniques include use of option pricing models, discounted cash flow models and similar techniques.

For valuations that use several inputs, the determination of whether that measurement is Level 2 or Level 3 is based on the significance of the unobservable inputs to the entire fair value measurement. See Note 19 (Fair Values of Assets and Liabilities) for a more detailed discussion of the valuation methodologies that we apply to our assets and liabilities.

## Share Repurchases

From time to time we may enter into written repurchase plans pursuant to Rule 10b5-1 of the Securities Exchange Act of 1934, private forward repurchase contracts, or a combination of the two to complement our open-market common stock repurchase strategies. The stock repurchase transactions allow us to manage our share repurchases in a manner consistent with our capital plans submitted annually under the Comprehensive Capital Analysis and Review (CCAR) and to provide an economic benefit to the Company.

Under a Rule 10b5-1 repurchase plan, payments and receipt of repurchased shares settle on the same day. Shares repurchased reduce the total number of outstanding shares of common stock upon the settlement of each trade under the plan. During 2019 and 2018, we repurchased approximately 204 million and 12 million shares of our common stock, respectively, under Rule 10b5-1 repurchase plans. We had no shares repurchased under a Rule 10b5-1 repurchase plan during 2017.

We had no shares repurchased under private forward repurchase contracts in 2019. During 2018 and 2017, we repurchased approximately 82 million and 89 million shares of

our common stock, respectively, under these contracts. We had no unsettled private forward repurchase contracts at December 31, 2019, December 31, 2018, or December 31, 2017. Under private forward repurchase contract transactions, our payments to counterparties are recognized in permanent equity in the quarter paid and are not subject to re-measurement. The classification of the up-front payments as permanent equity assures that we have appropriate repurchase timing consistent with our capital plans, which contemplate a fixed dollar amount available per quarter for share repurchases pursuant to the Board of Governors of the Federal Reserve System (FRB) supervisory guidance. In return, the counterparty agrees to deliver a variable number of shares based on a per share discount to the volume-weighted average stock price over the contract period. There are no scenarios where the contracts would not either physically settle in shares or allow us to choose the settlement method. Our total number of outstanding shares of common stock is not reduced until settlement of the contract.

## Supplemental Cash Flow Information

Significant noncash activities are presented in Table 1.2.

**Table 1.2: Supplemental Cash Flow Information**

(in millions)	Year ended December 31,		
	2019	2018	2017
Trading debt securities retained from securitization of MLHFS	\$ 40,650	37,265	52,435
Transfers from loans to MLHFS	6,330	5,366	5,500
Transfers from available-for-sale debt securities to held-to-maturity debt securities	13,833	16,479	50,405
Operating lease ROU assets acquired with operating lease liabilities (1)	5,804	—	—

(1) The year ended December 31, 2019, balance includes \$4.9 billion from adoption of ASU 2016-02 – Leases (Topic 842) and \$904 million attributable to new leases and changes from modified leases.

## Subsequent Events

We have evaluated the effects of events that have occurred subsequent to December 31, 2019, and, except as disclosed in Note 17 (Legal Actions), Note 20 (Preferred Stock) and Note 27 (Operating Segments), there have been no material events that would require recognition in our 2019 consolidated financial statements or disclosure in the Notes to the consolidated financial statements.

## Note 2: Business Combinations

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There were no acquisitions during 2019 or 2018. As of December 31, 2019, we had no pending acquisitions.

During 2019, we completed the sale of our Institutional Retirement and Trust (IRT) business in July and the sale of our Eastdil Secured (Eastdil) business in October, recognizing pre-tax gains within other noninterest income of \$1.1 billion and \$362 million, respectively.

For the IRT business, we will continue to administer client assets at the direction of the buyer for up to 24 months from the closing date pursuant to a transition services agreement. The buyer will receive post-closing revenue from the client assets and will pay us a fee for certain costs that we incur to administer the client assets during the transition period. The transition services fee will be recognized as other noninterest income, and the expenses we incur will be recognized in the same manner as they were prior to the close of the sale. Transition period revenue is expected to approximate transition period expenses and is subject to downward adjustment as client assets transition to the buyer's platform. No IRT client assets were transitioned to the buyer's platform as of December 31, 2019. At December 31, 2019, we had assets under management (AUM) and assets under administration (AUA) associated with the IRT business of \$21 billion and \$915 billion, respectively.

During 2018, we completed the sale of Wells Fargo Shareowner Services in February, the sale of the automobile lending business of Reliable Financial Services, Inc., and Reliable Finance Holding Company in August, and the sale of 52 branches in Indiana, Ohio, Michigan and part of Wisconsin in November. Included with the branches sale were approximately \$2.0 billion of deposits.

### Note 3: Cash, Loan and Dividend Restrictions

Cash and cash equivalents may be restricted as to usage or withdrawal. FRB regulations require that each of our subsidiary banks maintain reserve balances on deposit with the Federal Reserve Banks. Table 3.1 provides a summary of restrictions on cash equivalents in addition to the FRB reserve cash balance requirements.

**Table 3.1: Nature of Restrictions on Cash Equivalents**

(in millions)	Dec 31, 2019	Dec 31, 2018
Average required reserve balance for FRB (1)	<b>\$ 11,374</b>	12,428
Reserve balance for non-U.S. central banks	<b>460</b>	517
Segregated for benefit of brokerage customers under federal and other brokerage regulations	<b>733</b>	1,135
Related to consolidated variable interest entities (VIEs) that can only be used to settle liabilities of VIEs	<b>300</b>	147

(1) FRB required reserve balance represents average for the years ended December 31, 2019, and December 31, 2018.

Federal law restricts the amount and the terms of both credit and non-credit transactions between a bank and its nonbank affiliates. These covered transactions may not exceed 10% of the bank's capital and surplus (which for this purpose represents Tier 1 and Tier 2 capital, as calculated under the risk-based capital (RBC) guidelines, plus the balance of the ACL excluded from Tier 2 capital) with any single nonbank affiliate and 20% of the bank's capital and surplus with all its nonbank affiliates. Transactions that are extensions of credit may require collateral to be held to provide added security to the bank. For further discussion of RBC, see Note 29 (Regulatory and Agency Capital Requirements) in this Report.

Dividends paid by our subsidiary banks are subject to various federal and state regulatory limitations. Dividends that may be paid by a national bank without the express approval of the Office of the Comptroller of the Currency (OCC) are limited to that bank's retained net profits for the preceding two calendar years plus retained net profits up to the date of any dividend declaration in the current calendar year. Retained net profits, as defined by the OCC, consist of net income less dividends declared during the period.

We have a state-chartered subsidiary bank that is subject to state regulations that limit dividends. Under these provisions and regulatory limitations, our national and state-chartered subsidiary banks could have declared additional dividends of \$5.4 billion at December 31, 2019, without obtaining prior regulatory approval. We have elected to retain higher capital at our national and state-chartered subsidiary banks in order to meet internal capital policy minimums and regulatory requirements. Our nonbank subsidiaries are also limited by certain federal and state statutory provisions and regulations covering the amount of dividends that may be paid in any given year. In addition, under a Support Agreement dated June 28, 2017, as amended and restated on June 26, 2019, among Wells Fargo & Company, the parent holding company (the "Parent"), WFC Holdings, LLC, an intermediate holding company and subsidiary of the Parent (the "IHC"), Wells Fargo Bank, N.A., Wells Fargo Securities, LLC, Wells Fargo Clearing Services, LLC, and certain other direct and indirect subsidiaries of the Parent designated as material entities for resolution planning purposes or identified as related support entities in our resolution plan, the IHC may be restricted from making dividend payments to the Parent if certain liquidity and/or capital metrics fall below defined triggers, or if the Parent's board of directors authorizes it to file a case under the U.S. Bankruptcy Code. Based on retained earnings at December 31, 2019, our nonbank subsidiaries could have declared additional dividends of \$25.9 billion at December 31, 2019, without obtaining prior regulatory approval.

The FRB's Capital Plan Rule (codified at 12 CFR 225.8 of Regulation Y) establishes capital planning and prior notice and approval requirements for capital distributions including dividends by certain large bank holding companies. The FRB has also published guidance regarding its supervisory expectations for capital planning, including capital policies regarding the process relating to common stock dividend and repurchase decisions in the FRB's SR Letter 15-18. The effect of this guidance is to require the approval of the FRB (or specifically under the Capital Plan Rule, a notice of non-objection) for the repurchase or redemption of common or perpetual preferred stock as well as to raise the per share quarterly dividend from its current level of \$0.51 per share as declared by the Company's Board of Directors (Board) on January 28, 2020, payable on March 1, 2020.

## Note 4: Trading Activities

Table 4.1 presents a summary of our trading assets and liabilities measured at fair value through earnings.

**Table 4.1: Trading Assets and Liabilities**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Trading assets:</b>		
Debt securities	\$ 79,733	69,989
Equity securities	27,440	19,449
Loans held for sale	972	1,469
Gross trading derivative assets	34,825	29,216
Netting (1)	(21,463)	(19,807)
Total trading derivative assets	13,362	9,409
Total trading assets	121,507	100,316
<b>Trading liabilities:</b>		
Short sale	17,430	19,720
Gross trading derivative liabilities	33,861	28,717
Netting (1)	(26,074)	(21,178)
Total trading derivative liabilities	7,787	7,539
Total trading liabilities	\$ 25,217	27,259

(1) Represents balance sheet netting for trading derivative asset and liability balances, and trading portfolio level counterparty valuation adjustments.

Table 4.2 provides a summary of the net interest income earned from trading securities, and net gains and losses due to the realized and unrealized gains and losses from trading

activities. Net interest income also includes dividend income on trading securities and dividend expense on trading securities we have sold, but not yet purchased.

**Table 4.2: Net Interest Income and Net Gains (Losses) on Trading Activities**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Interest income:</b>			
Debt securities	\$ 3,130	2,831	2,313
Equity securities	579	587	515
Loans held for sale	78	62	38
Total interest income	3,787	3,480	2,866
Less: Interest expense	525	587	416
Net interest income	3,262	2,893	2,450
<b>Net gains (losses) from trading activities (1):</b>			
Debt securities	1,053	(824)	125
Equity securities	4,795	(4,240)	3,394
Loans held for sale	12	(1)	45
Derivatives (2)	(4,867)	5,667	(3,022)
Total net gains from trading activities	993	602	542
Total trading-related net interest and noninterest income	\$ 4,255	3,495	2,992

(1) Represents realized gains (losses) from our trading activities and unrealized gains (losses) due to changes in fair value of our trading positions.

(2) Excludes economic hedging of mortgage banking and asset/liability management activities, for which hedge results (realized and unrealized) are reported with the respective hedged activities.



## Note 5: Available-for-Sale and Held-to-Maturity Debt Securities

Table 5.1 provides the amortized cost and fair value by major categories of available-for-sale debt securities, which are carried at fair value, and held-to-maturity debt securities, which are carried at amortized cost. The net unrealized gains (losses) for

available-for-sale debt securities are reported on an after-tax basis as a component of cumulative OCI. Information on debt securities held for trading is included in Note 4 (Trading Activities).

**Table 5.1: Amortized Cost and Fair Value**

(in millions)	Amortized cost	Gross unrealized gains	Gross unrealized losses	Fair value
<b>December 31, 2019</b>				
<b>Available-for-sale debt securities:</b>				
Securities of U.S. Treasury and federal agencies	\$ 14,948	13	(1)	14,960
Securities of U.S. states and political subdivisions (1)	39,381	992	(36)	40,337
<b>Mortgage-backed securities:</b>				
Federal agencies	160,318	2,299	(164)	162,453
Residential	814	14	(1)	827
Commercial	3,899	41	(6)	3,934
<b>Total mortgage-backed securities</b>	<b>165,031</b>	<b>2,354</b>	<b>(171)</b>	<b>167,214</b>
Corporate debt securities	6,343	252	(32)	6,563
Collateralized loan and other debt obligations	29,693	125	(123)	29,695
Other (2)	4,664	50	(24)	4,690
<b>Total available-for-sale debt securities</b>	<b>260,060</b>	<b>3,786</b>	<b>(387)</b>	<b>263,459</b>
<b>Held-to-maturity debt securities:</b>				
Securities of U.S. Treasury and federal agencies	45,541	617	(19)	46,139
Securities of U.S. states and political subdivisions	13,486	286	(13)	13,759
Federal agency and other mortgage-backed securities (3)	94,869	2,093	(37)	96,925
Other debt securities	37	—	—	37
<b>Total held-to-maturity debt securities</b>	<b>153,933</b>	<b>2,996</b>	<b>(69)</b>	<b>156,860</b>
<b>Total (4)</b>	<b>\$ 413,993</b>	<b>6,782</b>	<b>(456)</b>	<b>420,319</b>
<b>December 31, 2018</b>				
<b>Available-for-sale debt securities:</b>				
Securities of U.S. Treasury and federal agencies	\$ 13,451	3	(106)	13,348
Securities of U.S. states and political subdivisions (1)	48,994	716	(446)	49,264
<b>Mortgage-backed securities:</b>				
Federal agencies	155,974	369	(3,140)	153,203
Residential	2,638	142	(5)	2,775
Commercial	4,207	40	(22)	4,225
<b>Total mortgage-backed securities</b>	<b>162,819</b>	<b>551</b>	<b>(3,167)</b>	<b>160,203</b>
Corporate debt securities	6,230	131	(90)	6,271
Collateralized loan and other debt obligations	35,581	158	(396)	35,343
Other (2)	5,396	100	(13)	5,483
<b>Total available-for-sale debt securities</b>	<b>272,471</b>	<b>1,659</b>	<b>(4,218)</b>	<b>269,912</b>
<b>Held-to-maturity debt securities:</b>				
Securities of U.S. Treasury and federal agencies	44,751	4	(415)	44,340
Securities of U.S. states and political subdivisions	6,286	30	(116)	6,200
Federal agency and other mortgage-backed securities (3)	93,685	112	(2,288)	91,509
Other debt securities	66	—	—	66
<b>Total held-to-maturity debt securities</b>	<b>144,788</b>	<b>146</b>	<b>(2,819)</b>	<b>142,115</b>
<b>Total (4)</b>	<b>\$ 417,259</b>	<b>1,805</b>	<b>(7,037)</b>	<b>412,027</b>

(1) Includes investments in tax-exempt preferred debt securities issued by investment funds or trusts that predominantly invest in tax-exempt municipal securities. The amortized cost and fair value of these types of securities was \$5.8 billion each at December 31, 2019, and \$6.3 billion each at December 31, 2018.

(2) Largely includes asset-backed securities collateralized by student loans.

(3) Predominantly consists of federal agency mortgage-backed securities at both December 31, 2019, and December 31, 2018.

(4) We held debt securities from Federal National Mortgage Association (FNMA) and Federal Home Loan Mortgage Corporation (FHLMC) that each exceeded 10% of shareholders' equity, with an amortized cost of \$112.1 billion and \$89.9 billion and a fair value of \$114.0 billion and \$91.4 billion at December 31, 2019, and an amortized cost of \$99.0 billion and \$95.0 billion and a fair value of \$97.6 billion and \$93.0 billion at December 31, 2018, respectively.

**Note 5: Available-for-Sale and Held-to-Maturity Debt Securities (continued)**

**Gross Unrealized Losses and Fair Value**

Table 5.2 shows the gross unrealized losses and fair value of available-for-sale and held-to-maturity debt securities by length of time those individual securities in each category have been in a continuous loss position. Debt securities on which we have taken

credit-related OTTI write-downs are categorized as being “less than 12 months” or “12 months or more” in a continuous loss position based on the point in time that the fair value declined to below the cost basis and not the period of time since the credit-related OTTI write-down.

**Table 5.2: Gross Unrealized Losses and Fair Value**

(in millions)	Less than 12 months		12 months or more		Total	
	Gross unrealized losses	Fair value	Gross unrealized losses	Fair value	Gross unrealized losses	Fair value
<b>December 31, 2019</b>						
<b>Available-for-sale debt securities:</b>						
Securities of U.S. Treasury and federal agencies	\$ —	—	(1)	2,423	(1)	2,423
Securities of U.S. states and political subdivisions	(10)	2,776	(26)	2,418	(36)	5,194
<b>Mortgage-backed securities:</b>						
Federal agencies	(50)	16,807	(114)	10,641	(164)	27,448
Residential	(1)	149	—	—	(1)	149
Commercial	(3)	998	(3)	244	(6)	1,242
<b>Total mortgage-backed securities</b>	<b>(54)</b>	<b>17,954</b>	<b>(117)</b>	<b>10,885</b>	<b>(171)</b>	<b>28,839</b>
Corporate debt securities	(9)	303	(23)	216	(32)	519
Collateralized loan and other debt obligations	(13)	5,070	(110)	16,789	(123)	21,859
Other	(12)	1,587	(12)	492	(24)	2,079
<b>Total available-for-sale debt securities</b>	<b>(98)</b>	<b>27,690</b>	<b>(289)</b>	<b>33,223</b>	<b>(387)</b>	<b>60,913</b>
<b>Held-to-maturity debt securities:</b>						
Securities of U.S. Treasury and federal agencies	(19)	989	—	—	(19)	989
Securities of U.S. states and political subdivisions	(9)	613	(4)	57	(13)	670
Federal agency and other mortgage-backed securities	(35)	5,825	(2)	31	(37)	5,856
<b>Total held-to-maturity debt securities</b>	<b>(63)</b>	<b>7,427</b>	<b>(6)</b>	<b>88</b>	<b>(69)</b>	<b>7,515</b>
<b>Total</b>	<b>\$ (161)</b>	<b>35,117</b>	<b>(295)</b>	<b>33,311</b>	<b>(456)</b>	<b>68,428</b>
<b>December 31, 2018</b>						
<b>Available-for-sale debt securities:</b>						
Securities of U.S. Treasury and federal agencies	\$ (1)	498	(105)	6,204	(106)	6,702
Securities of U.S. states and political subdivisions	(73)	9,746	(373)	9,017	(446)	18,763
<b>Mortgage-backed securities:</b>						
Federal agencies	(42)	10,979	(3,098)	112,252	(3,140)	123,231
Residential	(3)	398	(2)	69	(5)	467
Commercial	(20)	1,972	(2)	79	(22)	2,051
<b>Total mortgage-backed securities</b>	<b>(65)</b>	<b>13,349</b>	<b>(3,102)</b>	<b>112,400</b>	<b>(3,167)</b>	<b>125,749</b>
Corporate debt securities	(64)	1,965	(26)	298	(90)	2,263
Collateralized loan and other debt obligations	(388)	28,306	(8)	553	(396)	28,859
Other	(7)	819	(6)	159	(13)	978
<b>Total available-for-sale debt securities</b>	<b>(598)</b>	<b>54,683</b>	<b>(3,620)</b>	<b>128,631</b>	<b>(4,218)</b>	<b>183,314</b>
<b>Held-to-maturity debt securities:</b>						
Securities of U.S. Treasury and federal agencies	(3)	895	(412)	41,083	(415)	41,978
Securities of U.S. states and political subdivisions	(4)	598	(112)	3,992	(116)	4,590
Federal agency and other mortgage-backed securities	(5)	4,635	(2,283)	77,741	(2,288)	82,376
<b>Total held-to-maturity debt securities</b>	<b>(12)</b>	<b>6,128</b>	<b>(2,807)</b>	<b>122,816</b>	<b>(2,819)</b>	<b>128,944</b>
<b>Total</b>	<b>\$ (610)</b>	<b>60,811</b>	<b>(6,427)</b>	<b>251,447</b>	<b>(7,037)</b>	<b>312,258</b>

We have assessed each debt security with gross unrealized losses included in the previous table for credit impairment. As part of that assessment we evaluated and concluded that we do not intend to sell any of the debt securities, and that it is more likely than not that we will not be required to sell, prior to recovery of the amortized cost basis. We evaluate, where necessary, whether credit impairment exists by comparing the present value of the expected cash flows to the debt securities' amortized cost basis.

For descriptions of the factors we consider when analyzing debt securities for impairment, see Note 1 (Summary of Significant Accounting Policies) and below.

**SECURITIES OF U.S. TREASURY AND FEDERAL AGENCIES AND FEDERAL AGENCY MORTGAGE-BACKED SECURITIES (MBS)**

The unrealized losses associated with U.S. Treasury and federal agency securities and federal agency MBS are generally driven by changes in interest rates and not due to credit losses given the explicit or implicit guarantees provided by the U.S. government.

**SECURITIES OF U.S. STATES AND POLITICAL SUBDIVISIONS**

The unrealized losses associated with securities of U.S. states and political subdivisions are usually driven by changes in the relationship between municipal and term funding credit curves rather than by changes to the credit quality of the underlying securities. Substantially all of these investments with unrealized losses are investment grade. The securities were generally underwritten in accordance with our own investment standards prior to the decision to purchase. Some of these securities are guaranteed by a bond insurer, but we did not rely on this guarantee when making our investment decision. These investments will continue to be monitored as part of our ongoing impairment analysis but are expected to perform, even if the rating agencies reduce the credit rating of the bond insurers. As a result, we expect to recover the entire amortized cost basis of these securities.

**RESIDENTIAL AND COMMERCIAL MBS**

The unrealized losses associated with private residential MBS and commercial MBS are generally driven by changes in projected collateral losses, credit spreads and interest rates. We assess for credit impairment by estimating the present value of expected cash flows. The key assumptions for determining expected cash flows include default rates, loss severities and/or prepayment rates. We estimate security losses by forecasting the underlying mortgage loans in each transaction. We use forecasted loan performance to project cash flows to the various tranches in the structure. We also consider cash flow forecasts and, as applicable, independent industry analyst reports and forecasts, sector credit ratings, and other independent market data. Based upon our assessment of the expected credit losses and the credit enhancement level of the securities, we expect to recover the entire amortized cost basis of these securities.

**CORPORATE DEBT SECURITIES** The unrealized losses associated with corporate debt securities are predominantly related to unsecured debt obligations issued by various corporations. We evaluate the financial performance of each issuer on a quarterly basis to determine if the issuer can make all contractual principal and interest payments. Based upon this assessment, we expect to recover the entire amortized cost basis of these securities.

**COLLATERALIZED LOAN AND OTHER DEBT OBLIGATIONS**

The unrealized losses associated with collateralized loan and other debt obligations relate to securities predominantly backed by commercial collateral. The unrealized losses are typically driven by changes in projected collateral losses, credit spreads and interest rates. We assess for credit impairment by estimating the present value of expected cash flows. The key assumptions for determining expected cash flows include default rates, loss severities and prepayment rates. We also consider cash flow forecasts and, as applicable, independent industry analyst reports and forecasts, sector credit ratings, and other independent market data. Based upon our assessment of the expected credit losses and the credit enhancement level of the securities, we expect to recover the entire amortized cost basis of these securities.

**OTHER DEBT SECURITIES**

The unrealized losses associated with other debt securities predominantly relate to other asset-backed securities. The losses are usually driven by changes in projected collateral losses, credit spreads and interest rates. We assess for credit impairment by estimating the present value of expected cash flows. The key assumptions for determining expected cash flows include default rates, loss severities and prepayment rates. Based upon our assessment of the expected credit losses and the credit enhancement level of the securities, we expect to recover the entire amortized cost basis of these securities.

**OTHER DEBT SECURITIES MATTERS**

The fair values of our debt securities could decline in the future if the underlying performance of the collateral for the residential and commercial MBS or other securities deteriorate, and our credit enhancement levels do not provide sufficient protection to our contractual principal and interest. As a result, there is a risk that significant OTTI may occur in the future.

**Note 5: Available-for-Sale and Held-to-Maturity Debt Securities (continued)**

Table 5.3 shows the gross unrealized losses and fair value of the available-for-sale and held-to-maturity debt securities by those rated investment grade and those rated less than investment grade, according to their lowest credit rating by Standard & Poor's Rating Services (S&P) or Moody's Investors Service (Moody's). Credit ratings express opinions about the credit quality of a debt security. Debt securities rated investment grade, that is those rated BBB- or higher by S&P or Baa3 or higher by Moody's, are generally considered by the rating agencies and market participants to be low credit risk. Conversely, debt securities rated below investment grade, labeled as "speculative grade" by the rating agencies, are

considered to be distinctively higher credit risk than investment grade debt securities. We have also included debt securities not rated by S&P or Moody's in the table below based on our internal credit grade of the debt securities (used for credit risk management purposes) equivalent to the credit rating assigned by major credit agencies. The unrealized losses and fair value of unrated debt securities categorized as investment grade based on internal credit grades were \$7 million and \$2.2 billion, respectively, at December 31, 2019, and \$20 million and \$5.2 billion, respectively, at December 31, 2018. If an internal credit grade was not assigned, we categorized the debt security as non-investment grade.

**Table 5.3: Gross Unrealized Losses and Fair Value by Investment Grade**

(in millions)	Investment grade		Non-investment grade	
	Gross unrealized losses	Fair value	Gross unrealized losses	Fair value
<b>December 31, 2019</b>				
<b>Available-for-sale debt securities:</b>				
Securities of U.S. Treasury and federal agencies	\$ (1)	2,423	—	—
Securities of U.S. states and political subdivisions	(32)	5,019	(4)	175
<b>Mortgage-backed securities:</b>				
Federal agencies	(164)	27,448	—	—
Residential	(1)	149	—	—
Commercial	(3)	1,158	(3)	84
<b>Total mortgage-backed securities</b>	<b>(168)</b>	<b>28,755</b>	<b>(3)</b>	<b>84</b>
Corporate debt securities	(3)	155	(29)	364
Collateralized loan and other debt obligations	(123)	21,859	—	—
Other	(13)	1,499	(11)	580
<b>Total available-for-sale debt securities</b>	<b>(340)</b>	<b>59,710</b>	<b>(47)</b>	<b>1,203</b>
<b>Held-to-maturity debt securities:</b>				
Securities of U.S. Treasury and federal agencies	(19)	989	—	—
Securities of U.S. states and political subdivisions	(13)	670	—	—
Federal agency and other mortgage-backed securities	(25)	5,428	(12)	428
<b>Total held-to-maturity debt securities</b>	<b>(57)</b>	<b>7,087</b>	<b>(12)</b>	<b>428</b>
<b>Total</b>	<b>\$ (397)</b>	<b>66,797</b>	<b>(59)</b>	<b>1,631</b>
December 31, 2018				
<b>Available-for-sale debt securities:</b>				
Securities of U.S. Treasury and federal agencies	\$ (106)	6,702	—	—
Securities of U.S. states and political subdivisions	(425)	18,447	(21)	316
<b>Mortgage-backed securities:</b>				
Federal agencies	(3,140)	123,231	—	—
Residential	(2)	295	(3)	172
Commercial	(20)	1,999	(2)	52
<b>Total mortgage-backed securities</b>	<b>(3,162)</b>	<b>125,525</b>	<b>(5)</b>	<b>224</b>
Corporate debt securities	(17)	791	(73)	1,472
Collateralized loan and other debt obligations	(396)	28,859	—	—
Other	(7)	726	(6)	252
<b>Total available-for-sale debt securities</b>	<b>(4,113)</b>	<b>181,050</b>	<b>(105)</b>	<b>2,264</b>
<b>Held-to-maturity debt securities:</b>				
Securities of U.S. Treasury and federal agencies	(415)	41,978	—	—
Securities of U.S. states and political subdivisions	(116)	4,590	—	—
Federal agency and other mortgage-backed securities	(2,278)	81,977	(10)	399
<b>Total held-to-maturity debt securities</b>	<b>(2,809)</b>	<b>128,545</b>	<b>(10)</b>	<b>399</b>
<b>Total</b>	<b>\$ (6,922)</b>	<b>309,595</b>	<b>(115)</b>	<b>2,663</b>

## Contractual Maturities

Table 5.4 shows the remaining contractual maturities and contractual weighted-average yields (taxable-equivalent basis) of available-for-sale debt securities. The remaining contractual

principal maturities for MBS do not consider prepayments. Remaining expected maturities will differ from contractual maturities because borrowers may have the right to prepay obligations before the underlying mortgages mature.

**Table 5.4: Available-for-Sale Debt Securities – Fair Value by Contractual Maturity**

(in millions)	Total amount	Yield	Remaining contractual maturity							
			Within one year		After one year through five years		After five years through ten years		After ten years	
			Amount	Yield	Amount	Yield	Amount	Yield	Amount	Yield
December 31, 2019										
Available-for-sale debt securities (1):										
Fair value:										
Securities of U.S. Treasury and federal agencies	\$ 14,960	1.96%	\$ 9,980	1.88%	\$ 4,674	2.12%	\$ 46	1.83%	\$ 260	2.25%
Securities of U.S. states and political subdivisions	40,337	4.82	2,687	2.91	3,208	3.31	4,245	3.21	30,197	5.38
Mortgage-backed securities:										
Federal agencies	162,453	3.43	—	—	152	3.40	1,326	2.52	160,975	3.44
Residential	827	2.78	—	—	—	—	—	—	827	2.78
Commercial	3,934	3.44	—	—	31	4.03	235	3.22	3,668	3.45
Total mortgage-backed securities	167,214	3.43	—	—	183	3.51	1,561	2.62	165,470	3.43
Corporate debt securities	6,563	4.83	460	5.37	2,251	4.93	3,070	4.64	782	4.98
Collateralized loan and other debt obligations	29,695	3.33	—	—	—	—	12,137	3.43	17,558	3.27
Other	4,690	2.57	35	4.16	687	3.15	1,408	1.80	2,560	2.81
Total available-for-sale debt securities at fair value	\$ 263,459	3.57%	\$ 13,162	2.22%	\$ 11,003	3.12%	\$ 22,467	3.39%	\$ 216,827	3.69%

(1) Weighted-average yields displayed by maturity bucket are weighted based on fair value and predominantly represent contractual coupon rates without effect for any related hedging derivatives.

Table 5.5 shows the amortized cost and weighted-average yields of held-to-maturity debt securities by contractual maturity.

**Table 5.5: Held-to-Maturity Debt Securities – Amortized Cost by Contractual Maturity**

(in millions)	Total amount	Yield	Remaining contractual maturity							
			Within one year		After one year through five years		After five years through ten years		After ten years	
			Amount	Yield	Amount	Yield	Amount	Yield	Amount	Yield
December 31, 2019										
Held-to-maturity debt securities (1):										
Amortized cost:										
Securities of U.S. Treasury and federal agencies	\$ 45,541	2.12%	\$ 1,296	1.75%	\$ 42,242	2.13%	\$ 1,244	2.00%	\$ 759	2.33%
Securities of U.S. states and political subdivisions	13,486	4.89	—	—	87	5.95	1,866	4.80	11,533	4.90
Federal agency and other mortgage-backed securities	94,869	3.08	—	—	15	3.10	—	—	94,854	3.08
Other debt securities	37	3.18	—	—	—	—	37	3.18	—	—
Total held-to-maturity debt securities at amortized cost	\$ 153,933	2.95%	\$ 1,296	1.75%	\$ 42,344	2.14%	\$ 3,147	3.68%	\$ 107,146	3.27%

(1) Weighted-average yields displayed by maturity bucket are weighted based on amortized cost and predominantly represent contractual coupon rates.

## Note 5: Available-for-Sale and Held-to-Maturity Debt Securities (continued)

Table 5.6 shows the fair value of held-to-maturity debt securities by contractual maturity.

**Table 5.6: Held-to-Maturity Debt Securities – Fair Value by Contractual Maturity**

(in millions)	Total amount	Remaining contractual maturity			
		Within one year Amount	After one year through five years Amount	After five years through ten years Amount	After ten years Amount
December 31, 2019					
Held-to-maturity debt securities:					
Fair value:					
Securities of U.S. Treasury and federal agencies	\$ 46,139	1,301	42,830	1,268	740
Securities of U.S. states and political subdivisions	13,759	—	87	1,940	11,732
Federal agency and other mortgage-backed securities	96,925	—	15	—	96,910
Other debt securities	37	—	—	37	—
Total held-to-maturity debt securities at fair value	\$ 156,860	1,301	42,932	3,245	109,382

## Realized Gains and Losses

Table 5.7 shows the gross realized gains and losses on sales and OTTI write-downs related to available-for-sale debt securities.

**Table 5.7: Realized Gains and Losses**

(in millions)	Year ended December 31,		
	2019	2018	2017
Gross realized gains	\$ 227	155	948
Gross realized losses	(24)	(19)	(207)
OTTI write-downs	(63)	(28)	(262)
Net realized gains from available-for-sale debt securities	\$ 140	108	479

## Other-Than-Temporary Impaired Debt Securities

Table 5.8 shows the detail of total OTTI write-downs included in earnings for available-for-sale debt securities. There were no OTTI write-downs on held-to-maturity debt securities during the years ended December 31, 2019, 2018 or 2017.

**Table 5.8: Detail of OTTI Write-downs**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Debt securities OTTI write-downs included in earnings:</b>			
Securities of U.S. states and political subdivisions	\$ 33	2	150
Mortgage-backed securities:			
Residential	—	4	11
Commercial	17	18	80
Corporate debt securities	13	—	21
Other debt securities	—	4	—
Total debt securities OTTI write-downs included in earnings	\$ 63	28	262

Table 5.9 shows the detail of OTTI write-downs on available-for-sale debt securities included in earnings and the related changes in OCI for the same securities.

**Table 5.9: OTTI Write-downs Included in Earnings and the Related Changes in OCI**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>OTTI on debt securities</b>			
Recorded as part of gross realized losses:			
Credit-related OTTI	\$ 27	27	119
Intent-to-sell OTTI	36	1	143
Total recorded as part of gross realized losses	63	28	262
Changes to OCI for losses (reversal of losses) in non-credit-related OTTI (1):			
Securities of U.S. states and political subdivisions	(1)	(2)	(5)
Residential mortgage-backed securities	(1)	2	(1)
Commercial mortgage-backed securities	2	(11)	(51)
Other debt securities	1	—	—
Total changes to OCI for non-credit-related OTTI	1	(11)	(57)
Total OTTI losses recorded on debt securities	\$ 64	17	205

(1) Represents amounts recorded to OCI for impairment of debt securities, due to factors other than credit that have also had credit-related OTTI write-downs during the period. Increases represent initial or subsequent non-credit-related OTTI on debt securities. Decreases represent partial to full reversal of impairment due to recoveries in the fair value of debt securities due to non-credit factors.

Table 5.10 presents a rollforward of the OTTI credit loss that has been recognized in earnings as a write-down of available-for-sale debt securities we still own (referred to as “credit-impaired” debt securities) and do not intend to sell. We have not recognized OTTI on held-to-maturity debt securities we still

own. Recognized credit loss represents the difference between the present value of expected future cash flows discounted using the security’s current effective interest rate and the amortized cost basis of the security prior to considering credit loss.

**Table 5.10: Rollforward of OTTI Credit Loss**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Credit loss recognized, beginning of year</b>	\$ 562	742	1,043
Additions:			
For securities with initial credit impairments	6	1	9
For securities with previous credit impairments	21	26	110
Total additions	27	27	119
Reductions:			
For securities sold, matured, or intended/required to be sold	(390)	(204)	(414)
For recoveries of previous credit impairments (1)	—	(3)	(6)
Total reductions	(390)	(207)	(420)
<b>Credit loss recognized, end of year</b>	\$ 199	562	742

(1) Recoveries of previous credit impairments result from increases in expected cash flows subsequent to credit loss recognition. Such recoveries are reflected prospectively as interest yield adjustments using the effective interest method.

## Note 6: Loans and Allowance for Credit Losses

Table 6.1 presents total loans outstanding by portfolio segment and class of financing receivable. Outstanding balances include unearned income, net deferred loan fees or costs, and unamortized discounts and premiums. These amounts were less than 1% of our total loans outstanding at December 31, 2019, and December 31, 2018.

**Table 6.1: Loans Outstanding**

(in millions)	December 31,				
	2019	2018	2017	2016	2015
<b>Commercial:</b>					
Commercial and industrial	\$ 354,125	350,199	333,125	330,840	299,892
Real estate mortgage	121,824	121,014	126,599	132,491	122,160
Real estate construction	19,939	22,496	24,279	23,916	22,164
Lease financing	19,831	19,696	19,385	19,289	12,367
Total commercial	515,719	513,405	503,388	506,536	456,583
<b>Consumer:</b>					
Real estate 1-4 family first mortgage	293,847	285,065	284,054	275,579	273,869
Real estate 1-4 family junior lien mortgage	29,509	34,398	39,713	46,237	53,004
Credit card	41,013	39,025	37,976	36,700	34,039
Automobile	47,873	45,069	53,371	62,286	59,966
Other revolving credit and installment	34,304	36,148	38,268	40,266	39,098
Total consumer	446,546	439,705	453,382	461,068	459,976
Total loans	\$ 962,265	953,110	956,770	967,604	916,559

Our non-U.S. loans are reported by respective class of financing receivable in the table above. Substantially all of our non-U.S. loan portfolio is commercial loans. Table 6.2 presents total non-U.S. commercial loans outstanding by class of financing receivable.

**Table 6.2: Non-U.S. Commercial Loans Outstanding**

(in millions)	December 31,				
	2019	2018	2017	2016	2015
<b>Non-U.S. commercial loans:</b>					
Commercial and industrial	\$ 70,494	62,564	60,106	55,396	49,049
Real estate mortgage	7,004	6,731	8,033	8,541	8,350
Real estate construction	1,434	1,011	655	375	444
Lease financing	1,220	1,159	1,126	972	274
Total non-U.S. commercial loans	\$ 80,152	71,465	69,920	65,284	58,117



## Loan Concentrations

Loan concentrations may exist when there are amounts loaned to borrowers engaged in similar activities or similar types of loans extended to a diverse group of borrowers that would cause them to be similarly impacted by economic or other conditions. Commercial and industrial loans and lease financing to borrowers in the financial institutions except banks industry represented 12% and 11% of total loans at December 31, 2019 and 2018, respectively. At December 31, 2019 and 2018, we did not have concentrations representing 10% or more of our total loan portfolio in the commercial real estate (CRE) portfolios (real estate mortgage and real estate construction) by state or property type. Real estate 1-4 family non-PCI mortgage loans to borrowers in the state of California represented 13% and 12% of total loans at December 31, 2019 and 2018, respectively, and PCI loans were under 1% in both years. These California loans are generally diversified among the larger metropolitan areas in California, with no single area consisting of more than 5% of total loans. We continuously monitor changes in real estate values and underlying economic or market conditions for all geographic areas of our real estate 1-4 family mortgage portfolio as part of our credit risk management process.

Some of our real estate 1-4 family mortgage loans include an interest-only feature as part of the loan terms. These interest-only loans were approximately 3% and 4% of total loans at December 31, 2019 and 2018, respectively. Substantially all of these interest-only loans at origination were considered to be prime or near prime. We do not offer option adjustable-rate mortgage (ARM) products, nor do we offer variable-rate mortgage products with fixed payment amounts, commonly referred to within the financial services industry as negative amortizing mortgage loans. We acquired an option payment loan portfolio (Pick-a-Pay) from Wachovia with a majority of the portfolio identified as PCI loans. Since the acquisition, we have reduced our exposure to the option payment portion of the portfolio through our modification efforts and loss mitigation actions. At December 31, 2019, these option payment loans were less than 1% of total loans.

Our first and junior lien lines of credit products generally have draw periods of 10, 15 or 20 years, with variable interest rate and payment options during the draw period of (1) interest only or (2) 1.5% of total outstanding balance plus accrued

interest. During the draw period, the borrower has the option of converting all or a portion of the line from a variable interest rate to a fixed rate with terms including interest-only payments for a fixed period between three to seven years or a fully amortizing payment with a fixed period between five to 30 years. At the end of the draw period, a line of credit generally converts to an amortizing payment schedule with repayment terms of up to 30 years based on the balance at time of conversion. At December 31, 2019, our lines of credit portfolio had an outstanding balance of \$37.9 billion, of which \$9.1 billion, or 24%, is in its amortization period, another \$1.6 billion, or 4%, of our total outstanding balance, will reach their end of draw period during 2020 through 2021, \$11.1 billion, or 29%, during 2022 through 2024, and \$16.1 billion, or 43%, will convert in subsequent years. This portfolio had unfunded credit commitments of \$58.9 billion at December 31, 2019. The lines that enter their amortization period may experience higher delinquencies and higher loss rates than the lines in their draw period. At December 31, 2019, \$399 million, or 4%, of outstanding lines of credit that are in their amortization period were 30 or more days past due, compared with \$488 million, or 2%, for lines in their draw period. We have considered this increased inherent risk in our ACL estimate. In anticipation of our borrowers reaching the end of their contractual commitment, we have created a program to inform, educate and help these borrowers transition from interest-only to fully-amortizing payments or full repayment. We monitor the performance of the borrowers moving through the program in an effort to refine our ongoing program strategy.

## Loan Purchases, Sales, and Transfers

Table 6.3 summarizes the proceeds paid or received for purchases and sales of loans and transfers from loans held for investment to mortgages/loans held for sale at lower of cost or fair value. This loan activity primarily includes loans purchased and sales of whole loan or participating interests, whereby we receive or transfer a portion of a loan. The table excludes PCI loans, loans for which we have elected the fair value option, and government insured/guaranteed real estate 1-4 family first mortgage loans because their loan activity normally does not impact the ACL.

**Table 6.3: Loan Purchases, Sales, and Transfers**

(in millions)	Year ended December 31,					
	2019			2018		
	Commercial	Consumer	Total	Commercial	Consumer	Total
Purchases	\$ 2,028	3,126	5,154	2,065	16	2,081
Sales	(1,797)	(530)	(2,327)	(1,905)	(261)	(2,166)
Transfers to MLHFS/LHFS	(123)	(1,889)	(2,012)	(617)	(1,995)	(2,612)

## Note 6: Loans and Allowance for Credit Losses (continued)

### Commitments to Lend

A commitment to lend is a legally binding agreement to lend to a customer, usually at a stated interest rate, if funded, and for specific purposes and time periods. We generally require a fee to extend such commitments. Certain commitments are subject to loan agreements with covenants regarding the financial performance of the customer or borrowing base formulas on an ongoing basis that must be met before we are required to fund the commitment. We may reduce or cancel consumer commitments, including home equity lines and credit card lines, in accordance with the contracts and applicable law.

We may, as a representative for other lenders, advance funds or provide for the issuance of letters of credit under syndicated loan or letter of credit agreements. Any advances are generally repaid in less than a week and would normally require default of both the customer and another lender to expose us to loss. The unfunded amount of these temporary advance arrangements totaled approximately \$75.4 billion at December 31, 2019.

We issue commercial letters of credit to assist customers in purchasing goods or services, typically for international trade. At December 31, 2019 and 2018, we had \$862 million and \$919 million, respectively, of outstanding issued commercial letters of credit. We also originate multipurpose lending commitments under which borrowers have the option to draw on the facility for different purposes in one of several forms, including a standby letter of credit. See Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments) for additional information on standby letters of credit.

When we enter into commitments, we are exposed to credit risk. The maximum credit risk for these commitments will generally be lower than the contractual amount because a significant portion of these commitments are not funded. We manage the potential risk in commitments to lend by limiting the total amount of commitments, both by individual customer and in total, by monitoring the size and maturity structure of these commitments and by applying the same credit standards for these commitments as for all of our credit activities.

For loans and commitments to lend, we generally require collateral or a guarantee. We may require various types of collateral, including commercial and consumer real estate, automobiles, other short-term liquid assets such as accounts receivable or inventory and long-lived assets, such as equipment and other business assets. Collateral requirements for each loan or commitment may vary based on the loan product and our assessment of a customer's credit risk according to the specific credit underwriting, including credit terms and structure.

The contractual amount of our unfunded credit commitments, including unissued standby and commercial letters of credit, is summarized by portfolio segment and class of financing receivable in Table 6.4. The table excludes the issued standby and commercial letters of credit and temporary advance arrangements described above.

**Table 6.4: Unfunded Credit Commitments**

(in millions)	Dec 31, 2019	Dec 31, 2018
Commercial:		
Commercial and industrial	\$ 346,991	330,492
Real estate mortgage	8,206	6,984
Real estate construction	17,729	16,400
Total commercial	372,926	353,876
Consumer:		
Real estate 1-4 family first mortgage	34,391	29,736
Real estate 1-4 family junior lien mortgage	36,916	37,719
Credit card	114,933	109,840
Other revolving credit and installment	25,898	27,530
Total consumer	212,138	204,825
Total unfunded credit commitments	\$ 585,064	558,701

## Allowance for Credit Losses

Table 6.5 presents the ACL, which consists of the allowance for loan losses and the allowance for unfunded credit commitments.

**Table 6.5: Allowance for Credit Losses**

(in millions)	Year ended December 31,				
	2019	2018	2017	2016	2015
<b>Balance, beginning of year</b>	<b>\$ 10,707</b>	11,960	12,540	12,512	13,169
Provision for credit losses	<b>2,687</b>	1,744	2,528	3,770	2,442
Interest income on certain impaired loans (1)	<b>(147)</b>	(166)	(186)	(205)	(198)
Loan charge-offs:					
Commercial:					
Commercial and industrial	<b>(802)</b>	(727)	(789)	(1,419)	(734)
Real estate mortgage	<b>(38)</b>	(42)	(38)	(27)	(59)
Real estate construction	<b>(1)</b>	—	—	(1)	(4)
Lease financing	<b>(70)</b>	(70)	(45)	(41)	(14)
Total commercial	<b>(911)</b>	(839)	(872)	(1,488)	(811)
Consumer:					
Real estate 1-4 family first mortgage	<b>(129)</b>	(179)	(240)	(452)	(507)
Real estate 1-4 family junior lien mortgage	<b>(118)</b>	(179)	(279)	(495)	(635)
Credit card	<b>(1,714)</b>	(1,599)	(1,481)	(1,259)	(1,116)
Automobile	<b>(647)</b>	(947)	(1,002)	(845)	(742)
Other revolving credit and installment	<b>(674)</b>	(685)	(713)	(708)	(643)
Total consumer	<b>(3,282)</b>	(3,589)	(3,715)	(3,759)	(3,643)
Total loan charge-offs	<b>(4,193)</b>	(4,428)	(4,587)	(5,247)	(4,454)
Loan recoveries:					
Commercial:					
Commercial and industrial	<b>195</b>	304	297	263	252
Real estate mortgage	<b>32</b>	70	82	116	127
Real estate construction	<b>13</b>	13	30	38	37
Lease financing	<b>19</b>	23	17	11	8
Total commercial	<b>259</b>	410	426	428	424
Consumer:					
Real estate 1-4 family first mortgage	<b>179</b>	267	288	373	245
Real estate 1-4 family junior lien mortgage	<b>184</b>	219	266	266	259
Credit card	<b>344</b>	307	239	207	175
Automobile	<b>341</b>	363	319	325	325
Other revolving credit and installment	<b>124</b>	118	121	128	134
Total consumer	<b>1,172</b>	1,274	1,233	1,299	1,138
Total loan recoveries	<b>1,431</b>	1,684	1,659	1,727	1,562
Net loan charge-offs	<b>(2,762)</b>	(2,744)	(2,928)	(3,520)	(2,892)
Other	<b>(29)</b>	(87)	6	(17)	(9)
<b>Balance, end of year</b>	<b>\$ 10,456</b>	10,707	11,960	12,540	12,512
Components:					
Allowance for loan losses	<b>\$ 9,551</b>	9,775	11,004	11,419	11,545
Allowance for unfunded credit commitments	<b>905</b>	932	956	1,121	967
Allowance for credit losses	<b>\$ 10,456</b>	10,707	11,960	12,540	12,512
Net loan charge-offs as a percentage of average total loans	<b>0.29%</b>	0.29	0.31	0.37	0.33
Allowance for loan losses as a percentage of total loans	<b>0.99</b>	1.03	1.15	1.18	1.26
Allowance for credit losses as a percentage of total loans	<b>1.09</b>	1.12	1.25	1.30	1.37

(1) Certain impaired loans with an allowance calculated by discounting expected cash flows using the loan's effective interest rate over the remaining life of the loan recognize changes in allowance attributable to the passage of time as interest income.

**Note 6: Loans and Allowance for Credit Losses (continued)**

Table 6.6 summarizes the activity in the ACL by our commercial and consumer portfolio segments.

**Table 6.6: Allowance for Credit Losses Activity by Portfolio Segment**

(in millions)	Year ended December 31,					
	2019			2018		
	Commercial	Consumer	Total	Commercial	Consumer	Total
<b>Balance, beginning of year</b>	\$ 6,417	4,290	10,707	6,632	5,328	11,960
Provision for credit losses	518	2,169	2,687	281	1,463	1,744
Interest income on certain impaired loans	(46)	(101)	(147)	(47)	(119)	(166)
Loan charge-offs	(911)	(3,282)	(4,193)	(839)	(3,589)	(4,428)
Loan recoveries	259	1,172	1,431	410	1,274	1,684
Net loan charge-offs	(652)	(2,110)	(2,762)	(429)	(2,315)	(2,744)
Other	8	(37)	(29)	(20)	(67)	(87)
<b>Balance, end of year</b>	\$ 6,245	4,211	10,456	6,417	4,290	10,707

Table 6.7 disaggregates our ACL and recorded investment in loans by impairment methodology.

**Table 6.7: Allowance for Credit Losses by Impairment Methodology**

(in millions)	Allowance for credit losses			Recorded investment in loans		
	Commercial	Consumer	Total	Commercial	Consumer	Total
<b>December 31, 2019</b>						
<b>Collectively evaluated (1)</b>	\$ 5,778	3,364	9,142	512,586	436,081	948,667
<b>Individually evaluated (2)</b>	467	847	1,314	3,133	9,897	13,030
<b>PCI (3)</b>	—	—	—	—	568	568
<b>Total</b>	\$ 6,245	4,211	10,456	515,719	446,546	962,265
December 31, 2018						
Collectively evaluated (1)	\$ 5,903	3,361	9,264	510,180	421,574	931,754
Individually evaluated (2)	514	929	1,443	3,221	13,126	16,347
PCI (3)	—	—	—	4	5,005	5,009
<b>Total</b>	\$ 6,417	4,290	10,707	513,405	439,705	953,110

- (1) Represents non-impaired loans evaluated collectively for impairment.  
(2) Represents impaired loans evaluated individually for impairment.  
(3) Represents the allowance for loan losses and related loan carrying value for PCI loans.

**Credit Quality**

We monitor credit quality by evaluating various attributes and utilize such information in our evaluation of the appropriateness of the ACL. The following sections provide the credit quality indicators we most closely monitor. The credit quality indicators are generally based on information as of our financial statement date, with the exception of updated Fair Isaac Corporation (FICO) scores and updated loan-to-value (LTV)/combined LTV (CLTV). We obtain FICO scores at loan origination and the scores are generally updated at least quarterly, except in limited circumstances, including compliance with the Fair Credit Reporting Act (FCRA). Generally, the LTV and CLTV indicators are updated in the second month of each quarter, with updates no older than September 30, 2019. See the “Purchased Credit-Impaired Loans” section in this Note for credit quality information on our PCI portfolio.

**COMMERCIAL CREDIT QUALITY INDICATORS** In addition to monitoring commercial loan concentration risk, we manage a consistent process for assessing commercial loan credit quality. Generally, commercial loans are subject to individual risk assessment using our internal borrower and collateral quality ratings. Our ratings are aligned to Pass and Criticized categories. The Criticized category includes Special Mention, Substandard, and Doubtful categories which are defined by bank regulatory agencies.

Table 6.8 provides a breakdown of outstanding commercial loans by risk category.

**Table 6.8: Commercial Loans by Risk Category**

(in millions)	Commercial and industrial	Real estate mortgage	Real estate construction	Lease financing	Total
<b>December 31, 2019</b>					
<b>By risk category:</b>					
Pass	\$ 338,740	118,054	19,752	18,655	495,201
Criticized	15,385	3,770	187	1,176	20,518
<b>Total commercial loans (excluding PCI)</b>	<b>354,125</b>	<b>121,824</b>	<b>19,939</b>	<b>19,831</b>	<b>515,719</b>
<b>Total commercial PCI loans (carrying value)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Total commercial loans</b>	<b>\$ 354,125</b>	<b>121,824</b>	<b>19,939</b>	<b>19,831</b>	<b>515,719</b>
December 31, 2018					
<b>By risk category:</b>					
Pass	\$ 335,412	116,514	22,207	18,671	492,804
Criticized	14,783	4,500	289	1,025	20,597
<b>Total commercial loans (excluding PCI)</b>	<b>350,195</b>	<b>121,014</b>	<b>22,496</b>	<b>19,696</b>	<b>513,401</b>
<b>Total commercial PCI loans (carrying value)</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>4</b>
<b>Total commercial loans</b>	<b>\$ 350,199</b>	<b>121,014</b>	<b>22,496</b>	<b>19,696</b>	<b>513,405</b>

Table 6.9 provides past due information for commercial loans, which we monitor as part of our credit risk management practices.

**Table 6.9: Commercial Loans by Delinquency Status**

(in millions)	Commercial and industrial	Real estate mortgage	Real estate construction	Lease financing	Total
<b>December 31, 2019</b>					
<b>By delinquency status:</b>					
<b>Current-29 days past due (DPD) and still accruing</b>	<b>\$ 352,110</b>	<b>120,967</b>	<b>19,845</b>	<b>19,484</b>	<b>512,406</b>
<b>30-89 DPD and still accruing</b>	<b>423</b>	<b>253</b>	<b>53</b>	<b>252</b>	<b>981</b>
<b>90+ DPD and still accruing</b>	<b>47</b>	<b>31</b>	<b>—</b>	<b>—</b>	<b>78</b>
<b>Nonaccrual loans</b>	<b>1,545</b>	<b>573</b>	<b>41</b>	<b>95</b>	<b>2,254</b>
<b>Total commercial loans (excluding PCI)</b>	<b>354,125</b>	<b>121,824</b>	<b>19,939</b>	<b>19,831</b>	<b>515,719</b>
<b>Total commercial PCI loans (carrying value)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Total commercial loans</b>	<b>\$ 354,125</b>	<b>121,824</b>	<b>19,939</b>	<b>19,831</b>	<b>515,719</b>
December 31, 2018					
<b>By delinquency status:</b>					
Current-29 DPD and still accruing	\$ 348,158	120,176	22,411	19,443	510,188
30-89 DPD and still accruing	508	207	53	163	931
90+ DPD and still accruing	43	51	—	—	94
Nonaccrual loans	1,486	580	32	90	2,188
<b>Total commercial loans (excluding PCI)</b>	<b>350,195</b>	<b>121,014</b>	<b>22,496</b>	<b>19,696</b>	<b>513,401</b>
<b>Total commercial PCI loans (carrying value)</b>	<b>4</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>4</b>
<b>Total commercial loans</b>	<b>\$ 350,199</b>	<b>121,014</b>	<b>22,496</b>	<b>19,696</b>	<b>513,405</b>

**Note 6: Loans and Allowance for Credit Losses (continued)**

**CONSUMER CREDIT QUALITY INDICATORS** We have various classes of consumer loans that present unique risks. Loan delinquency, FICO credit scores and LTV for loan types are common credit quality indicators that we monitor and utilize in our evaluation of the appropriateness of the ACL for the consumer portfolio segment.

Many of our loss estimation techniques used for the ACL rely on delinquency-based models; therefore, delinquency is an important indicator of credit quality and the establishment of our ACL. Table 6.10 provides the outstanding balances of our consumer portfolio by delinquency status.

**Table 6.10: Consumer Loans by Delinquency Status**

(in millions)	Real estate 1-4 family first mortgage	Real estate 1-4 family junior lien mortgage	Credit card	Automobile	Other revolving credit and installment	Total
<b>December 31, 2019</b>						
<b>By delinquency status:</b>						
Current-29 DPD	\$ 279,722	28,870	39,935	46,650	33,981	429,158
30-59 DPD	1,136	216	311	882	140	2,685
60-89 DPD	404	115	221	263	81	1,084
90-119 DPD	197	69	202	77	74	619
120-179 DPD	160	71	343	1	18	593
180+ DPD	503	155	1	—	10	669
Government insured/guaranteed loans (1)	10,999	—	—	—	—	10,999
Loans held at fair value	171	—	—	—	—	171
<b>Total consumer loans (excluding PCI)</b>	<b>293,292</b>	<b>29,496</b>	<b>41,013</b>	<b>47,873</b>	<b>34,304</b>	<b>445,978</b>
<b>Total consumer PCI loans (carrying value) (2)</b>	<b>555</b>	<b>13</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>568</b>
<b>Total consumer loans</b>	<b>\$ 293,847</b>	<b>29,509</b>	<b>41,013</b>	<b>47,873</b>	<b>34,304</b>	<b>446,546</b>
December 31, 2018						
<b>By delinquency status:</b>						
Current-29 DPD	\$ 263,881	33,644	38,008	43,604	35,794	414,931
30-59 DPD	1,411	247	292	1,040	140	3,130
60-89 DPD	549	126	212	314	87	1,288
90-119 DPD	257	74	192	109	80	712
120-179 DPD	225	77	320	2	27	651
180+ DPD	822	213	1	—	20	1,056
Government insured/guaranteed loans (1)	12,688	—	—	—	—	12,688
Loans held at fair value	244	—	—	—	—	244
<b>Total consumer loans (excluding PCI)</b>	<b>280,077</b>	<b>34,381</b>	<b>39,025</b>	<b>45,069</b>	<b>36,148</b>	<b>434,700</b>
<b>Total consumer PCI loans (carrying value) (2)</b>	<b>4,988</b>	<b>17</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>5,005</b>
<b>Total consumer loans</b>	<b>\$ 285,065</b>	<b>34,398</b>	<b>39,025</b>	<b>45,069</b>	<b>36,148</b>	<b>439,705</b>

- (1) Represents loans whose repayments are predominantly insured by the Federal Housing Administration (FHA) or guaranteed by the Department of Veterans Affairs (VA). Loans insured/guaranteed by the FHA/VA and 90+ DPD totaled \$6.4 billion at December 31, 2019, compared with \$7.7 billion at December 31, 2018.
- (2) 26% of the adjusted unpaid principal balance for consumer PCI loans are 30+ DPD at December 31, 2019, compared with 18% at December 31, 2018.

Of the \$1.9 billion of consumer loans not government insured/guaranteed that are 90 days or more past due at December 31, 2019, \$855 million was accruing, compared with \$2.4 billion past due and \$885 million accruing at December 31, 2018.

Table 6.11 provides a breakdown of our consumer portfolio by FICO. Substantially all of the scored consumer portfolio has an updated FICO of 680 and above, reflecting a strong current borrower credit profile. FICO is not available for certain loan types, or may not be required if we deem it unnecessary due to

strong collateral and other borrower attributes. Substantially all loans not requiring a FICO score are securities-based loans originated through retail brokerage, and totaled \$9.1 billion at December 31, 2019, and \$8.9 billion at December 31, 2018.

**Table 6.11: Consumer Loans by FICO**

(in millions)	Real estate 1-4 family first mortgage	Real estate 1-4 family junior lien mortgage	Credit card	Automobile	Other revolving credit and installment	Total
<b>December 31, 2019</b>						
<b>By FICO:</b>						
< 600	\$ 3,264	1,164	3,373	6,041	704	14,546
600-639	2,392	782	2,853	4,230	670	10,927
640-679	5,068	1,499	6,626	6,324	1,730	21,247
680-719	12,844	3,192	9,732	7,871	3,212	36,851
720-759	27,879	4,407	8,376	7,839	4,097	52,598
760-799	61,559	5,483	5,648	7,624	4,915	85,229
800+	165,460	11,851	4,037	7,900	7,585	196,833
No FICO available	3,656	1,118	368	44	2,316	7,502
FICO not required	—	—	—	—	9,075	9,075
Government insured/guaranteed loans (1)	11,170	—	—	—	—	11,170
<b>Total consumer loans (excluding PCI)</b>	<b>293,292</b>	<b>29,496</b>	<b>41,013</b>	<b>47,873</b>	<b>34,304</b>	<b>445,978</b>
<b>Total consumer PCI loans (carrying value) (2)</b>	<b>555</b>	<b>13</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>568</b>
<b>Total consumer loans</b>	<b>\$ 293,847</b>	<b>29,509</b>	<b>41,013</b>	<b>47,873</b>	<b>34,304</b>	<b>446,546</b>
<b>December 31, 2018</b>						
<b>By FICO:</b>						
< 600	\$ 4,273	1,454	3,292	7,071	697	16,787
600-639	2,974	994	2,777	4,431	725	11,901
640-679	5,810	1,898	6,464	6,225	1,822	22,219
680-719	13,568	3,908	9,445	7,354	3,384	37,659
720-759	27,258	5,323	7,949	6,853	4,395	51,778
760-799	57,193	6,315	5,227	5,947	5,322	80,004
800+	151,465	13,190	3,794	7,099	8,411	183,959
No FICO available	4,604	1,299	77	89	2,507	8,576
FICO not required	—	—	—	—	8,885	8,885
Government insured/guaranteed loans (1)	12,932	—	—	—	—	12,932
<b>Total consumer loans (excluding PCI)</b>	<b>280,077</b>	<b>34,381</b>	<b>39,025</b>	<b>45,069</b>	<b>36,148</b>	<b>434,700</b>
<b>Total consumer PCI loans (carrying value) (2)</b>	<b>4,988</b>	<b>17</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>5,005</b>
<b>Total consumer loans</b>	<b>\$ 285,065</b>	<b>34,398</b>	<b>39,025</b>	<b>45,069</b>	<b>36,148</b>	<b>439,705</b>

(1) Represents loans whose repayments are predominantly insured by the FHA or guaranteed by the VA.

(2) 41% of the adjusted unpaid principal balance for consumer PCI loans have FICO scores less than 680 and 19% where no FICO is available to us at December 31, 2019, compared with 45% and 15%, respectively, at December 31, 2018.

LTV refers to the ratio comparing the loan's unpaid principal balance to the property's collateral value. CLTV refers to the combination of first mortgage and junior lien mortgage (including unused line amounts for credit line products) ratios. LTVs and CLTVs are updated quarterly using a cascade approach which first uses values provided by automated valuation models (AVMs) for the property. If an AVM is not available, then the value is estimated using the original appraised value adjusted by the change in Home Price Index (HPI) for the property location. If an HPI is not available, the original appraised value is used. The HPI value is normally the only method considered for high value properties, generally with an original value of \$1 million or more, as the AVM values have proven less accurate for these properties.

Table 6.12 shows the most updated LTV and CLTV distribution of the real estate 1-4 family mortgage loan portfolios. We consider the trends in residential real estate markets as we monitor credit risk and establish our ACL. In the event of a default, any loss should be limited to the portion of the loan amount in excess of the net realizable value of the underlying real estate collateral value. Certain loans do not have an LTV or CLTV due to industry data availability and portfolios acquired from or serviced by other institutions.

**Note 6: Loans and Allowance for Credit Losses (continued)**

**Table 6.12: Consumer Loans by LTV/CLTV**

(in millions)	December 31, 2019			December 31, 2018		
	Real estate 1-4 family first mortgage by LTV	Real estate 1-4 family junior lien mortgage by CLTV	Total	Real estate 1-4 family first mortgage by LTV	Real estate 1-4 family junior lien mortgage by CLTV	Total
By LTV/CLTV:						
0-60%	\$ 151,478	14,603	166,081	147,666	15,753	163,419
60.01-80%	114,795	9,663	124,458	104,477	11,183	115,660
80.01-100%	13,867	3,574	17,441	12,372	4,874	17,246
100.01-120% (1)	860	978	1,838	1,211	1,596	2,807
> 120% (1)	338	336	674	484	578	1,062
No LTV/CLTV available	784	342	1,126	935	397	1,332
Government insured/guaranteed loans (2)	11,170	—	11,170	12,932	—	12,932
Total consumer loans (excluding PCI)	293,292	29,496	322,788	280,077	34,381	314,458
Total consumer PCI loans (carrying value) (3)	555	13	568	4,988	17	5,005
Total consumer loans	\$ 293,847	29,509	323,356	285,065	34,398	319,463

(1) Reflects total loan balances with LTV/CLTV amounts in excess of 100%. In the event of default, the loss content would generally be limited to only the amount in excess of 100% LTV/CLTV.

(2) Represents loans whose repayments are predominantly insured by the FHA or guaranteed by the VA.

(3) 9% of the adjusted unpaid principal balance for consumer PCI loans have LTV/CLTV amounts greater than 80% at December 31, 2019, compared with 10% at December 31, 2018.

**NONACCRUAL LOANS** Table 6.13 provides loans on nonaccrual status. PCI loans are excluded from this table because they continue to earn interest from accretable yield, independent of performance in accordance with their contractual terms.

**Table 6.13: Nonaccrual Loans**

(in millions)	Dec 31, 2019	Dec 31, 2018
Commercial:		
Commercial and industrial	\$ 1,545	1,486
Real estate mortgage	573	580
Real estate construction	41	32
Lease financing	95	90
Total commercial	2,254	2,188
Consumer:		
Real estate 1-4 family first mortgage	2,150	3,183
Real estate 1-4 family junior lien mortgage	796	945
Automobile	106	130
Other revolving credit and installment	40	50
Total consumer	3,092	4,308
Total nonaccrual loans (excluding PCI)	\$ 5,346	6,496

**LOANS IN PROCESS OF FORECLOSURE** Our recorded investment in consumer mortgage loans collateralized by residential real estate property that are in process of foreclosure was \$3.5 billion and \$4.6 billion at December 31, 2019 and 2018, respectively, which included \$2.8 billion and \$3.2 billion, respectively, of loans that are government insured/guaranteed. Under the Consumer Financial Protection Bureau guidelines, we do not commence the foreclosure process on real estate 1-4 family mortgage loans until after the loan is 120 days delinquent. Foreclosure procedures and timelines vary depending on whether the property address resides in a judicial or non-judicial state. Judicial states require the foreclosure to be processed through the state's courts while non-judicial states are processed without court intervention. Foreclosure timelines vary according to state law.



**LOANS 90 DAYS OR MORE PAST DUE AND STILL ACCRUING** Certain loans 90 days or more past due are still accruing, because they are (1) well-secured and in the process of collection or (2) real estate 1-4 family mortgage loans or consumer loans exempt under regulatory rules from being classified as nonaccrual until later delinquency, usually 120 days past due. PCI loans of \$102 million at December 31, 2019, and \$370 million at December 31, 2018, are not included in these past due and still accruing loans even when they are 90 days or more contractually past due. PCI loans are considered to be accruing because they continue to earn interest from accretable yield, independent of performance in accordance with their contractual terms.

Table 6.14 shows non-PCI loans 90 days or more past due and still accruing by class for loans not government insured/guaranteed.

**Table 6.14: Loans 90 Days or More Past Due and Still Accruing**

(in millions)	Dec 31, 2019	Dec 31, 2018
Total (excluding PCI):	<b>\$ 7,285</b>	8,704
Less: FHA insured/VA guaranteed (1)	<b>6,352</b>	7,725
<b>Total, not government insured/ guaranteed</b>	<b>\$ 933</b>	979
By segment and class, not government insured/ guaranteed:		
Commercial:		
Commercial and industrial	<b>\$ 47</b>	43
Real estate mortgage	<b>31</b>	51
Total commercial	<b>78</b>	94
Consumer:		
Real estate 1-4 family first mortgage	<b>112</b>	124
Real estate 1-4 family junior lien mortgage	<b>32</b>	32
Credit card	<b>546</b>	513
Automobile	<b>78</b>	114
Other revolving credit and installment	<b>87</b>	102
Total consumer	<b>855</b>	885
<b>Total, not government insured/ guaranteed</b>	<b>\$ 933</b>	979

(1) Represents loans whose repayments are predominantly insured by the FHA or guaranteed by the VA.

## Note 6: Loans and Allowance for Credit Losses (continued)

**IMPAIRED LOANS** Table 6.15 summarizes key information for impaired loans. Our impaired loans predominantly include loans on nonaccrual status in the commercial portfolio segment and loans modified in a TDR, whether on accrual or nonaccrual status. Impaired loans generally have estimated losses which are included in the ACL. We do have impaired loans with no ACL when the loss content has been previously recognized through charge-offs, such as collateral dependent loans, or when loans

are currently performing in accordance with their terms and no loss has been estimated. Impaired loans exclude PCI loans and loans that have been fully charged off or otherwise have zero recorded investment. Table 6.15 includes trial modifications that totaled \$115 million at December 31, 2019, and \$149 million at December 31, 2018.

For additional information on our impaired loans and ACL, see Note 1 (Summary of Significant Accounting Policies).

**Table 6.15: Impaired Loans Summary**

(in millions)	Unpaid principal balance	Recorded investment		
		Impaired loans	Impaired loans with related allowance for credit losses	Related allowance for credit losses
<b>December 31, 2019</b>				
<b>Commercial:</b>				
Commercial and industrial	\$ 2,792	2,003	1,903	311
Real estate mortgage	1,137	974	803	110
Real estate construction	81	51	41	11
Lease financing	131	105	105	35
<b>Total commercial</b>	<b>4,141</b>	<b>3,133</b>	<b>2,852</b>	<b>467</b>
<b>Consumer:</b>				
Real estate 1-4 family first mortgage (1)	8,107	7,674	4,433	437
Real estate 1-4 family junior lien mortgage	1,586	1,451	925	144
Credit card	520	520	520	209
Automobile	138	81	42	8
Other revolving credit and installment	178	171	155	49
<b>Total consumer (2)</b>	<b>10,529</b>	<b>9,897</b>	<b>6,075</b>	<b>847</b>
<b>Total impaired loans (excluding PCI)</b>	<b>\$ 14,670</b>	<b>13,030</b>	<b>8,927</b>	<b>1,314</b>
December 31, 2018				
<b>Commercial:</b>				
Commercial and industrial	\$ 3,057	2,030	1,730	319
Real estate mortgage	1,228	1,032	1,009	154
Real estate construction	74	47	46	9
Lease financing	146	112	112	32
<b>Total commercial</b>	<b>4,505</b>	<b>3,221</b>	<b>2,897</b>	<b>514</b>
<b>Consumer:</b>				
Real estate 1-4 family first mortgage	12,309	10,738	4,420	525
Real estate 1-4 family junior lien mortgage	1,886	1,694	1,133	183
Credit card	449	449	449	172
Automobile	153	89	43	8
Other revolving credit and installment	162	156	136	41
<b>Total consumer (2)</b>	<b>14,959</b>	<b>13,126</b>	<b>6,181</b>	<b>929</b>
<b>Total impaired loans (excluding PCI)</b>	<b>\$ 19,464</b>	<b>16,347</b>	<b>9,078</b>	<b>1,443</b>

(1) Impaired loans includes reduction of \$1.7 billion reclassified to MLHFS during 2019.

(2) Includes the recorded investment of \$1.2 billion and \$1.3 billion at December 31, 2019 and 2018, respectively, of government insured/guaranteed loans that are predominantly insured by the FHA or guaranteed by the VA and generally do not have an ACL. Impaired loans may also have limited, if any, ACL when the recorded investment of the loan approximates estimated net realizable value as a result of charge-offs prior to a TDR modification.

Commitments to lend additional funds on loans whose terms have been modified in a TDR amounted to \$500 million and \$513 million at December 31, 2019 and 2018, respectively.

Table 6.16 provides the average recorded investment in impaired loans and the amount of interest income recognized on impaired loans by portfolio segment and class.

**Table 6.16: Average Recorded Investment in Impaired Loans**

(in millions)	Year ended December 31,					
	2019		2018		2017	
	Average recorded investment	Recognized interest income	Average recorded investment	Recognized interest income	Average recorded investment	Recognized interest income
<b>Commercial:</b>						
Commercial and industrial	\$ 2,150	129	2,287	173	3,241	118
Real estate mortgage	1,067	59	1,193	89	1,328	91
Real estate construction	52	6	60	7	66	14
Lease financing	93	1	125	1	105	1
Total commercial	3,362	195	3,665	270	4,740	224
<b>Consumer:</b>						
Real estate 1-4 family first mortgage	9,031	506	11,522	664	13,326	730
Real estate 1-4 family junior lien mortgage	1,586	99	1,804	116	2,041	121
Credit card	488	64	407	50	323	36
Automobile	84	12	86	11	86	11
Other revolving credit and installment	162	13	142	10	117	8
Total consumer	11,351	694	13,961	851	15,893	906
Total impaired loans (excluding PCI)	\$ 14,713	889	17,626	1,121	20,633	1,130
<b>Interest income:</b>						
Cash basis of accounting	\$	241		338		299
Other (1)		648		783		831
<b>Total interest income</b>	<b>\$</b>	<b>889</b>		<b>1,121</b>		<b>1,130</b>

(1) Includes interest recognized on accruing TDRs, interest recognized related to certain impaired loans which have an ACL calculated using discounting, and amortization of purchase accounting adjustments related to certain impaired loans.

**TROUBLED DEBT RESTRUCTURINGS (TDRs)** When, for economic or legal reasons related to a borrower's financial difficulties, we grant a concession for other than an insignificant period of time to a borrower that we would not otherwise consider, the related loan is classified as a TDR, the balance of which totaled \$11.8 billion and \$15.5 billion at December 31, 2019 and 2018, respectively. The majority of the decline in consumer TDRs was due to a reclassification of \$1.7 billion in real estate 1-4 family first mortgage TDR loans to MLHFS. We do not consider loan resolutions such as foreclosure or short sale to be a TDR.

We may require some consumer borrowers experiencing financial difficulty to make trial payments generally for a period of three to four months, according to the terms of a planned permanent modification, to determine if they can perform according to those terms. These arrangements represent trial modifications, which we classify and account for as TDRs. While loans are in trial payment programs, their original terms are not considered modified and they continue to advance through delinquency status and accrue interest according to their original terms.

Table 6.17 summarizes our TDR modifications for the periods presented by primary modification type and includes the financial effects of these modifications. For those loans that modify more than once, the table reflects each modification that occurred during the period. Loans that both modify and are paid off or written-off within the period, as well as changes in recorded investment during the period for loans modified in prior periods, are not included in the table.

## Note 6: Loans and Allowance for Credit Losses (continued)

**Table 6.17: TDR Modifications**

(in millions)	Primary modification type (1)				Financial effects of modifications		
	Principal (2)	Interest rate reduction	Other concessions (3)	Total	Charge-offs (4)	Weighted average interest rate reduction	Recorded investment related to interest rate reduction (5)
<b>Year ended December 31, 2019</b>							
<b>Commercial:</b>							
Commercial and industrial	\$ 13	90	1,286	1,389	104	0.40%	\$ 90
Real estate mortgage	—	38	417	455	—	0.69	38
Real estate construction	13	1	32	46	—	1.00	1
Lease financing	—	—	2	2	—	—	—
<b>Total commercial</b>	<b>26</b>	<b>129</b>	<b>1,737</b>	<b>1,892</b>	<b>104</b>	<b>0.49</b>	<b>129</b>
<b>Consumer:</b>							
Real estate 1-4 family first mortgage	110	13	868	991	2	2.04	68
Real estate 1-4 family junior lien mortgage	5	37	82	124	3	2.35	39
Credit card	—	376	—	376	—	12.91	376
Automobile	8	9	51	68	29	4.86	9
Other revolving credit and installment	1	51	7	59	—	8.07	52
Trial modifications (6)	—	—	13	13	—	—	—
<b>Total consumer</b>	<b>124</b>	<b>486</b>	<b>1,021</b>	<b>1,631</b>	<b>34</b>	<b>10.19</b>	<b>544</b>
<b>Total</b>	<b>\$ 150</b>	<b>615</b>	<b>2,758</b>	<b>3,523</b>	<b>138</b>	<b>8.33%</b>	<b>\$ 673</b>
<b>Year ended December 31, 2018</b>							
<b>Commercial:</b>							
Commercial and industrial	\$ 13	29	2,310	2,352	58	1.18%	\$ 29
Real estate mortgage	—	44	375	419	—	0.88	44
Real estate construction	—	—	25	25	—	—	—
Lease financing	—	—	63	63	—	—	—
<b>Total commercial</b>	<b>13</b>	<b>73</b>	<b>2,773</b>	<b>2,859</b>	<b>58</b>	<b>1.00</b>	<b>73</b>
<b>Consumer:</b>							
Real estate 1-4 family first mortgage	209	26	1,042	1,277	4	2.25	119
Real estate 1-4 family junior lien mortgage	7	41	113	161	5	2.14	45
Credit card	—	336	—	336	—	12.54	336
Automobile	13	16	55	84	30	6.21	16
Other revolving credit and installment	—	49	12	61	—	7.95	49
Trial modifications (6)	—	—	8	8	—	—	—
<b>Total consumer</b>	<b>229</b>	<b>468</b>	<b>1,230</b>	<b>1,927</b>	<b>39</b>	<b>8.96</b>	<b>565</b>
<b>Total</b>	<b>\$ 242</b>	<b>541</b>	<b>4,003</b>	<b>4,786</b>	<b>97</b>	<b>8.06%</b>	<b>\$ 638</b>
<b>Year ended December 31, 2017</b>							
<b>Commercial:</b>							
Commercial and industrial	\$ 24	45	2,912	2,981	173	0.64%	\$ 45
Real estate mortgage	5	59	507	571	20	1.28	59
Real estate construction	—	1	26	27	—	0.69	1
Lease financing	—	—	37	37	—	—	—
<b>Total commercial</b>	<b>29</b>	<b>105</b>	<b>3,482</b>	<b>3,616</b>	<b>193</b>	<b>1.00</b>	<b>105</b>
<b>Consumer:</b>							
Real estate 1-4 family first mortgage	231	140	1,035	1,406	15	2.57	257
Real estate 1-4 family junior lien mortgage	25	82	81	188	14	3.26	93
Credit card	—	257	—	257	—	11.98	257
Automobile	2	15	67	84	39	5.89	15
Other revolving credit and installment	—	47	8	55	1	7.47	47
Trial modifications (6)	—	—	(28)	(28)	—	—	—
<b>Total consumer</b>	<b>258</b>	<b>541</b>	<b>1,163</b>	<b>1,962</b>	<b>69</b>	<b>6.70</b>	<b>669</b>
<b>Total</b>	<b>\$ 287</b>	<b>646</b>	<b>4,645</b>	<b>5,578</b>	<b>262</b>	<b>5.92%</b>	<b>\$ 774</b>

- (1) Amounts represent the recorded investment in loans after recognizing the effects of the TDR, if any. TDRs may have multiple types of concessions, but are presented only once in the first modification type based on the order presented in the table above. The reported amounts include loans remodified of \$1.1 billion, \$1.9 billion and \$2.1 billion, for the years ended December 31, 2019, 2018 and 2017, respectively.
- (2) Principal modifications include principal forgiveness at the time of the modification, contingent principal forgiveness granted over the life of the loan based on borrower performance, and principal that has been legally separated and deferred to the end of the loan, with a zero percent contractual interest rate.
- (3) Other concessions include loans discharged in bankruptcy, loan renewals, term extensions and other interest and noninterest adjustments, but exclude modifications that also forgive principal and/or reduce the contractual interest rate.
- (4) Charge-offs include write-downs of the investment in the loan in the period it is contractually modified. The amount of charge-off will differ from the modification terms if the loan has been charged down prior to the modification based on our policies. In addition, there may be cases where we have a charge-off/down with no legal principal modification. Modifications resulted in deferring or legally forgiving principal (actual or contingent) of \$24 million, \$28 million and \$32 million for the years ended December 31, 2019, 2018 and 2017, respectively.
- (5) Recorded investment related to interest rate reduction reflects the effect of reduced interest rates on loans with an interest rate concession as one of their concession types, which includes loans reported as a principal primary modification type that also have an interest rate concession.
- (6) Trial modifications are granted a delay in payments due under the original terms during the trial payment period. However, these loans continue to advance through delinquency status and accrue interest according to their original terms. Any subsequent permanent modification generally includes interest rate related concessions; however, the exact concession type and resulting financial effect are usually not known until the loan is permanently modified. Trial modifications for the period are presented net of previously reported trial modifications that became permanent in the current period.

Table 6.18 summarizes permanent modification TDRs that have defaulted in the current period within 12 months of their permanent modification date. We are reporting these defaulted

TDRs based on a payment default definition of 90 days past due for the commercial portfolio segment and 60 days past due for the consumer portfolio segment.

**Table 6.18: Defaulted TDRs**

(in millions)	Recorded investment of defaults		
	Year ended December 31,		
	2019	2018	2017
<b>Commercial:</b>			
Commercial and industrial	\$ 111	198	173
Real estate mortgage	48	76	61
Real estate construction	17	36	4
Lease financing	—	—	1
Total commercial	176	310	239
<b>Consumer:</b>			
Real estate 1-4 family first mortgage	41	60	114
Real estate 1-4 family junior lien mortgage	13	14	19
Credit card	88	79	74
Automobile	12	14	15
Other revolving credit and installment	8	6	5
Total consumer	162	173	227
Total	\$ 338	483	466

### Purchased Credit-Impaired Loans

Table 6.19 presents PCI loans net of any remaining purchase accounting adjustments. Total consumer loans are predominantly Pick-a-Pay loans (real estate 1-4 family mortgage).

**Table 6.19: PCI Loans**

(in millions)	Dec 31, 2019	Dec 31, 2018
Total commercial	\$ —	4
Total consumer	568	5,005
Total PCI loans (carrying value)	\$ 568	5,009
Total PCI loans (unpaid principal balance)	\$ 990	7,348

For the years ended December 31, 2019 and 2018, we sold \$4.0 billion and \$6.2 billion of PCI loans, respectively, that resulted in gains within other noninterest income of \$1.6 billion and \$2.4 billion, respectively.

## Note 7: Leasing Activity

The information below provides a summary of our leasing activities as a lessor and lessee.

### As a Lessor

Table 7.1 presents the composition of our leasing revenue and Table 7.2 provides the components of our investment in lease financing.

**Table 7.1: Leasing Revenue**

(in millions)	Year ended December 31, 2019
Interest income on lease financing	\$ 869
Other lease revenues:	
Variable revenues on lease financing	96
Fixed revenues on operating leases	1,393
Variable revenues on operating leases	66
Other lease-related revenues (1)	57
Lease income	1,612
Total leasing revenue	\$ 2,481

(1) Predominantly includes net gains on disposition of assets leased under operating leases or lease financings.

**Table 7.2: Investment in Lease Financing**

(in millions)	Dec 31, 2019
Lease receivables	\$ 18,114
Residual asset values	4,208
Unearned income	(2,491)
Lease financing	\$ 19,831

Our net investment in financing and sales-type leases includes \$1.9 billion of leveraged leases at December 31, 2019.

As shown in Table 9.2, included in Note 9 (Premises, Equipment and Other Assets), we had \$8.2 billion in operating lease assets at December 31, 2019, which was net of \$3.1 billion of accumulated depreciation. Depreciation expense for the operating lease assets was \$848 million in 2019.

Table 7.3 presents future lease payments owed by our lessees.

**Table 7.3: Maturities of Lease Receivables**

	December 31, 2019	
(in millions)	Direct financing and sales- type leases	Operating leases
2020	\$ 5,953	883
2021	4,997	614
2022	2,951	434
2023	1,634	298
2024	862	199
Thereafter	1,717	447
Total lease receivables	\$ 18,114	2,875

### As a Lessee

Substantially all of our leases are operating leases. Table 7.4 presents balances for our operating leases.

**Table 7.4: Operating Lease Right of Use (ROU) Assets and Lease Liabilities**

(in millions)	Dec 31, 2019
ROU assets	\$ 4,724
Lease liabilities	5,297

Table 7.5 provides the composition of our lease costs, which are predominantly included in net occupancy expense.

**Table 7.5: Lease Costs**

(in millions)	Year ended December 31, 2019
Fixed lease expense - operating leases	\$ 1,212
Variable lease expense	314
Other (1)	(68)
Total lease costs	\$ 1,458

(1) Predominantly includes gains recognized from sale leaseback transactions and sublease rental income.

Net operating lease rental expense was \$1.3 billion for the years 2018 and 2017 and is predominantly included in net occupancy expense.

## Note 7: Leasing Activity (continued)

Tables Table 7.6 and 7.7 provide the future lease payments under operating leases as of December 31, 2018, and December 31, 2019, respectively. Table 7.7 also includes information on the remaining average lease term and discount rate.

**Table 7.6: Lease Payments on Operating Leases Prior to Adoption of ASU 2016-02 – Leases**

(in millions)	December 31, 2018
2019	\$ 1,174
2020	1,056
2021	880
2022	713
2023	577
Thereafter	1,654
Total lease payments	\$ 6,054

**Table 7.7: Lease Payments on Operating Leases Subsequent to Adoption of ASU 2016-02 – Leases**

(in millions, except for weighted averages)	December 31, 2019
2020	\$ 1,006
2021	1,045
2022	897
2023	750
2024	597
Thereafter	1,672
Total lease payments	5,967
Less: imputed interest	670
Total operating lease liabilities	\$ 5,297
Weighted average remaining lease term (in years)	7.1
Weighted average discount rate	3.1%

Our operating leases predominantly expire within the next 15 years, with the longest lease expiring in 2105. We do not include renewal or termination options in the establishment of the lease term when we are not reasonably certain that we will exercise them. As of December 31, 2019, we had additional operating leases commitments of \$159 million, predominantly for real estate, which leases had not yet commenced. These leases are expected to commence during 2020 and have lease terms of 2 years to 17 years.

**Note 8: Equity Securities**

Table 8.1 provides a summary of our equity securities by business purpose and accounting method, including equity securities with readily determinable fair values (marketable) and those without readily determinable fair values (nonmarketable).

**Table 8.1: Equity Securities**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Held for trading at fair value:</b>		
Marketable equity securities	<b>\$ 27,440</b>	19,449
<b>Not held for trading:</b>		
Fair value:		
Marketable equity securities (1)	<b>6,481</b>	4,513
Nonmarketable equity securities	<b>8,015</b>	5,594
<b>Total equity securities at fair value</b>	<b>14,496</b>	10,107
Equity method:		
Low-income housing tax credit investments	<b>11,343</b>	10,999
Private equity	<b>3,459</b>	3,832
Tax-advantaged renewable energy	<b>3,811</b>	3,073
New market tax credit and other	<b>387</b>	311
<b>Total equity method</b>	<b>19,000</b>	18,215
Other:		
Federal Reserve Bank stock and other at cost (2)	<b>4,790</b>	5,643
Private equity (3)	<b>2,515</b>	1,734
<b>Total equity securities not held for trading</b>	<b>40,801</b>	35,699
<b>Total equity securities</b>	<b>\$ 68,241</b>	55,148

- (1) Includes \$3.8 billion and \$3.2 billion at December 31, 2019 and 2018, respectively, related to securities held as economic hedges of our deferred compensation plan obligations.
- (2) Includes \$4.8 billion and \$5.6 billion at December 31, 2019 and 2018, respectively, related to investments in Federal Reserve Bank and Federal Home Loan Bank stock.
- (3) Represents nonmarketable equity securities accounted for under the measurement alternative.

**Equity Securities Held for Trading**

Equity securities held for trading purposes are marketable equity securities traded on organized exchanges. These securities are held as part of our customer accommodation trading activities. For more information on these activities, see Note 4 (Trading Activities).

**Equity Securities Not Held for Trading**

We also hold equity securities unrelated to trading activities. These securities include private equity and tax credit investments, securities held as economic hedges or to meet regulatory requirements (for example, Federal Reserve Bank and Federal Home Loan Bank stock).

**FAIR VALUE** Marketable equity securities held for purposes other than trading primarily consist of exchange-traded equity funds held to economically hedge obligations related to our deferred compensation plans and, to a lesser extent, other holdings of publicly traded equity securities held for investment purposes. We account for certain nonmarketable equity securities under the fair value method, and substantially all of these securities are economically hedged with equity derivatives.

**EQUITY METHOD** Our equity method investments consist of tax credit and private equity investments, the majority of which are our low-income housing tax credit (LIHTC) investments.

We invest in affordable housing projects that qualify for the LIHTC, which are designed to promote private development of low-income housing. These investments generate a return mostly through realization of federal tax credit and other tax benefits. We recognized pre-tax losses of \$1.3 billion for 2019 and \$1.2 billion for both 2018 and 2017, related to our LIHTC investments. These losses were recognized in other noninterest income. We also recognized total tax benefits of \$1.5 billion for 2019, 2018 and 2017, which included tax credits recorded to income taxes of \$1.2 billion for 2019 and 2018, and \$1.1 billion for 2017. We are periodically required to provide additional financial support during the investment period. A liability is recognized for unfunded commitments that are both legally binding and probable of funding. These commitments are predominantly funded within three years of initial investment. Our liability for unfunded commitments was \$4.3 billion and \$3.9 billion at December 31, 2019 and 2018, respectively. This liability for unfunded commitments is included in long-term debt.

**OTHER** The remaining portion of our nonmarketable equity securities portfolio consists of securities accounted for using the cost or measurement alternative method.



### Realized Gains and Losses Not Held for Trading

Table 8.2 provides a summary of the net gains and losses for equity securities not held for trading. Gains and losses for securities held for trading are reported in net gains from trading activities.

**Table 8.2: Net Gains (Losses) from Equity Securities Not Held for Trading**

(in millions)	Year ended December 31,		
	2019	2018	2017
Net gains (losses) from equity securities carried at fair value:			
Marketable equity securities	\$ 1,067	(389)	967
Nonmarketable equity securities	2,413	709	1,557
Total equity securities carried at fair value	3,480	320	2,524
Net gains (losses) from nonmarketable equity securities not carried at fair value:			
Impairment write-downs	(245)	(352)	(339)
Net unrealized gains related to measurement alternative observable transactions	567	418	—
Net realized gains on sale	1,161	1,504	980
All other	—	33	97
Total nonmarketable equity securities not carried at fair value	1,483	1,603	738
Net losses from economic hedge derivatives (1)	(2,120)	(408)	(1,483)
Total net gains from equity securities not held for trading	\$ 2,843	1,515	1,779

(1) Includes net gains (losses) on derivatives not designated as hedging instruments.

### Measurement Alternative

Table 8.3 provides additional information about the impairment write-downs and observable price adjustments related to

nonmarketable equity securities accounted for under the measurement alternative. Gains and losses related to these adjustments are also included in Table 8.2.

**Table 8.3: Net Gains (Losses) from Measurement Alternative Equity Securities**

(in millions)	Year ended December 31,	
	2019	2018
Net gains (losses) recognized in earnings during the period:		
Gross unrealized gains due to observable price changes	\$ 584	443
Gross unrealized losses due to observable price changes	(17)	(25)
Impairment write-downs	(116)	(33)
Realized net gains from sale	163	274
Total net gains recognized during the period	\$ 614	659

Table 8.4 presents cumulative carrying value adjustments to nonmarketable equity securities accounted for under the measurement alternative that were still held as of December 31, 2019 and 2018.

**Table 8.4: Measurement Alternative Cumulative Gains (Losses)**

(in millions)	Year ended December 31,	
	2019	2018
Cumulative gains (losses):		
Gross unrealized gains due to observable price changes	\$ 973	415
Gross unrealized losses due to observable price changes	(42)	(25)
Impairment write-downs	(134)	(33)

## Note 9: Premises, Equipment and Other Assets

**Table 9.1: Premises and Equipment**

(in millions)	Dec 31, 2019	Dec 31, 2018
Land	\$ 1,857	1,757
Buildings	9,499	8,974
Furniture and equipment	7,189	6,896
Leasehold improvements	2,597	2,387
Finance lease ROU assets	33	75
Total premises and equipment	21,175	20,089
Less: Accumulated depreciation and amortization	11,866	11,169
Net book value, premises and equipment	\$ 9,309	8,920

Depreciation and amortization expense for premises and equipment was \$1.4 billion, \$1.3 billion and \$1.2 billion in 2019, 2018 and 2017, respectively.

Dispositions of premises and equipment resulted in net gains of \$82 million, \$32 million and \$128 million in 2019, 2018 and 2017, respectively, included in other noninterest expense.

Table 9.2 presents the components of other assets.

**Table 9.2: Other Assets**

(in millions)	Dec 31, 2019	Dec 31, 2018
Corporate/bank-owned life insurance	\$ 20,070	19,751
Accounts receivable (1)	29,137	34,281
Interest receivable	5,586	6,084
Customer relationship and other amortized intangibles	423	545
Foreclosed assets:		
Residential real estate:		
Government insured/guaranteed (1)	50	88
Non-government insured/guaranteed	172	229
Other	81	134
Operating lease assets (lessor)	8,221	9,036
Operating lease ROU assets (lessee) (2)	4,724	—
Due from customers on acceptances	253	258
Other	10,200	9,444
Total other assets	\$ 78,917	79,850

- (1) Certain government-guaranteed residential real estate mortgage loans upon foreclosure are included in Accounts receivable. For more information, see Note 1 (Summary of Significant Accounting Policies).
- (2) We recognized operating lease right of use (ROU) assets effective January 1, 2019, in connection with the adoption of ASU 2016-02 – Leases. For more information, see Note 1 (Summary of Significant Accounting Policies).

## Note 10: Securitizations and Variable Interest Entities

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### Involvement with Special Purpose Entities (SPEs)

In the normal course of business, we enter into various types of on- and off-balance sheet transactions with SPEs, which are corporations, trusts, limited liability companies or partnerships that are established for a limited purpose. SPEs are often formed in connection with securitization transactions in which assets are transferred to an SPE. The SPE may alter the risk profile of the asset by entering into derivative transactions or obtaining credit support, and issues various forms of interests in those assets to investors. In a securitization transaction where we transferred assets from our balance sheet, we typically receive cash and sometimes other interests in an SPE as proceeds for the assets we transfer. In certain transactions we may retain the right to service the transferred receivables and to repurchase those receivables from the SPE if the outstanding balance of the receivables falls to a level where the cost exceeds the benefits of servicing such receivables. In addition, we may purchase the right to service loans in an SPE that were transferred to the SPE by a third party.

In connection with our securitization activities, we have various forms of ongoing involvement with SPEs, which may include:

- underwriting securities issued by SPEs and subsequently making markets in those securities;
- providing liquidity facilities to support short-term obligations of SPEs issued to third-party investors;
- providing credit enhancement on securities issued by SPEs or market value guarantees of assets held by SPEs through the use of letters of credit, financial guarantees, credit default swaps and total return swaps;
- entering into other derivative contracts with SPEs;
- holding senior or subordinated interests in SPEs;
- acting as servicer or investment manager for SPEs; and
- providing administrative or trustee services to SPEs.

SPEs formed in connection with securitization transactions are generally considered variable interest entities (VIEs). SPEs formed for other corporate purposes may be VIEs as well. A VIE is an entity whose total equity is insufficient to finance its activities without additional subordinated financial support, or whose equity investors lack the ability to control the entity's activities or lack the ability to receive expected benefits or absorb obligations in a manner consistent with their investment in the entity. A VIE is consolidated by its primary beneficiary which is the party that has both the power to direct the activities that most significantly impact the VIE and a variable interest that could potentially be significant to the VIE. A variable interest is a contractual, ownership or other interest whose value changes with changes in the fair value of the VIE's net assets. To determine whether or not a variable interest we hold could potentially be significant to the VIE, we consider both qualitative and quantitative factors regarding the nature, size and form of our involvement with the VIE. We assess whether or not we are the primary beneficiary of a VIE on an on-going basis.

Secured borrowings are transactions involving transfers of our financial assets to unconsolidated third parties that are accounted for as financings with the assets pledged as collateral. Accordingly, the transferred assets remain recognized on our balance sheet. See also Repurchase and Securities Lending Agreements in Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments) for additional transactions accounted for as secured borrowings.

## Note 10: Securitizations and Variable Interest Entities (continued)

Table 10.1 provides the classifications of assets and liabilities in our balance sheet for our transactions with VIEs.

**Table 10.1: Balance Sheet Transactions with VIEs**

(in millions)	VIEs that we do not consolidate	VIEs that we consolidate (2)	Transfers that we account for as secured borrowings (2)	Total
<b>December 31, 2019</b>				
Cash and due from banks	\$ —	16	—	16
Interest-earning deposits with banks	—	284	—	284
<b>Debt securities (1):</b>				
Trading debt securities	792	339	—	1,131
Available-for-sale debt securities	1,696	201	—	1,897
Held-to-maturity debt securities	791	—	—	791
Loans	2,127	13,170	80	15,377
Mortgage servicing rights	11,884	—	—	11,884
Derivative assets	142	1	—	143
Equity securities	11,401	118	—	11,519
Other assets	1,268	239	—	1,507
<b>Total assets</b>	<b>30,101</b>	<b>14,368</b>	<b>80</b>	<b>44,549</b>
Short-term borrowings	—	401	—	401
Derivative liabilities	1	3	—	4
Accrued expenses and other liabilities	189	235	—	424
Long-term debt	4,817	587	79	5,483
<b>Total liabilities</b>	<b>5,007</b>	<b>1,226</b>	<b>79</b>	<b>6,312</b>
Noncontrolling interests	—	43	—	43
<b>Net assets</b>	<b>\$ 25,094</b>	<b>13,099</b>	<b>1</b>	<b>38,194</b>
<b>December 31, 2018</b>				
Cash and due from banks	\$ —	139	—	139
Interest-earning deposits with banks	—	8	—	8
<b>Debt securities (1):</b>				
Trading debt securities	2,110	245	—	2,355
Available-for-sale debt securities	2,686	317	—	3,003
Held-to-maturity debt securities	510	—	—	510
Loans	2,657	13,564	94	16,315
Mortgage servicing rights	14,761	—	—	14,761
Derivative assets	53	—	—	53
Equity securities	11,041	85	—	11,126
Other assets	—	227	—	227
<b>Total assets</b>	<b>33,818</b>	<b>14,585</b>	<b>94</b>	<b>48,497</b>
Short-term borrowings	—	493	—	493
Derivative liabilities	26	—	—	26
Accrued expenses and other liabilities	231	199	—	430
Long-term debt	5,094	816	93	6,003
<b>Total liabilities</b>	<b>5,351</b>	<b>1,508</b>	<b>93</b>	<b>6,952</b>
Noncontrolling interests	—	34	—	34
<b>Net assets</b>	<b>\$ 28,467</b>	<b>13,043</b>	<b>1</b>	<b>41,511</b>

(1) Excludes certain debt securities related to loans serviced for the Federal National Mortgage Association (FNMA), Federal Home Loan Mortgage Corporation (FHLMC) and Government National Mortgage Association (GNMA).

(2) Certain structures included in transfers that we account for as secured borrowings at December 31, 2018 were presented in VIEs that we consolidate to conform with the current period presentation.

## Transactions with Unconsolidated VIEs

Our transactions with unconsolidated VIEs include predominantly securitizations of residential and commercial mortgage loans and investments in tax credit structures. We have various forms of involvement with VIEs, including servicing, holding senior or subordinated interests, and entering into liquidity arrangements and derivative contracts. Involvements with these unconsolidated VIEs are recorded on our balance sheet in debt and equity securities, loans, MSRs, derivative assets and liabilities, other assets, other liabilities, and long-term debt, as appropriate.

Table 10.2 provides a summary of our exposure to unconsolidated VIEs with which we have significant continuing involvement but for which we are not the primary beneficiary.

We include transactions where we were the sponsor or servicer and also have other significant forms of continuing

involvement. Sponsorship includes transactions where we solely or materially participated in the initial design or structuring of the VIE or marketed the transaction to investors. We consider investments in securities, loans, guarantees, liquidity agreements, commitments and certain derivatives to be other forms of continuing involvement that may be significant. We also include transactions where we transferred assets to a VIE, account for the transfer as a sale, and service the VIE collateral or have other forms of continuing involvement that may be significant (as described above). We exclude certain transactions with unconsolidated VIEs when our continuing involvement is temporary in nature or insignificant in size. We also exclude secured borrowing transactions with unconsolidated VIEs (for information on these transactions, see the Transactions with Consolidated VIEs and Secured Borrowings section in this Note).

**Table 10.2: Unconsolidated VIEs**

(in millions)	Total VIE assets	Debt and equity interests (1)	Servicing assets and advances	Derivatives	Carrying value – asset (liability)		
					Debt, guarantees and other commitments	Net assets	
<b>December 31, 2019</b>							
<b>Residential mortgage loan securitizations:</b>							
Conforming (2)	\$ 1,098,103	1,528	11,931	—	(683)	12,776	
Other/nonconforming	5,178	6	152	—	—	158	
Commercial mortgage loan securitizations	169,736	2,239	1,069	80	(43)	3,345	
Tax credit structures	39,091	12,826	—	—	(4,260)	8,566	
Other asset-based finance structures	1,355	157	—	61	(20)	198	
Other	1,167	51	—	—	—	51	
<b>Total</b>	<b>\$ 1,314,630</b>	<b>16,807</b>	<b>13,152</b>	<b>141</b>	<b>(5,006)</b>	<b>25,094</b>	
<b>Maximum exposure to loss</b>							
		Debt and equity interests (1)	Servicing assets and advances	Derivatives	Guarantees and other commitments	Total exposure	
<b>Residential mortgage loan securitizations:</b>							
Conforming (2)	\$	972	11,931	—	937	13,840	
Other/nonconforming		6	152	—	—	158	
Commercial mortgage loan securitizations		2,239	1,069	80	11,667	15,055	
Tax credit structures		12,826	—	—	1,701	14,527	
Other asset-based finance structures		157	—	63	91	311	
Other		51	—	—	157	208	
<b>Total</b>	<b>\$</b>	<b>16,251</b>	<b>13,152</b>	<b>143</b>	<b>14,553</b>	<b>44,099</b>	

(continued on following page)

## Note 10: Securitizations and Variable Interest Entities (continued)

(continued from previous page)

(in millions)	Carrying value - asset (liability)					
	Total VIE assets	Debt and equity interests (1)	Servicing assets	Derivatives	Debt, guarantees and other commitments	Net assets
December 31, 2018						
Residential mortgage loan securitizations:						
Conforming (2)	\$ 1,172,833	3,601	13,811	—	(1,395)	16,017
Other/nonconforming	10,596	453	57	—	—	510
Commercial mortgage loan securitizations	153,350	2,409	893	(22)	(40)	3,240
Tax credit structures	35,185	12,087	—	—	(3,870)	8,217
Other asset-based finance structures	1,520	271	—	49	(20)	300
Other	1,318	183	—	—	—	183
<b>Total</b>	<b>\$ 1,374,802</b>	<b>19,004</b>	<b>14,761</b>	<b>27</b>	<b>(5,325)</b>	<b>28,467</b>
Maximum exposure to loss						
		Debt and equity interests (1)	Servicing assets	Derivatives	Guarantees and other commitments	Total exposure
Residential mortgage loan securitizations:						
Conforming (2)	\$	2,377	13,811	—	1,183	17,371
Other/nonconforming		453	57	—	—	510
Commercial mortgage loan securitizations		2,409	893	28	11,563	14,893
Tax credit structures		12,087	—	—	1,420	13,507
Other asset-based finance structures		271	—	50	91	412
Other		183	—	—	158	341
<b>Total</b>	<b>\$</b>	<b>17,780</b>	<b>14,761</b>	<b>78</b>	<b>14,415</b>	<b>47,034</b>

- (1) Includes total equity interests of \$11.4 billion and \$11.0 billion at December 31, 2019 and 2018, respectively. Also includes debt interests in the form of both loans and securities. Excludes certain debt securities held related to loans serviced for FNMA, FHLMC and GNMA.
- (2) Carrying values include assets and related liabilities of \$556 million and \$1.2 billion at December 31, 2019 and 2018, respectively, related to certain unexercised unconditional repurchase options. These amounts represent the carrying value of the loans and associated debt that would be payable if the option was exercised to repurchase eligible loans from GNMA loan securitizations. These amounts are excluded from maximum exposure to loss as we are not obligated to exercise the options.

In Table 10.2, “Total VIE assets” represents the remaining principal balance of assets held by unconsolidated VIEs using the most current information available. For VIEs that obtain exposure to assets synthetically through derivative instruments, the remaining notional amount of the derivative is included in the asset balance. “Carrying value” is the amount in our consolidated balance sheet related to our involvement with the unconsolidated VIEs. “Maximum exposure to loss” is determined as the carrying value of our investment in the VIEs excluding the unconditional repurchase options that have not been exercised, plus the remaining undrawn liquidity and lending commitments, the notional amount of net written derivative contracts, and generally the notional amount of, or stressed loss estimate for, other commitments and guarantees. It represents estimated loss that would be incurred under severe, hypothetical circumstances, for which we believe the possibility is extremely remote, such as where the value of our interests and any associated collateral declines to zero, without any consideration of recovery or offset from any economic hedges. Accordingly, this disclosure is not an indication of expected loss.

**RESIDENTIAL MORTGAGE LOAN SECURITIZATIONS** Residential mortgage loan securitizations are financed through the issuance of fixed-rate or floating-rate asset-backed securities, which are collateralized by the loans transferred to a VIE. We typically transfer loans we originated to these VIEs, account for the transfers as sales, retain the right to service the loans and may hold other beneficial interests issued by the VIEs. In certain instances, we may service residential mortgage loan securitizations structured by third parties whose loans we did not

originate or transfer. Our residential mortgage loan securitizations include conforming and nonconforming securitizations.

Conforming residential mortgage loan securitizations are those that are guaranteed by the government-sponsored entities (GSEs), such as FNMA and FHLMC, and GNMA. We do not consolidate these securitizations because the GSEs or GNMA hold the power over the VIEs.

The loans sold to the VIEs in nonconforming residential mortgage loan securitizations are those that do not qualify for a GSE guarantee and are not GNMA guaranteed mortgage securitizations of FHA-insured or VA-guaranteed mortgages. We may hold variable interests issued by the VIEs, including senior securities. The nonconforming residential mortgage loan securitizations included in the table are not consolidated because we do not hold any variable interests, or hold variable interests that we do not consider potentially significant, or we are not the primary servicer for a majority of the VIE assets.

Guarantees and other commitments include amounts related to loans sold that we may be required to repurchase, or otherwise indemnify or reimburse the investor or insurer for losses incurred, due to material breach of contractual representations and warranties as well as other retained recourse arrangements. The maximum exposure to loss for material breach of contractual representations and warranties represents a stressed case estimate we utilize for determining stressed case regulatory capital needs and is considered to be a remote scenario.

**COMMERCIAL MORTGAGE LOAN SECURITIZATIONS** Commercial mortgage loan securitizations are financed through the issuance of fixed or floating-rate asset-backed securities, which are collateralized by the loans transferred to the VIE. In a typical securitization, we may transfer loans we originate to these VIEs, account for the transfers as sales, retain the right to service the loans and may hold other beneficial interests issued by the VIEs. In certain instances, we may service commercial mortgage loan securitizations structured by third parties whose loans we did not originate or transfer. We typically serve as primary or master servicer of these VIEs. In commercial mortgage loan securitizations, the most significant decisions impacting the performance of the VIE are generally made by the special servicer and the primary and master servicer do not have power over the VIE. We do not consolidate the commercial mortgage loan securitizations included in the disclosure because we do not have power over the majority of the SPE's assets or we do not have a variable interest that could potentially be significant to the VIE.

**TAX CREDIT STRUCTURES** We co-sponsor and make investments in affordable housing and sustainable energy projects that are designed to generate a return primarily through the realization of federal tax credits. The projects are typically managed by project sponsors who have the power over the VIE's assets. In some instances, our investments in these structures may require that we fund future capital commitments at the discretion of the project sponsors. While the size of our investment in a single entity may at times exceed 50% of the outstanding equity interests, we do not consolidate these structures because we are not the project sponsors.

**OTHER ASSET-BASED FINANCE STRUCTURES** We engage in various forms of structured finance arrangements with other VIEs, including collateralized loan obligations (CLOs), collateralized debt obligations, and other securitizations collateralized by asset classes other than mortgages. Collateral may include asset-

backed securities, automobile and other transportation loans and leases, student loans and general corporate credit. Generally, a third party sponsors the VIE and also selects and manages the assets. We may participate in structuring or marketing the arrangements, provide financing to the VIE, service one or more of the underlying VIE assets, or enter into derivatives with the VIEs and receive fees for those services. We are not the primary beneficiary of these structures because we neither select nor manage the assets of the VIE.

### Loan Sales and Securitization Activity

We periodically transfer consumer and commercial loans and other types of financial assets in securitization and whole loan sale transactions. We typically retain the servicing rights from these sales and may continue to hold other beneficial interests in the transferred financial assets. We may also provide liquidity to investors in the beneficial interests and credit enhancements. Through these transfers we may be exposed to liability under limited amounts of recourse as well as standard representations and warranties we make to purchasers and issuers.

Table 10.3 presents information about transfers during the period of assets to unconsolidated VIEs or third-party investors for which we recorded the transfers as sales and have continuing involvement with the transferred assets. In connection with these transfers, we recorded servicing assets, securities, and a liability for repurchase losses which reflects management's estimate of probable losses related to various representations and warranties for the loans transferred. Each of these interests are initially measured at fair value. Servicing rights are classified as Level 3 measurements, and securities are initially predominantly classified as Level 2.

Sales with continuing involvement include securitizations of conforming residential mortgages that are sold to the GSEs or GNMA. Substantially all transfers to these entities resulted in no gain or loss because the loans were already measured at fair value on a recurring basis.

**Table 10.3: Transfers With Continuing Involvement**

(in millions)	Year ended December 31,					
	2019		2018		2017	
	Residential mortgages	Commercial mortgages	Residential mortgages	Commercial mortgages	Residential mortgages	Commercial mortgages
Net gains (losses) on sale	\$ 89	330	(10)	280	342	359
Asset balances sold	170,384	18,191	177,805	17,882	213,562	16,696
Servicing rights recognized	1,896	161	1,903	158	2,122	166
Securities recognized	2,747	51	5,030	81	1,414	65
Liability for repurchase losses recognized	18	—	17	—	24	—

## Note 10: Securitizations and Variable Interest Entities (continued)

Table 10.4 presents the key weighted-average assumptions we used to measure residential MSR's at the date of securitization.

**Table 10.4: Residential Mortgage Servicing Rights**

	Residential mortgage servicing rights		
	Year ended December 31,		
	2019	2018	2017
Prepayment speed (1)	12.8%	10.6	11.5
Discount rate	7.5	7.4	7.0
Cost to service (\$ per loan) (2)	\$ 101	128	132

- (1) The prepayment speed assumption for residential MSR's includes a blend of prepayment speeds and default rates. Prepayment speed assumptions are influenced by mortgage interest rate inputs as well as our estimation of drivers of borrower behavior.
- (2) Includes costs to service and unreimbursed foreclosure costs, which can vary period to period due to changes in model assumptions and the mix of modified government-guaranteed loans sold to GNMA.

Table 10.5 presents the proceeds related to transfers accounted for as sales in which we have continuing involvement with the transferred financial assets as well as current period cash flows from continuing involvement with previous transfers accounted for as sales. Cash flows from other interests held predominantly include principal and interest payments received on retained bonds and excess cash flows received on interest-only strips. Repurchases of assets represents cash paid to

repurchase loans from investors under representation and warranty obligations or in connection with the exercise of cleanup calls on securitizations. Loss reimbursements is cash paid to reimburse investors for losses on individual loans that are already liquidated. Government insured loans are delinquent loans that we service and have exercised our option to purchase out of GNMA pools. These loans are insured by the FHA or guaranteed by the VA.

**Table 10.5: Cash Inflows (Outflows) From Sales and Securitization Activity**

(in millions)	Mortgage loans		
	Year ended December 31,		
	2019	2018	2017
Proceeds from securitizations and whole loan sales	\$ 186,615	193,721	228,282
Fees from servicing rights retained	3,149	3,337	3,352
Cash flows from other interests held	468	698	2,218
Repurchases of assets/loss reimbursements:			
Non-agency securitizations and whole loan transactions	(4,441)	(3)	(12)
Government insured loans	(6,168)	(7,775)	(8,600)
Agency securitizations	(95)	(96)	(92)
Servicing advances, net of recoveries (1)	187	154	269

- (1) Cash flows from servicing advances includes principal and interest payments to investors required by servicing agreements.



## Retained Interests from Unconsolidated VIEs

Table 10.6 provides key economic assumptions and the sensitivity of the current fair value of residential MSRs, and other interests held related to unconsolidated VIEs, to immediate adverse changes in those assumptions. Amounts for residential MSRs include purchased servicing rights as well as servicing rights resulting from the transfer of loans. See Note 19 (Fair Values of Assets and Liabilities) for additional information on key economic assumptions for residential MSRs. “Other interests held” were obtained when we securitized residential and commercial mortgage loans. Residential mortgage-backed

securities retained in securitizations issued through GSEs or GNMA are excluded from the table because these securities have a remote risk of credit loss due to the GSE or government guarantee. These securities also have economic characteristics similar to GSE or GNMA mortgage-backed securities that we purchase, which are not included in the table. Subordinated interests include only those bonds whose credit rating was below AAA by a major rating agency at issuance. Senior interests include only those bonds whose credit rating was AAA by a major rating agency at issuance. The information presented excludes trading positions held in inventory.

**Table 10.6: Retained Interests from Unconsolidated VIEs**

	Residential mortgage servicing rights	Other interests held		
		Interest-only strips	Subordinated bonds	Commercial Senior bonds
(\$ in millions, except cost to service amounts)				
<b>Fair value of interests held at December 31, 2019</b>	<b>\$ 11,517</b>	<b>2</b>	<b>909</b>	<b>352</b>
<b>Expected weighted-average life (in years)</b>	<b>5.3</b>	<b>3.1</b>	<b>7.3</b>	<b>5.5</b>
<b>Key economic assumptions:</b>				
<b>Prepayment speed assumption</b>	<b>11.9%</b>	<b>19.5</b>		
<b>Decrease in fair value from:</b>				
<b>10% adverse change</b>	<b>\$ 537</b>	<b>—</b>		
<b>25% adverse change</b>	<b>1,261</b>	<b>—</b>		
<b>Discount rate assumption</b>	<b>7.2%</b>	<b>12.8</b>	<b>4.0</b>	<b>2.9</b>
<b>Decrease in fair value from:</b>				
<b>100 basis point increase</b>	<b>\$ 464</b>	<b>—</b>	<b>53</b>	<b>16</b>
<b>200 basis point increase</b>	<b>889</b>	<b>—</b>	<b>103</b>	<b>32</b>
<b>Cost to service assumption (\$ per loan)</b>	<b>102</b>			
<b>Decrease in fair value from:</b>				
<b>10% adverse change</b>	<b>253</b>			
<b>25% adverse change</b>	<b>632</b>			
<b>Credit loss assumption</b>			<b>3.1%</b>	<b>—</b>
<b>Decrease in fair value from:</b>				
<b>10% higher losses</b>			<b>\$ 1</b>	<b>—</b>
<b>25% higher losses</b>			<b>4</b>	<b>—</b>
Fair value of interests held at December 31, 2018	\$ 14,649	16	668	309
Expected weighted-average life (in years)	6.5	3.6	7.0	5.7
<b>Key economic assumptions:</b>				
<b>Prepayment speed assumption</b>	<b>9.9%</b>	<b>17.7</b>		
<b>Decrease in fair value from:</b>				
<b>10% adverse change</b>	<b>\$ 530</b>	<b>1</b>		
<b>25% adverse change</b>	<b>1,301</b>	<b>1</b>		
<b>Discount rate assumption</b>	<b>8.1%</b>	<b>14.5</b>	<b>4.3</b>	<b>3.7</b>
<b>Decrease in fair value from:</b>				
<b>100 basis point increase</b>	<b>\$ 615</b>	<b>—</b>	<b>37</b>	<b>14</b>
<b>200 basis point increase</b>	<b>1,176</b>	<b>1</b>	<b>72</b>	<b>28</b>
<b>Cost to service assumption (\$ per loan)</b>	<b>106</b>			
<b>Decrease in fair value from:</b>				
<b>10% adverse change</b>	<b>316</b>			
<b>25% adverse change</b>	<b>787</b>			
<b>Credit loss assumption</b>			<b>5.1%</b>	<b>—</b>
<b>Decrease in fair value from:</b>				
<b>10% higher losses</b>			<b>\$ 2</b>	<b>—</b>
<b>25% higher losses</b>			<b>5</b>	<b>—</b>

## Note 10: Securitizations and Variable Interest Entities (continued)

In addition to residential MSR included in the previous table, we have a small portfolio of commercial MSRs which are carried at LOCOM with a fair value of \$1.9 billion and \$2.3 billion at December 31, 2019 and 2018, respectively. Prepayment assumptions do not significantly impact values of commercial MSRs and commercial mortgage bonds as most commercial loans include contractual restrictions on prepayment. Servicing costs are not a driver of our MSR value as we are typically primary or master servicer; the higher costs of servicing delinquent and foreclosed loans is generally born by the special servicer. The primary economic driver impacting the fair value of our commercial MSRs is forward interest rates, which are derived from market observable yield curves used to price capital markets instruments. Market interest rates significantly affect interest earned on custodial deposit balances. The sensitivity of the current fair value to an immediate adverse 25% change in the assumption about interest earned on deposit balances at December 31, 2019 and 2018, results in a decrease in fair value of \$205 million and \$320 million, respectively. See Note 11 (Mortgage Banking Activities) for further information on our commercial MSRs.

The sensitivities in the preceding paragraph and table are hypothetical and caution should be exercised when relying on this data. Changes in value based on variations in assumptions

generally cannot be extrapolated because the relationship of the change in the assumption to the change in value may not be linear. Also, the effect of a variation in a particular assumption on the value of the other interests held is calculated independently without changing any other assumptions. In reality, changes in one factor may result in changes in others (for example, changes in prepayment speed estimates could result in changes in the credit losses), which might magnify or counteract the sensitivities.

### Off-Balance Sheet Loans

Table 10.7 presents information about the principal balances of off-balance sheet loans that were sold or securitized, including residential mortgage loans sold to FNMA, FHLMC, GNMA and other investors, for which we have some form of continuing involvement (including servicer). Delinquent loans include loans 90 days or more past due and loans in bankruptcy, regardless of delinquency status. For loans sold or securitized where servicing is our only form of continuing involvement, we would only experience a loss if we were required to repurchase a delinquent loan or foreclosed asset due to a breach in representations and warranties associated with our loan sale or servicing contracts.

**Table 10.7: Off-Balance Sheet Loans Sold or Securitized**

(in millions)	Total loans		Delinquent loans and foreclosed assets (1)		Net charge-offs (3)	
	December 31,		December 31,		Year ended	
	2019	2018	2019	2018	2019	2018
<b>Commercial:</b>						
Real estate mortgage	\$ 112,507	105,173	776	1,008	179	739
Total commercial	112,507	105,173	776	1,008	179	739
<b>Consumer:</b>						
Real estate 1-4 family first mortgage	1,008,446	1,097,128	6,664	8,947	229	466
Real estate 1-4 family junior lien mortgage	13	—	2	—	—	—
Total consumer	1,008,459	1,097,128	6,666	8,947	229	466
Total off-balance sheet sold or securitized loans (2)	\$ 1,120,966	1,202,301	7,442	9,955	408	1,205

(1) Includes \$492 million and \$675 million of commercial foreclosed assets and \$356 million and \$582 million of consumer foreclosed assets at December 31, 2019 and 2018, respectively.

(2) At December 31, 2019 and 2018, the table includes total loans of \$1.0 trillion and \$1.1 trillion, delinquent loans of \$5.2 billion and \$6.4 billion, and foreclosed assets of \$251 million and \$442 million, respectively, for FNMA, FHLMC and GNMA.

(3) Net charge-offs exclude loans sold to FNMA, FHLMC and GNMA as we do not service or manage the underlying real estate upon foreclosure and, as such, do not have access to net charge-off information.

## Transactions with Consolidated VIEs and Secured Borrowings

Table 10.8 presents a summary of financial assets and liabilities for asset transfers accounted for as secured borrowings and involvements with consolidated VIEs. Carrying values of “Assets” are presented using GAAP measurement methods, which may include fair value, credit impairment or other adjustments, and

therefore in some instances will differ from “Total VIE assets.” For VIEs that obtain exposure synthetically through derivative instruments, the remaining notional amount of the derivative is included in “Total VIE assets.” On the consolidated balance sheet, we separately disclose the consolidated assets of certain VIEs that can only be used to settle the liabilities of those VIEs.

**Table 10.8: Transactions with Consolidated VIEs and Secured Borrowings**

(in millions)	Total VIE assets	Carrying value			
		Assets	Liabilities	Noncontrolling interests	Net assets
<b>December 31, 2019</b>					
<b>Secured borrowings:</b>					
Residential mortgage securitizations	\$ 81	80	(79)	—	1
<b>Total secured borrowings</b>	<b>81</b>	<b>80</b>	<b>(79)</b>	<b>—</b>	<b>1</b>
<b>Consolidated VIEs:</b>					
Commercial and industrial loans and leases	8,054	8,042	(529)	(16)	7,497
Nonconforming residential mortgage loan securitizations	935	809	(290)	—	519
Commercial real estate loans	4,836	4,836	—	—	4,836
Municipal tender option bond securitizations	401	402	(401)	—	1
Other	279	279	(6)	(27)	246
<b>Total consolidated VIEs</b>	<b>14,505</b>	<b>14,368</b>	<b>(1,226)</b>	<b>(43)</b>	<b>13,099</b>
<b>Total secured borrowings and consolidated VIEs</b>	<b>\$ 14,586</b>	<b>14,448</b>	<b>(1,305)</b>	<b>(43)</b>	<b>13,100</b>
<b>December 31, 2018</b>					
<b>Secured borrowings:</b>					
Residential mortgage securitizations	\$ 95	94	(93)	—	1
<b>Total secured borrowings</b>	<b>95</b>	<b>94</b>	<b>(93)</b>	<b>—</b>	<b>1</b>
<b>Consolidated VIEs:</b>					
Commercial and industrial loans and leases	8,215	8,204	(477)	(14)	7,713
Nonconforming residential mortgage loan securitizations	1,947	1,732	(521)	—	1,211
Commercial real estate loans	3,957	3,957	—	—	3,957
Municipal tender option bond securitizations (1)	627	523	(501)	—	22
Other	169	169	(9)	(20)	140
<b>Total consolidated VIEs</b>	<b>14,915</b>	<b>14,585</b>	<b>(1,508)</b>	<b>(34)</b>	<b>13,043</b>
<b>Total secured borrowings and consolidated VIEs</b>	<b>\$ 15,010</b>	<b>14,679</b>	<b>(1,601)</b>	<b>(34)</b>	<b>13,044</b>

(1) Municipal tender option bond securitizations were reported as secured borrowings at December 31, 2018. These structures were reported as consolidated VIEs at December 31, 2019 to conform with our presentation of other transactions where we transfer assets to a consolidated VIE and use secured borrowing accounting.

## Note 10: Securitizations and Variable Interest Entities (continued)

We have raised financing through the securitization of certain financial assets in transactions with VIEs accounted for as secured borrowings. We also consolidate VIEs where we are the primary beneficiary. In certain transactions, we provide contractual support in the form of limited recourse and liquidity to facilitate the remarketing of short-term securities issued to third-party investors. Other than this limited contractual support, the assets of the VIEs are the sole source of repayment of the securities held by third parties.

**COMMERCIAL AND INDUSTRIAL LOANS AND LEASES** We securitize dealer floor plan loans and leases in a revolving master trust entity and retain the subordinated notes and residual equity interests. At December 31, 2019 and 2018, total assets held by the master trust were \$6.5 billion and \$6.7 billion, respectively, and the outstanding senior notes were \$300 million and \$299 million, respectively. As servicer and residual interest holder, we control the key decisions of the trust. We also provide the majority of debt and equity financing to an SPE that engages in lending and leasing to specific vendors and service the underlying collateral. We control the key decisions of the entity and consolidate the entity as primary beneficiary.

**NONCONFORMING RESIDENTIAL MORTGAGE LOAN SECURITIZATIONS** We have determined we are the primary beneficiary of these securitizations because we have the power to direct the most significant activities of the entity through our role as primary servicer and we also hold variable interests that we have determined to be significant. The nature of our variable interests in these entities may include senior or subordinated beneficial interests issued by the VIE, MSRs and recourse or repurchase reserve liabilities.

**COMMERCIAL REAL ESTATE LOANS** We purchase local industrial development bonds and credit enhancement from GSEs, which bonds and credit enhancement are placed with a custodian who issues beneficial interests. We own all of the beneficial interests and may also service the underlying mortgages. Through our ownership of the beneficial interests we control the key decisions of the trust including the decision to invest in or divest of a bond and whether to purchase or retain credit support.

**MUNICIPAL TENDER OPTION BOND SECURITIZATIONS** As part of our normal investment portfolio activities, we consolidate municipal bond trusts that hold highly rated, long-term, fixed-rate municipal bonds, the majority of which are rated AA or better. Our residual interests in these trusts generally allow us to capture the economics of owning the securities outright, and constructively make decisions that significantly impact the economic performance of the municipal bond vehicle, primarily by directing the sale of the municipal bonds owned by the vehicle. We may also serve as remarketing agent or liquidity provider for the trusts should the investors exercise their right to tender the certificates at specified dates. If we cannot remarket the tendered certificates, we are generally obligated to purchase them at par under standby liquidity facilities unless the bond's credit rating has declined below investment grade or there has been an event of default or bankruptcy of the issuer and insurer.

### Other Transactions

In addition to the transactions included in the previous tables, we have used wholly-owned trust preferred security VIEs to issue debt securities or preferred equity exclusively to third-party investors. As the sole assets of the VIEs are receivables from us, we do not consolidate the VIEs even though we own all of the voting equity shares of the VIEs, have fully guaranteed the obligations of the VIEs, and may have the right to redeem the third-party securities under certain circumstances. See Note 15 (Long-Term Debt) and Note 20 (Preferred Stock) for additional information about trust preferred securities.

Certain money market funds are also excluded from the previous tables because they are exempt from the consolidation analysis. We voluntarily waived a portion of our management fees for these money market funds to maintain a minimum level of daily net investment income. The amount of fees waived in 2019, 2018 and 2017 was \$40 million, \$45 million, and \$53 million, respectively.

## Note 11: Mortgage Banking Activities

Mortgage banking activities, included in the Community Banking and Wholesale Banking operating segments, consist of residential and commercial mortgage originations, sale activity and servicing.

We apply the amortization method to commercial MSR and apply the fair value method to residential MSR. Table 11.1 presents the changes in MSR measured using the fair value method.

**Table 11.1: Analysis of Changes in Fair Value MSRs**

(in millions)	Year ended December 31,		
	2019	2018	2017
Fair value, beginning of year	\$ 14,649	13,625	12,959
Purchases	—	—	541
Servicing from securitizations or asset transfers (1)	1,933	2,010	2,263
Sales and other (2)	(286)	(71)	(23)
Net additions	1,647	1,939	2,781
Changes in fair value:			
Due to changes in valuation model inputs or assumptions:			
Mortgage interest rates (3)	(2,406)	1,337	(103)
Servicing and foreclosure costs (4)	48	818	96
Discount rates (5)	145	(830)	13
Prepayment estimates and other (6)	(356)	(365)	(132)
Net changes in valuation model inputs or assumptions	(2,569)	960	(126)
Changes due to collection/realization of expected cash flows over time (7)	(2,210)	(1,875)	(1,989)
Total changes in fair value	(4,779)	(915)	(2,115)
Fair value, end of year	\$ 11,517	14,649	13,625

- (1) Includes impacts associated with exercising cleanup calls on securitizations as well as our right to repurchase delinquent loans from Government National Mortgage Association (GNMA) loan securitization pools. Total reported MSRs may increase upon repurchase due to servicing liabilities associated with these delinquent GNMA loans.
- (2) Includes sales and transfers of MSRs, which can result in an increase of total reported MSRs if the sales or transfers are related to nonperforming loan portfolios or portfolios with servicing liabilities.
- (3) Includes prepayment speed changes as well as other valuation changes due to changes in mortgage interest rates (such as changes in estimated interest earned on custodial deposit balances).
- (4) Includes costs to service and unreimbursed foreclosure costs.
- (5) Reflects discount rate assumption change, excluding portion attributable to changes in mortgage interest rates.
- (6) Represents changes driven by other valuation model inputs or assumptions including prepayment speed estimation changes and other assumption updates. Prepayment speed estimation changes are influenced by observed changes in borrower behavior and other external factors that occur independent of interest rate changes.
- (7) Represents the reduction in the MSR fair value for the cash flows expected to be collected during the period, net of income accreted due to the passage of time

Table 11.2 presents the changes in amortized MSRs.

**Table 11.2: Analysis of Changes in Amortized MSRs**

(in millions)	Year ended December 31,		
	2019	2018	2017
Balance, beginning of year	\$ 1,443	1,424	1,406
Purchases	100	127	115
Servicing from securitizations or asset transfers	161	158	166
Amortization	(274)	(266)	(263)
Balance, end of year (1)	\$ 1,430	1,443	1,424
Fair value of amortized MSRs:			
Beginning of year	\$ 2,288	2,025	1,956
End of year	1,872	2,288	2,025

- (1) Commercial amortized MSRs are evaluated for impairment purposes by the following risk strata: agency (GSEs) for multi-family properties and non-agency. There was no valuation allowance recorded for the periods presented on the commercial amortized MSRs.

## Note 11: Mortgage Banking Activities (continued)

We present the components of our managed servicing portfolio in Table 11.3 at unpaid principal balance for loans serviced and subserviced for others and at book value for owned loans serviced.

**Table 11.3: Managed Servicing Portfolio**

(in billions)	Dec 31, 2019	Dec 31, 2018
Residential mortgage servicing:		
Serviced for others	\$ 1,063	1,164
Owned loans serviced (1)	343	334
Subserviced for others	2	4
<b>Total residential servicing</b>	<b>1,408</b>	<b>1,502</b>
Commercial mortgage servicing:		
Serviced for others	566	543
Owned loans serviced	124	121
Subserviced for others	9	9
<b>Total commercial servicing</b>	<b>699</b>	<b>673</b>
<b>Total managed servicing portfolio</b>	<b>\$ 2,107</b>	<b>2,175</b>
<b>Total serviced for others</b>	<b>\$ 1,629</b>	<b>1,707</b>
<b>Ratio of MSRs to related loans serviced for others</b>	<b>0.79%</b>	<b>0.94</b>

(1) Excludes loans serviced by third parties.

Table 11.4 presents the components of mortgage banking noninterest income.

**Table 11.4: Mortgage Banking Noninterest Income**

(in millions)	Year ended December 31,		
	2019	2018	2017
Servicing income, net:			
Servicing fees:			
Contractually specified servicing fees	\$ 3,388	3,613	3,603
Late charges	129	162	172
Ancillary fees	143	182	199
Unreimbursed direct servicing costs (1)	(403)	(331)	(582)
<b>Net servicing fees</b>	<b>3,257</b>	<b>3,626</b>	<b>3,392</b>
Changes in fair value of MSRs carried at fair value:			
Due to changes in valuation model inputs or assumptions (2)	(A) (2,569)	960	(126)
Changes due to collection/realization of expected cash flows over time (3)	(2,210)	(1,875)	(1,989)
<b>Total changes in fair value of MSRs carried at fair value</b>	<b>(4,779)</b>	<b>(915)</b>	<b>(2,115)</b>
Amortization	(274)	(266)	(263)
Net derivative gains (losses) from economic hedges (4)	(B) 2,318	(1,072)	413
<b>Total servicing income, net</b>	<b>522</b>	<b>1,373</b>	<b>1,427</b>
<b>Net gains on mortgage loan origination/sales activities (5)</b>	<b>2,193</b>	<b>1,644</b>	<b>2,923</b>
<b>Total mortgage banking noninterest income</b>	<b>\$ 2,715</b>	<b>3,017</b>	<b>4,350</b>
<b>Market-related valuation changes to MSRs, net of hedge results (2)(4)</b>	<b>(A)+(B) \$ (251)</b>	<b>(112)</b>	<b>287</b>

(1) Includes costs associated with foreclosures, unreimbursed interest advances to investors, and other interest costs.

(2) Refer to the analysis of changes in fair value MSRs presented in Table 11.1 in this Note for more detail.

(3) Represents the reduction in the MSR fair value for the cash flows expected to be collected during the period, net of income accreted due to the passage of time.

(4) Represents results from economic hedges used to hedge the risk of changes in fair value of MSRs. See Note 18 (Derivatives) for additional discussion and detail.

(5) Includes net gains (losses) of \$(141) million, \$857 million and \$35 million at December 31, 2019, 2018 and 2017, respectively, related to derivatives used as economic hedges of mortgage loans held for sale and derivative loan commitments.

## Note 12: Intangible Assets

Table 12.1 presents the gross carrying value of intangible assets and accumulated amortization.

**Table 12.1: Intangible Assets**

(in millions)	December 31, 2019			December 31, 2018		
	Gross carrying value	Accumulated amortization	Net carrying value	Gross carrying value	Accumulated amortization	Net carrying value
Amortized intangible assets (1):						
MSRs (2)	\$ 4,422	(2,992)	1,430	4,161	(2,718)	1,443
Core deposit intangibles	—	—	—	12,834	(12,834)	—
Customer relationship and other intangibles	947	(524)	423	3,994	(3,449)	545
<b>Total amortized intangible assets</b>	<b>\$ 5,369</b>	<b>(3,516)</b>	<b>1,853</b>	<b>20,989</b>	<b>(19,001)</b>	<b>1,988</b>
Unamortized intangible assets:						
MSRs (carried at fair value) (2)	\$ 11,517			14,649		
Goodwill	26,390			26,418		
Trademark	14			14		

- (1) Balances are excluded commencing in the period following full amortization.  
(2) See Note 11 (Mortgage Banking Activities) for additional information on MSRs.

Table 12.2 provides the current year and estimated future amortization expense for amortized intangible assets. We based our projections of amortization expense shown below on existing

asset balances at December 31, 2019. Future amortization expense may vary from these projections.

**Table 12.2: Amortization Expense for Intangible Assets**

(in millions)	Amortized MSRs	Customer relationship and other intangibles	Total
<b>Year ended December 31, 2019 (actual)</b>	<b>\$ 274</b>	<b>114</b>	<b>388</b>
Estimate for year ended December 31,			
2020	\$ 263	95	358
2021	227	81	308
2022	203	68	271
2023	176	59	235
2024	152	48	200

Table 12.3 shows the allocation of goodwill to our reportable operating segments.

**Table 12.3: Goodwill**

(in millions)	Community Banking	Wholesale Banking	Wealth and Investment Management	Consolidated Company
December 31, 2017 (1)	\$ 16,849	8,455	1,283	26,587
Reduction in goodwill related to divested businesses and foreign currency translation	(164)	(5)	—	(169)
<b>December 31, 2018 (1)</b>	<b>\$ 16,685</b>	<b>8,450</b>	<b>1,283</b>	<b>26,418</b>
Reduction in goodwill related to divested businesses and foreign currency translation	—	(21)	(7)	(28)
<b>December 31, 2019 (1)</b>	<b>\$ 16,685</b>	<b>8,429</b>	<b>1,276</b>	<b>26,390</b>

- (1) At December 31, 2017, other assets included Goodwill classified as held-for-sale of \$13 million related to the sales agreement for Wells Fargo Shareowner Services, which closed in February 2018. At December 31, 2019, and December 31, 2018, there was no Goodwill classified as held-for-sale in other assets.

We assess goodwill for impairment at a reporting unit level, which is one level below the operating segments. Our goodwill was not impaired at December 31, 2019 and 2018. The fair values exceeded the carrying amount of our respective reporting units by approximately 6% to 425% at December 31, 2019. See Note 27 (Operating Segments) for further information on management reporting.

## Note 13: Deposits

Table 13.1 presents a summary of the time certificates of deposit (CDs) and other time deposits issued by domestic and non-U.S. offices.

**Table 13.1: Time Certificates of Deposits and Other Time Deposits**

(in billions)	December 31,	
	2019	2018
Total domestic and Non-U.S.	\$ 118.8	130.6
Domestic:		
\$100,000 or more	43.7	42.5
\$250,000 or more	34.6	37.1
Non-U.S.		
\$100,000 or more	4.0	4.6
\$250,000 or more	4.0	4.6

Substantially all CDs and other time deposits issued by domestic and non-U.S. offices were interest bearing. The contractual maturities of these deposits are presented in Table 13.2.

**Table 13.2: Contractual Maturities of CDs and Other Time Deposits**

(in millions)	December 31, 2019	
2020	\$	88,259
2021		15,429
2022		6,055
2023		4,130
2024		1,906
Thereafter		3,070
Total	\$	118,849

The contractual maturities of the domestic time deposits with a denomination of \$100,000 or more are presented in Table 13.3.

**Table 13.3: Contractual Maturities of Domestic Time Deposits**

(in millions)	December 31, 2019	
Three months or less	\$	18,759
After three months through six months		10,583
After six months through twelve months		11,766
After twelve months		2,624
Total	\$	43,732

Demand deposit overdrafts of \$542 million and \$624 million were included as loan balances at December 31, 2019 and 2018, respectively.



## Note 14: Short-Term Borrowings

Table 14.1 shows selected information for short-term borrowings, which generally mature in less than 30 days. We pledge certain financial instruments that we own to collateralize repurchase agreements and other securities financings. For

additional information, see the “Pledged Assets” section of Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments).

**Table 14.1: Short-Term Borrowings**

(in millions)	2019		2018		2017	
	Amount	Rate	Amount	Rate	Amount	Rate
<b>As of December 31,</b>						
Federal funds purchased and securities sold under agreements to repurchase	\$ 92,403	1.54%	\$ 92,430	2.65%	\$ 88,684	1.30%
Commercial paper	—	—	—	—	—	—
Other short-term borrowings	12,109	0.60	13,357	1.63	14,572	0.72
Total	\$ 104,512	1.43	\$ 105,787	2.52	\$ 103,256	1.22
<b>Year ended December 31,</b>						
<b>Average daily balance</b>						
Federal funds purchased and securities sold under agreements to repurchase	\$ 102,888	2.11	\$ 90,348	1.78	\$ 82,507	0.90
Commercial paper	—	—	—	—	16	0.95
Other short-term borrowings	12,449	1.20	13,919	0.79	16,399	0.13
Total	\$ 115,337	2.01	\$ 104,267	1.65	\$ 98,922	0.77
<b>Maximum month-end balance</b>						
Federal funds purchased and securities sold under agreements to repurchase (1)	\$ 111,726	N/A	\$ 93,918	N/A	\$ 91,604	N/A
Commercial paper (2)	—	N/A	—	N/A	78	N/A
Other short-term borrowings (3)	14,129	N/A	16,924	N/A	19,439	N/A

N/A- Not applicable

(1) Highest month-end balance in each of the last three years was October 2019, November 2018 and November 2017.

(2) There were no month-end balances in 2019 and 2018; highest month-end balance in 2017 was January.

(3) Highest month-end balance in each of the last three years was February 2019, January 2018 and February 2017.

## Note 15: Long-Term Debt

We issue long-term debt denominated in multiple currencies, largely in U.S. dollars. Our issuances have both fixed and floating interest rates. As a part of our overall interest rate risk management strategy, we often use derivatives to manage our exposure to interest rate risk. We also use derivatives to manage our exposure to foreign currency risk. As a result, approximately half of the long-term debt presented below is hedged in a fair value or cash flow hedge relationship. See Note 18 (Derivatives) for further information on qualifying hedge contracts.

Table 15.1 presents a summary of our long-term debt carrying values, reflecting unamortized debt discounts and premiums, and purchase accounting adjustments, where applicable. The interest rates displayed represent the range of contractual rates in effect at December 31, 2019. These interest rates do not include the effects of any associated derivatives designated in a hedge accounting relationship.

**Table 15.1: Long-Term Debt**

(in millions)	Maturity date(s)	Stated interest rate(s)	December 31,	
			2019	2018
<b>Wells Fargo &amp; Company (Parent only)</b>				
<b>Senior</b>				
Fixed-rate notes (1)	2020-2047	0.38 - 6.75%	\$ 86,618	77,742
Floating-rate notes	2020-2048	0.02-3.24%	16,800	19,553
FixFloat notes	2025-2030	2.41-3.58%	12,030	2,901
Structured notes (2)			8,390	7,984
Total senior debt - Parent			123,838	108,180
<b>Subordinated</b>				
Fixed-rate notes (3)	2023-2046	3.45-7.57%	27,195	25,428
Total subordinated debt - Parent			27,195	25,428
<b>Junior subordinated</b>				
Fixed-rate notes - trust securities	2029-2036	5.95-7.95%	1,428	1,308
Floating-rate notes	2027	2.50-3.00%	318	308
Total junior subordinated debt - Parent (4)			1,746	1,616
Total long-term debt - Parent (3)			152,779	135,224
<b>Wells Fargo Bank, N.A., and other bank entities (Bank)</b>				
<b>Senior</b>				
Fixed-rate notes	2020-2023	2.40-3.63%	9,364	14,222
Floating-rate notes	2020-2053	1.64-2.55%	10,617	6,617
FixFloat notes	2021-2022	2.08-3.33%	5,097	1,998
Fixed-rate advances - Federal Home Loan Bank (FHLB)	2020-2031	3.83-7.50%	41	51
Floating-rate advances - FHLB	2020-2022	1.83-2.31%	32,950	53,825
Structured notes (2)			1,914	1,646
Finance leases	2020-2029	1.69-17.78%	32	36
Total senior debt - Bank			60,015	78,395
<b>Subordinated</b>				
Fixed-rate notes	2023-2038	5.25-7.74%	5,374	5,199
Total subordinated debt - Bank			5,374	5,199
<b>Junior subordinated</b>				
Floating-rate notes	2027	2.48-2.65%	363	352
Total junior subordinated debt - Bank (4)			363	352
Long-term debt issued by VIE - Fixed rate	2037	6.00%	17	160
Long-term debt issued by VIE - Floating rate	2020-2038	2.38-4.62%	570	656
Mortgage notes and other debt (5)	2020-2057	9.20%	6,185	6,637
Total long-term debt - Bank			72,524	91,399

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(in millions)	Maturity date(s)	Stated interest rate(s)	December 31,	
			2019	2018
<b>Other consolidated subsidiaries</b>				
<b>Senior</b>				
Fixed-rate notes	2021-2023	3.04-3.46%	1,352	2,383
Structured notes (2)			1,503	6
Finance leases	2020	3.71%	1	—
Total senior debt - Other consolidated subsidiaries			2,856	2,389
Mortgage notes and other	2026	3.27%	32	32
Total long-term debt - Other consolidated subsidiaries			2,888	2,421
Total long-term debt			\$ 228,191	229,044

- (1) Includes \$66 million of outstanding zero coupon callable notes at December 31, 2019.
- (2) Included in the table are certain structured notes that have coupon or repayment terms linked to the performance of debt or equity securities, an embedded equity, commodity, or currency index, or basket of indices accounted for separately from the note as a free-standing derivative, and the maturity may be accelerated based on the value of a referenced index or security. For information on embedded derivatives, see the "Derivatives Not Designated as Hedging Instruments" section in Note 18 (Derivatives). In addition, a major portion consists of zero coupon callable notes where interest is paid as part of the final redemption amount.
- (3) Includes fixed-rate subordinated notes issued by the Parent at a discount of \$128 million and \$131 million in 2019 and 2018, respectively, and debt issuance costs of \$2 million in both 2019 and 2018, to effect a modification of Wells Fargo Bank, N.A., notes. These subordinated notes are carried at their par amount on the balance sheet of the Parent presented in Note 28 (Parent-Only Financial Statements). In addition, Parent long-term debt presented in Note 28 also includes affiliate related issuance costs of \$281 million and \$278 million in 2019 and 2018, respectively.
- (4) Represents junior subordinated debentures held by unconsolidated wholly-owned trusts formed for the sole purpose of issuing trust preferred securities. See Note 10 (Securitizations and Variable Interest Entities) for additional information.
- (5) Largely relates to unfunded commitments for LIHTC investments. For additional information, see Note 8 (Equity Securities).

We issue long-term debt in a variety of maturities and currencies to achieve cost-efficient funding and to maintain an appropriate maturity profile. Long-term debt of \$228.2 billion at December 31, 2019, decreased \$853 million from December 31, 2018. We issued \$53.4 billion of long-term debt in 2019.

The aggregate carrying value of long-term debt that matures (based on contractual payment dates) as of December 31, 2019, in each of the following five years and thereafter is presented in Table 15.2.

**Table 15.2: Maturity of Long-Term Debt**

(in millions)	December 31, 2019						
	2020	2021	2022	2023	2024	Thereafter	Total
<b>Wells Fargo &amp; Company (Parent Only)</b>							
Senior notes	\$ 13,429	18,163	18,091	11,104	9,387	53,664	123,838
Subordinated notes	—	—	—	3,653	737	22,805	27,195
Junior subordinated notes	—	—	—	—	—	1,746	1,746
Total long-term debt - Parent							
	13,429	18,163	18,091	14,757	10,124	78,215	152,779
<b>Wells Fargo Bank, N.A., and other bank entities (Bank)</b>							
Senior notes	23,415	27,865	5,585	2,884	6	260	60,015
Subordinated notes	—	—	—	1,071	—	4,303	5,374
Junior subordinated notes	—	—	—	—	—	363	363
Securitizations and other bank debt	2,658	1,138	633	224	157	1,962	6,772
Total long-term debt - Bank							
	26,073	29,003	6,218	4,179	163	6,888	72,524
<b>Other consolidated subsidiaries</b>							
Senior notes	144	1,761	93	435	118	305	2,856
Securitizations and other bank debt	—	—	—	—	—	32	32
Total long-term debt - Other consolidated subsidiaries							
	144	1,761	93	435	118	337	2,888
<b>Total long-term debt</b>							
	\$ 39,646	48,927	24,402	19,371	10,405	85,440	228,191

As part of our long-term and short-term borrowing arrangements, we are subject to various financial and operational covenants. Some of the agreements under which debt has been issued have provisions that may limit the merger or sale of certain subsidiary banks and the issuance of capital stock or convertible securities by certain subsidiary banks. At December 31, 2019, we were in compliance with all the covenants.

## Note 16: Guarantees, Pledged Assets and Collateral, and Other Commitments

Guarantees are contracts that contingently require us to make payments to a guaranteed party based on an event or a change in an underlying asset, liability, rate or index. Guarantees are generally in the form of standby letters of credit, securities

lending and other indemnifications, written options, recourse obligations, and other types of similar arrangements. Table 16.1 shows carrying value, maximum exposure to loss on our guarantees and the related non-investment grade amounts.

**Table 16.1: Guarantees – Carrying Value and Maximum Exposure to Loss**

(in millions)	Carrying value of obligation (asset)	Maximum exposure to loss					
		Expires in one year or less	Expires after one year through three years	Expires after three years through five years	Expires after five years	Total	Non-investment grade
<b>December 31, 2019</b>							
Standby letters of credit	\$ 36	11,569	4,460	2,812	467	19,308	7,104
Direct pay letters of credit	—	1,861	3,815	824	105	6,605	1,184
Written options (1)	(345)	17,088	10,869	2,341	273	30,571	18,113
Loans and MLHFS sold with recourse (2)	52	114	576	1,356	10,050	12,096	9,835
Exchange and clearing house guarantees	—	—	—	—	4,817	4,817	—
Other guarantees and indemnifications (3)	1	785	1	3	809	1,598	698
<b>Total guarantees</b>	<b>\$ (256)</b>	<b>31,417</b>	<b>19,721</b>	<b>7,336</b>	<b>16,521</b>	<b>74,995</b>	<b>36,934</b>
<b>December 31, 2018</b>							
Standby letters of credit (4)	\$ 40	10,947	4,649	2,872	461	18,929	7,017
Direct pay letters of credit (4)	—	3,689	3,248	526	36	7,499	1,010
Written options (1)	(185)	17,243	10,502	3,066	400	31,211	21,732
Loans and MLHFS sold with recourse (2)	54	104	653	1,207	10,163	12,127	9,079
Exchange and clearing house guarantees (4)	—	—	—	—	2,922	2,922	—
Other guarantees and indemnifications (3), (4)	1	889	1	3	1,081	1,974	753
<b>Total guarantees</b>	<b>\$ (90)</b>	<b>32,872</b>	<b>19,053</b>	<b>7,674</b>	<b>15,063</b>	<b>74,662</b>	<b>39,591</b>

(1) Written options, which are in the form of derivatives, are also included in the derivative disclosures in Note 18 (Derivatives). Carrying value net asset position is a result of certain deferred premium option trades.

(2) Represent recourse provided, predominantly to the GSEs, on loans sold under various programs and arrangements.

(3) Includes indemnifications provided to certain third-party clearing agents. Outstanding customer obligations under these arrangements were \$80 million and \$70 million with related collateral of \$696 million and \$974 million at December 31, 2019 and 2018, respectively.

(4) Prior period amounts have been revised to conform with the current period presentation.

“Maximum exposure to loss” and “Non-investment grade” are required disclosures under GAAP. Maximum exposure to loss represents the estimated loss that would be incurred under an assumed hypothetical circumstance, despite what we believe is a remote possibility, where the value of our interests and any associated collateral declines to zero. Maximum exposure to loss estimates in Table 16.1 do not reflect economic hedges or collateral we could use to offset or recover losses we may incur under our guarantee agreements. Accordingly, this required disclosure is not an indication of expected loss. We believe the carrying value, which is either fair value, or the allowance for lending-related commitments, is more representative of our exposure to loss.

Non-investment grade represents those guarantees on which we have a higher risk of performance under the terms of the guarantee. If the underlying assets under the guarantee are non-investment grade (that is, an external rating that is below investment grade or an internal credit default grade that is equivalent to a below investment grade external rating), we consider the risk of performance to be high. Internal credit default grades are determined based upon the same credit policies that we use to evaluate the risk of payment or performance when making loans and other extensions of credit. Credit quality indicators we usually consider in evaluating risk of payments or performance are described in Note 6 (Loans and Allowance for Credit Losses).

**STANDBY LETTERS OF CREDIT** We issue standby letters of credit, which include performance and financial guarantees, for customers in connection with contracts between our customers and third parties. We also originate multipurpose lending commitments under which borrowers have the option to draw on the facility in one of several forms, including as a standby letter of credit. Standby letters of credit are conditional lending commitments where we are obligated to make payment to a third party on behalf of a customer if the customer fails to meet their contractual obligations. Total maximum exposure to loss includes the portion of multipurpose lending facilities for which we have issued standby letters of credit under the commitments. We consider the credit risk in standby letters of credit and commercial and similar letters of credit in determining the ACL.

**DIRECT PAY LETTERS OF CREDIT** We issue direct pay letters of credit to serve as credit enhancements for certain bond issuances. Beneficiaries (bond trustees) may draw upon these instruments to make scheduled principal and interest payments, redeem all outstanding bonds because a default event has occurred, or for other reasons as permitted by the agreement. We consider the credit risk in direct pay letters of credit in determining the ACL.

**WRITTEN OPTIONS** We enter into certain derivative contracts that have the characteristics of a guarantee. These contracts include written put options that give the counterparty the right to sell to us an underlying instrument held by the counterparty at

a specified price by a specified date. They also include certain written options that require us to make a payment for increases in fair value of assets held by the counterparty. These written option contracts generally permit or require net settlement. While these derivative transactions expose us to risk if the option is exercised, we manage this risk by entering into offsetting trades or by taking short positions in the underlying instrument. We offset market risk related to options written to customers with cash securities or other offsetting derivative transactions. Additionally, for certain of these contracts, we require the counterparty to pledge the underlying instrument as collateral for the transaction. Our ultimate obligation under written options is based on future market conditions and is only quantifiable at settlement. See Note 18 (Derivatives) for additional information regarding written derivative contracts.

**LOANS AND MLHFS SOLD WITH RECOURSE** In certain sales and securitizations of loans, including mortgage loans, we provide recourse to the buyer whereby we are required to indemnify the buyer for any loss on the loan up to par value plus accrued interest. We provide recourse, predominantly to GSEs, on loans sold under various programs and arrangements. Substantially all of these programs and arrangements require that we share in the loans' credit exposure for their remaining life by providing recourse to the GSE, up to 33.33% of actual losses incurred on a pro-rata basis in the event of borrower default. Under the remaining recourse programs and arrangements, if certain events occur within a specified period of time from transfer date, we have to provide limited recourse to the buyer to indemnify them for losses incurred for the remaining life of the loans. The maximum exposure to loss reported in Table 16.1 represents the outstanding principal balance of the loans sold or securitized that are subject to recourse provisions or the maximum losses per the contractual agreements. However, we believe the likelihood of loss of the entire balance due to these recourse agreements is remote, and amounts paid can be recovered in whole or in part from the sale of collateral. We also provide representation and warranty guarantees on loans sold under the various recourse programs and arrangements. Our loss exposure relative to these guarantees is separately considered and provided for, as necessary, in determination of our liability for loan repurchases due to breaches of representation and warranties.

**EXCHANGE AND CLEARING HOUSE GUARANTEES** We are members of several securities and derivatives exchanges and clearing houses, both in the U.S. and in countries outside the U.S., that we use to clear our trades and those of our customers. It is common that all members in these organizations are required to collectively guarantee the performance of other members and of the organization. Our obligations under the guarantees are generally a pro-rata share based on either a fixed amount or a multiple of the guarantee fund we are required to maintain with these organizations. Some membership rules require members to assume a pro-rata share of losses resulting from another member's default or from non-member default losses after applying the guarantee fund. We have not recorded a liability for these arrangements as of the dates presented in Table 16.1 because we believe the likelihood of loss is remote.

**OTHER GUARANTEES AND INDEMNIFICATIONS** We have contingent performance arrangements related to various customer relationships and lease transactions. We are required to pay the counterparties to these agreements if third parties default on certain obligations.

Under certain factoring arrangements, we may be required to purchase trade receivables from third parties, if receivable debtors default on their payment obligations.

We use certain third-party clearing agents to clear and settle transactions on behalf of some of our institutional brokerage customers. We indemnify the clearing agents against loss that could occur for non-performance by our customers on transactions that are not sufficiently collateralized. Transactions subject to the indemnifications may include customer obligations related to the settlement of margin accounts and short positions, such as written call options and securities borrowing transactions.

We enter into other types of indemnification agreements in the ordinary course of business under which we agree to indemnify third parties against any damages, losses and expenses incurred in connection with legal and other proceedings arising from relationships or transactions with us. These relationships or transactions include those arising from service as a director or officer of the Company, underwriting agreements relating to our securities, acquisition agreements and various other business transactions or arrangements. Because the extent of our obligations under these agreements depends entirely upon the occurrence of future events, we are unable to determine our potential future liability under these agreements. We do, however, record a liability for residential mortgage loans that we expect to repurchase pursuant to various representations and warranties.

**GUARANTEES OF SUBSIDIARIES** In the normal course of business, the Parent may provide counterparties with guarantees related to its subsidiaries' obligations. These obligations are included in the Company's consolidated balance sheets or are reflected as off-balance sheet commitments, and therefore, the Parent has not recognized a separate liability for these guarantees.

The Parent fully and unconditionally guarantees the payment of principal, interest, and any other amounts that may be due on securities that its 100% owned finance subsidiary, Wells Fargo Finance LLC, may issue. These guaranteed liabilities were \$1.6 billion and \$5 million at December 31, 2019 and 2018, respectively. These guarantees rank on parity with all of the Parent's other unsecured and unsubordinated indebtedness.

## Note 16: Guarantees, Pledged Assets and Collateral, and Other Commitments (continued)

### Pledged Assets

Table 16.2 provides the carrying amount of on-balance sheet pledged assets and the fair value of off-balance sheet pledged assets.

**TRADING RELATED ACTIVITY** Our trading businesses may pledge debt and equity securities in connection with securities sold under agreements to repurchase (repurchase agreements) and securities lending arrangements. Substantially all of the trading activity pledged collateral is eligible to be repledged or sold by the secured party. The collateral that we pledge related to our trading activities may include our own collateral as well as collateral that we have received from third parties and have the right to repledge.

**NON-TRADING RELATED ACTIVITY** As part of our liquidity management strategy, we may pledge loans, debt securities, and other assets to secure trust and public deposits, borrowings and letters of credit from the Federal Home Loan Bank (FHLB) and FRB and for other purposes as required or permitted by law or

insurance statutory requirements. Substantially all of the non-trading activity pledged collateral is not eligible to be repledged or sold by the secured party.

Table 16.2 excludes:

- Pledged assets of consolidated VIEs of \$14.4 billion and \$14.6 billion at December 31, 2019 and 2018, respectively, which can only be used to settle the liabilities of those entities;
- Assets pledged in transactions with VIEs accounted for as secured borrowings of \$80 million and \$94 million at December 31, 2019 and 2018, respectively; and
- Pledged loans recorded on our balance sheet of \$568 million and \$1.2 billion at December 31, 2019 and 2018, respectively, representing certain delinquent loans that are eligible for repurchase from GNMA loan securitizations.

See Note 10 (Securitizations and Variable Interest Entities) for additional information on consolidated VIE assets and secured borrowings.

**Table 16.2: Pledged Assets**

(in millions)	Dec 31, 2019	Dec 31, 2018
Related to trading activities:		
Debt securities	\$ 106,105	96,616
Equity securities	6,204	9,695
Total pledged assets related to trading activities (1)	112,309	106,311
Related to non-trading activities:		
Debt securities and other	65,047	62,438
Mortgage loans held for sale (2)	2,266	7,439
Loans (2)	406,106	446,455
Total pledged assets related to non-trading activities	473,419	516,332
Total pledged assets	\$ 585,728	622,643

(1) Includes securities collateral received from third parties that we have repledged of \$60.1 billion and \$60.8 billion as of December 31, 2019 and 2018, respectively.

(2) Prior period amounts have been revised to conform with the current period presentation.

### Securities Financing Activities

We enter into resale and repurchase agreements and securities borrowing and lending agreements (collectively, "securities financing activities") typically to finance trading positions (including securities and derivatives), acquire securities to cover short trading positions, accommodate customers' financing needs, and settle other securities obligations. These activities are conducted through our broker-dealer subsidiaries and, to a lesser extent, through other bank entities. Most of our securities financing activities involve high-quality, liquid securities such as U.S. Treasury securities and government agency securities and, to a lesser extent, less liquid securities, including equity securities, corporate bonds and asset-backed securities. We account for these transactions as collateralized financings in which we typically receive or pledge securities as collateral. We believe these financing transactions generally do not have material credit risk given the collateral provided and the related monitoring processes.

**OFFSETTING OF SECURITIES FINANCING ACTIVITIES** Table 16.3 presents resale and repurchase agreements subject to master repurchase agreements (MRA) and securities borrowing and lending agreements subject to master securities lending agreements (MSLA). We account for transactions subject to

these agreements as collateralized financings, and those with a single counterparty are presented net on our balance sheet, provided certain criteria are met that permit balance sheet netting. Most transactions subject to these agreements do not meet those criteria and thus are not eligible for balance sheet netting.

Collateral we pledged consists of non-cash instruments, such as securities or loans, and is not netted on the balance sheet against the related liability. Collateral we received includes securities or loans and is not recognized on our balance sheet. Collateral pledged or received may be increased or decreased over time to maintain certain contractual thresholds, as the assets underlying each arrangement fluctuate in value. Generally, these agreements require collateral to exceed the asset or liability recognized on the balance sheet. The following table includes the amount of collateral pledged or received related to exposures subject to enforceable MRAs or MSLAs. While these agreements are typically over-collateralized, U.S. GAAP requires disclosure in this table to limit the reported amount of such collateral to the amount of the related recognized asset or liability for each counterparty.

In addition to the amounts included in Table 16.3, we also have balance sheet netting related to derivatives that is disclosed in Note 18 (Derivatives).

**Table 16.3: Offsetting – Securities Financing Activities**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Assets:</b>		
Resale and securities borrowing agreements		
Gross amounts recognized	\$ 140,773	112,662
Gross amounts offset in consolidated balance sheet (1)	(19,180)	(15,258)
Net amounts in consolidated balance sheet (2)	121,593	97,404
Collateral not recognized in consolidated balance sheet (3)	(120,786)	(96,734)
Net amount (4)	\$ 807	670
<b>Liabilities:</b>		
Repurchase and securities lending agreements		
Gross amounts recognized (5)	\$ 111,038	106,248
Gross amounts offset in consolidated balance sheet (1)	(19,180)	(15,258)
Net amounts in consolidated balance sheet (6)	91,858	90,990
Collateral pledged but not netted in consolidated balance sheet (7)	(91,709)	(90,798)
Net amount (8)	\$ 149	192

- (1) Represents recognized amount of resale and repurchase agreements with counterparties subject to enforceable MRAs that have been offset in the consolidated balance sheet.
- (2) Includes \$102.1 billion and \$80.1 billion, respectively, classified on our consolidated balance sheet in federal funds sold and securities purchased under resale agreements at December 31, 2019 and 2018. Also includes securities purchased under long-term resale agreements (generally one year or more) classified in loans, which totaled \$19.5 billion and \$17.3 billion, at December 31, 2019 and 2018, respectively.
- (3) Represents the fair value of collateral we have received under enforceable MRAs or MSLAs, limited in the table above to the amount of the recognized asset due from each counterparty. At December 31, 2019 and 2018, we have received total collateral with a fair value of \$150.9 billion and \$123.1 billion, respectively, all of which we have the right to sell or repledge. These amounts include securities we have sold or repledged to others with a fair value of \$59.1 billion at December 31, 2019, and \$60.8 billion at December 31, 2018.
- (4) Represents the amount of our exposure that is not collateralized and/or is not subject to an enforceable MRA or MSLA.
- (5) For additional information on underlying collateral and contractual maturities, see the "Repurchase and Securities Lending Agreements" section in this Note.
- (6) Amount is classified in short-term borrowings on our consolidated balance sheet.
- (7) Represents the fair value of collateral we have pledged, related to enforceable MRAs or MSLAs, limited in the table above to the amount of the recognized liability owed to each counterparty. At December 31, 2019 and 2018, we have pledged total collateral with a fair value of \$113.3 billion and \$108.8 billion, respectively, substantially all of which may be sold or repledged by the counterparty.
- (8) Represents the amount of our obligation that is not covered by pledged collateral and/or is not subject to an enforceable MRA or MSLA.

**REPURCHASE AND SECURITIES LENDING AGREEMENTS** Securities sold under repurchase agreements and securities lending arrangements are effectively short-term collateralized borrowings. In these transactions, we receive cash in exchange for transferring securities as collateral and recognize an obligation to reacquire the securities for cash at the transaction's maturity. These types of transactions create risks, including (1) the counterparty may fail to return the securities at maturity, (2) the fair value of the securities transferred may decline below the amount of our obligation to reacquire the securities, and therefore create an obligation for us to pledge additional amounts, and (3) the counterparty may accelerate the maturity on demand, requiring us to reacquire the security prior to contractual maturity. We attempt to mitigate these risks in various ways. Most of our collateral consists of highly liquid securities. In addition, we underwrite and monitor the financial strength of our counterparties, monitor the fair value of collateral pledged relative to contractually required repurchase amounts, and monitor that our collateral is properly returned through the clearing and settlement process in advance of our cash repayment. Table 16.4 provides the gross amounts recognized on the balance sheet (before the effects of offsetting) of our liabilities for repurchase and securities lending agreements disaggregated by underlying collateral type.

**Note 16: Guarantees, Pledged Assets and Collateral, and Other Commitments (continued)**

**Table 16.4: Gross Obligations by Underlying Collateral Type**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Repurchase agreements:</b>		
Securities of U.S. Treasury and federal agencies	\$ 48,161	38,408
Securities of U.S. States and political subdivisions	104	159
Federal agency mortgage-backed securities	44,737	47,241
Non-agency mortgage-backed securities	1,818	1,875
Corporate debt securities	7,126	6,191
Asset-backed securities	1,844	2,074
Equity securities	1,674	992
Other	705	340
<b>Total repurchases</b>	<b>106,169</b>	<b>97,280</b>
<b>Securities lending arrangements:</b>		
Securities of U.S. Treasury and federal agencies	163	222
Federal agency mortgage-backed securities	—	2
Corporate debt securities	223	389
Equity securities (1)	4,481	8,349
Other	2	6
<b>Total securities lending</b>	<b>4,869</b>	<b>8,968</b>
<b>Total repurchases and securities lending</b>	<b>\$ 111,038</b>	<b>106,248</b>

(1) Equity securities are generally exchange traded and represent collateral received from third parties that has been repledged. We received the collateral through either margin lending agreements or contemporaneous securities borrowing transactions with other counterparties.

Table 16.5 provides the contractual maturities of our gross obligations under repurchase and securities lending agreements.

**Table 16.5: Contractual Maturities of Gross Obligations**

(in millions)	Overnight/ continuous	Up to 30 days	30-90 days	>90 days	Total gross obligation
<b>December 31, 2019</b>					
<b>Repurchase agreements</b>	<b>\$ 79,793</b>	<b>17,681</b>	<b>4,825</b>	<b>3,870</b>	<b>106,169</b>
<b>Securities lending arrangements</b>	<b>4,724</b>	<b>—</b>	<b>145</b>	<b>—</b>	<b>4,869</b>
<b>Total repurchases and securities lending (1)</b>	<b>\$ 84,517</b>	<b>17,681</b>	<b>4,970</b>	<b>3,870</b>	<b>111,038</b>
<b>December 31, 2018</b>					
Repurchase agreements	\$ 86,574	3,244	2,153	5,309	97,280
Securities lending arrangements	8,669	—	299	—	8,968
<b>Total repurchases and securities lending (1)</b>	<b>\$ 95,243</b>	<b>3,244</b>	<b>2,452</b>	<b>5,309</b>	<b>106,248</b>

(1) Securities lending is executed under agreements that allow either party to terminate the transaction without notice, while repurchase agreements have a term structure to them that technically matures at a point in time. The overnight/continuous repurchase agreements require election of both parties to roll the trade rather than the election to terminate the arrangement as in securities lending.

**OTHER COMMITMENTS** To meet the financing needs of our customers, we may enter into commitments to purchase debt and equity securities to provide capital for their funding, liquidity or other future needs. As of December 31, 2019 and 2018, we had commitments to purchase debt securities of \$18 million and \$335 million, respectively, and commitments to purchase equity securities of \$2.7 billion and \$2.5 billion, respectively.

As part of maintaining our memberships in certain clearing organizations, we are required to stand ready to provide liquidity to sustain market clearing activity in the event unforeseen events occur or are deemed likely to occur. Certain of these obligations are guarantees of other members' performance and accordingly are included in Table 16.1.

Also, we have commitments to purchase loans and securities under resale agreements from certain counterparties, including central clearing organizations. The amount of our unfunded contractual commitments was \$7.5 billion and \$12.4 billion as of December 31, 2019 and 2018, respectively.

Given the nature of these commitments, they are excluded from Table 6.4 (Unfunded Credit Commitments) in Note 6 (Loans and Allowance for Credit Losses).



## Note 17: Legal Actions

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Wells Fargo and certain of our subsidiaries are involved in a number of judicial, regulatory, governmental, arbitration, and other proceedings or investigations concerning matters arising from the conduct of our business activities, and many of those proceedings and investigations expose Wells Fargo to potential financial loss. These proceedings and investigations include actions brought against Wells Fargo and/or our subsidiaries with respect to corporate-related matters and transactions in which Wells Fargo and/or our subsidiaries were involved. In addition, Wells Fargo and our subsidiaries may be requested to provide information or otherwise cooperate with government authorities in the conduct of investigations of other persons or industry groups.

Although there can be no assurance as to the ultimate outcome, Wells Fargo and/or our subsidiaries have generally denied, or believe we have a meritorious defense and will deny, liability in all significant legal actions pending against us, including the matters described below, and we intend to defend vigorously each case, other than matters we describe as having settled. We establish accruals for legal actions when potential losses associated with the actions become probable and the costs can be reasonably estimated. For such accruals, we record the amount we consider to be the best estimate within a range of potential losses that are both probable and estimable; however, if we cannot determine a best estimate, then we record the low end of the range of those potential losses. The actual costs of resolving legal actions may be substantially higher or lower than the amounts accrued for those actions.

**ATM ACCESS FEE LITIGATION** In October 2011, plaintiffs filed a putative class action, *Mackmin, et al. v. Visa, Inc. et al.*, against Wells Fargo & Company, Wells Fargo Bank, N.A., Visa, MasterCard, and several other banks in the United States District Court for the District of Columbia. Plaintiffs allege that the Visa and MasterCard requirement that if an ATM operator charges an access fee on Visa and MasterCard transactions, then that fee cannot be greater than the access fee charged for transactions on other networks, violates antitrust rules. Plaintiffs seek treble damages, restitution, injunctive relief, and attorneys' fees where available under federal and state law. Two other antitrust cases that make similar allegations were filed in the same court, but these cases did not name Wells Fargo as a defendant. On February 13, 2013, the district court granted defendants' motions to dismiss the three actions. Plaintiffs appealed the dismissals and, on August 4, 2015, the United States Court of Appeals for the District of Columbia Circuit vacated the district court's decisions and remanded the three cases to the district court for further proceedings. On June 28, 2016, the United States Supreme Court granted defendants' petitions for writ of certiorari to review the decisions of the United States Court of Appeals for the District of Columbia. On November 17, 2016, the United States Supreme Court dismissed the petitions as improvidently granted, and the three cases returned to the district court for further proceedings.

**AUTOMOBILE LENDING MATTERS** On April 20, 2018, the Company entered into consent orders with the Office of the Comptroller of the Currency (OCC) and the Consumer Financial Protection Bureau (CFPB) to resolve, among other things, investigations by the agencies into the Company's compliance risk management program and its past practices involving certain automobile collateral protection insurance (CPI) policies and certain mortgage interest rate lock extensions. The consent orders

require remediation to customers and the payment of a total of \$1.0 billion in civil money penalties to the agencies. In July 2017, the Company announced a plan to remediate customers who may have been financially harmed due to issues related to automobile CPI policies purchased through a third-party vendor on their behalf. Multiple putative class action cases alleging, among other things, unfair and deceptive practices relating to these CPI policies, have been filed against the Company and consolidated into one multi-district litigation in the United States District Court for the Central District of California. The Company has reached an agreement to resolve the multi-district litigation pursuant to which the Company has agreed to pay, consistent with its remediation obligations under the consent orders, approximately \$547 million in remediation to customers with CPI policies placed between October 15, 2005, and September 30, 2016. The settlement amount is not incremental to the Company's remediation obligations under the consent orders, but instead encompasses those obligations, including remediation payments to date. The settlement amount is subject to change as the Company finalizes its remediation activity under the consent orders. In addition, the Company has agreed to contribute \$1 million to a common fund for the class. The district court granted final approval of the settlement on November 21, 2019. A putative class of shareholders also filed a securities fraud class action against the Company and its executive officers alleging material misstatements and omissions of CPI-related information in the Company's public disclosures. In addition, the Company is subject to a class action lawsuit in the United States District Court for the Central District of California alleging that customers are entitled to refunds related to the unused portion of guaranteed automobile protection (GAP) waiver or insurance agreements between the customer and dealer and, by assignment, the lender. Allegations related to the CPI and GAP programs are among the subjects of shareholder derivative lawsuits pending in federal and state court in California. The court dismissed the state court action in September 2018, but plaintiffs filed an amended complaint in November 2018. The parties to the state court action have entered into an agreement to resolve the action pursuant to which the Company will pay plaintiffs' attorneys' fees and undertake certain business and governance practices. The state court granted final approval of the settlement on January 15, 2020. These and other issues related to the origination, servicing, and collection of consumer automobile loans, including related insurance products, have also subjected the Company to formal or informal inquiries, investigations, or examinations from federal and state government agencies. In December 2018, the Company entered into an agreement with all 50 state Attorneys General and the District of Columbia to resolve an investigation into the Company's retail sales practices, CPI and GAP, and mortgage interest rate lock matters, pursuant to which the Company paid \$575 million.

### **CONSUMER DEPOSIT ACCOUNT RELATED REGULATORY**

**INVESTIGATION** The CFPB is conducting an investigation into whether customers were unduly harmed by the Company's historical practices associated with the freezing (and, in many cases, closing) of consumer deposit accounts after the Company detected suspected fraudulent activity (by third parties or account holders) that affected those accounts.

**FIDUCIARY AND CUSTODY ACCOUNT FEE CALCULATIONS** Federal government agencies are conducting formal or informal

## Note 17: Legal Actions (continued)

inquiries, investigations, or examinations regarding fee calculations within certain fiduciary and custody accounts in the Company's investment and fiduciary services business, which is part of the wealth management business within the Wealth and Investment Management (WIM) operating segment. The Company has determined that there have been instances of incorrect fees being applied to certain assets and accounts, resulting in both overcharges and undercharges to customers.

**FOREIGN EXCHANGE BUSINESS** Federal government agencies, including the United States Department of Justice (Department of Justice), are investigating or examining certain activities in the Company's foreign exchange business, including whether customers may have received pricing inconsistent with commitments made to those customers. These matters are at varying stages. The Company has responded, and continues to respond, to requests from a number of the foregoing and has discussed the potential resolution of some of the matters.

**INTERCHANGE LITIGATION** Plaintiffs representing a putative class of merchants have filed putative class actions, and individual merchants have filed individual actions, against Wells Fargo Bank, N.A., Wells Fargo & Company, Wachovia Bank, N.A., and Wachovia Corporation regarding the interchange fees associated with Visa and MasterCard payment card transactions. Visa, MasterCard, and several other banks and bank holding companies are also named as defendants in these actions. These actions have been consolidated in the United States District Court for the Eastern District of New York. The amended and consolidated complaint asserts claims against defendants based on alleged violations of federal and state antitrust laws and seeks damages, as well as injunctive relief. Plaintiff merchants allege that Visa, MasterCard, and payment card issuing banks unlawfully colluded to set interchange rates. Plaintiffs also allege that enforcement of certain Visa and MasterCard rules and alleged tying and bundling of services offered to merchants are anticompetitive. Wells Fargo and Wachovia, along with other defendants and entities, are parties to Loss and Judgment Sharing Agreements, which provide that they, along with other entities, will share, based on a formula, in any losses from the Interchange Litigation. On July 13, 2012, Visa, MasterCard, and the financial institution defendants, including Wells Fargo, signed a memorandum of understanding with plaintiff merchants to resolve the consolidated class action and reached a separate settlement in principle of the consolidated individual actions. The settlement payments to be made by all defendants in the consolidated class and individual actions totaled approximately \$6.6 billion before reductions applicable to certain merchants opting out of the settlement. The class settlement also provided for the distribution to class merchants of 10 basis points of default interchange across all credit rate categories for a period of eight consecutive months. The district court granted final approval of the settlement, which was appealed to the United States Court of Appeals for the Second Circuit by settlement objector merchants. Other merchants opted out of the settlement and are pursuing several individual actions. On June 30, 2016, the Second Circuit vacated the settlement agreement and reversed and remanded the consolidated action to the United States District Court for the Eastern District of New York for further proceedings. On November 23, 2016, prior class counsel filed a petition to the United States Supreme Court, seeking review of the reversal of the settlement by the Second Circuit, and the Supreme Court denied the petition on March 27, 2017. On November 30, 2016, the district court appointed lead class counsel for a damages class and an equitable relief class. The

parties have entered into a settlement agreement to resolve the money damages class claims pursuant to which defendants will pay a total of approximately \$6.2 billion, which includes approximately \$5.3 billion of funds remaining from the 2012 settlement and \$900 million in additional funding. The Company's allocated responsibility for the additional funding is approximately \$94.5 million. The court granted final approval of the settlement on December 13, 2019, which was appealed to the United States Court of Appeals for the Second Circuit by settlement objector merchants. Several of the opt-out and direct action litigations have been settled while others remain pending. Discovery is proceeding in the opt-out litigations and the equitable relief class case.

**LOW INCOME HOUSING TAX CREDITS** Federal government agencies have undertaken formal or informal inquiries or investigations regarding the manner in which the Company purchased, and negotiated the purchase of, certain federal low income housing tax credits in connection with the financing of low income housing developments.

**MOBILE DEPOSIT PATENT LITIGATION** The Company is a defendant in two separate cases brought by United Services Automobile Association (USAA) in the United States District Court for the Eastern District of Texas alleging claims of patent infringement regarding mobile deposit capture technology patents held by USAA. Trial in the first case commenced on October 30, 2019, and resulted in a \$200 million verdict against the Company. Trial in the second case commenced on January 6, 2020, and resulted in a \$102.7 million verdict against the Company. The Company has filed post-trial motions to, among other things, vacate the verdicts, and USAA has filed post-trial motions seeking future royalty payments and damages for willful infringement.

**MORTGAGE LOAN MODIFICATION LITIGATION** Plaintiffs representing a putative class of mortgage borrowers have filed separate putative class actions, *Hernandez v. Wells Fargo, et al.*, *Coordes v. Wells Fargo, et al.*, *Ryder v. Wells Fargo, Liguori v. Wells Fargo*, and *Dore v. Wells Fargo*, against Wells Fargo Bank, N.A., in the United States District Court for the Northern District of California, the United States District Court for the District of Washington, the United States District Court for the Southern District of Ohio, the United States District Court for the Southern District of New York, and the United States District Court for the Western District of Pennsylvania, respectively. Plaintiffs allege that Wells Fargo improperly denied mortgage loan modifications or repayment plans to customers in the foreclosure process due to the overstatement of foreclosure attorneys' fees that were included for purposes of determining whether a customer in the foreclosure process qualified for a mortgage loan modification or repayment plan.

**MORTGAGE-RELATED REGULATORY INVESTIGATIONS** Federal and state government agencies, including the Department of Justice, have been investigating or examining certain mortgage related activities of Wells Fargo and predecessor institutions. Wells Fargo, for itself and for predecessor institutions, has responded, or continues to respond, to requests from these agencies seeking information regarding the origination, underwriting, and securitization of residential mortgages, including sub-prime mortgages. These agencies have advanced theories of purported liability with respect to certain of these activities. An agreement, pursuant to which the Company paid \$2.09 billion, was reached in August 2018 to resolve the Department of Justice investigation, which related to certain 2005-2007 residential mortgage-backed securities activities. In

addition, the Company reached an agreement with the Attorney General of the State of Illinois in November 2018 pursuant to which the Company paid \$17 million in restitution to certain Illinois state pension funds to resolve a claim relating to certain residential mortgage-backed securities activities. Other financial institutions have entered into similar settlements with these agencies, the nature of which related to the specific activities of those financial institutions, including the imposition of significant financial penalties and remedial actions.

**OFAC RELATED INVESTIGATION** The Company has self-identified an issue whereby certain foreign banks utilized a Wells Fargo software-based solution to conduct import/export trade-related financing transactions with countries and entities prohibited by the Office of Foreign Assets Control (OFAC) of the United States Department of the Treasury. We do not believe any funds related to these transactions flowed through accounts at Wells Fargo as a result of the aforementioned conduct. The Company has made voluntary self-disclosures to OFAC and is cooperating with an inquiry from the Department of Justice.

**ORDER OF POSTING LITIGATION** Plaintiffs filed a series of putative class actions against Wachovia Bank, N.A., and Wells Fargo Bank, N.A., as well as many other banks, challenging the “high to low” order in which the banks post debit card transactions to consumer deposit accounts. Most of these actions were consolidated in multi-district litigation proceedings (MDL proceedings) in the United States District Court for the Southern District of Florida. The court in the MDL proceedings has certified a class of putative plaintiffs, and Wells Fargo moved to compel arbitration of the claims of unnamed class members. The court denied the motions to compel arbitration in October 2016, and Wells Fargo appealed this decision to the United States Court of Appeals for the Eleventh Circuit. In May 2018, the Eleventh Circuit ruled in Wells Fargo’s favor and found that Wells Fargo had not waived its arbitration rights and remanded the case to the district court for further proceedings. On September 26, 2019, the district court entered an order granting Wells Fargo’s motion and dismissed the claims of unnamed class members in favor of arbitration. Plaintiffs appealed this decision to the United States Court of Appeals for the Eleventh Circuit.

**RETAIL SALES PRACTICES MATTERS** A number of bodies or entities, including (a) federal, state, and local government agencies, including the Department of Justice, the United States Securities and Exchange Commission (SEC), and the United States Department of Labor, (b) state attorneys general, including the New York Attorney General, and (c) Congressional committees, have undertaken formal or informal inquiries, investigations, or examinations arising out of certain retail sales practices of the Company that were the subject of settlements with the CFPB, the OCC, and the Office of the Los Angeles City Attorney announced by the Company on September 8, 2016. These matters are at varying stages. The Company has responded, and continues to respond, to requests from a number of the foregoing. In October 2018, the Company entered into an agreement to resolve the New York Attorney General’s investigation pursuant to which the Company paid \$65 million to the State of New York. In December 2018, the Company entered into an agreement with all 50 state Attorneys General and the District of Columbia to resolve an investigation into the Company’s retail sales practices, CPI and GAP, and mortgage interest rate lock matters, pursuant to which the Company paid \$575 million. On February 21, 2020, the Company entered into an

agreement with the Department of Justice to resolve the Department of Justice’s criminal investigation into the Company’s retail sales practices, as well as a separate agreement to resolve the Department of Justice’s civil investigation. As part of the Department of Justice criminal settlement, no charges will be filed against the Company provided the Company abides by all the terms of the agreement. The Department of Justice criminal settlement also includes the Company’s agreement that the facts set forth in the settlement document constitute sufficient facts for the finding of criminal violations of statutes regarding bank records and personal information. On February 21, 2020, the Company also entered into an order to resolve the SEC’s investigation arising out of the Company’s retail sales practices. The SEC order contains a finding, to which the Company consented, that the facts set forth include violations of Section 10(b) of the Securities Exchange Act of 1934 and Rule 10b-5 thereunder. As part of the resolution of the Department of Justice and SEC investigations, the Company has agreed to make payments totaling \$3.0 billion. In addition, as part of the settlements and included in the \$3.0 billion amount, the Company has agreed to the creation of a \$500 million Fair Fund for the benefit of investors who were harmed by the conduct covered in the SEC settlement.

In addition, a number of lawsuits have been filed by non-governmental parties seeking damages or other remedies related to these retail sales practices. First, various class plaintiffs, purporting to represent consumers who allege that they received products or services without their authorization or consent, have brought separate putative class actions against the Company in the United States District Court for the Northern District of California and various other jurisdictions. In April 2017, the Company entered into a settlement agreement in the first-filed action, *Jabbari v. Wells Fargo Bank, N.A.*, pursuant to which the Company will pay \$142 million to resolve claims regarding certain products or services provided without authorization or consent for the time period May 1, 2002 to April 20, 2017. The district court issued an order granting final approval of the settlement on June 14, 2018. Several appeals of the district court’s order granting final approval of the settlement have been filed with the United States Court of Appeals for the Ninth Circuit. Second, Wells Fargo shareholders brought a consolidated securities fraud class action in the United States District Court for the Northern District of California alleging certain misstatements and omissions in the Company’s disclosures related to sales practices matters. The Company entered into a settlement agreement to resolve this matter pursuant to which the Company paid \$480 million. The district court issued an order granting final approval of the settlement on December 20, 2018. Third, Wells Fargo shareholders have brought numerous shareholder derivative lawsuits asserting breach of fiduciary duty claims against, among others, current and former directors and officers for their alleged involvement with and failure to detect and prevent sales practices issues. These actions are currently pending in the United States District Court for the Northern District of California and California state court as coordinated proceedings. An additional lawsuit, which asserts similar claims and is pending in Delaware state court, has been stayed. The parties have entered into settlement agreements to resolve the shareholder derivative lawsuits pursuant to which insurance carriers will pay the Company approximately \$240 million for alleged damage to the Company, and the Company will pay plaintiffs’ attorneys’ fees. The federal court granted preliminary approval of the settlement for its action and held a final approval hearing on August 1, 2019. The

## Note 17: Legal Actions (continued)

state court granted final approval of the settlement for its action on January 15, 2020. Fourth, multiple employment litigation matters have been brought against Wells Fargo, including (a) a purported Employee Retirement Income Security Act (ERISA) class action in the United States District Court for the District of Minnesota on behalf of 401(k) plan participants; this action has been dismissed and is now on appeal; (b) a purported class action in the United States District Court for the Northern District of California on behalf of team members who allege that they protested sales practice misconduct and/or were terminated for not meeting sales goals; this action has been dismissed, and we have entered into a framework with plaintiffs' counsel to address individual claims that have been asserted; (c) various wage and hour class actions brought in federal and state court in California, New Jersey, and Pennsylvania on behalf of non-exempt branch based team members alleging that sales pressure resulted in uncompensated overtime; these actions have been settled; and (d) multiple single-plaintiff Sarbanes-Oxley Act complaints and state law whistleblower actions filed with the United States Department of Labor or in various state courts alleging adverse employment actions for raising sales practice misconduct issues.

**RMBS TRUSTEE LITIGATION** In November 2014, a group of institutional investors (Institutional Investor Plaintiffs), including funds affiliated with BlackRock, Inc., filed a putative class action in the United States District Court for the Southern District of New York against Wells Fargo Bank, N.A., alleging claims against the Company in its capacity as trustee for a number of residential mortgage-backed securities (RMBS) trusts (Federal Court Complaint). Similar complaints have been filed against other trustees in various courts, including in the Southern District of New York, in New York state court, and in other states, by RMBS investors. The Federal Court Complaint alleged that Wells Fargo Bank, N.A., as trustee, caused losses to investors and asserted causes of action based upon, among other things, the trustee's alleged failure to notify and enforce repurchase obligations of mortgage loan sellers for purported breaches of representations and warranties, notify investors of alleged events of default, and abide by appropriate standards of care following alleged events of default. Plaintiffs sought money damages in an unspecified amount, reimbursement of expenses, and equitable relief. In December 2014 and December 2015, certain other investors filed additional complaints alleging similar claims against Wells Fargo Bank, N.A., in the Southern District of New York (Related Federal Cases). In January 2016, the Southern District of New York entered an order in connection with the Federal Court Complaint dismissing claims related to certain of the trusts at issue (Dismissed Trusts). The Company's subsequent motion to dismiss the Federal Court Complaint and the complaints for the Related Federal Cases was granted in part and denied in part in March 2017. In May 2017, the Company filed third-party complaints against certain investment advisors affiliated with the Institutional Investor Plaintiffs seeking contribution with respect to claims alleged in the Federal Court Complaint (Third-Party Claims).

In December 2016, the Institutional Investor Plaintiffs filed a new putative class action complaint in New York state court in respect of 261 RMBS trusts, including the Dismissed Trusts, for which Wells Fargo Bank, N.A., serves or served as trustee (State Court Action). A complaint raising similar allegations to those in the Federal Court Complaint was filed in May 2016 in New York state court by IKB International and IKB Deutsche Industriebank (IKB Action).

In July 2017, certain of the plaintiffs from the State Court Action filed a civil complaint relating to Wells Fargo Bank,

N.A.'s setting aside reserves for legal fees and expenses in connection with the liquidation of eleven RMBS trusts at issue in the State Court Action (Declaratory Judgment Action). The complaint sought, among other relief, declarations that the Company is not entitled to indemnification, the advancement of funds, or the taking of reserves from trust funds for legal fees and expenses it incurs in defending the claims in the State Court Action.

In May 2019, the New York state court approved a settlement agreement among the Institutional Investor Plaintiffs and the Company pursuant to which, among other terms, the Company paid \$43 million to resolve the Federal Court Complaint and the State Court Action. The settlement also resolved the Third Party Claims and the Declaratory Judgment Action. The settlement did not affect the Related Federal Cases or the IKB Action, which remain pending.

**SEMINOLE TRIBE TRUSTEE LITIGATION** The Seminole Tribe of Florida filed a complaint in Florida state court alleging that Wells Fargo, as trustee, charged excess fees in connection with the administration of a minor's trust and failed to invest the assets of the trust prudently. The complaint was later amended to include three individual current and former beneficiaries as plaintiffs and to remove the Tribe as a party to the case. In December 2016, the Company filed a motion to dismiss the amended complaint on the grounds that the Tribe is a necessary party and that the individual beneficiaries lack standing to bring claims. The motion was denied in June 2018. Trial is scheduled for April 2020.

**WHOLESALE BANKING CONSENT ORDER INVESTIGATION** On November 19, 2015, the Company entered into a consent order with the OCC, pursuant to which the Wholesale Banking group was required to implement customer due diligence standards that include collection of current beneficial ownership information for certain business customers. The Company is responding to inquiries from various federal government agencies regarding potentially inappropriate conduct in connection with the collection of beneficial ownership information.

**OUTLOOK** As described above, the Company establishes accruals for legal actions when potential losses associated with the actions become probable and the costs can be reasonably estimated. The high end of the range of reasonably possible potential losses in excess of the Company's accrual for probable and estimable losses was approximately \$2.6 billion as of December 31, 2019. The outcomes of legal actions are unpredictable and subject to significant uncertainties, and it is inherently difficult to determine whether any loss is probable or even possible. It is also inherently difficult to estimate the amount of any loss and there may be matters for which a loss is probable or reasonably possible but not currently estimable. Accordingly, actual losses may be in excess of the established accrual or the range of reasonably possible loss. Wells Fargo is unable to determine whether the ultimate resolution of the retail sales practices matters will have a material adverse effect on its consolidated financial condition. Based on information currently available, advice of counsel, available insurance coverage, and established reserves, Wells Fargo believes that the eventual outcome of other actions against Wells Fargo and/or its subsidiaries will not, individually or in the aggregate, have a material adverse effect on Wells Fargo's consolidated financial condition. However, it is possible that the ultimate resolution of a matter, if unfavorable, may be material to Wells Fargo's results of operations for any particular period.

## Note 18: Derivatives

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We use derivatives to manage exposure to market risk, including interest rate risk, credit risk and foreign currency risk, and to assist customers with their risk management objectives. We designate certain derivatives as hedging instruments in qualifying hedge accounting relationships (fair value or cash flow hedges). Our remaining derivatives consist of economic hedges that do not qualify for hedge accounting and derivatives held for customer accommodation trading or other purposes.

### Risk management derivatives

Our asset/liability management approach to interest rate, foreign currency and certain other risks includes the use of derivatives, which are typically designated as fair value or cash flow hedges, or economic hedges. We use derivatives to help minimize significant, unplanned fluctuations in earnings, fair values of assets and liabilities, and cash flows caused by interest rate, foreign currency and other market risk volatility. This approach involves modifying the repricing characteristics of certain assets and liabilities so that changes in interest rates, foreign currency and other exposures, which may cause the hedged assets and liabilities to gain or lose fair value, do not have a significant adverse effect on the net interest margin, cash flows and earnings. In a fair value or economic hedge, the effect of change in fair value will generally be offset by the unrealized gain or loss on the derivatives linked to the hedged assets and liabilities. In a cash flow hedge, where we manage the variability of cash payments due to interest rate or foreign currency fluctuations by the effective use of derivatives linked to hedged assets and liabilities, the hedged asset or liability is not adjusted and the unrealized gain or loss on the derivative is recorded in other comprehensive income.

### Customer accommodation trading

We also use various derivatives, including interest rate, commodity, equity, credit and foreign exchange contracts, as an accommodation to our customers as part of our trading businesses. These derivative transactions, which involve engaging in market-making activities or acting as an intermediary, are conducted in an effort to help customers manage their market risks. We usually offset our exposure from such derivatives by entering into other financial contracts, such as separate derivative or security transactions. These customer accommodations and any offsetting derivatives are treated as customer accommodation trading and other derivatives in our disclosures. Additionally, embedded derivatives that are required to be accounted for separately from their host contracts are included in the customer accommodation trading and other derivatives disclosures, as applicable.

We mention derivative instruments within several other Notes in this Report. For more information on Derivatives, refer to the following areas:

- Note 1 – Summary of Significant Accounting Policies
- Note 4 – Trading Activities
- Note 8 – Equity Securities
- Note 10 – Securitizations and Variable Interest Entities
- Note 11 – Mortgage Banking Activities
- Note 15 – Long-Term Debt
- Note 16 – Guarantees, Pledged Assets and Collateral, and Other Commitments
- Note 19 – Fair Values of Assets and Liabilities
- Note 24 – Income Taxes
- Note 26 – Other Comprehensive Income
- Note 28 – Parent-Only Financial Statements

## Note 18: Derivatives (continued)

Table 18.1 presents the total notional or contractual amounts and fair values for our derivatives. Derivative transactions can be measured in terms of the notional amount, but this amount is not recorded on the balance sheet and is not,

when viewed in isolation, a meaningful measure of the risk profile of the instruments. The notional amount is generally not exchanged, but is used only as the basis on which interest and other payments are determined.

**Table 18.1: Notional or Contractual Amounts and Fair Values of Derivatives**

(in millions)	December 31, 2019			December 31, 2018		
	Notional or contractual amount	Fair value		Notional or contractual amount	Fair value	
		Derivative assets	Derivative liabilities		Derivative assets	Derivative liabilities
<b>Derivatives designated as hedging instruments</b>						
Interest rate contracts	\$ 182,789	2,595	1,237	177,511	2,237	636
Foreign exchange contracts	32,386	341	1,170	34,176	573	1,376
Total derivatives designated as qualifying hedging instruments		2,936	2,407		2,810	2,012
<b>Derivatives not designated as hedging instruments</b>						
Economic hedges:						
Interest rate contracts	235,810	207	160	173,215	849	369
Equity contracts	19,263	1,126	224	13,920	1,362	79
Foreign exchange contracts	26,595	118	286	19,521	225	80
Credit contracts - protection purchased	1,400	27	—	100	27	—
Subtotal		1,478	670		2,463	528
Customer accommodation trading and other derivatives:						
Interest rate contracts	11,117,542	21,245	17,969	9,162,821	15,349	15,303
Commodity contracts	79,737	1,421	1,770	66,173	1,588	2,336
Equity contracts	272,145	7,410	10,240	217,890	6,183	5,931
Foreign exchange contracts	364,469	4,755	4,791	364,982	5,916	5,657
Credit contracts - protection sold	12,215	12	65	11,741	76	182
Credit contracts - protection purchased	24,030	69	18	20,880	175	98
Subtotal		34,912	34,853		29,287	29,507
Total derivatives not designated as hedging instruments		36,390	35,523		31,750	30,035
Total derivatives before netting		39,326	37,930		34,560	32,047
<b>Netting</b>		(25,123)	(28,851)		(23,790)	(23,548)
Total		\$ 14,203	9,079		10,770	8,499

Table 18.2 provides information on the gross fair values of derivative assets and liabilities, the balance sheet netting adjustments and the resulting net fair value amount recorded on our balance sheet, as well as the non-cash collateral associated with such arrangements. We execute substantially all of our derivative transactions under master netting arrangements and reflect all derivative balances and related cash collateral subject to enforceable master netting arrangements on a net basis within the balance sheet. The “Gross amounts recognized” column in the following table includes \$33.7 billion and \$33.5 billion of gross derivative assets and liabilities, respectively, at December 31, 2019, and \$30.9 billion and \$28.4 billion, respectively, at December 31, 2018, with counterparties subject to enforceable master netting arrangements that are eligible for balance sheet netting adjustments. The majority of these amounts are interest rate contracts executed in over-the-counter (OTC) markets. The remaining gross derivative assets and liabilities of \$5.6 billion and \$4.4 billion, respectively, at December 31, 2019, and \$3.7 billion and \$3.6 billion, respectively, at December 31, 2018, include those with counterparties subject to master netting arrangements for which we have not assessed the enforceability because they are with counterparties where we do not currently have positions to offset, those subject to master netting arrangements where we have not been able to confirm the enforceability and those not subject to master netting arrangements. As such, we do not net derivative balances or collateral within the balance sheet for these counterparties. Cash collateral receivables and payables that have not been offset against our derivatives were \$6.3 billion and \$1.4 billion, respectively, at December 31, 2019, and \$4.8 billion and \$1.4 billion, respectively, at December 31, 2018.

We determine the balance sheet netting adjustments based on the terms specified within each master netting arrangement. We disclose the balance sheet netting amounts within the column titled “Gross amounts offset in consolidated balance sheet.” Balance sheet netting adjustments are determined at the counterparty level for which there may be multiple contract types. For disclosure purposes, we allocate these netting adjustments to the contract type for each counterparty proportionally based upon the “Gross amounts recognized” by counterparty. As a result, the net amounts disclosed by contract type may not represent the actual exposure upon settlement of the contracts.

We do not net non-cash collateral that we receive and pledge on the balance sheet. For disclosure purposes, we present the fair value of this non-cash collateral in the column titled “Gross amounts not offset in consolidated balance sheet (Disclosure-only netting)” within the table. We determine and allocate the Disclosure-only netting amounts in the same manner as balance sheet netting amounts.

The “Net amounts” column within Table 18.2 represents the aggregate of our net exposure to each counterparty after considering the balance sheet and Disclosure-only netting adjustments. We manage derivative exposure by monitoring the credit risk associated with each counterparty using counterparty specific credit risk limits, using master netting arrangements and obtaining collateral. Derivative contracts executed in OTC markets include bilateral contractual arrangements that are not cleared through a central clearing organization but are typically subject to enforceable master netting arrangements. Other derivative contracts that are settled through a central clearing organization whether OTC or exchange-traded, are excluded from that percentage. In addition to the netting amounts included in the table, we also have balance sheet netting related to resale and repurchase agreements that are disclosed within Note 16 (Guarantees, Pledged Assets and Collateral, and Other Commitments).

## Note 18: Derivatives (continued)

**Table 18.2: Gross Fair Values of Derivative Assets and Liabilities**

(in millions)	Gross amounts recognized	Gross amounts offset in consolidated balance sheet (1)	Net amounts in consolidated balance sheet	Gross amounts not offset in consolidated balance sheet (Disclosure-only netting)	Net amounts	Percent exchanged in over-the-counter market
<b>December 31, 2019</b>						
<b>Derivative assets</b>						
Interest rate contracts	\$ 24,047	(14,878)	9,169	(445)	8,724	95%
Commodity contracts	1,421	(888)	533	(2)	531	80
Equity contracts	8,536	(5,570)	2,966	(69)	2,897	65
Foreign exchange contracts	5,214	(3,722)	1,492	(22)	1,470	100
Credit contracts-protection sold	12	(9)	3	—	3	84
Credit contracts-protection purchased	96	(56)	40	(1)	39	97
<b>Total derivative assets</b>	<b>\$ 39,326</b>	<b>(25,123)</b>	<b>14,203</b>	<b>(539)</b>	<b>13,664</b>	
<b>Derivative liabilities</b>						
Interest rate contracts	\$ 19,366	(16,595)	2,771	(545)	2,226	94%
Commodity contracts	1,770	(677)	1,093	(2)	1,091	82
Equity contracts	10,464	(6,647)	3,817	(319)	3,498	81
Foreign exchange contracts	6,247	(4,866)	1,381	(169)	1,212	100
Credit contracts-protection sold	65	(60)	5	(3)	2	98
Credit contracts-protection purchased	18	(6)	12	—	12	93
<b>Total derivative liabilities</b>	<b>\$ 37,930</b>	<b>(28,851)</b>	<b>9,079</b>	<b>(1,038)</b>	<b>8,041</b>	
<b>December 31, 2018</b>						
<b>Derivative assets</b>						
Interest rate contracts	\$ 18,435	(12,029)	6,406	(80)	6,326	90%
Commodity contracts	1,588	(849)	739	(4)	735	57
Equity contracts	7,545	(5,318)	2,227	(755)	1,472	78
Foreign exchange contracts	6,714	(5,355)	1,359	(35)	1,324	100
Credit contracts-protection sold	76	(73)	3	—	3	12
Credit contracts-protection purchased	202	(166)	36	(1)	35	78
<b>Total derivative assets</b>	<b>\$ 34,560</b>	<b>(23,790)</b>	<b>10,770</b>	<b>(875)</b>	<b>9,895</b>	
<b>Derivative liabilities</b>						
Interest rate contracts	\$ 16,308	(13,152)	3,156	(567)	2,589	92%
Commodity contracts	2,336	(727)	1,609	(8)	1,601	85
Equity contracts	6,010	(3,877)	2,133	(110)	2,023	75
Foreign exchange contracts	7,113	(5,522)	1,591	(188)	1,403	100
Credit contracts-protection sold	182	(180)	2	(2)	—	67
Credit contracts-protection purchased	98	(90)	8	—	8	11
<b>Total derivative liabilities</b>	<b>\$ 32,047</b>	<b>(23,548)</b>	<b>8,499</b>	<b>(875)</b>	<b>7,624</b>	

(1) Represents amounts with counterparties subject to enforceable master netting arrangements that have been offset in the consolidated balance sheet, including related cash collateral and portfolio level counterparty valuation adjustments. Counterparty valuation adjustments related to derivative assets were \$231 million and \$353 million and debit valuation adjustments related to derivative liabilities were \$100 million and \$152 million as of December 31, 2019 and 2018, respectively. Cash collateral totaled \$2.9 billion and \$6.8 billion, netted against derivative assets and liabilities, respectively, at December 31, 2019, and \$3.7 billion and \$3.6 billion, respectively, at December 31, 2018.



## Fair Value and Cash Flow Hedges

For fair value hedges, we use interest rate swaps to convert certain of our fixed-rate long-term debt and time certificates of deposit to floating rates to hedge our exposure to interest rate risk. We also enter into cross-currency swaps, cross-currency interest rate swaps and forward contracts to hedge our exposure to foreign currency risk and interest rate risk associated with the issuance of non-U.S. dollar denominated long-term debt. In addition, we use interest rate swaps, cross-currency swaps, cross-currency interest rate swaps and forward contracts to hedge against changes in fair value of certain investments in available-for-sale debt securities due to changes in interest rates, foreign currency rates, or both. We also use interest rate swaps to hedge against changes in fair value for certain mortgage loans held for sale. For certain fair value hedges of foreign currency risk, changes in fair value of cross-currency swaps attributable to changes in cross-currency basis spreads are excluded from the assessment of hedge effectiveness and recorded in other comprehensive income. See Note 26 (Other Comprehensive Income) for the amounts recognized in other comprehensive income.

For cash flow hedges, we use interest rate swaps to hedge the variability in interest payments received on certain floating-rate commercial loans and paid on certain floating-rate debt due to changes in the contractually specified interest rate. We also use cross-currency swaps to hedge variability in interest payments on fixed-rate foreign currency-denominated long-term debt due to changes in foreign exchange rates.

We estimate \$221 million pre-tax of deferred net losses related to cash flow hedges in OCI at December 31, 2019, will be reclassified into net interest income during the next twelve months. The deferred losses expected to be reclassified into net interest income are predominantly related to discontinued hedges of floating rate loans. For cash flow hedges as of December 31, 2019, we are hedging our foreign currency exposure to the variability of future cash flows for all forecasted transactions for a maximum of 11 years.

Table 18.3 and Table 18.4 show the net gains (losses) related to derivatives in fair value and cash flow hedging relationships, respectively.

**Table 18.3: Gains (Losses) Recognized on Fair Value Hedging Relationships**

(in millions)	Net interest income				Noninterest income	Total recorded in net income	Total recorded in OCI
	Debt securities	Mortgage loans held for sale	Deposits	Long-term debt	Other	Derivative gains (losses)	Derivative gains (losses)
<b>Year Ended December 31, 2019</b>							
<b>Total amounts presented in the consolidated statement of income and other comprehensive income</b>	<b>\$ 14,955</b>	<b>813</b>	<b>(8,635)</b>	<b>(7,350)</b>	<b>3,181</b>	<b>N/A</b>	<b>275</b>
<b>Interest contracts</b>							
<b>Amounts related to interest settlements on derivatives</b>	<b>—</b>	<b>2</b>	<b>58</b>	<b>169</b>	<b>—</b>	<b>229</b>	<b>—</b>
Recognized on derivatives	(2,082)	1	463	5,001	—	3,383	—
Recognized on hedged items	2,096	(7)	(442)	(4,910)	—	(3,263)	—
<b>Total gains (losses) (pre-tax) on interest rate contracts</b>	<b>14</b>	<b>(4)</b>	<b>79</b>	<b>260</b>	<b>—</b>	<b>349</b>	<b>—</b>
<b>Foreign exchange contracts</b>							
<b>Amounts related to interest settlements on derivatives</b>	<b>35</b>	<b>—</b>	<b>—</b>	<b>(483)</b>	<b>—</b>	<b>(448)</b>	<b>—</b>
Recognized on derivatives	(5)	—	—	308	(358)	(55)	(3)
Recognized on hedged items	6	—	—	(289)	350	67	—
<b>Total gains (losses) (pre-tax) on foreign exchange contracts</b>	<b>36</b>	<b>—</b>	<b>—</b>	<b>(464)</b>	<b>(8)</b>	<b>(436)</b>	<b>(3)</b>
<b>Total gains (losses) (pre-tax) recognized on fair value hedges</b>	<b>\$ 50</b>	<b>(4)</b>	<b>79</b>	<b>(204)</b>	<b>(8)</b>	<b>(87)</b>	<b>(3)</b>

(continued on following page)

**Note 18: Derivatives (continued)**

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(in millions)	Net interest income				Noninterest income	Total recorded in net income	Total recorded in OCI
	Debt securities	Mortgage loans held for sale	Deposits	Long-term debt	Other	Derivative gains (losses)	Derivative gains (losses)
<b>Year ended December 31, 2018</b>							
Total amounts presented in the consolidated statement of income and other comprehensive income	\$ 14,406	777	(5,622)	(6,703)	2,473	N/A	(238)
<b>Interest contracts</b>							
Amounts related to interest settlements on derivatives	(187)	(3)	(41)	292	—	61	
Recognized on derivatives	845	15	27	(1,923)	—	(1,035)	—
Recognized on hedged items	(877)	(22)	(33)	1,843	—	910	
Total gains (losses) (pre-tax) on interest rate contracts	(219)	(10)	(47)	212	—	(64)	—
<b>Foreign exchange contracts</b>							
Amounts related to interest settlements on derivatives	33	—	—	(434)	—	(401)	
Recognized on derivatives	7	—	—	135	(1,204)	(1,062)	(254)
Recognized on hedged items	(1)	—	—	(82)	1,114	1,031	
Total gains (losses) (pre-tax) on foreign exchange contracts	39	—	—	(381)	(90)	(432)	(254)
Total gains (losses) (pre-tax) recognized on fair value hedges	\$ (180)	(10)	(47)	(169)	(90)	(496)	(254)
<b>Year ended December 31, 2017</b>							
Total amounts presented in the consolidated statement of income and other comprehensive income	\$ 12,946	786	(3,013)	(5,157)	1,603	N/A	(1,083)
<b>Interest contracts</b>							
Amounts related to interest settlements on derivatives	(469)	(5)	36	1,286	—	847	
Recognized on derivatives	(43)	(5)	(20)	(912)	—	(979)	—
Recognized on hedged items	(52)	(4)	36	938	—	917	
Total gains (losses) (pre-tax) on interest rate contracts	(564)	(14)	52	1,312	—	785	—
<b>Foreign exchange contracts</b>							
Amounts related to interest settlements on derivatives	14	—	—	(210)	—	(196)	
Recognized on derivatives	13	—	—	(230)	3,118	2,901	(253)
Recognized on hedged items	(10)	—	—	255	(2,855)	(2,610)	
Total gains (losses) (pre-tax) on foreign exchange contracts	17	—	—	(185)	263	95	(253)
Total gains (losses) (pre-tax) recognized on fair value hedges	\$ (547)	(14)	52	1,127	263	880	(253)

**Table 18.4: Gains (Losses) Recognized on Cash Flow Hedging Relationships**

(in millions)	Net interest income		Total recorded in net income	Total recorded in OCI
	Loans	Long-term debt	Derivative gains (losses)	Derivative gains (losses)
<b>Year Ended December 31, 2019</b>				
<b>Total amounts presented in the consolidated statement of income and other comprehensive income</b>	<b>\$ 44,146</b>	<b>(7,350)</b>	<b>N/A</b>	<b>275</b>
<b>Interest rate contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	(291)	1	(290)	290
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	—
<b>Total gains (losses) (pre-tax) on interest rate contracts</b>	<b>(291)</b>	<b>1</b>	<b>(290)</b>	<b>290</b>
<b>Foreign exchange contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	—	(9)	(9)	9
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	(21)
<b>Total gains (losses) (pre-tax) on foreign exchange contracts</b>	<b>—</b>	<b>(9)</b>	<b>(9)</b>	<b>(12)</b>
<b>Total gains (losses) (pre-tax) recognized on cash flow hedges</b>	<b>\$ (291)</b>	<b>(8)</b>	<b>(299)</b>	<b>278</b>
Year ended December 31, 2018				
Total amounts presented in the consolidated statement of income and other comprehensive income	\$ 43,974	(6,703)	N/A	(238)
<b>Interest rate contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	(292)	1	(291)	291
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	(266)
<b>Total gains (losses) (pre-tax) on interest rate contracts</b>	<b>(292)</b>	<b>1</b>	<b>(291)</b>	<b>25</b>
<b>Foreign exchange contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	—	(3)	(3)	3
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	(12)
<b>Total gains (losses) (pre-tax) on foreign exchange contracts</b>	<b>—</b>	<b>(3)</b>	<b>(3)</b>	<b>(9)</b>
<b>Total gains (losses) (pre-tax) recognized on cash flow hedges</b>	<b>\$ (292)</b>	<b>(2)</b>	<b>(294)</b>	<b>16</b>
Year ended December 31, 2017				
Total amounts presented in the consolidated statement of income and other comprehensive income	\$ 41,388	(5,157)	N/A	(1,083)
<b>Interest rate contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	551	(8)	543	(543)
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	(287)
<b>Total gains (losses) (pre-tax) on interest rate contracts</b>	<b>551</b>	<b>(8)</b>	<b>543</b>	<b>(830)</b>
<b>Foreign exchange contracts:</b>				
Realized gains (losses) (pre-tax) reclassified from OCI into net income	—	—	—	—
Net unrealized gains (losses) (pre-tax) recognized in OCI	N/A	N/A	N/A	—
<b>Total gains (losses) (pre-tax) on foreign exchange contracts</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Total gains (losses) (pre-tax) recognized on cash flow hedges</b>	<b>\$ 551</b>	<b>(8)</b>	<b>543</b>	<b>(830)</b>

## Note 18: Derivatives (continued)

Table 18.5 shows the carrying amount and associated cumulative basis adjustment related to the application of hedge accounting that is included in the carrying amount of hedged assets and liabilities in fair value hedging relationships.

**Table 18.5: Hedged Items in Fair Value Hedging Relationship**

(in millions)	Hedged Items Currently Designated		Hedged Items No Longer Designated (1)	
	Carrying Amount of Assets/(Liabilities) (2)(4)	Hedge Accounting Basis Adjustment Assets/(Liabilities) (3)	Carrying Amount of Assets/(Liabilities) (4)	Hedge Accounting Basis Adjustment Assets/(Liabilities)
<b>December 31, 2019</b>				
<b>Available-for-sale debt securities (5)</b>	<b>\$ 36,896</b>	<b>1,110</b>	<b>9,486</b>	<b>278</b>
<b>Mortgage loans held for sale</b>	<b>961</b>	<b>(12)</b>	<b>—</b>	<b>—</b>
<b>Deposits</b>	<b>(43,716)</b>	<b>(324)</b>	<b>—</b>	<b>—</b>
<b>Long-term debt</b>	<b>(127,423)</b>	<b>(5,827)</b>	<b>(25,750)</b>	<b>173</b>
December 31, 2018				
Available-for-sale debt securities (5)	\$ 37,857	(157)	4,938	238
Mortgage loans held for sale	448	7	—	—
Deposits	(56,535)	115	—	—
Long-term debt	(104,341)	(742)	(25,539)	366

- (1) Represents hedged items no longer designated in qualifying fair value hedging relationships for which an associated basis adjustment exists at the balance sheet date.
- (2) Does not include the carrying amount of hedged items where only foreign currency risk is the designated hedged risk. The carrying amount excluded for debt securities is \$1.2 billion and for long-term debt is \$(5.2) billion as of December 31, 2019, and \$1.6 billion for debt securities and \$(6.3) billion for long-term debt as of December 31, 2018.
- (3) The balance includes \$790 million and \$109 million of debt securities and long-term debt cumulative basis adjustments as of December 31, 2019, respectively, and \$1.4 billion and \$66 million of debt securities and long-term debt cumulative basis adjustments as of December 31, 2018, respectively, on terminated hedges whereby the hedged items have subsequently been re-designated into existing hedges.
- (4) Represents the full carrying amount of the hedged asset or liability item as of the balance sheet date, except for circumstances in which only a portion of the asset or liability was designated as the hedged item in which case only the portion designated is presented.
- (5) Carrying amount represents the amortized cost.

### Derivatives Not Designated as Hedging Instruments

Derivatives not designated as hedging instruments include economic hedges and derivatives entered into for customer accommodation trading purposes.

We use economic hedge derivatives to manage our exposure to interest rate risk, equity price risk, foreign currency risk, and credit risk. We also use economic hedge derivatives to mitigate the periodic earnings volatility caused by mismatches between the changes in fair value of the hedged item and hedging instrument recognized on our fair value accounting hedges.

### Mortgage Banking Activities

We use economic hedge derivatives in our mortgage banking business to hedge the risk of changes in the fair value of (1) certain residential MSRs measured at fair value, (2) residential MLHFS, (3) derivative loan commitments, and (4) other interests held. The types of derivatives used include swaps, swaptions, constant maturity mortgages, forwards, Eurodollar and Treasury futures and options contracts. Loan commitments for mortgage loans that we intend to sell are considered derivatives. Residential MSRs, derivative loan commitments, certain residential MLHFS, and our economic hedge derivatives are carried at fair value with changes in fair value included in mortgage banking noninterest income. See Note 11 (Mortgage Banking Activities) for additional information on this economic hedging activity and mortgage banking income.

### Customer Accommodation Trading and Other

For customer accommodation trading purposes, we use swaps, futures, forwards, spots and options to assist our customers in managing their own risks, including interest rate, commodity, equity, foreign exchange, and credit contracts. These derivatives are not linked to specific assets and liabilities on the balance sheet or to forecasted transactions in an accounting hedge relationship and, therefore, do not qualify for hedge accounting. We also enter into derivatives for risk management that do not otherwise qualify for hedge accounting. They are carried at fair value with changes in fair value recorded in noninterest income.

Customer accommodation trading and other derivatives also include embedded derivatives that are required to be accounted for separately from their host contract. We periodically issue hybrid long-term notes and CDs where the performance of the hybrid instrument note is linked to an equity, commodity or currency index, or basket of such indices. These notes contain explicit terms that affect some or all of the cash flows or the value of the note in a manner similar to a derivative instrument and therefore are considered to contain an "embedded" derivative instrument. The indices on which the performance of the hybrid instrument is calculated are not clearly and closely related to the host debt instrument. The "embedded" derivative is separated from the host contract and accounted for as a derivative. Additionally, we may invest in hybrid instruments that contain embedded derivatives, such as credit derivatives, that are not clearly and closely related to the host contract. In such instances, we either elect fair value option for the hybrid instrument or separate the embedded derivative from the host contract and account for the host contract and derivative separately.

Table 18.6 shows the net gains (losses), recognized by income statement lines, related to derivatives not designated as hedging instruments.

**Table 18.6: Gains (Losses) on Derivatives Not Designated as Hedging Instruments**

(in millions)	Noninterest income				Total
	Mortgage banking	Net gains (losses) from equity securities	Net gains (losses) from trading activities	Other	
<b>Year ended December 31, 2019</b>					
<b>Net gains (losses) recognized on economic hedges derivatives:</b>					
Interest contracts (1)	\$ 2,177	—	—	1	2,178
Equity contracts	—	(2,120)	—	(2)	(2,122)
Foreign exchange contracts	—	—	—	(77)	(77)
Credit contracts	—	—	—	(5)	(5)
Subtotal	2,177	(2,120)	—	(83)	(26)
<b>Net gains (losses) recognized on customer accommodation trading and other derivatives:</b>					
Interest contracts	418	—	(95)	—	323
Commodity contracts	—	—	164	—	164
Equity contracts	—	—	(4,863)	(484)	(5,347)
Foreign exchange contracts	—	—	47	—	47
Credit contracts	—	—	(120)	—	(120)
Subtotal	418	—	(4,867)	(484)	(4,933)
<b>Net gains (losses) recognized related to derivatives not designated as hedging instruments</b>	<b>\$ 2,595</b>	<b>(2,120)</b>	<b>(4,867)</b>	<b>(567)</b>	<b>(4,959)</b>

(Continued on following page)

## Note 18: Derivatives (continued)

(continued from previous page)

(in millions)	Noninterest income				Total
	Mortgage banking	Net gains (losses) from equity securities	Net gains (losses) from trading activities	Other	
<b>Year ended December 31, 2018</b>					
Net gains (losses) recognized on economic hedges derivatives:					
Interest contracts (1)	\$ (215)	—	—	(15)	(230)
Equity contracts	—	(408)	—	4	(404)
Foreign exchange contracts	—	—	—	669	669
Credit contracts	—	—	—	—	—
Subtotal	(215)	(408)	—	658	35
Net gains (losses) recognized on customer accommodation trading and other derivatives:					
Interest contracts	(352)	—	446	—	94
Commodity contracts	—	—	83	—	83
Equity contracts	—	—	4,499	(403)	4,096
Foreign exchange contracts	—	—	638	—	638
Credit contracts	—	—	1	—	1
Subtotal	(352)	—	5,667	(403)	4,912
Net gains (losses) recognized related to derivatives not designated as hedging instruments	\$ (567)	(408)	5,667	255	4,947
<b>Year ended December 31, 2017</b>					
Net gains (losses) recognized on economic hedges derivatives:					
Interest contracts (1)	\$ 448	—	—	(75)	373
Equity contracts	—	(1,483)	—	17	(1,466)
Foreign exchange contracts	—	—	—	(866)	(866)
Credit contracts	—	—	—	5	5
Subtotal	448	(1,483)	—	(919)	(1,954)
Net gains (losses) recognized on customer accommodation trading and other derivatives:					
Interest contracts	614	—	160	—	774
Commodity contracts	—	—	178	—	178
Equity contracts	—	—	(3,932)	1	(3,931)
Foreign exchange contracts	—	—	638	—	638
Credit contracts	—	—	(81)	—	(81)
Subtotal	614	—	(3,037)	1	(2,422)
Net gains (losses) recognized related to derivatives not designated as hedging instruments	\$ 1,062	(1,483)	(3,037)	(918)	(4,376)

(1) Mortgage banking amounts for the years ended December 31, 2019, 2018 and 2017, are comprised of gains (losses) of \$2.3 billion, \$(1.1) billion and \$413 million, respectively, related to derivatives used as economic hedges of MSRs measured at fair value offset by gains (losses) of \$(141) million, \$857 million and \$35 million, respectively, related to derivatives used as economic hedges of mortgage loans held for sale and derivative loan commitments.

### Credit Derivatives

Credit derivative contracts are arrangements whose value is derived from the transfer of credit risk of a reference asset or entity from one party (the purchaser of credit protection) to another party (the seller of credit protection). We use credit derivatives to assist customers with their risk management objectives. We may also use credit derivatives in structured product transactions or liquidity agreements written to special purpose vehicles. The maximum exposure of sold credit derivatives is managed through purchased credit derivatives and similar products in order to achieve our desired credit risk profile. This credit risk management provides an ability to recover a significant portion of any amounts that would be paid under the sold credit derivatives. We would be required to perform under the sold credit derivatives in the event of default by the referenced obligors. Events of default include events such as bankruptcy, capital restructuring or lack of principal and/or interest payment. In certain cases, other triggers may exist, such

as the credit downgrade of the referenced obligors or the inability of the special purpose vehicle for which we have provided liquidity to obtain funding.

Table 18.7 provides details of sold and purchased credit derivatives.

**Table 18.7: Sold and Purchased Credit Derivatives**

(in millions)	Fair value asset	Fair value liability	Notional amount						
			Protection sold (A)	Protection sold - non-investment grade	Protection purchased with identical underlyings (B)	Net protection sold (A)-(B)	Other protection purchased	Range of maturities	
<b>December 31, 2019</b>									
<b>Credit default swaps on:</b>									
Corporate bonds	\$ 8	1	2,855	707	1,885	970	2,447	2020 - 2029	
Structured products	—	25	74	69	63	11	111	2022 - 2047	
<b>Credit protection on:</b>									
Default swap index	1	—	2,542	120	550	1,992	8,105	2020 - 2029	
Commercial mortgage-backed securities index	3	26	322	67	296	26	50	2047 - 2058	
Asset-backed securities index	—	8	41	41	41	—	1	2045 - 2046	
Other	—	5	6,381	5,738	—	6,381	11,881	2020 - 2049	
<b>Total credit derivatives</b>	<b>\$ 12</b>	<b>65</b>	<b>12,215</b>	<b>6,742</b>	<b>2,835</b>	<b>9,380</b>	<b>22,595</b>		
<b>December 31, 2018</b>									
<b>Credit default swaps on:</b>									
Corporate bonds	\$ 38	59	2,037	441	1,374	663	1,460	2019 - 2027	
Structured products	—	62	133	128	121	12	113	2022 - 2047	
<b>Credit protection on:</b>									
Default swap index	37	1	3,618	582	1,998	1,620	2,896	2019 - 2028	
Commercial mortgage-backed securities index	1	49	389	109	363	26	51	2047 - 2058	
Asset-backed securities index	—	9	42	42	42	—	1	2045 - 2046	
Other	—	2	5,522	5,327	—	5,522	12,561	2018 - 2048	
<b>Total credit derivatives</b>	<b>\$ 76</b>	<b>182</b>	<b>11,741</b>	<b>6,629</b>	<b>3,898</b>	<b>7,843</b>	<b>17,082</b>		

Protection sold represents the estimated maximum exposure to loss that would be incurred under an assumed hypothetical circumstance, where the value of our interests and any associated collateral declines to zero, without any consideration of recovery or offset from any economic hedges. We believe this hypothetical circumstance to be an extremely remote possibility and accordingly, this required disclosure is not an indication of expected loss. The amounts under non-investment grade represent the notional amounts of those credit derivatives on which we have a higher risk of being required to perform under the terms of the credit derivative and are a function of the underlying assets.

We consider the risk of performance to be high if the underlying assets under the credit derivative have an external rating that is below investment grade or an internal credit default grade that is equivalent thereto. We believe the net protection sold, which is representative of the net notional amount of protection sold and purchased with identical underlyings, in combination with other protection purchased, is more representative of our exposure to loss than either non-investment grade or protection sold. Other protection purchased represents additional protection, which may offset the exposure to loss for protection sold, that was not purchased with an identical underlying of the protection sold.

### Credit-Risk Contingent Features

Certain of our derivative contracts contain provisions whereby if the credit rating of our debt were to be downgraded by certain major credit rating agencies, the counterparty could demand additional collateral or require termination or replacement of derivative instruments in a net liability position. Table 18.8 illustrates our exposure to such derivatives with credit-risk contingent features, collateral we have posted, and the additional collateral we would be required to post if the credit rating of our debt was downgraded below investment grade.

**Table 18.8: Credit-Risk Contingent Features**

(in billions)	Dec 31, 2019	Dec 31, 2018
Net derivative liabilities with credit-risk contingent features	\$ 10.4	7.4
Collateral posted	9.1	5.6
Additional collateral to be posted upon a below investment grade credit rating (1)	1.3	1.8

(1) Any credit rating below investment grade requires us to post the maximum amount of collateral

## Note 19: Fair Values of Assets and Liabilities

We use fair value measurements to record fair value adjustments to certain assets and liabilities and to determine fair value disclosures. Assets and liabilities recorded at fair value on a recurring basis are presented in Table 19.2 in this Note. From time to time, we may be required to record fair value adjustments on a nonrecurring basis. These nonrecurring fair value adjustments typically involve application of LOCOM accounting, write-downs of individual assets or application of the measurement alternative for nonmarketable equity securities. Assets recorded on a nonrecurring basis are presented in Table 19.11 in this Note. Table 19.17 includes estimates of fair value for financial instruments that are not recorded at fair value.

**FAIR VALUE HIERARCHY** We classify our assets and liabilities measured at fair value as either Level 1, Level 2 or Level 3 in the fair value hierarchy. The highest priority (Level 1) is assigned to valuations based on unadjusted quoted prices in active markets and the lowest priority (Level 3) is assigned to valuations based on significant unobservable inputs. See Note 1 (Summary of Significant Accounting Policies) for a detailed description of the fair value hierarchy.

In the determination of the classification of financial instruments in Level 2 or Level 3 of the fair value hierarchy, we consider all available information, including observable market data, indications of market liquidity and orderliness, and our understanding of the valuation techniques and significant inputs used. For securities in inactive markets, we use a predetermined percentage to evaluate the impact of fair value adjustments derived from weighting both external and internal indications of value to determine if the instrument is classified as Level 2 or Level 3. Otherwise, the classification of Level 2 or Level 3 is based upon the specific facts and circumstances of each instrument or instrument category and judgments are made regarding the significance of the Level 3 inputs to the instruments' fair value measurement in its entirety. If Level 3 inputs are considered significant, the instrument is classified as Level 3.

We do not classify equity securities in the fair value hierarchy if we use the non-published net asset value (NAV) per share (or its equivalent) that has been communicated to us as an investor as a practical expedient to measure fair value. We generally use NAV per share as the fair value measurement for certain nonmarketable equity fund investments. Marketable equity securities with published NAVs are classified in the fair value hierarchy.

### Assets

**SHORT-TERM FINANCIAL ASSETS** Short-term financial assets include cash and due from banks, interest-earning deposits with banks, federal funds sold and securities purchased under resale agreements and due from customers on acceptances (classified in Other Assets). These assets are carried at historical cost. The carrying amount is a reasonable estimate of fair value because of the relatively short time between the origination of the instrument and its expected realization.

**TRADING DEBT SECURITIES** Trading debt securities are recorded at fair value on a recurring basis. These securities are valued using internal trader prices that are subject to price verification procedures. The fair values derived using internal valuation techniques are verified against multiple pricing sources, including prices obtained from third-party pricing services. These services compile prices from various sources and often apply matrix

pricing for similar securities when no price is observable. We review pricing methodologies provided by the pricing services in order to determine if observable market information is being used versus unobservable inputs. When evaluating the appropriateness of an internal trader price compared with pricing service prices, considerations include the range and quality of pricing service prices. Pricing service prices are used to ensure the reasonableness of a trader price; however, valuing financial instruments involves judgments acquired from knowledge of a particular market. If a trader asserts that a third party pricing service price is not reflective of market value, justification for using the trader price, including recent sales activity where possible, must be provided to and approved by the appropriate levels of management.

### AVAILABLE-FOR-SALE AND HELD-TO-MATURITY DEBT

**SECURITIES** AFS debt securities are recorded at fair value on a recurring basis and HTM debt securities are recorded at amortized cost. HTM debt securities are subject to impairment and written down to fair value if fair value declines below amortized cost and we do not expect to recover the entire amortized cost basis of the security. Fair value measurement for AFS and HTM debt securities is based upon various sources of market pricing. Where available, we use quoted prices in active markets. When instruments are traded in secondary markets and quoted market prices do not exist for such securities, we predominantly use prices obtained from third-party pricing services and, to a lesser extent, may use prices obtained from independent broker-dealers (brokers), collectively vendor prices.

When vendor prices are deemed inappropriate by a trader who has knowledge of a particular market, vendor prices may be adjusted by weighting them with values from internal models. We also use internal models when no vendor prices are available. Internal models typically use discounted cash flow techniques or pricing models that make adjustments to quoted market prices for similar securities.

**MORTGAGE LOANS HELD FOR SALE (MLHFS)** We carry most of our residential MLHFS portfolio at fair value on a recurring basis. We carry our commercial MLHFS and certain residential MLHFS at LOCOM which may be written down to fair value on a nonrecurring basis. Fair value for both residential and commercial mortgages is based on quoted market prices, where available, or the prices for other mortgage whole loans with similar characteristics. We may use securitization prices that are adjusted for typical securitization activities including servicing value, portfolio composition, market conditions and liquidity. Where market pricing data is not available, we use a discounted cash flow model to estimate fair value.

**LOANS HELD FOR SALE (LHFS)** Loans used in our trading business are recorded at fair value on a recurring basis, and the fair value is based on current offerings in secondary markets for loans with similar characteristics. Loans carried at LOCOM, which are generally consumer loans, are subject to nonrecurring fair value adjustments. Fair value is determined based on pending transactions when available, or estimated using a discounted cash flow model.

**LOANS** Although most loans are recorded at amortized cost, reverse mortgages are recorded at fair value on a recurring basis and are valued using a discounted cash flow model. In addition,



we record nonrecurring fair value adjustments to loans carried at amortized cost to reflect partial write-downs that are based on the observable market price of the loan or current appraised value of the collateral.

We also provide fair value estimates for loans that are not recorded at fair value on a recurring or nonrecurring basis. The fair value estimates of these loans are differentiated by their financial characteristics, such as product classification, loan category, pricing features and remaining maturity. Prepayment and credit loss estimates are evaluated and used in the valuation process.

**DERIVATIVES** All derivatives are recorded at fair value on a recurring basis. Derivative valuations include the use of available market prices for our exchange-traded derivatives, such as certain interest rate futures and option contracts. However, substantially all of our derivatives are traded in over-the-counter (OTC) markets where quoted market prices are not always readily available. Therefore we value most OTC derivatives using internal valuation techniques. Valuation techniques and inputs to internally-developed models depend on the type of derivative and nature of the underlying rate, price or index upon which the derivative's value is based. Key inputs can include yield curves, credit curves, foreign exchange rates, prepayment rates, volatility measurements and correlation of such inputs. The classification of derivatives between Level 2 and Level 3 of the fair value hierarchy can be particularly subjective. Examples of derivatives typically classified as Level 2 include generic interest rate swaps, foreign currency swaps, commodity swaps, and certain option and forward contracts. Examples of derivatives classified as Level 3 may include derivative loan commitments written for our mortgage loans that we intend to sell, long-dated equity options where volatility is not observable, credit risk participation swaps, and complex and highly structured derivatives.

**MORTGAGE SERVICING RIGHTS (MSRs)** Residential MSRs are carried at fair value on a recurring basis, and commercial MSRs, which are carried at LOCOM, will be written down to fair value if impaired. MSRs do not trade in an active market with readily observable prices. We determine the fair value of MSRs using a valuation model that estimates the present value of expected future net servicing income. The model incorporates assumptions that market participants use in estimating future net servicing income cash flows, including estimates of prepayment speeds (including housing price volatility for residential MSRs), discount rates, default rates, cost to service (including delinquency and foreclosure costs), escrow account earnings, contractual servicing fee income, ancillary income and late fees. Our valuation approach is validated by our internal valuation model validation group. Changes in the fair value of MSRs reflect the collection/realization of expected cash flows as well as changes in valuation inputs and assumptions. Fair value measurements of our MSRs use significant unobservable inputs and, accordingly, we classify them as Level 3.

**EQUITY SECURITIES** Marketable equity securities and certain nonmarketable equity securities which we have elected to account for under the fair value method are recorded at fair value on a recurring basis. Our remaining nonmarketable equity securities are accounted for using the equity method, cost method or measurement alternative and can be subject to nonrecurring fair value adjustments to record impairment. The carrying value of equity securities accounted for under the measurement alternative are also remeasured to fair value upon

the occurrence of orderly observable transactions of the same or similar securities of the same issuer.

We use quoted prices to determine the fair value of marketable equity securities as the securities are publicly traded. Quoted prices are typically not available for nonmarketable equity securities. We therefore use other methods, generally market comparable pricing, to determine fair value for such securities. We use all available information in making this determination, which includes observable transaction prices for the same or similar security, third-party pricing service prices, broker quotes, trading multiples of comparable public companies and discounted cash flow models. Where appropriate we make adjustments to observed market data to reflect the comparative differences between the market data and the attributes of our equity security, such as differences with public companies and other investment-specific considerations like liquidity, marketability or differences in terms of the instruments.

Substantially all of our nonmarketable equity securities accounted for under the cost method are Federal Reserve Bank stock and Federal Home Loan Bank stock, for which carrying values approximate fair value.

**FORECLOSED ASSETS** Foreclosed assets are carried at net realizable value, which represents fair value less costs to sell. Fair value is generally based upon independent market prices or appraised values of the collateral.

## Liabilities

**DEPOSIT AND SHORT-TERM FINANCIAL LIABILITIES** Deposit and short-term financial liabilities including federal funds purchased, securities sold under repurchase agreements, commercial paper and other short-term borrowings, are recorded at historical cost. Carrying value is a reasonable estimate of fair value for short-term financial liabilities because of the relatively short time between their origination and expected realization. Fair values for deposits with contractual or defined maturities are estimated using discounted cash flow models. We are not required to estimate fair values for deposits with indeterminate maturities.

**OTHER LIABILITIES** Other liabilities recorded at fair value on a recurring basis predominantly include short sale liabilities. We value these instruments using quoted prices in active markets, where available. When quoted prices for the same instruments are not available or markets are not active, fair values are estimated using recent trades of similar securities.

**LONG-TERM DEBT** Our long-term debt is largely denominated in U.S. dollars and issued with a fixed or floating rate at varying levels of seniority and maturity. The long-term debt is recorded at amortized cost. We utilize third-party pricing service prices, discounted cash flow models, or a combination of the two when estimating fair value of our long-term debt.

## Level 3 Asset and Liability Valuation Processes

We generally determine fair value of our Level 3 assets and liabilities by using internally-developed models and, to a lesser extent, prices obtained from vendors, which predominantly consist of third-party vendor pricing services. Our valuation processes vary depending on which approach is utilized.

**INTERNAL MODEL VALUATIONS** Many of our Level 3 fair value estimates are based on internally-developed models, which typically involve use of discounted cash flow or market comparable pricing techniques. Some of the inputs used in these valuations are unobservable. Unobservable inputs are generally

## Note 19: Fair Values of Assets and Liabilities (continued)

derived from historic performance of similar assets or determined from previous market trades in similar instruments. Unobservable inputs usually include discount rates, default rates, loss severity upon default, volatilities, correlations and prepayment rates. Such unobservable inputs can be correlated to similar portfolios with known historical experience or recent trades where particular unobservable inputs may be implied. We attempt to correlate each unobservable input to historical experience and other third-party data where available.

Internal valuation models are subject to review prescribed within our model risk management policies and procedures, which include model validation. Model validation helps ensure our models are appropriate for intended use and appropriate controls exist to help mitigate risk of invalid valuations. Model validation assesses the adequacy and appropriateness of our models, including reviewing its key components, such as inputs, processing components, logic or theory, output results and supporting model documentation. Validation also includes ensuring significant unobservable model inputs are appropriate given observable market transactions or other market data within the same or similar asset classes.

We also have ongoing monitoring procedures in place for our Level 3 assets and liabilities that use internal valuation models.

These procedures, which are designed to provide reasonable assurance that models continue to perform as expected, include:

- ongoing analysis and benchmarking to market transactions and other independent market data (including pricing vendors, if available);
- back-testing of modeled fair values to actual realized transactions; and
- review of modeled valuation results against expectations, including review of significant or unusual fluctuations in value.

We update model inputs and methodologies periodically to reflect these monitoring procedures. Additionally, existing models are subject to periodic reviews and we perform full model revalidations as necessary.

All internal valuation models are subject to ongoing review by business-unit-level management, and subject to additional oversight by corporate-level risk management. Corporate oversight responsibilities include evaluating the adequacy of business unit risk management programs, maintaining company-wide model validation policies and standards and reporting the results of these activities to management and our Corporate Model Risk Committee. This committee consists of senior executive management and reports on top model risk issues to the Company's Risk Committee of the Board.

**VENDOR-DEVELOPED VALUATIONS** We routinely obtain pricing from third-party vendors to value our assets or liabilities. In certain limited circumstances, this includes our Level 3 assets or liabilities. We have processes in place to approve and periodically review third-party vendors to ensure information obtained and valuation techniques used are appropriate. This review may consist of, among other things, obtaining and evaluating control reports issued and pricing methodology materials distributed. We monitor and review vendor prices on an ongoing basis to ensure the fair values are reasonable and in line with market experience in similar asset classes. While the inputs used to determine fair value are not provided by the pricing vendors, and therefore unavailable for our review, we perform one or more of the following procedures to validate the pricing information and determine appropriate classification within the fair value hierarchy:

- comparison to other pricing vendors (if available);
- variance analysis of prices;
- corroboration of pricing by reference to other independent market data, such as market transactions and relevant benchmark indices;
- review of pricing by Company personnel familiar with market liquidity and other market-related conditions; and
- investigation of prices on a specific instrument-by-instrument basis.

### Fair Value Measurements from Vendors

For certain assets and liabilities, we obtain fair value measurements from vendors and we record the unadjusted fair value in our financial statements. For instruments where we utilize vendor prices to record the price of an instrument, we perform the same procedures and controls as stated in the “Vendor-Developed Valuations” section.

Table 19.1 presents unadjusted fair value measurements obtained from third-party pricing services classified within the fair value hierarchy. Unadjusted fair value measurements

obtained from brokers and fair value measurements obtained from brokers or third-party pricing services that we have adjusted to determine the fair value are excluded from Table 19.1.

The unadjusted fair value measurements obtained from brokers for AFS debt securities were \$45 million in Level 2 assets and \$126 million in Level 3 assets at December 31, 2019, and \$45 million and \$129 million at December 31, 2018, respectively.

**Table 19.1: Fair Value Measurements obtained from Third-Party Pricing Services**

(in millions)	December 31, 2019			December 31, 2018		
	Level 1	Level 2	Level 3	Level 1	Level 2	Level 3
Trading debt securities	\$ 634	329	—	899	256	—
Available-for-sale debt securities:						
Securities of U.S. Treasury and federal agencies	13,460	1,500	—	10,399	2,949	—
Securities of U.S. states and political subdivisions	—	39,868	34	—	48,377	43
Mortgage-backed securities	—	167,172	42	—	160,162	41
Other debt securities (1)	—	38,067	650	—	44,292	758
Total available-for-sale debt securities	13,460	246,607	726	10,399	255,780	842
Equity securities:						
Marketable	—	110	—	—	158	—
Nonmarketable	—	—	—	—	1	—
Total equity securities	—	110	—	—	159	—
Derivative assets	12	1	—	17	—	—
Derivative liabilities	(11)	(3)	—	(12)	—	—

(1) Includes corporate debt securities, collateralized loan and other debt obligations, asset-backed securities, and other debt securities.

## Note 19: Fair Values of Assets and Liabilities (continued)

### Assets and Liabilities Recorded at Fair Value on a Recurring Basis

Table 19.2 presents the balances of assets and liabilities recorded at fair value on a recurring basis.

**Table 19.2: Fair Value on a Recurring Basis**

(in millions)	Level 1	Level 2	Level 3	Netting (1)	Total
<b>December 31, 2019</b>					
<b>Trading debt securities:</b>					
Securities of U.S. Treasury and federal agencies	\$ 32,335	4,382	—	—	36,717
Securities of U.S. states and political subdivisions	—	2,434	—	—	2,434
Collateralized loan obligations	—	555	183	—	738
Corporate debt securities	—	11,006	38	—	11,044
Mortgage-backed securities	—	27,712	—	—	27,712
Asset-backed securities	—	1,081	—	—	1,081
Other trading debt securities	—	5	2	—	7
<b>Total trading debt securities</b>	<b>32,335</b>	<b>47,175</b>	<b>223</b>	<b>—</b>	<b>79,733</b>
<b>Available-for-sale debt securities:</b>					
Securities of U.S. Treasury and federal agencies	13,460	1,500	—	—	14,960
Securities of U.S. states and political subdivisions	—	39,924	413	—	40,337
<b>Mortgage-backed securities:</b>					
Federal agencies	—	162,453	—	—	162,453
Residential	—	827	—	—	827
Commercial	—	3,892	42	—	3,934
<b>Total mortgage-backed securities</b>	<b>—</b>	<b>167,172</b>	<b>42</b>	<b>—</b>	<b>167,214</b>
Corporate debt securities	37	6,159	367	—	6,563
Collateralized loan and other debt obligations	—	29,055	640	—	29,695
<b>Asset-backed securities:</b>					
Automobile loans and leases	—	951	—	—	951
Home equity loans	—	—	—	—	—
Other asset-backed securities	—	3,635	103	—	3,738
<b>Total asset-backed securities</b>	<b>—</b>	<b>4,586</b>	<b>103</b>	<b>—</b>	<b>4,689</b>
Other debt securities	—	1	—	—	1
<b>Total available-for-sale debt securities</b>	<b>13,497</b>	<b>248,397</b>	<b>1,565 (2)</b>	<b>—</b>	<b>263,459</b>
Mortgage loans held for sale	—	15,408	1,198	—	16,606
Loans held for sale	—	956	16	—	972
Loans	—	—	171	—	171
Mortgage servicing rights (residential)	—	—	11,517	—	11,517
<b>Derivative assets:</b>					
Interest rate contracts	26	23,792	229	—	24,047
Commodity contracts	—	1,413	8	—	1,421
Equity contracts	2,946	4,135	1,455	—	8,536
Foreign exchange contracts	12	5,197	5	—	5,214
Credit contracts	—	49	59	—	108
<b>Netting</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(25,123)</b>	<b>(25,123)</b>
<b>Total derivative assets</b>	<b>2,984</b>	<b>34,586</b>	<b>1,756</b>	<b>(25,123)</b>	<b>14,203</b>
<b>Equity securities - excluding securities at NAV:</b>					
Marketable	33,702	216	3	—	33,921
Nonmarketable	—	22	7,847	—	7,869
<b>Total equity securities</b>	<b>33,702</b>	<b>238</b>	<b>7,850</b>	<b>—</b>	<b>41,790</b>
<b>Total assets included in the fair value hierarchy</b>	<b>\$ 82,518</b>	<b>346,760</b>	<b>24,296</b>	<b>(25,123)</b>	<b>428,451</b>
<b>Equity securities at NAV (3)</b>					<b>146</b>
<b>Total assets recorded at fair value</b>					<b>428,597</b>
<b>Derivative liabilities:</b>					
Interest rate contracts	\$ (23)	(19,328)	(15)	—	(19,366)
Commodity contracts	—	(1,746)	(24)	—	(1,770)
Equity contracts	(2,011)	(6,729)	(1,724)	—	(10,464)
Foreign exchange contracts	(11)	(6,213)	(23)	—	(6,247)
Credit contracts	—	(53)	(30)	—	(83)
<b>Netting</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>28,851</b>	<b>28,851</b>
<b>Total derivative liabilities</b>	<b>(2,045)</b>	<b>(34,069)</b>	<b>(1,816)</b>	<b>28,851</b>	<b>(9,079)</b>
<b>Short sale liabilities:</b>					
Securities of U.S. Treasury and federal agencies	(9,035)	(31)	—	—	(9,066)
Mortgage-backed securities	—	(2)	—	—	(2)
Corporate debt securities	—	(5,915)	—	—	(5,915)
Equity securities	(2,447)	—	—	—	(2,447)
Other securities	—	—	—	—	—
<b>Total short sale liabilities</b>	<b>(11,482)</b>	<b>(5,948)</b>	<b>—</b>	<b>—</b>	<b>(17,430)</b>
<b>Other liabilities</b>					
	—	—	(2)	—	(2)
<b>Total liabilities recorded at fair value</b>	<b>\$ (13,527)</b>	<b>(40,017)</b>	<b>(1,818)</b>	<b>28,851</b>	<b>(26,511)</b>

(1) Represents balance sheet netting of derivative asset and liability balances, related cash collateral and portfolio level counterparty valuation adjustments. See Note 18 (Derivatives) for additional information.

(2) A significant portion of the balance consists of securities that are investment grade based on ratings received from the ratings agencies or internal credit grades categorized as investment grade if external ratings are not available. The securities are classified as Level 3 due to limited market activity.

(3) Consists of certain nonmarketable equity securities that are measured at fair value using NAV per share (or its equivalent) as a practical expedient and are excluded from the fair value hierarchy.

(continued on following page)

(continued from previous page)

(in millions)	Level 1	Level 2	Level 3	Netting (1)	Total
<b>December 31, 2018</b>					
<b>Trading debt securities:</b>					
Securities of U.S. Treasury and federal agencies	\$ 20,525	2,892	—	—	23,417
Securities of U.S. states and political subdivisions	—	3,272	3	—	3,275
Collateralized loan obligations	—	673	237	—	910
Corporate debt securities	—	10,723	34	—	10,757
Mortgage-backed securities	—	30,715	—	—	30,715
Asset-backed securities	—	893	—	—	893
Other trading debt securities	—	6	16	—	22
<b>Total trading debt securities</b>	<b>20,525</b>	<b>49,174</b>	<b>290</b>	<b>—</b>	<b>69,989</b>
<b>Available-for-sale debt securities:</b>					
Securities of U.S. Treasury and federal agencies	10,399	2,949	—	—	13,348
Securities of U.S. states and political subdivisions	—	48,820	444	—	49,264
<b>Mortgage-backed securities:</b>					
Federal agencies	—	153,203	—	—	153,203
Residential	—	2,775	—	—	2,775
Commercial	—	4,184	41	—	4,225
<b>Total mortgage-backed securities</b>	<b>—</b>	<b>160,162</b>	<b>41</b>	<b>—</b>	<b>160,203</b>
Corporate debt securities	34	5,867	370	—	6,271
Collateralized loan and other debt obligations	—	34,543	800	—	35,343
<b>Asset-backed securities:</b>					
Automobile loans and leases	—	925	—	—	925
Home equity loans	—	112	—	—	112
Other asset-backed securities	—	4,056	389	—	4,445
<b>Total asset-backed securities</b>	<b>—</b>	<b>5,093</b>	<b>389</b>	<b>—</b>	<b>5,482</b>
Other debt securities	—	1	—	—	1
<b>Total available-for-sale debt securities</b>	<b>10,433</b>	<b>257,435</b>	<b>2,044 (2)</b>	<b>—</b>	<b>269,912</b>
Mortgage loans held for sale	—	10,774	997	—	11,771
Loans held for sale	—	1,409	60	—	1,469
Loans	—	—	244	—	244
Mortgage servicing rights (residential)	—	—	14,649	—	14,649
<b>Derivative assets:</b>					
Interest rate contracts	46	18,294	95	—	18,435
Commodity contracts	—	1,535	53	—	1,588
Equity contracts	1,648	4,582	1,315	—	7,545
Foreign exchange contracts	17	6,689	8	—	6,714
Credit contracts	—	179	99	—	278
Netting	—	—	—	(23,790)	(23,790)
<b>Total derivative assets</b>	<b>1,711</b>	<b>31,279</b>	<b>1,570</b>	<b>(23,790)</b>	<b>10,770</b>
<b>Equity securities - excluding securities at NAV:</b>					
Marketable	23,205	757	—	—	23,962
Nonmarketable	—	24	5,468	—	5,492
<b>Total equity securities</b>	<b>23,205</b>	<b>781</b>	<b>5,468</b>	<b>—</b>	<b>29,454</b>
<b>Total assets included in the fair value hierarchy</b>	<b>\$ 55,874</b>	<b>350,852</b>	<b>25,322</b>	<b>(23,790)</b>	<b>408,258</b>
<b>Equity securities at NAV (3)</b>					
<b>Total assets recorded at fair value</b>					<b>408,360</b>
<b>Derivative liabilities:</b>					
Interest rate contracts	\$ (21)	(16,217)	(70)	—	(16,308)
Commodity contracts	—	(2,287)	(49)	—	(2,336)
Equity contracts	(1,492)	(3,186)	(1,332)	—	(6,010)
Foreign exchange contracts	(12)	(7,067)	(34)	—	(7,113)
Credit contracts	—	(216)	(64)	—	(280)
Netting	—	—	—	23,548	23,548
<b>Total derivative liabilities</b>	<b>(1,525)</b>	<b>(28,973)</b>	<b>(1,549)</b>	<b>23,548</b>	<b>(8,499)</b>
<b>Short sale liabilities:</b>					
Securities of U.S. Treasury and federal agencies	(11,850)	(411)	—	—	(12,261)
Mortgage-backed securities	—	(47)	—	—	(47)
Corporate debt securities	—	(4,505)	—	—	(4,505)
Equity securities	(2,902)	(2)	—	—	(2,904)
Other securities	—	(3)	—	—	(3)
<b>Total short sale liabilities</b>	<b>(14,752)</b>	<b>(4,968)</b>	<b>—</b>	<b>—</b>	<b>(19,720)</b>
Other liabilities	—	—	(2)	—	(2)
<b>Total liabilities recorded at fair value</b>	<b>\$ (16,277)</b>	<b>(33,941)</b>	<b>(1,551)</b>	<b>23,548</b>	<b>(28,221)</b>

- (1) Represents balance sheet netting of derivative asset and liability balances, related cash collateral and portfolio level counterparty valuation adjustments. See Note 18 (Derivatives) for additional information.
- (2) A significant portion of the balance consists of securities that are investment grade based on ratings received from the ratings agencies or internal credit grades categorized as investment grade if external ratings are not available. The securities are classified as Level 3 due to limited market activity.
- (3) Consists of certain nonmarketable equity investments that are measured at fair value using NAV per share (or its equivalent) as a practical expedient and are excluded from the fair value hierarchy.

## Changes in Fair Value Levels

We monitor the availability of observable market data to assess the appropriate classification of financial instruments within the fair value hierarchy and transfer between Level 1, Level 2, and Level 3 accordingly. Observable market data includes but is not limited to quoted prices and market transactions. Changes in economic conditions or market liquidity generally will drive changes in availability of observable market data. Changes in

availability of observable market data, which also may result in changing the valuation technique used, are generally the cause of transfers between Level 1, Level 2, and Level 3. The amounts reported as transfers represent the fair value as of the beginning of the quarter in which the transfer occurred.

The changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2019, are presented in Table 19.3.

**Table 19.3: Changes in Level 3 Fair Value Assets and Liabilities on a Recurring Basis – 2019**

(in millions)	Balance, beginning of period	Total net gains (losses) included in		Purchases, sales, issuances and settlements, net (1)	Transfers into Level 3 (2)	Transfers out of Level 3 (3)	Balance, end of period	Net unrealized gains (losses) included in income related to assets and liabilities held at period end (4)
		Net income	Other comprehensive income					
<b>Year ended December 31, 2019</b>								
<b>Trading debt securities:</b>								
Securities of U.S. states and political subdivisions	\$ 3	—	—	(2)	—	(1)	—	—
Collateralized loan obligations	237	(30)	—	(22)	—	(2)	183	(35)
Corporate debt securities	34	3	—	6	1	(6)	38	5
Other trading debt securities	16	(4)	—	(10)	—	—	2	(1)
<b>Total trading debt securities</b>	<b>290</b>	<b>(31)</b>	<b>—</b>	<b>(28)</b>	<b>1</b>	<b>(9)</b>	<b>223</b>	<b>(31) (5)</b>
<b>Available-for-sale debt securities:</b>								
Securities of U.S. states and political subdivisions	444	2	2	14	—	(49)	413	—
<b>Mortgage-backed securities:</b>								
Residential	—	—	—	—	—	—	—	—
Commercial	41	—	—	(5)	6	—	42	—
<b>Total mortgage-backed securities</b>	<b>41</b>	<b>—</b>	<b>—</b>	<b>(5)</b>	<b>6</b>	<b>—</b>	<b>42</b>	<b>—</b>
Corporate debt securities	370	3	(5)	(1)	—	—	367	(4)
Collateralized loan and other debt obligations	800	29	(37)	(152)	—	—	640	—
<b>Asset-backed securities:</b>								
Other asset-backed securities	389	—	—	(133)	—	(153)	103	—
<b>Total asset-backed securities</b>	<b>389</b>	<b>—</b>	<b>—</b>	<b>(133)</b>	<b>—</b>	<b>(153)</b>	<b>103</b>	<b>—</b>
<b>Total available-for-sale debt securities</b>	<b>2,044</b>	<b>34</b>	<b>(40)</b>	<b>(277)</b>	<b>6</b>	<b>(202)</b>	<b>1,565</b>	<b>(4) (6)</b>
Mortgage loans held for sale	997	58	—	(140)	299	(16)	1,198	54 (7)
Loans held for sale	60	(2)	—	(4)	55	(93)	16	(3)
Loans	244	—	—	(73)	—	—	171	(8) (7)
Mortgage servicing rights (residential) (8)	14,649	(4,779)	—	1,647	—	—	11,517	(2,569) (7)
<b>Net derivative assets and liabilities:</b>								
Interest rate contracts	25	585	—	(396)	—	—	214	249
Commodity contracts	4	(203)	—	158	2	23	(16)	9
Equity contracts	(17)	(571)	—	292	6	21	(269)	(186)
Foreign exchange contracts	(26)	34	—	(26)	—	—	(18)	9
Credit contracts	35	(7)	—	1	—	—	29	(6)
<b>Total derivative contracts</b>	<b>21</b>	<b>(162)</b>	<b>—</b>	<b>29</b>	<b>8</b>	<b>44</b>	<b>(60)</b>	<b>75 (9)</b>
<b>Equity securities:</b>								
Marketable	—	—	—	—	3	—	3	—
Nonmarketable	5,468	2,383	—	(1)	9	(12)	7,847	2,386
<b>Total equity securities</b>	<b>5,468</b>	<b>2,383</b>	<b>—</b>	<b>(1)</b>	<b>12</b>	<b>(12)</b>	<b>7,850</b>	<b>2,386 (10)</b>
<b>Other liabilities</b>	<b>(2)</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(2)</b>	<b>— (7)</b>

(1) See Table 19.4 for detail.

(2) All assets and liabilities transferred into level 3 were previously classified within level 2.

(3) All assets and liabilities transferred out of level 3 are classified as level 2, except for \$153 million of asset-backed securities that were transferred to loans during third quarter 2019.

(4) Represents only net gains (losses) that are due to changes in economic conditions and management's estimates of fair value and excludes changes due to the collection/realization of cash flows over time.

(5) Included in net gains (losses) from trading activities in the income statement.

(6) Included in net gains (losses) from debt securities in the income statement.

(7) Included in mortgage banking and other noninterest income in the income statement.

(8) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities).

(9) Included in mortgage banking income, net gains from trading activities and from equity securities, and other noninterest income.

(10) Included in net gains (losses) from equity securities in the income statement.

Table 19.4 presents gross purchases, sales, issuances and settlements related to the changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2019.

**Table 19.4: Gross Purchases, Sales, Issuances and Settlements – Level 3 – 2019**

(in millions)	Purchases	Sales	Issuances	Settlements	Net
<b>Year ended December 31, 2019</b>					
<b>Trading debt securities:</b>					
Securities of U.S. states and political subdivisions	\$ —	—	—	(2)	(2)
Collateralized loan obligations	372	(372)	—	(22)	(22)
Corporate debt securities	19	(13)	—	—	6
Other trading debt securities	—	—	—	(10)	(10)
<b>Total trading debt securities</b>	<b>391</b>	<b>(385)</b>	<b>—</b>	<b>(34)</b>	<b>(28)</b>
<b>Available-for-sale debt securities:</b>					
Securities of U.S. states and political subdivisions	—	—	169	(155)	14
<b>Mortgage-backed securities:</b>					
Residential	—	—	—	—	—
Commercial	—	—	—	(5)	(5)
<b>Total mortgage-backed securities</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>(5)</b>	<b>(5)</b>
Corporate debt securities	18	—	—	(19)	(1)
Collateralized loan and other debt obligations	155	—	—	(307)	(152)
<b>Asset-backed securities:</b>					
Other asset-backed securities	—	(9)	133	(257)	(133)
<b>Total asset-backed securities</b>	<b>—</b>	<b>(9)</b>	<b>133</b>	<b>(257)</b>	<b>(133)</b>
<b>Total available-for-sale debt securities</b>	<b>173</b>	<b>(9)</b>	<b>302</b>	<b>(743)</b>	<b>(277)</b>
Mortgage loans held for sale	96	(235)	248	(249)	(140)
Loans held for sale	12	(2)	—	(14)	(4)
Loans	3	—	10	(86)	(73)
Mortgage servicing rights (residential) (1)	—	(286)	1,933	—	1,647
<b>Net derivative assets and liabilities:</b>					
Interest rate contracts	—	—	—	(396)	(396)
Commodity contracts	—	—	—	158	158
Equity contracts	—	—	—	292	292
Foreign exchange contracts	—	—	—	(26)	(26)
Credit contracts	13	(12)	—	—	1
<b>Total derivative contracts</b>	<b>13</b>	<b>(12)</b>	<b>—</b>	<b>28</b>	<b>29</b>
<b>Equity securities:</b>					
Nonmarketable	—	(1)	—	—	(1)
<b>Total equity securities</b>	<b>—</b>	<b>(1)</b>	<b>—</b>	<b>—</b>	<b>(1)</b>
<b>Other liabilities</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>

(1) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities).

## Note 19: Fair Values of Assets and Liabilities (continued)

The changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2018, are presented in Table 19.5.

**Table 19.5: Changes in Level 3 Fair Value Assets and Liabilities on a Recurring Basis – 2018**

(in millions)	Balance, beginning of period	Total net gains (losses) included in		Purchases, sales, issuances and settlements, net (1)	Transfers into Level 3 (2)	Transfers out of Level 3 (3)	Balance, end of period	Net unrealized gains (losses) included in income related to assets and liabilities held at period end (4)
		Net income	Other compre- hensive income					
Year ended December 31, 2018								
Trading debt securities:								
Securities of U.S. states and political subdivisions	\$ 3	—	—	—	—	—	3	—
Collateralized loan obligations	354	(12)	—	(101)	—	(4)	237	(14)
Corporate debt securities	31	(1)	—	16	—	(12)	34	(1)
Other trading debt securities	19	(3)	—	—	—	—	16	—
Total trading debt securities	407	(16)	—	(85)	—	(16)	290	(15) (5)
Available-for-sale debt securities:								
Securities of U.S. states and political subdivisions	925	8	(8)	(137)	—	(344)	444	—
Mortgage-backed securities:								
Residential	1	—	—	(1)	—	—	—	—
Commercial	75	—	(1)	(33)	—	—	41	(1)
Total mortgage-backed securities	76	—	(1)	(34)	—	—	41	(1)
Corporate debt securities	407	4	(3)	(38)	—	—	370	—
Collateralized loan and other debt obligations	1,020	72	5	(297)	—	—	800	—
Asset-backed securities:								
Other asset-backed securities	566	5	(11)	(171)	—	—	389	(3)
Total asset-backed securities	566	5	(11)	(171)	—	—	389	(3)
Total available-for-sale debt securities	2,994	89	(18)	(677)	—	(344)	2,044	(4) (6)
Mortgage loans held for sale	998	(27)	—	(36)	72	(10)	997	(22) (7)
Loans held for sale	14	2	—	(36)	80	—	60	1
Loans	376	(1)	—	(131)	—	—	244	(11) (7)
Mortgage servicing rights (residential) (8)	13,625	(915)	—	1,939	—	—	14,649	960 (7)
Net derivative assets and liabilities:								
Interest rate contracts	71	(397)	—	351	—	—	25	(42)
Commodity contracts	19	3	—	(11)	(7)	—	4	(1)
Equity contracts	(511)	(108)	—	522	(1)	81	(17)	(169)
Foreign exchange contracts	7	(42)	—	9	—	—	(26)	(26)
Credit contracts	36	5	—	(6)	—	—	35	(1)
Total derivative contracts	(378)	(539)	—	865	(8)	81	21	(239) (9)
Equity securities:								
Marketable	—	—	—	—	—	—	—	—
Nonmarketable (10)	5,203	703	—	(450)	16	(4)	5,468	642
Total equity securities	5,203	703	—	(450)	16	(4)	5,468	642 (11)
Other liabilities	(3)	1	—	—	—	—	(2)	— (7)

(1) See Table 19.6 for detail.

(2) All assets and liabilities transferred into level 3 were previously classified within level 2.

(3) All assets and liabilities transferred out of level 3 are classified as level 2.

(4) Represents only net gains (losses) that are due to changes in economic conditions and management's estimates of fair value and excludes changes due to the collection/realization of cash flows over time.

(5) Included in net gains (losses) from trading activities in the income statement.

(6) Included in net gains (losses) from debt securities in the income statement.

(7) Included in mortgage banking and other noninterest income in the income statement.

(8) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities)

(9) Included in mortgage banking income, net gains from trading activities and from equity securities, and other noninterest income.

(10) Beginning balance includes \$382 million of auction rate securities, which changed from the cost to fair value method of accounting in connection with our adoption of ASU 2016-01 in first quarter 2018.

(11) Included in net gains (losses) from equity securities in the income statement.



Table 19.6 presents gross purchases, sales, issuances and settlements related to the changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2018.

**Table 19.6: Gross Purchases, Sales, Issuances and Settlements – Level 3 – 2018**

(in millions)	Purchases	Sales	Issuances	Settlements	Net
Year ended December 31, 2018					
Trading debt securities:					
Securities of U.S. states and political subdivisions	\$ —	—	—	—	—
Collateralized loan obligations	408	(348)	—	(161)	(101)
Corporate debt securities	20	(4)	—	—	16
Other trading debt securities	—	—	—	—	—
Total trading debt securities	428	(352)	—	(161)	(85)
Available-for-sale debt securities:					
Securities of U.S. states and political subdivisions	—	(6)	79	(210)	(137)
Mortgage-backed securities:					
Residential	—	—	—	(1)	(1)
Commercial	—	—	—	(33)	(33)
Total mortgage-backed securities	—	—	—	(34)	(34)
Corporate debt securities	33	—	—	(71)	(38)
Collateralized loan and other debt obligations	61	(149)	—	(209)	(297)
Asset-backed securities:					
Other asset-backed securities	25	(12)	166	(350)	(171)
Total asset-backed securities	25	(12)	166	(350)	(171)
Total available-for-sale debt securities	119	(167)	245	(874)	(677)
Mortgage loans held for sale	87	(320)	353	(156)	(36)
Loans held for sale	4	(40)	—	—	(36)
Loans	8	—	17	(156)	(131)
Mortgage servicing rights (residential) (1)	—	(71)	2,010	—	1,939
Net derivative assets and liabilities:					
Interest rate contracts	—	—	—	351	351
Commodity contracts	—	—	—	(11)	(11)
Equity contracts	3	(37)	—	556	522
Foreign exchange contracts	—	—	—	9	9
Credit contracts	12	(7)	—	(11)	(6)
Total derivative contracts	15	(44)	—	894	865
Equity securities:					
Marketable	—	—	—	—	—
Nonmarketable	—	(51)	—	(399)	(450)
Total equity securities	—	(51)	—	(399)	(450)
Other liabilities	—	—	—	—	—

(1) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities).

## Note 19: Fair Values of Assets and Liabilities (continued)

The changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2017, are presented in Table 19.7.

**Table 19.7: Changes in Level 3 Fair Value Assets and Liabilities on a Recurring Basis – 2017**

(in millions)	Balance, beginning of period	Total net gains (losses) included in		Purchases, sales, issuances and settlements, net (1)	Transfers into Level 3 (2)	Transfers out of Level 3 (3)	Balance, end of period	Net unrealized gains (losses) included in income related to assets and liabilities held at period end (4)
		Net income	Other comprehensive income					
Year ended December 31, 2017								
Trading debt securities:								
Securities of U.S. states and political subdivisions	\$ 3	—	—	—	—	—	3	—
Collateralized loan obligations	309	3	—	42	—	—	354	(13)
Corporate debt securities	34	2	—	(7)	6	(4)	31	2
Other trading debt securities	28	(9)	—	—	—	—	19	(4)
Total trading debt securities	374	(4)	—	35	6	(4)	407	(15) (5)
Available-for-sale debt securities:								
Securities of U.S. states and political subdivisions	1,140	4	5	1,105	5	(1,334)	925	—
Mortgage-backed securities:								
Residential	1	—	—	—	—	—	1	—
Commercial	91	(4)	—	(12)	—	—	75	(11)
Total mortgage-backed securities	92	(4)	—	(12)	—	—	76	(11)
Corporate debt securities	432	(1)	23	(47)	—	—	407	—
Collateralized loan and other debt obligations	879	22	103	16	—	—	1,020	—
Asset-backed securities:								
Other asset-backed securities	962	1	3	(400)	—	—	566	—
Total asset-backed securities	962	1	3	(400)	—	—	566	—
Total available-for-sale debt securities	3,505	22	134	662	5	(1,334)	2,994	(11) (6)
Mortgage loans held for sale	985	(36)	—	(75)	134	(10)	998	(34) (7)
Loans held for sale	—	1	—	(3)	34	(18)	14	—
Loans	758	(6)	—	(376)	—	—	376	(12) (7)
Mortgage servicing rights (residential) (8)	12,959	(2,115)	—	2,781	—	—	13,625	(126) (7)
Net derivative assets and liabilities:								
Interest rate contracts	121	604	—	(654)	—	—	71	(52)
Commodity contracts	23	(17)	—	13	2	(2)	19	15
Equity contracts	(267)	(199)	—	(37)	(53)	45	(511)	(259)
Foreign exchange contracts	12	(5)	—	—	—	—	7	6
Credit contracts	77	24	—	(65)	—	—	36	(62)
Other derivative contracts	(47)	27	—	20	—	—	—	—
Total derivative contracts	(81)	434	—	(723)	(51)	43	(378)	(352) (9)
Equity securities:								
Marketable	—	—	—	—	—	—	—	—
Nonmarketable	3,259	1,563	—	(2)	1	—	4,821	1,569
Total equity securities	3,259	1,563	—	(2)	1	—	4,821	1,569 (10)
Short sale liabilities	—	—	—	—	—	—	—	— (5)
Other liabilities	(4)	1	—	—	—	—	(3)	— (7)

(1) See Table 19.8 for detail.

(2) All assets and liabilities transferred into level 3 were previously classified within level 2.

(3) All assets and liabilities transferred out of level 3 are classified as level 2.

(4) Represents only net gains (losses) that are due to changes in economic conditions and management's estimates of fair value and excludes changes due to the collection/realization of cash flows over time.

(5) Included in net gains (losses) from trading activities in the income statement.

(6) Included in net gains (losses) from debt securities in the income statement.

(7) Included in mortgage banking and other noninterest income in the income statement.

(8) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities).

(9) Included in mortgage banking income, net gains from trading activities and from equity securities, and other noninterest income.

(10) Included in net gains (losses) from equity securities in the income statement.

Table 19.8 presents gross purchases, sales, issuances and settlements related to the changes in Level 3 assets and liabilities measured at fair value on a recurring basis for the year ended December 31, 2017.

**Table 19.8: Gross Purchases, Sales, Issuances and Settlements – Level 3 – 2017**

(in millions)	Purchases	Sales	Issuances	Settlements	Net
Year ended December 31, 2017					
Trading debt securities:					
Securities of U.S. states and political subdivisions	\$ 37	(36)	—	(1)	—
Collateralized loan obligations	439	(250)	—	(147)	42
Corporate debt securities	25	(32)	—	—	(7)
Other trading debt securities	—	—	—	—	—
Total trading debt securities	501	(318)	—	(148)	35
Available-for-sale debt securities:					
Securities of U.S. states and political subdivisions	—	(68)	1,369	(196)	1,105
Mortgage-backed securities:					
Residential	—	—	—	—	—
Commercial	—	—	—	(12)	(12)
Total mortgage-backed securities	—	—	—	(12)	(12)
Corporate debt securities	14	(4)	—	(57)	(47)
Collateralized loan and other debt obligations	135	—	—	(119)	16
Asset-backed securities:					
Other asset-backed securities	—	—	211	(611)	(400)
Total asset-backed securities	—	—	211	(611)	(400)
Total available-for-sale debt securities	149	(72)	1,580	(995)	662
Mortgage loans held for sale	79	(485)	489	(158)	(75)
Loans held for sale	—	(2)	—	(1)	(3)
Loans	6	(129)	19	(272)	(376)
Mortgage servicing rights (residential) (1)	541	(24)	2,263	1	2,781
Net derivative assets and liabilities:					
Interest rate contracts	—	—	—	(654)	(654)
Commodity contracts	—	—	—	13	13
Equity contracts	—	(118)	—	81	(37)
Foreign exchange contracts	—	—	—	—	—
Credit contracts	6	(3)	—	(68)	(65)
Other derivative contracts	—	—	—	20	20
Total derivative contracts	6	(121)	—	(608)	(723)
Equity securities:					
Marketable	—	—	—	—	—
Nonmarketable	—	(2)	—	—	(2)
Total equity securities	—	(2)	—	—	(2)
Short sale liabilities	3	(3)	—	—	—
Other liabilities	—	—	—	—	—

(1) For more information on the changes in mortgage servicing rights, see Note 11 (Mortgage Banking Activities).

Table 19.9 and Table 19.10 provide quantitative information about the valuation techniques and significant unobservable inputs used in the valuation of substantially all of our Level 3 assets and liabilities measured at fair value on a recurring basis for which we use an internal model.

The significant unobservable inputs for Level 3 assets and liabilities inherent in the fair values obtained from third-party vendors are not included in the table, as the specific inputs applied are not provided by the vendor (see discussion in the “Level 3 Asset and Liability Valuation Processes” section within this Note regarding vendor-developed valuations).

In addition, the table excludes the valuation techniques and significant unobservable inputs for certain classes of Level 3 assets and liabilities measured using internal models that we consider, both individually and in the aggregate, insignificant relative to our overall Level 3 assets and liabilities. We made this determination based upon an evaluation of each class, which considered the magnitude of the positions, nature of the unobservable inputs and potential for significant changes in fair value due to changes in those inputs.

Weighted averages of inputs are calculated using outstanding unpaid principal balance for cash instruments, such as loans and securities, and notional amounts for derivative instruments.

## Note 19: Fair Values of Assets and Liabilities (continued)

**Table 19.9: Valuation Techniques – Recurring Basis – December 31, 2019**

(\$ in millions, except cost to service amounts)	Fair Value Level 3	Valuation Technique(s)	Significant Unobservable Input	Range of Inputs	Weighted Average
<b>December 31, 2019</b>					
<b>Trading and available-for-sale debt securities:</b>					
<b>Securities of U.S. states and political subdivisions:</b>					
Government, healthcare and other revenue bonds	\$ 379	Discounted cash flow	Discount rate	1.3 - 5.4 %	2.4
	34	Vendor priced			
Collateralized loan and other debt obligations	183	Market comparable pricing	Comparability adjustment	(15.0) - 19.2	1.3
	640	Vendor priced			
Corporate debt securities	220	Discounted cash flow	Discount rate	3.2 - 14.9	9.2
	60	Market comparable pricing	Comparability adjustment	(19.7) - 14	(4.4)
	125	Vendor priced			
<b>Asset-backed securities:</b>					
Diversified payment rights (1)	92	Discounted cash flow	Discount rate	2.3 - 3.1	2.8
Other commercial and consumer	11	Vendor priced			
Mortgage loans held for sale (residential)	1,183	Discounted cash flow	Default rate	0.0 - 15.5	0.7
			Discount rate	3.0 - 5.6	4.5
			Loss severity	0.0 - 43.5	21.7
			Prepayment rate	5.7 - 15.4	7.8
	15	Market comparable pricing	Comparability adjustment	(56.3) - (6.3)	(40.3)
Loans (2)	171	Discounted cash flow	Discount rate	3.9 - 4.3	4.1
			Prepayment rate	6.0 - 100.0	85.6
			Loss severity	0.0 - 36.5	14.1
Mortgage servicing rights (residential)	11,517	Discounted cash flow	Cost to service per loan (3)	\$ 61 - 495	102
			Discount rate	6.0 - 13.6 %	7.2
			Prepayment rate (4)	9.6 - 24.4	11.9
<b>Net derivative assets and (liabilities):</b>					
Interest rate contracts	146	Discounted cash flow	Default rate	0.0 - 5.0	1.7
			Loss severity	50.0 - 50.0	50.0
			Prepayment rate	2.8 - 25.0	15.0
Interest rate contracts: derivative loan commitments	68	Discounted cash flow	Fall-out factor	1.0 - 99.0	16.7
			Initial-value servicing	(32.2) - 149.0 bps	36.4
Equity contracts	147	Discounted cash flow	Conversion factor	(8.8) - 0.0 %	(7.7)
			Weighted average life	0.5 - 3.0 yrs	1.5
	(416)	Option model	Correlation factor	(77.0) - 99.0 %	23.8
			Volatility factor	6.8 - 100.0	18.7
Credit contracts	2	Market comparable pricing	Comparability adjustment	(56.1) - 10.8	(16.0)
	27	Option model	Credit spread	0.0 - 17.8	0.8
			Loss severity	12.0 - 60.0	45.6
Nonmarketable equity securities	7,847	Market comparable pricing	Comparability adjustment	(20.2) - (4.2)	(14.6)
<b>Insignificant Level 3 assets, net of liabilities</b>					
	27				
<b>Total level 3 assets, net of liabilities</b>	<b>\$ 22,478 (5)</b>				

(1) Securities backed by specified sources of current and future receivables generated from non-U.S. originators.

(2) Consists of reverse mortgage loans.

(3) The high end of the range of inputs is for servicing modified loans. For non-modified loans the range is \$61 - \$231.

(4) Includes a blend of prepayment speeds and expected defaults. Prepayment speeds are influenced by mortgage interest rates as well as our estimation of drivers of borrower behavior.

(5) Consists of total Level 3 assets of \$24.3 billion and total Level 3 liabilities of \$1.8 billion, before netting of derivative balances.

**Table 19.10: Valuation Techniques – Recurring Basis – December 31, 2018**

(\$ in millions, except cost to service amounts)	Fair Value Level 3	Valuation Technique(s)	Significant Unobservable Input	Range of Inputs	Weighted Average
December 31, 2018					
Trading and available-for-sale debt securities:					
Securities of U.S. states and political subdivisions:					
Government, healthcare and other revenue bonds	\$ 404	Discounted cash flow	Discount rate	2.1 - 6.4 %	3.4
	43	Vendor priced			
Collateralized loan and other debt obligations	298	Market comparable pricing	Comparability adjustment	(13.5) - 22.1 %	3.2
	739	Vendor priced			
Corporate debt securities	220	Discounted cash flow	Discount rate	4.0 - 11.7	8.5
	56	Market comparable pricing	Comparability adjustment	(11.3) - 16.6	(1.4)
	128	Vendor priced			
Asset-backed securities:					
Diversified payment rights (1)	171	Discounted cash flow	Discount rate	3.4 - 6.2	4.4
Other commercial and consumer	198 (2)	Discounted cash flow	Discount rate	4.6 - 5.2	4.7
			Weighted average life	1.1 - 1.5 yrs	1.1
	20	Vendor priced			
Mortgage loans held for sale (residential)	982	Discounted cash flow	Default rate	0.0 - 15.6 %	0.8
			Discount rate	1.1 - 6.6	5.5
			Loss severity	0.0 - 43.3	23.4
			Prepayment rate	3.2 - 13.4	4.6
	15	Market comparable pricing	Comparability adjustment	(56.3) - (6.3)	(36.3)
Loans (3)	244	Discounted cash flow	Discount rate	3.4 - 6.4	4.2
			Prepayment rate	2.9 - 100.0	87.2
			Loss severity	0.0 - 34.8	10.2
Mortgage servicing rights (residential)	14,649	Discounted cash flow	Cost to service per loan (4)	\$ 62 - 507	106
			Discount rate	7.1 - 15.3 %	8.1
			Prepayment rate (5)	9.0 - 23.5	9.9
Net derivative assets and (liabilities):					
Interest rate contracts	(35)	Discounted cash flow	Default rate	0.0 - 5.0	2.0
			Loss severity	50.0 - 50.0	50.0
			Prepayment rate	2.8 - 25.0	13.8
Interest rate contracts: derivative loan commitments	60	Discounted cash flow	Fall-out factor	1.0 - 99.0	19.4
			Initial-value servicing	(36.6) - 91.7 bps	18.5
Equity contracts	104	Discounted cash flow	Conversion factor	(9.3) - 0.0 %	(7.8)
			Weighted average life	1.0 - 3.0 yrs	1.8
	(121)	Option model	Correlation factor	(77.0) - 99.0 %	21.6
			Volatility factor	6.5 - 100.0	21.8
Credit contracts	3	Market comparable pricing	Comparability adjustment	(15.5) - 40.0	3.5
	32	Option model	Credit spread	0.9 - 21.5	1.3
			Loss severity	13.0 - 60.0	45.2
Nonmarketable equity securities	5,468	Market comparable pricing	Comparability adjustment	(20.6) - (4.3)	(15.8)
Insignificant Level 3 assets, net of liabilities	93				
Total level 3 assets, net of liabilities	\$ 23,771 (6)				

(1) Securities backed by specified sources of current and future receivables generated from non-U.S. originators.

(2) Predominantly consists of investments in asset-backed securities that are revolving in nature, for which the timing of advances and repayments of principal are uncertain.

(3) Consists of reverse mortgage loans.

(4) The high end of the range of inputs is for servicing modified loans. For non-modified loans the range is \$62 - \$204.

(5) Includes a blend of prepayment speeds and expected defaults. Prepayment speeds are influenced by mortgage interest rates as well as our estimation of drivers of borrower behavior.

(6) Consists of total Level 3 assets of \$25.3 billion and total Level 3 liabilities of \$1.6 billion, before netting of derivative balances.

## Note 19: Fair Values of Assets and Liabilities (continued)

The valuation techniques used for our Level 3 assets and liabilities, as presented in the previous tables, are described as follows:

- Discounted cash flow – Discounted cash flow valuation techniques generally consist of developing an estimate of future cash flows that are expected to occur over the life of an instrument and then discounting those cash flows at a rate of return that results in the fair value amount.
- Market comparable pricing – Market comparable pricing valuation techniques are used to determine the fair value of certain instruments by incorporating known inputs, such as recent transaction prices, pending transactions, or prices of other similar investments that require significant adjustment to reflect differences in instrument characteristics.
- Option model – Option model valuation techniques are generally used for instruments in which the holder has a contingent right or obligation based on the occurrence of a future event, such as the price of a referenced asset going above or below a predetermined strike price. Option models estimate the likelihood of the specified event occurring by incorporating assumptions such as volatility estimates, price of the underlying instrument and expected rate of return.
- Vendor-priced – Prices obtained from third-party pricing vendors or brokers that are used to record the fair value of the asset or liability for which the related valuation technique and significant unobservable inputs are not provided.

Significant unobservable inputs presented in the previous tables are those we consider significant to the fair value of the Level 3 asset or liability. We consider unobservable inputs to be significant if by their exclusion the fair value of the Level 3 asset or liability would be impacted by a predetermined percentage change. We also consider qualitative factors, such as nature of the instrument, type of valuation technique used, and the significance of the unobservable inputs relative to other inputs used within the valuation. Following is a description of the significant unobservable inputs provided in the table.

- Comparability adjustment – is an adjustment made to observed market data, such as a transaction price in order to reflect dissimilarities in underlying collateral, issuer, rating, or other factors used within a market valuation approach, expressed as a percentage of an observed price.
- Conversion Factor – is the risk-adjusted rate in which a particular instrument may be exchanged for another instrument upon settlement, expressed as a percentage change from a specified rate.
- Correlation factor – is the likelihood of one instrument changing in price relative to another based on an established relationship expressed as a percentage of relative change in price over a period over time.

- Cost to service – is the expected cost per loan of servicing a portfolio of loans, which includes estimates for unreimbursed expenses (including delinquency and foreclosure costs) that may occur as a result of servicing such loan portfolios.
- Credit spread – is the portion of the interest rate in excess of a benchmark interest rate, such as Overnight Index Swap (OIS), LIBOR or U.S. Treasury rates, that when applied to an investment captures changes in the obligor's creditworthiness.
- Default rate – is an estimate of the likelihood of not collecting contractual amounts owed expressed as a constant default rate (CDR).
- Discount rate – is a rate of return used to calculate the present value of the future expected cash flow to arrive at the fair value of an instrument. The discount rate consists of a benchmark rate component and a risk premium component. The benchmark rate component, for example, OIS, LIBOR or U.S. Treasury rates, is generally observable within the market and is necessary to appropriately reflect the time value of money. The risk premium component reflects the amount of compensation market participants require due to the uncertainty inherent in the instruments' cash flows resulting from risks such as credit and liquidity.
- Fall-out factor – is the expected percentage of loans associated with our interest rate lock commitment portfolio that are likely of not funding.
- Initial-value servicing – is the estimated value of the underlying loan, including the value attributable to the embedded servicing right, expressed in basis points of outstanding unpaid principal balance.
- Loss severity – is the estimated percentage of contractual cash flows lost in the event of a default.
- Prepayment rate – is the estimated rate at which forecasted prepayments of principal of the related loan or debt instrument are expected to occur, expressed as a constant prepayment rate (CPR).
- Volatility factor – is the extent of change in price an item is estimated to fluctuate over a specified period of time expressed as a percentage of relative change in price over a period over time.
- Weighted average life – is the weighted average number of years an investment is expected to remain outstanding based on its expected cash flows reflecting the estimated date the issuer will call or extend the maturity of the instrument or otherwise reflecting an estimate of the timing of an instrument's cash flows whose timing is not contractually fixed.

### **Significant Recurring Level 3 Fair Value Asset and Liability Input Sensitivity**

We generally use discounted cash flow or similar internal modeling techniques to determine the fair value of our Level 3 assets and liabilities. Use of these techniques requires determination of relevant inputs and assumptions, some of which represent significant unobservable inputs as indicated in the preceding tables. Accordingly, changes in these unobservable inputs may have a significant impact on fair value.

Certain of these unobservable inputs will (in isolation) have a directionally consistent impact on the fair value of the instrument for a given change in that input. Alternatively, the fair value of the instrument may move in an opposite direction for a given change in another input. Where multiple inputs are used within the valuation technique of an asset or liability, a change in one input in a certain direction may be offset by an opposite change in another input having a potentially muted impact to the overall fair value of that particular instrument. Additionally, a change in one unobservable input may result in a change to another unobservable input (that is, changes in certain inputs are interrelated to one another), which may counteract or magnify the fair value impact.

**SECURITIES, LOANS, MORTGAGE LOANS HELD FOR SALE and NONMARKETABLE EQUITY INVESTMENTS** The fair values of predominantly all Level 3 trading securities, MLHFS, loans, other nonmarketable equity investments, and AFS securities have consistent inputs, valuation techniques and correlation to changes in underlying inputs. The internal models used to determine fair value for these Level 3 instruments use certain significant unobservable inputs within a discounted cash flow or market comparable pricing valuation technique. Such inputs include discount rate, prepayment rate, default rate, loss severity, comparability adjustment and weighted average life.

These Level 3 assets would decrease (increase) in value based upon an increase (decrease) in discount rate, default rate, loss severity, or weighted average life inputs and would generally decrease (increase) in value based upon an increase (decrease) in prepayment rate. Generally, a change in the assumption used for default rate is accompanied by a directionally similar change in the risk premium component of the discount rate (specifically, the portion related to credit risk) and a directionally opposite change in the assumption used for prepayment rates. The comparability adjustment input may have a positive or negative impact on fair value depending on the change in fair value the comparability adjustment references. Unobservable inputs for comparability adjustment, loss severity, and weighted average life do not increase or decrease based on movements in the other significant unobservable inputs for these Level 3 assets.

**DERIVATIVE INSTRUMENTS** Level 3 derivative instruments are valued using market comparable pricing, option pricing and discounted cash flow valuation techniques. We utilize certain unobservable inputs within these techniques to determine the fair value of the Level 3 derivative instruments. The significant unobservable inputs consist of credit spread, a comparability adjustment, prepayment rate, default rate, loss severity, initial-value servicing, fall-out factor, volatility factor, weighted average life, conversion factor, and correlation factor.

Level 3 derivative assets (liabilities) where we are long the underlying would decrease (increase) in value upon an increase (decrease) in default rate, fall-out factor, credit spread, conversion factor, or loss severity inputs. Conversely, Level 3 derivative assets (liabilities) would generally increase (decrease) in value upon an increase (decrease) in prepayment rate, initial-value servicing, weighted average life, or volatility factor inputs. The inverse of the above relationships would occur for instruments in which we are short the underlying. The correlation factor and comparability adjustment inputs may have a positive or negative impact on the fair value of these derivative instruments depending on the change in value of the item the correlation factor and comparability adjustment is referencing. The correlation factor and comparability adjustment are considered independent from movements in other significant unobservable inputs for derivative instruments.

Generally, for derivative instruments for which we are subject to changes in the value of the underlying referenced instrument, a change in the assumption used for default rate is accompanied by directionally similar change in the risk premium component of the discount rate (specifically, the portion related to credit risk) and a directionally opposite change in the assumption used for prepayment rates. Unobservable inputs for loss severity, fall-out factor, initial-value servicing, weighted average life, conversion factor, and volatility do not increase or decrease based on movements in other significant unobservable inputs for these Level 3 instruments.

**MORTGAGE SERVICING RIGHTS** We use a discounted cash flow valuation technique to determine the fair value of Level 3 MSR. These models utilize certain significant unobservable inputs including prepayment rate, discount rate and costs to service. An increase in any of these unobservable inputs will reduce the fair value of the MSR and alternatively, a decrease in any one of these inputs would result in the MSR increasing in value. Generally, a change in the assumption used for the default rate is accompanied by a directionally similar change in the assumption used for cost to service and a directionally opposite change in the assumption used for prepayment. The sensitivity of our residential MSR is discussed further in Note 10 (Securitizations and Variable Interest Entities).

**Note 19: Fair Values of Assets and Liabilities (continued)****Assets and Liabilities Recorded at Fair Value on a Nonrecurring Basis**

We may be required, from time to time, to measure certain assets at fair value on a nonrecurring basis in accordance with GAAP. These adjustments to fair value usually result from application of LOCOM accounting, write-downs of individual assets or use of the measurement alternative for nonmarketable equity securities.

Table 19.11 provides the fair value hierarchy and fair value at the date of the nonrecurring fair value adjustment for all assets

that were still held as of December 31, 2019 and 2018, and for which a nonrecurring fair value adjustment was recorded during the years then ended.

Table 19.12 presents the increase (decrease) in value of certain assets held at the end of the respective reporting periods presented for which a nonrecurring fair value adjustment was recognized during the periods presented.

**Table 19.11: Fair Value on a Nonrecurring Basis**

(in millions)	December 31, 2019				December 31, 2018			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
Mortgage loans held for sale (1)	\$ —	2,034	3,803	5,837	—	1,213	1,233	2,446
Loans held for sale	—	5	—	5	—	313	—	313
Loans:								
Commercial	—	280	—	280	—	339	—	339
Consumer	—	213	1	214	—	346	1	347
Total loans	—	493	1	494	—	685	1	686
Nonmarketable equity securities	—	1,308	173	1,481	—	774	157	931
Other assets	—	359	27	386	—	149	6	155
Total assets at fair value on a nonrecurring basis	\$ —	4,199	4,004	8,203	—	3,134	1,397	4,531

(1) Consists of commercial mortgages and residential real estate 1-4 family first mortgage loans.

Premises and equipment includes the full impairment of certain capitalized software projects. Other assets includes impairments of operating lease ROU assets, as well as valuation losses on foreclosed real estate and other collateral owned.

**Table 19.12: Change in Value of Assets with Nonrecurring Fair Value Adjustment**

(in millions)	Year ended December 31,	
	2019	2018
Mortgage loans held for sale	\$ 11	21
Loans held for sale	—	(39)
Loans:		
Commercial	(291)	(221)
Consumer	(207)	(284)
Total loans	(498)	(505)
Nonmarketable equity securities	322	265
Premises and equipment	(170)	—
Other assets	(84)	(40)
Total	\$ (419)	(298)



Table 19.13 provides quantitative information about the valuation techniques and significant unobservable inputs used in the valuation of substantially all of our Level 3 assets that are measured at fair value on a nonrecurring basis using an internal model. The table is limited to financial instruments that had nonrecurring fair value adjustments during the periods presented.

We have excluded from the table valuation techniques and significant unobservable inputs for certain classes of Level 3

assets we consider both individually and in the aggregate, insignificant relative to our overall Level 3 nonrecurring measurements. We made this determination based upon an evaluation of each class that considered the magnitude of the positions, nature of the unobservable inputs and potential for significant changes in fair value due to changes in those inputs.

**Table 19.13: Valuation Techniques – Nonrecurring Basis**

(\$ in millions)	Fair Value Level 3	Valuation Technique(s) (1)	Significant Unobservable Inputs (1)	Range of inputs	Weighted Average (2)
<b>December 31, 2019</b>					
<b>Residential mortgage loans held for sale</b>	<b>\$ 3,803 (3)</b>	<b>Discounted cash flow</b>	<b>Default rate (4)</b>	<b>0.3 – 48.3%</b>	<b>4.6%</b>
			<b>Discount rate</b>	<b>1.5 – 9.4</b>	<b>4.3</b>
			<b>Loss severity</b>	<b>0.4 – 100.0</b>	<b>23.4</b>
			<b>Prepayment rate (5)</b>	<b>4.8 – 100.0</b>	<b>23.2</b>
<b>Insignificant Level 3 assets</b>	<b>201</b>				
<b>Total</b>	<b>\$ 4,004</b>				
<b>December 31, 2018</b>					
<b>Residential mortgage loans held for sale</b>	<b>\$ 1,233 (3)</b>	<b>Discounted cash flow</b>	<b>Default rate (4)</b>	<b>0.2 – 2.3%</b>	<b>1.4%</b>
			<b>Discount rate</b>	<b>1.5 – 8.5</b>	<b>4.0</b>
			<b>Loss severity</b>	<b>0.5 – 66.0</b>	<b>1.7</b>
			<b>Prepayment rate (5)</b>	<b>3.5 – 100.0</b>	<b>46.5</b>
<b>Insignificant Level 3 assets</b>	<b>164</b>				
<b>Total</b>	<b>\$ 1,397</b>				

(1) Refer to the narrative following Table 19.10 for a definition of the valuation technique(s) and significant unobservable inputs.

(2) For residential MLHFS, weighted averages are calculated using the outstanding unpaid principal balance of the loans.

(3) Consists of approximately \$1.3 billion and \$1.2 billion of government insured/guaranteed loans purchased from GNMA-guaranteed mortgage securitizations at December 31, 2019 and 2018, respectively, and \$2.5 billion and \$27 million, respectively, of other mortgage loans that are not government insured/guaranteed.

(4) Applies only to non-government insured/guaranteed loans.

(5) Includes the impact on prepayment rate of expected defaults for government insured/guaranteed loans, which impact the frequency and timing of early resolution of loans.

## Fair Value Option

The fair value option is an irrevocable election, generally only permitted upon initial recognition of financial assets or liabilities, to measure eligible financial instruments at fair value with changes in fair value reflected in earnings. We may elect the fair value option to align the measurement model with how the financial assets or liabilities are managed or to reduce complexity or accounting asymmetry. Following is a discussion of the portfolios for which we elected the fair value option.

**MORTGAGE LOANS HELD FOR SALE (MLHFS)** MLHFS measured at fair value include residential mortgage loan originations for which an active secondary market and readily available market prices exist to reliably support our valuations. Loan origination fees on these loans are recorded when earned, and related direct loan origination costs are recognized when incurred. We believe fair value measurement for MLHFS, which we economically hedge with derivatives along with our MSRs measured at fair value, reduces certain timing differences and better matches changes in the value of these assets with changes in the value of derivatives used as economic hedges for these assets.

**LOANS HELD FOR SALE (LHFS)** We purchase loans for market-making purposes to support the buying and selling demands of our customers. These loans are generally held for a short period of time and managed within parameters of internally approved market risk limits. Fair value measurement best aligns with our risk management practices. Fair value for these loans is generally determined using readily available market data based on recent transaction prices for similar loans.

**LOANS** Loans measured at fair value consist of reverse mortgage loans previously transferred under a GNMA reverse mortgage securitization program accounted for as a secured borrowing. Before the transfer, they were classified as MLHFS measured at fair value and, as such, continue to be subject to the fair value option.

## Note 19: Fair Values of Assets and Liabilities (continued)

Table 19.14 reflects differences between the fair value carrying amount of the assets for which we have elected the fair

value option and the contractual aggregate unpaid principal amount at maturity.

**Table 19.14: Fair Value Option**

(in millions)	December 31, 2019			December 31, 2018		
	Fair value carrying amount	Aggregate unpaid principal	Fair value carrying amount less aggregate unpaid principal	Fair value carrying amount	Aggregate unpaid principal	Fair value carrying amount less aggregate unpaid principal
<b>Mortgage loans held for sale:</b>						
Total loans	\$ 16,606	16,279	327	11,771	11,573	198
Nonaccrual loans	133	157	(24)	127	158	(31)
Loans 90 days or more past due and still accruing	8	10	(2)	7	9	(2)
<b>Loans held for sale:</b>						
Total loans	972	1,020	(48)	1,469	1,536	(67)
Nonaccrual loans	21	29	(8)	21	32	(11)
<b>Loans:</b>						
Total loans	171	201	(30)	244	274	(30)
Nonaccrual loans	129	159	(30)	179	208	(29)

The changes in fair value related to initial measurement and subsequent changes in fair value included in earnings for these assets measured at fair value are shown in Table 19.15 by income

statement line item. Amounts recorded as interest income are excluded from Table 19.15.

**Table 19.15: Fair Value Option – Changes in Fair Value Included in Earnings**

(in millions)	2019			2018			Year ended December 31, 2017		
	Mortgage banking noninterest income	Net gains (losses) from trading activities	Other noninterest income	Mortgage banking noninterest income	Net gains (losses) from trading activities	Other noninterest income	Mortgage banking noninterest income	Net gains (losses) from trading activities	Other noninterest income
Mortgage loans held for sale	\$ 1,064	—	—	462	—	—	1,229	—	—
Loans held for sale	—	11	2	—	(1)	1	—	45	2
Loans	—	—	—	—	—	(1)	—	—	—

For performing loans, instrument-specific credit risk gains or losses were derived principally by determining the change in fair value of the loans due to changes in the observable or implied credit spread. Credit spread is the market yield on the loans less the relevant risk-free benchmark interest rate. For nonperforming loans, we attribute all changes in fair value to instrument-specific credit risk. Table 19.16 shows the estimated gains and losses from earnings attributable to instrument-specific credit risk related to assets accounted for under the fair value option.

**Table 19.16: Fair Value Option – Gains/Losses Attributable to Instrument-Specific Credit Risk**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Gains (losses) attributable to instrument-specific credit risk:</b>			
Mortgage loans held for sale	\$ 2	(16)	(12)
Loans held for sale	13	—	45
Total	\$ 15	(16)	33

## Disclosures about Fair Value of Financial Instruments

Table 19.17 presents a summary of fair value estimates for financial instruments that are not carried at fair value on a recurring basis. Some financial instruments are excluded from the scope of this table, such as certain insurance contracts and leases. This table also excludes assets and liabilities that are not financial instruments such as the value of the long-term relationships with our deposit, credit card and trust customers, MSRs, premises and equipment, goodwill and deferred taxes.

Loan commitments, standby letters of credit and commercial and similar letters of credit are not included in Table 19.17. A reasonable estimate of the fair value of these instruments is the carrying value of deferred fees plus the allowance for unfunded credit commitments, which totaled \$1.0 billion at both December 31, 2019 and 2018.

The total of the fair value calculations presented does not represent, and should not be construed to represent, the underlying fair value of the Company.

**Table 19.17: Fair Value Estimates for Financial Instruments**

(in millions)	Carrying amount	Estimated fair value			
		Level 1	Level 2	Level 3	Total
<b>December 31, 2019</b>					
<b>Financial assets</b>					
Cash and due from banks (1)	\$ 21,757	21,757	—	—	21,757
Interest-earning deposits with banks (1)	119,493	119,257	236	—	119,493
Federal funds sold and securities purchased under resale agreements (1)	102,140	—	102,140	—	102,140
Held-to-maturity debt securities	153,933	46,138	109,933	789	156,860
Mortgage loans held for sale	6,736	—	2,939	4,721	7,660
Loans held for sale	5	—	5	—	5
Loans, net (2)	933,042	—	54,125	891,714	945,839
Nonmarketable equity securities (cost method)	4,790	—	—	4,823	4,823
<b>Total financial assets</b>	<b>\$ 1,341,896</b>	<b>187,152</b>	<b>269,378</b>	<b>902,047</b>	<b>1,358,577</b>
<b>Financial liabilities</b>					
Deposits (3)	\$ 118,849	—	87,279	31,858	119,137
Short-term borrowings	104,512	—	104,513	—	104,513
Long-term debt (4)	228,159	—	231,332	1,720	233,052
<b>Total financial liabilities</b>	<b>\$ 451,520</b>	<b>—</b>	<b>423,124</b>	<b>33,578</b>	<b>456,702</b>
<b>December 31, 2018</b>					
<b>Financial assets</b>					
Cash and due from banks (1)	\$ 23,551	23,551	—	—	23,551
Interest-earning deposits with banks (1)	149,736	149,542	194	—	149,736
Federal funds sold and securities purchased under resale agreements (1)	80,207	—	80,207	—	80,207
Held-to-maturity debt securities	144,788	44,339	97,275	501	142,115
Mortgage loans held for sale	3,355	—	2,129	1,233	3,362
Loans held for sale	572	—	572	—	572
Loans, net (2)	923,703	—	45,190	872,725	917,915
Nonmarketable equity securities (cost method)	5,643	—	—	5,675	5,675
<b>Total financial assets</b>	<b>\$ 1,331,555</b>	<b>217,432</b>	<b>225,567</b>	<b>880,134</b>	<b>1,323,133</b>
<b>Financial liabilities</b>					
Deposits (3)	\$ 130,645	—	107,448	22,641	130,089
Short-term borrowings	105,787	—	105,789	—	105,789
Long-term debt (4)	229,008	—	225,904	2,230	228,134
<b>Total financial liabilities</b>	<b>\$ 465,440</b>	<b>—</b>	<b>439,141</b>	<b>24,871</b>	<b>464,012</b>

(1) Amounts consist of financial instruments for which carrying value approximates fair value.

(2) Excludes lease financing with a carrying amount of \$19.5 billion and \$19.7 billion at December 31, 2019 and 2018, respectively.

(3) Excludes deposit liabilities with no defined or contractual maturity of \$1.2 trillion at both December 31, 2019 and 2018.

(4) Excludes capital lease obligations under capital leases of \$32 million and \$36 million at December 31, 2019 and 2018, respectively.

## Note 20: Preferred Stock

We are authorized to issue 20 million shares of preferred stock and 4 million shares of preference stock, both without par value. Preferred shares outstanding rank senior to common shares both as to dividends and liquidation preference but have no general voting rights. We have not issued any preference shares under this authorization. If issued, preference shares would be limited to one vote per share. Our total authorized, issued and outstanding preferred stock is presented in the following two

tables along with the Employee Stock Ownership Plan (ESOP) Cumulative Convertible Preferred Stock.

In January 2020, we issued \$2.0 billion of our Preferred Stock, Series Z. On February 12, 2020, the Company announced a redemption of the remaining outstanding shares of our Preferred Stock, Series K, and a partial redemption of 26,720 outstanding shares of our Preferred Stock, Series T. The redemptions will occur on March 16, 2020.

**Table 20.1: Preferred Stock Shares**

	December 31, 2019		December 31, 2018	
	Liquidation preference per share	Shares authorized and designated	Liquidation preference per share	Shares authorized and designated
<b>DEP Shares</b>				
Dividend Equalization Preferred Shares (DEP)	\$ 10	97,000	\$ 10	97,000
<b>Series I</b>				
Floating Class A Preferred Stock (1)	100,000	25,010	100,000	25,010
<b>Series K</b>				
Floating Non-Cumulative Perpetual Class A Preferred Stock (2)(3)	1,000	3,500,000	1,000	3,500,000
<b>Series L</b>				
7.50% Non-Cumulative Perpetual Convertible Class A Preferred Stock (4)	1,000	4,025,000	1,000	4,025,000
<b>Series N</b>				
5.20% Non-Cumulative Perpetual Class A Preferred Stock	25,000	30,000	25,000	30,000
<b>Series O</b>				
5.125% Non-Cumulative Perpetual Class A Preferred Stock	25,000	27,600	25,000	27,600
<b>Series P</b>				
5.25% Non-Cumulative Perpetual Class A Preferred Stock	25,000	26,400	25,000	26,400
<b>Series Q</b>				
5.85% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	25,000	69,000	25,000	69,000
<b>Series R</b>				
6.625% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	25,000	34,500	25,000	34,500
<b>Series S</b>				
5.90% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	25,000	80,000	25,000	80,000
<b>Series T</b>				
6.00% Non-Cumulative Perpetual Class A Preferred Stock	25,000	32,200	25,000	32,200
<b>Series U</b>				
5.875% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	25,000	80,000	25,000	80,000
<b>Series V</b>				
6.00% Non-Cumulative Perpetual Class A Preferred Stock	25,000	40,000	25,000	40,000
<b>Series W</b>				
5.70% Non-Cumulative Perpetual Class A Preferred Stock	25,000	40,000	25,000	40,000
<b>Series X</b>				
5.50% Non-Cumulative Perpetual Class A Preferred Stock	25,000	46,000	25,000	46,000
<b>Series Y</b>				
5.625% Non-Cumulative Perpetual Class A Preferred Stock	25,000	27,600	25,000	27,600
<b>ESOP</b>				
Cumulative Convertible Preferred Stock (5)	—	1,071,418	—	1,406,460
<b>Total</b>		<b>9,251,728</b>		<b>9,586,770</b>

- (1) Series I preferred stock issuance relates to trust preferred securities. See Note 10 (Securitizations and Variable Interest Entities) for additional information. This issuance has a floating interest rate that is the greater of three-month LIBOR plus 0.93% and 5.56975%.
- (2) Floating rate for Preferred Stock, Series K, is three-month LIBOR plus 3.77%.
- (3) In third quarter 2019, 1,550,000 shares of Preferred Stock, Series K, were redeemed.
- (4) Preferred Stock, Series L, may be converted at any time, at the option of the holder, into 6.3814 shares of our common stock, plus cash in lieu of fractional shares, subject to anti-dilution adjustments.
- (5) See the ESOP Cumulative Convertible Preferred Stock section in this Note for additional information about the liquidation preference for the ESOP Cumulative Convertible Preferred Stock.

**Table 20.2: Preferred Stock – Shares Issued and Carrying Value**

(in millions, except shares)	December 31, 2019				December 31, 2018			
	Shares issued and outstanding	Liquidation preference value	Carrying value	Discount	Shares issued and outstanding	Liquidation preference value	Carrying value	Discount
<b>DEP Shares</b>								
Dividend Equalization Preferred Shares (DEP)	96,546	\$ —	—	—	96,546	\$ —	—	—
<b>Series I (1)(2)</b>								
Floating Class A Preferred Stock	25,010	2,501	2,501	—	25,010	2,501	2,501	—
<b>Series K (1)(3)(4)</b>								
Floating Non-Cumulative Perpetual Class A Preferred Stock	1,802,000	1,802	1,546	256	3,352,000	3,352	2,876	476
<b>Series L (1)(5)</b>								
7.50% Non-Cumulative Perpetual Convertible Class A Preferred Stock	3,967,995	3,968	3,200	768	3,968,000	3,968	3,200	768
<b>Series N (1)</b>								
5.20% Non-Cumulative Perpetual Class A Preferred Stock	30,000	750	750	—	30,000	750	750	—
<b>Series O (1)</b>								
5.125% Non-Cumulative Perpetual Class A Preferred Stock	26,000	650	650	—	26,000	650	650	—
<b>Series P (1)</b>								
5.25% Non-Cumulative Perpetual Class A Preferred Stock	25,000	625	625	—	25,000	625	625	—
<b>Series Q (1)</b>								
5.85% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	69,000	1,725	1,725	—	69,000	1,725	1,725	—
<b>Series R (1)</b>								
6.625% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	33,600	840	840	—	33,600	840	840	—
<b>Series S (1)</b>								
5.90% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	80,000	2,000	2,000	—	80,000	2,000	2,000	—
<b>Series T (1)</b>								
6.00% Non-Cumulative Perpetual Class A Preferred Stock	32,000	800	800	—	32,000	800	800	—
<b>Series U (1)</b>								
5.875% Fixed-to-Floating Non-Cumulative Perpetual Class A Preferred Stock	80,000	2,000	2,000	—	80,000	2,000	2,000	—
<b>Series V (1)</b>								
6.00% Non-Cumulative Perpetual Class A Preferred Stock	40,000	1,000	1,000	—	40,000	1,000	1,000	—
<b>Series W (1)</b>								
5.70% Non-Cumulative Perpetual Class A Preferred Stock	40,000	1,000	1,000	—	40,000	1,000	1,000	—
<b>Series X (1)</b>								
5.50% Non-Cumulative Perpetual Class A Preferred Stock	46,000	1,150	1,150	—	46,000	1,150	1,150	—
<b>Series Y (1)</b>								
5.625% Non-Cumulative Perpetual Class A Preferred Stock	27,600	690	690	—	27,600	690	690	—
<b>ESOP</b>								
Cumulative Convertible Preferred Stock	1,071,418	1,072	1,072	—	1,406,460	1,407	1,407	—
<b>Total</b>	<b>7,492,169</b>	<b>\$ 22,573</b>	<b>21,549</b>	<b>1,024</b>	<b>9,377,216</b>	<b>\$ 24,458</b>	<b>23,214</b>	<b>1,244</b>

(1) Preferred shares qualify as Tier 1 capital.

(2) Floating rate for Preferred Stock, Series I, is the greater of three-month LIBOR plus 0.93% and 5.56975%.

(3) Floating rate for Preferred Stock, Series K, is three-month LIBOR plus 3.77%.

(4) In third quarter 2019, 1,550,000 shares of Preferred Stock, Series K, were redeemed.

(5) Preferred Stock, Series L, may be converted at any time, at the option of the holder, into 6.3814 shares of our common stock, plus cash in lieu of fractional shares, subject to anti-dilution adjustments.

**Note 20: Preferred Stock (continued)**

**ESOP CUMULATIVE CONVERTIBLE PREFERRED STOCK** All shares of our ESOP Cumulative Convertible Preferred Stock (ESOP Preferred Stock) were issued to a trustee acting on behalf of the Wells Fargo & Company 401(k) Plan (the 401(k) Plan). Dividends on the ESOP Preferred Stock are cumulative from the date of initial issuance and are payable quarterly at annual rates based upon the year of issuance. Each share of ESOP Preferred Stock released from the unallocated reserve of the 401(k) Plan is converted into shares of our common stock based on the stated

value of the ESOP Preferred Stock and the then current market price of our common stock. The ESOP Preferred Stock is also convertible at the option of the holder at any time, unless previously redeemed. We have the option to redeem the ESOP Preferred Stock at any time, in whole or in part, at a redemption price per share equal to the higher of (a) \$1,000 per share plus accrued and unpaid dividends or (b) the fair market value, as defined in the Certificates of Designation for the ESOP Preferred Stock.

**Table 20.3: ESOP Preferred Stock**

	Shares issued and outstanding		Carrying value		Adjustable dividend rate	
	Dec 31, 2019	Dec 31, 2018	Dec 31, 2019	Dec 31, 2018	Minimum	Maximum
(in millions, except shares)						
<b>ESOP Preferred Stock</b>						
<b>\$1,000 liquidation preference per share</b>						
2018	254,945	336,945	\$ 255	337	7.00%	8.00%
2017	192,210	222,210	192	222	7.00	8.00
2016	197,450	233,835	198	234	9.30	10.30
2015	116,784	144,338	117	144	8.90	9.90
2014	136,151	174,151	136	174	8.70	9.70
2013	97,948	133,948	98	134	8.50	9.50
2012	49,134	77,634	49	78	10.00	11.00
2011	26,796	61,796	27	62	9.00	10.00
2010 (1)	—	21,603	—	22	9.50	10.50
Total ESOP Preferred Stock (2)	1,071,418	1,406,460	\$ 1,072	1,407		
Unearned ESOP shares (3)			\$ (1,143)	(1,502)		

(1) In April 2019, all of the 2010 ESOP Preferred Stock was converted into common stock.

(2) At December 31, 2019 and 2018, additional paid-in capital included \$71 million and \$95 million, respectively, related to ESOP preferred stock.

(3) We recorded a corresponding charge to unearned ESOP shares in connection with the issuance of the ESOP Preferred Stock. The unearned ESOP shares are reduced as shares of the ESOP Preferred Stock are committed to be released.

## Note 21: Common Stock and Stock Plans

### Common Stock

Table 21.1 presents our reserved, issued and authorized shares of common stock at December 31, 2019.

**Table 21.1: Common Stock Shares**

	Number of shares
Dividend reinvestment and common stock purchase plans	6,774,855
Director plans	375,293
Stock plans (1)	488,214,122
Convertible securities and warrants	65,835,437
<b>Total shares reserved</b>	<b>561,199,707</b>
Shares issued	5,481,811,474
Shares not reserved or issued	2,956,988,819
<b>Total shares authorized</b>	<b>9,000,000,000</b>

(1) Includes employee restricted share rights, performance share awards, 401(k), and deferred compensation plans.

In connection with our participation in the Capital Purchase Program (CPP), a part of the Troubled Asset Relief Program (TARP), we issued to the U.S. Treasury Department warrants to purchase 110,261,688 shares of our common stock with an original exercise price of \$34.01 per share. The warrants expired on October 29, 2018, and the holders of 110,646 unexercised warrants as of the expiration date are no longer entitled to receive any shares of our common stock. Holders exercised no warrants and 23,217,208 warrants to purchase shares of our common stock in 2019 and 2018, respectively.

### Dividend Reinvestment and Common Stock Purchase Plans

Participants in our dividend reinvestment and common stock direct purchase plans may purchase shares of our common stock at fair market value by reinvesting dividends and/or making optional cash payments under the plan's terms.

### Employee Stock Plans

We offer stock-based employee compensation plans as described below. For information on our accounting for stock-based compensation plans, see Note 1 (Summary of Significant Accounting Policies).

**LONG-TERM INCENTIVE COMPENSATION PLANS** Since 2010, we have granted restricted share rights (RSRs) and performance share awards (PSAs) as our primary long-term incentive awards using our Long-Term Incentive Compensation Plan (LTICP).

Holders of RSRs and PSAs may be entitled to receive additional RSRs and PSAs (dividend equivalents) or cash payments equal to the cash dividends that would have been paid had the RSRs or PSAs been issued and outstanding shares of common stock. RSRs and PSAs granted as dividend equivalents are subject to the same vesting schedule and conditions as the underlying award.

Table 21.2 summarizes the major components of stock incentive compensation expense and the related recognized tax benefit.

**Table 21.2: Stock Incentive Compensation Expense**

(in millions)	Year ended December 31,		
	2019	2018	2017
RSRs (1)	\$ 1,109	1,013	743
Performance shares	108	9	112
Stock options	—	—	(6)
<b>Total stock incentive compensation expense</b>	<b>\$ 1,217</b>	<b>1,022</b>	<b>849</b>
<b>Related recognized tax benefit</b>	<b>\$ 301</b>	<b>252</b>	<b>320</b>

(1) In February 2018, a total of 11.9 million RSRs were granted to all eligible team members in the U.S., and eligible team members outside the U.S., referred to as broad-based RSRs.

For various acquisitions and mergers, we converted employee and director stock options of acquired or merged companies into stock options to purchase our common stock based on the terms of the original stock option plan and the agreed-upon exchange ratio. In addition, we converted restricted stock awards into awards that entitle holders to our stock after the vesting conditions are met. Holders receive cash dividends on outstanding awards if provided in the original award.

The total number of shares of common stock available for grant under the plans at December 31, 2019, was 246 million.

### Director Awards

Beginning in 2011, we granted only common stock awards under the LTICP to non-employee directors elected or re-elected at the annual meeting of stockholders and prorated awards to directors who join the Board at any other time. Stock awards vest immediately. Options also were granted to directors prior to 2011 and can be exercised after 12 months through the tenth anniversary of the grant date.

### Restricted Share Rights

Holders of RSRs are entitled to the related shares of common stock at no cost generally vesting over three to five years after the RSRs are granted. A summary of the status of our RSRs at December 31, 2019, and changes during 2019 is presented in Table 21.3.

**Table 21.3: Restricted Share Rights**

	Number	Weighted-average grant-date fair value
Nonvested at January 1, 2019	45,572,498	\$ 54.85
Granted	22,743,879	49.32
Vested	(15,281,949)	55.03
Canceled or forfeited	(2,118,967)	55.37
<b>Nonvested at December 31, 2019</b>	<b>50,915,461</b>	<b>52.30</b>

The weighted-average grant date fair value of RSRs granted during 2018 and 2017 was \$58.47 and \$57.54, respectively.

At December 31, 2019, there was \$1.0 billion of total unrecognized compensation cost related to nonvested RSRs. The cost is expected to be recognized over a weighted-average period of 2.4 years. The total fair value of RSRs that vested during 2019, 2018 and 2017 was \$773 million, \$824 million and \$865 million, respectively.

## Note 21: Common Stock and Stock Plans (continued)

### Performance Share Awards

Holders of PSAs are entitled to the related shares of common stock at no cost subject to the Company's achievement of specified performance criteria over a three-year period. PSAs are granted at a target number based on the Company's performance. The number of awards that vest can be adjusted downward to zero and upward to a maximum of either 125% or 150% of target. The awards vest in the quarter after the end of the performance period. For PSAs whose performance period ended December 31, 2019, the determination of the number of performance shares that will vest will occur in first quarter of 2020 after review of the Company's performance by the Human Resources Committee of the Board.

A summary of the status of our PSAs at December 31, 2019, and changes during 2019 is in Table 21.4, based on the performance adjustments recognized as of December 2019.

**Table 21.4: Performance Share Awards**

	Number	Weighted- average grant-date fair value (1)
Nonvested at January 1, 2019	5,984,686	\$ 49.91
Granted	2,320,530	49.26
Vested	(1,610,502)	48.59
Canceled or forfeited	(190,501)	56.48
Nonvested at December 31, 2019	6,504,213	49.81

(1) Reflects approval date fair value for grants subject to variable accounting.

**Table 21.5: Stock Option Activity**

	Number	Weighted- average exercise price	Weighted- average remaining contractual term (in yrs.)	Aggregate intrinsic value (in millions)
<b>Incentive compensation plans</b>				
Options outstanding as of December 31, 2018	8,343,157	\$ 13.46		
Canceled or forfeited	(170,141)	13.05		
Exercised	(8,112,456)	13.34		
Options exercisable and outstanding as of December 31, 2019	60,560	30.69	0.3	\$ 1

The total intrinsic value to option holders, which is the stock market value in excess of the option exercise price, of options exercised during 2019, 2018 and 2017 was \$291 million, \$375 million and \$623 million, respectively.

Cash received from the exercise of stock options for 2019, 2018 and 2017 was \$108 million, \$227 million and \$602 million, respectively.

We do not have a specific policy on repurchasing shares to satisfy share option exercises. Rather, we have a general policy on repurchasing shares to meet common stock issuance requirements for our benefit plans (including share option exercises), conversion of our convertible securities, acquisitions and other corporate purposes. Various factors determine the amount and timing of our share repurchases, including our capital requirements, the number of shares we expect to issue for acquisitions and employee benefit plans, market conditions (including the trading price of our stock), and regulatory and legal considerations. These factors can change at any time, and there can be no assurance as to the number of shares we will repurchase or when we will repurchase them.

The weighted-average grant date fair value of performance awards granted during 2018 and 2017 was \$58.62 and \$57.14, respectively.

At December 31, 2019, there was \$29 million of total unrecognized compensation cost related to nonvested performance awards. The cost is expected to be recognized over a weighted-average period of 1.6 years. The total fair value of PSAs that vested during 2019, 2018 and 2017 was \$82 million, \$107 million and \$117 million, respectively.

### Stock Options

Table 21.5 summarizes stock option activity and related information for the stock plans. Options assumed in mergers are included in the activity and related information for Incentive Compensation Plans if originally issued under an employee plan, and in the activity and related information for Director Awards if originally issued under a director plan.



## Employee Stock Ownership Plan

The Wells Fargo & Company 401(k) Plan (401(k) Plan) is a defined contribution plan with an Employee Stock Ownership Plan (ESOP) feature. The ESOP feature enables the 401(k) Plan to borrow money to purchase our preferred or common stock. From 1994 through 2019, with the exception of 2009, we loaned money to the 401(k) Plan to purchase shares of our ESOP preferred stock. As our employer contributions are made to the 401(k) Plan and are used to make ESOP loan payments, the ESOP preferred stock in the 401(k) Plan is released and converted into our common stock shares. Dividends on the common stock shares allocated as a result of the release and conversion of the ESOP preferred stock reduce retained earnings, and the shares are considered outstanding for computing earnings per share. Dividends on the unallocated

ESOP preferred stock do not reduce retained earnings, and the shares are not considered to be common stock equivalents for computing earnings per share. Loan principal and interest payments are made from our employer contributions to the 401(k) Plan, along with dividends paid on the ESOP preferred stock. With each principal and interest payment, a portion of the ESOP preferred stock is released and converted to common stock shares, which are allocated to the 401(k) Plan participants and invested in the Wells Fargo ESOP Fund within the 401(k) Plan.

Table 21.6 presents the balance of common stock and unreleased preferred stock held in the Wells Fargo ESOP fund, the fair value of unreleased ESOP preferred stock and the dividends on allocated shares of common stock and unreleased ESOP Preferred Stock paid to the 401(k) Plan.

**Table 21.6: Common Stock and Unreleased Preferred Stock in the Wells Fargo ESOP Fund**

(in millions, except shares)	Shares outstanding		
	2019	2018	December 31, 2017
Allocated shares (common)	<b>138,978,383</b>	138,182,911	124,670,717
Unreleased shares (preferred)	<b>1,071,418</b>	1,406,460	1,556,104
Fair value of unreleased ESOP preferred shares	<b>\$ 1,072</b>	1,407	1,556

	Dividends paid		
	2019	2018	Year ended December 31, 2017
Allocated shares (common)	<b>\$ 233</b>	213	195
Unreleased shares (preferred)	<b>101</b>	159	166



(continued from previous page)

	Year ended December 31, 2017					
	Community Banking	Wholesale Banking	Wealth and Investment Management	Other	Consolidated Company	
<b>Net interest income (1)</b>	\$ 28,658	18,810	4,641	(2,552)	49,557	
<b>Noninterest income:</b>						
Service charges on deposit accounts	2,909	2,201	17	(16)	5,111	
Trust and investment fees:						
Brokerage advisory, commissions and other fees	1,830	304	9,072	(1,848)	9,358	
Trust and investment management	889	523	2,877	(917)	3,372	
Investment banking	(59)	1,827	(2)	(1)	1,765	
Total trust and investment fees	2,660	2,654	11,947	(2,766)	14,495	
Card fees	3,613	345	6	(4)	3,960	
Other fees:						
Lending related charges and fees (1)(2)	311	1,257	8	(8)	1,568	
Cash network fees	498	8	—	—	506	
Commercial real estate brokerage commissions	1	461	—	—	462	
Wire transfer and other remittance fees	239	204	9	(4)	448	
All other fees (1)	448	124	1	—	573	
Total other fees	1,497	2,054	18	(12)	3,557	
Mortgage banking (1)	3,895	458	(10)	7	4,350	
Insurance (1)	139	872	88	(50)	1,049	
Net gains (losses) from trading activities (1)	(251)	701	92	—	542	
Net gains (losses) on debt securities (1)	709	(232)	2	—	479	
Net gains (losses) from equity securities (1)	1,455	116	208	—	1,779	
Lease income (1)	—	1,907	—	—	1,907	
Other income of the segment (1)	1,734	114	63	(308)	1,603	
Total noninterest income	18,360	11,190	12,431	(3,149)	38,832	
<b>Revenue</b>	\$ 47,018	30,000	17,072	(5,701)	88,389	

- (1) Most of our revenue is not within the scope of Accounting Standards Update (ASU) 2014-09 – *Revenue from Contracts with Customers*, and additional details are included in other notes to our financial statements. The scope explicitly excludes net interest income as well as many other revenues for financial assets and liabilities, including loans, leases, securities, and derivatives.
- (2) Represents combined amount of previously reported “Charges and fees on loans” and “Letters of credit fees.”

We provide services to customers which have related performance obligations that we complete to recognize revenue. Our revenues are generally recognized either immediately upon the completion of our service or over time as we perform services. Any services performed over time generally require that we render services each period and therefore we measure our progress in completing these services based upon the passage of time.

**SERVICE CHARGES ON DEPOSIT ACCOUNTS** are earned on depository accounts for commercial and consumer customers

**Table 22.2: Service Charges on Deposit Accounts by Operating Segment**

	Year ended December 31,														
	Community Banking			Wholesale Banking			Wealth and Investment Management			Other			Consolidated Company		
(in millions)	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017
Overdraft fees	\$ 1,965	1,776	1,941	5	5	6	1	1	1	—	—	—	1,971	1,782	1,948
Account charges	858	865	968	1,969	2,069	2,195	15	15	16	(15)	(15)	(16)	2,827	2,934	3,163
Service charges on deposit accounts	\$ 2,823	2,641	2,909	1,974	2,074	2,201	16	16	17	(15)	(15)	(16)	4,798	4,716	5,111

**BROKERAGE ADVISORY, COMMISSIONS AND OTHER FEES** are earned for providing full-service and discount brokerage services predominantly to retail brokerage clients. These revenues include fees earned on asset-based and transactional accounts and other brokerage advisory services.

Asset-based revenues are charged based on the market value of the client’s assets. The services and related obligations associated with certain of these revenues, which include investment advice, active management of client assets, or assistance with selecting and engaging a third-party advisory manager, are generally satisfied over a month or quarter. The remaining revenues include trailing commissions which are earned for selling shares to investors. Our obligation associated with earning trailing commissions is satisfied at the time shares

and include fees for account and overdraft services. Account charges include fees for periodic account maintenance activities and event-driven services such as stop payment fees. Our obligation for event-driven services is satisfied at the time of the event when the service is delivered, while our obligation for maintenance services is satisfied over the course of each month. Our obligation for overdraft services is satisfied at the time of the overdraft.

Table 22.2 presents our service charges on deposit accounts by operating segment.

are sold. However, these fees are received and recognized over time during the period the customer owns the shares and we remain the broker of record. The amount of trailing commissions is variable based on the length of time the customer holds the shares and on changes in the value of the underlying assets.

Transactional revenues are earned for executing transactions at the client’s direction. Our obligation is generally satisfied upon the execution of the transaction and the fees are based on the size and number of transactions executed.

Other revenues earned from other brokerage advisory services include omnibus and networking fees received from mutual fund companies in return for providing record keeping and other administrative services, and annual account maintenance fees charged to customers.

## Note 22: Revenue from Contracts with Customers (continued)

Table 22.3 presents our brokerage advisory, commissions and other fees by operating segment.

**Table 22.3: Brokerage Advisory, Commissions and Other Fees by Operating Segment**

(in millions)	Year ended December 31,														
	Community Banking			Wholesale Banking			Wealth and Investment Management			Other			Consolidated Company		
	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017
Asset-based revenue (1)	\$ 1,478	1,482	1,372	—	1	1	6,777	6,899	6,630	(1,480)	(1,484)	(1,371)	6,775	6,898	6,632
Transactional revenue	383	340	382	26	70	40	1,534	1,618	1,802	(383)	(380)	(400)	1,560	1,648	1,824
Other revenue	70	65	76	266	246	263	635	644	640	(69)	(65)	(77)	902	890	902
Brokerage advisory, commissions and other fees	\$ 1,931	1,887	1,830	292	317	304	8,946	9,161	9,072	(1,932)	(1,929)	(1,848)	9,237	9,436	9,358

(1) We earned trailing commissions of \$1.2 billion for the year ended December 31, 2019 and \$1.3 billion for both of the years ended December 31, 2018 and 2017, respectively.

**TRUST AND INVESTMENT MANAGEMENT FEES** are earned for providing trust, investment management and other related services.

Investment management services include managing and administering assets, including mutual funds, and institutional separate accounts. Fees for these services are generally determined based on a tiered scale relative to the market value of assets under management (AUM). In addition to AUM, we have client assets under administration (AUA) that earn various administrative fees which are generally based on the extent of the services provided to administer the account. Services with

AUM and AUA-based fees are generally performed over time.

Trust services include acting as a trustee or agent for corporate trust, personal trust, and agency assets. Obligations for trust services are generally satisfied over time, while obligations for activities that are transactional in nature are satisfied at the time of the transaction.

Other related services include the custody and safekeeping of accounts. Our obligation for these services is generally satisfied over time.

Table 22.4 presents our trust and investment management fees by operating segment.

**Table 22.4: Trust and Investment Management Fees by Operating Segment**

(in millions)	Year ended December 31,														
	Community Banking			Wholesale Banking			Wealth and Investment Management			Other			Consolidated Company		
	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017
Investment management fees	\$ —	—	1	—	—	—	1,990	2,087	2,053	—	—	—	1,990	2,087	2,054
Trust fees	804	908	887	338	329	421	557	728	757	(840)	(932)	(916)	859	1,033	1,149
Other revenue	1	2	1	148	116	102	40	78	67	—	—	(1)	189	196	169
Trust and investment management fees	\$ 805	910	889	486	445	523	2,587	2,893	2,877	(840)	(932)	(917)	3,038	3,316	3,372

**INVESTMENT BANKING FEES** are earned for underwriting debt and equity securities, arranging loan syndications and performing other advisory services. Our obligation for these services is generally satisfied at closing of the transaction. Substantially all of these fees are in the Wholesale Banking operating segment.

**CARD FEES** include credit and debit card interchange and network revenues and various card-related fees. Credit and debit card

interchange and network revenues are earned on credit and debit card transactions conducted through payment networks such as Visa, MasterCard, and American Express. Our obligation is satisfied concurrently with the delivery of services on a daily basis.

Table 22.5 presents our card fees by operating segment.

**Table 22.5: Card Fees by Operating Segment**

(in millions)	Year ended December 31,														
	Community Banking			Wholesale Banking			Wealth and Investment Management			Other			Consolidated Company		
	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017	2019	2018	2017
Credit card interchange and network revenues (1)	\$ 809	792	944	359	361	345	6	6	6	(4)	(4)	(4)	1,170	1,155	1,291
Debit card interchange and network revenues	2,148	2,053	1,964	—	—	—	—	—	—	—	—	—	2,148	2,053	1,964
Late fees, cash advance fees, balance transfer fees, and annual fees	698	698	705	—	1	—	—	—	—	—	—	—	698	699	705
Card fees	\$ 3,655	3,543	3,613	359	362	345	6	6	6	(4)	(4)	(4)	4,016	3,907	3,960

(1) The cost of credit card rewards and rebates of \$1.5 billion, \$1.4 billion and \$1.2 billion for the years ended December 31, 2019, 2018 and 2017, respectively, are presented net against the related revenues.

**CASH NETWORK FEES** are earned for processing ATM transactions. Our obligation is completed daily upon settlement of ATM transactions. Substantially all of these fees are in the Community Banking operating segment.

**COMMERCIAL REAL ESTATE BROKERAGE COMMISSIONS** are earned for assisting customers in the sale of real estate property. Our obligation is satisfied upon the successful brokering of a transaction. Fees are based on a fixed percentage of the sales price. All of these fees are in the Wholesale Banking operating segment. In October 2019, we sold our commercial real estate brokerage business (Eastdil).

**WIRE TRANSFER AND OTHER REMITTANCE FEES** consist of fees earned for funds transfer services and issuing cashier's checks and money orders. Our obligation is satisfied at the time of the funds transfer services or upon issuance of the cashier's check or money order. Substantially all of these fees are in the Community Banking and Wholesale Banking operating segments.

**ALL OTHER FEES** include various types of fees for products or services such as merchant payment services, safe deposit boxes, and loan syndication agency services. These fees are generally recognized over time as we perform the services. Most of these fees are in the Community Banking operating segment.

## **Note 23: Employee Benefits and Other Expenses**

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### **Pension and Postretirement Plans**

We sponsor a frozen noncontributory qualified defined benefit retirement plan, the Wells Fargo & Company Cash Balance Plan (Cash Balance Plan), which covers eligible employees of Wells Fargo. The Cash Balance Plan was frozen on July 1, 2009, and no new benefits accrue after that date.

Prior to July 1, 2009, eligible employees' Cash Balance Plan accounts were allocated a compensation credit based on a percentage of their certified compensation; the freeze discontinued the allocation of compensation credits after June 30, 2009. Investment credits continue to be allocated to participants' accounts based on their accumulated balances.

Although not required, we made a \$192 million contribution to our Cash Balance Plan in 2019. We do not expect that we will be required to make a contribution to the Cash Balance Plan in 2020; however, this is dependent on the finalization of the actuarial valuation in 2020. Our decision of whether to make a contribution in 2020 will be based on various factors including the actual investment performance of plan assets during 2020. Given these uncertainties, we cannot estimate at this time the amount, if any, that we will contribute in 2020 to the Cash Balance Plan. For the nonqualified pension plans and postretirement benefit plans, there is no minimum required contribution beyond the amount needed to fund benefit payments.

We recognize settlement losses for our Cash Balance Plan based on assessing whether lump sum payments will, in aggregate for the year, exceed the sum of its annual service and interest cost (threshold). Lump sum payments (included in the "Benefits paid" line in Table 23.1) did not exceed this threshold in 2019. Settlement losses of \$134 million were recognized in 2018 representing the pro rata portion of the net loss in cumulative other comprehensive income based on the percentage reduction in the Cash Balance Plan's projected benefit obligation attributable to 2018 lump sum payments.

Our nonqualified defined benefit plans are unfunded and provide supplemental defined benefit pension benefits to certain eligible employees. The benefits under these plans were frozen in prior years.

We provide health care and life insurance benefits for certain retired employees, and we reserve the right to amend, modify or terminate any of the benefits at any time.

The information set forth in the following tables is based on current actuarial reports using the measurement date of December 31 for our pension and postretirement benefit plans.

## Note 23: Employee Benefits and Other Expenses (continued)

Table 23.1 presents the changes in the benefit obligation and the fair value of plan assets, the funded status, and the amounts recognized on the balance sheet. The increases in the benefit obligation of the qualified plans and nonqualified plans were primarily due to actuarial losses, reflecting a decrease in the discount rates, partially offset by benefits paid. The decrease in

the benefit obligation for the other benefit plans was primarily due to benefits paid (net of participant contributions) and net actuarial gains, partially offset by interest cost. Net actuarial gains were primarily due to actual benefit claims being less than projected, partially offset by a decrease in the discount rate.

**Table 23.1: Changes in Benefit Obligation and Fair Value of Plan Assets**

(in millions)	December 31, 2019			December 31, 2018		
	Pension benefits		Other benefits	Pension benefits		Other benefits
	Qualified	Non-qualified		Qualified	Non-qualified	
Change in benefit obligation:						
Benefit obligation at beginning of year	\$ 10,129	557	555	11,110	621	611
Service cost	11	—	—	11	—	—
Interest cost	419	22	23	392	21	21
Plan participants' contributions	—	—	44	—	—	48
Actuarial loss (gain)	1,229	49	(11)	(674)	(27)	(33)
Benefits paid	(672)	(57)	(86)	(719)	(57)	(92)
Medicare Part D subsidy	—	—	—	—	—	2
Settlements, Curtailments, and Amendments	(2)	—	—	1	—	—
Other	—	—	—	13	—	—
Foreign exchange impact	2	1	—	(5)	(1)	(2)
Benefit obligation at end of year	11,116	572	525	10,129	557	555
Change in plan assets:						
Fair value of plan assets at beginning of year	9,477	—	511	10,667	—	565
Actual return on plan assets	1,758	—	64	(478)	—	(17)
Employer contribution	199	57	7	10	57	5
Plan participants' contributions	—	—	44	—	—	48
Benefits paid	(672)	(57)	(86)	(719)	(57)	(92)
Medicare Part D subsidy	—	—	—	—	—	2
Settlement	(1)	—	—	—	—	—
Other	—	—	—	1	—	—
Foreign exchange impact	2	—	—	(4)	—	—
Fair value of plan assets at end of year	10,763	—	540	9,477	—	511
Funded status at end of year	\$ (353)	(572)	15	(652)	(557)	(44)
Amounts recognized on the balance sheet at end of year:						
Assets	\$ 1	—	44	1	—	—
Liabilities	(354)	(572)	(29)	(653)	(557)	(44)

Table 23.2 provides information for pension and post retirement plans with benefit obligations in excess of plan assets.

**Table 23.2: Plans with Benefit Obligations in Excess of Plan Assets**

(in millions)	December 31, 2019		December 31, 2018	
	Pension Benefits	Other Benefits	Pension Benefits	Other Benefits
Projected benefit obligation	\$ 11,653	N/A	10,640	N/A
Accumulated benefit obligation	11,634	29	10,627	555
Fair value of plan assets	10,727	—	9,429	511

Table 23.3 presents the components of net periodic benefit cost and other comprehensive income (OCI).

**Table 23.3: Net Periodic Benefit Cost and Other Comprehensive Income**

(in millions)	December 31, 2019			December 31, 2018			December 31, 2017		
	Pension benefits			Pension benefits			Pension benefits		
	Qualified	Non-qualified	Other benefits	Qualified	Non-qualified	Other benefits	Qualified	Non-qualified	Other benefits
Service cost	\$ 11	—	—	11	—	—	5	—	—
Interest cost (1)	419	22	23	392	21	21	412	24	28
Expected return on plan assets (1)	(567)	—	(28)	(641)	—	(31)	(652)	—	(30)
Amortization of net actuarial loss (gain) (1)	148	10	(17)	131	14	(18)	148	11	(9)
Amortization of prior service credit (1)	—	—	(10)	—	—	(10)	—	—	(10)
Settlement loss (1)	—	2	—	134	2	—	7	6	—
Net periodic benefit cost	11	34	(32)	27	37	(38)	(80)	41	(21)
Other changes in plan assets and benefit obligations recognized in other comprehensive income:									
Net actuarial loss (gain)	38	49	(47)	445	(27)	15	33	46	(128)
Amortization of net actuarial gain (loss)	(148)	(10)	17	(131)	(14)	18	(148)	(11)	9
Prior service cost	—	—	—	1	—	—	1	—	—
Amortization of prior service credit	—	—	10	—	—	10	—	—	10
Settlement	—	(2)	—	(134)	(2)	—	(8)	(6)	—
Total recognized in other comprehensive income	(110)	37	(20)	181	(43)	43	(122)	29	(109)
Total recognized in net periodic benefit cost and other comprehensive income	\$ (99)	71	(52)	208	(6)	5	(202)	70	(130)

(1) Effective January 1, 2018, we adopted ASU 2017-07 – *Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost*. Accordingly, 2019 and 2018 balances are reported in other noninterest expense on the consolidated statement of income. For 2017, these balances were reported in employee benefits.

Table 23.4 provides the amounts recognized in cumulative OCI (pre-tax).

**Table 23.4: Benefits Recognized in Cumulative OCI**

(in millions)	December 31, 2019			December 31, 2018		
	Pension benefits			Pension benefits		
	Qualified	Non-qualified	Other benefits	Qualified	Non-qualified	Other benefits
Net actuarial loss (gain)	\$ 3,226	186	(357)	3,336	149	(327)
Net prior service cost (credit)	1	—	(146)	1	—	(156)
Total	\$ 3,227	186	(503)	3,337	149	(483)

## Note 23: Employee Benefits and Other Expenses (continued)

### Plan Assumptions

For additional information on our pension accounting assumptions, see Note 1 (Summary of Significant Accounting Policies). Table 23.5 presents the weighted-average assumptions used to estimate the projected benefit obligation.

**Table 23.5: Weighted-Average Assumptions Used to Estimate Projected Benefit Obligation**

	December 31, 2019			December 31, 2018		
	Pension benefits		Other benefits	Pension benefits		Other benefits
	Qualified	Non-qualified		Qualified	Non-qualified	
Discount rate	3.21%	3.03	3.10	4.30	4.20	4.24
Interest crediting rate	2.70	1.35	N/A	3.22	2.18	N/A

Table 23.6 presents the weighted-average assumptions used to determine the net periodic benefit cost.

**Table 23.6: Weighted-Average Assumptions Used to Determine Net Periodic Benefit Cost**

	December 31, 2019			December 31, 2018			December 31, 2017		
	Pension benefits		Other benefits	Pension benefits		Other benefits	Pension benefits		Other benefits
	Qualified	Non-qualified		Qualified	Non-qualified		Qualified	Non-qualified	
Discount rate (1)	4.30%	4.10	4.24	3.65	3.65	3.54	3.98	3.93	4.00
Interest crediting rate (1)	3.22	2.05	N/A	2.74	1.68	N/A	2.92	1.85	N/A
Expected return on plan assets	6.24	N/A	5.75	6.24	N/A	5.75	6.70	N/A	5.75

(1) Includes the impact of interim re-measurements as applicable.

To account for postretirement health care plans, we used health care cost trend rates to recognize the effect of expected changes in future health care costs due to medical inflation, utilization changes, new technology, regulatory requirements and Medicare cost shifting. In determining the end of year benefit obligation, we assumed an average annual increase of approximately 8.30% for health care costs in 2020. This rate is assumed to trend down 0.40%-0.50% per year until the trend rate reaches an ultimate rate of 4.50% in 2028. The 2019 periodic benefit cost was determined using an initial annual trend rate of 8.40%. This rate was assumed to decrease 0.50%-0.60% per year until the trend rate reached an ultimate rate of 4.50% in 2026.

### Investment Strategy and Asset Allocation

We seek to achieve the expected long-term rate of return with a prudent level of risk, given the benefit obligations of the pension plans and their funded status. Our overall investment strategy is designed to provide our Cash Balance Plan with a moderate amount of long-term growth opportunities while ensuring that risk is mitigated through diversification across numerous asset classes and various investment strategies, coupled with an investment strategy for the fixed income assets that is generally designed to approximate the interest rate sensitivity of the Cash Balance Plan's benefit obligations. As of the end of 2019, the asset allocation for our Cash Balance Plan had a mix range of 20%-40% equities, 50%-70% fixed income, and approximately 10% in real estate, private equity and other investments. The Employee Benefit Review Committee (EBRC), which includes several members of senior management, formally reviews the investment risk and performance of our Cash Balance Plan on a quarterly basis. Annual Plan liability analysis and periodic asset/liability evaluations are also conducted.

Other benefit plan assets include (1) assets held in a 401(h) trust, which are invested with a target mix of 40%-60% for both equities and fixed income, and (2) assets held in the Retiree Medical Plan Voluntary Employees' Beneficiary Association (VEBA) trust, which are predominately invested in fixed income securities and cash. Members of the EBRC formally review the investment risk and performance of these assets on a quarterly basis.

### Projected Benefit Payments

Future benefits that we expect to pay under the pension and other benefit plans are presented in Table 23.7.

**Table 23.7: Projected Benefit Payments**

(in millions)	Pension benefits		
	Qualified	Non-qualified	Other Benefits
Year ended December 31,			
2020	\$ 826	50	42
2021	811	48	42
2022	797	45	41
2023	738	44	40
2024	720	42	38
2025-2029	3,391	187	167



## Fair Value of Plan Assets

Table 23.8 presents the classification of the fair value of the pension plan and other benefit plan assets in the fair value hierarchy. See Note 19 (Fair Values of Assets and Liabilities) for a description of the fair value hierarchy.

**Table 23.8: Pension and Other Benefit Plan Assets**

(in millions)	Carrying value at year end							
	Pension plan assets				Other benefits plan assets			
	Level 1	Level 2	Level 3	Total	Level 1	Level 2	Level 3	Total
<b>December 31, 2019</b>								
Cash and cash equivalents	\$ 3	287	—	290	53	145	—	198
Long duration fixed income (1)	821	5,259	—	6,080	—	—	—	—
Intermediate (core) fixed income (2)	—	167	—	167	—	177	—	177
High-yield fixed income	—	217	—	217	—	—	—	—
International fixed income	33	97	—	130	—	—	—	—
Domestic large-cap stocks (3)	700	290	—	990	—	73	—	73
Domestic mid-cap stocks	210	113	—	323	—	19	—	19
Domestic small-cap stocks	201	9	—	210	—	11	—	11
Global stocks (4)	92	374	—	466	—	—	—	—
International stocks (5)	567	120	—	687	12	22	—	34
Emerging market stocks	—	249	—	249	—	—	—	—
Real estate	141	35	7	183	—	—	—	—
Hedge funds/absolute return	68	50	—	118	—	—	—	—
Other	57	48	9	114	4	—	24	28
Plan investments - excluding investments at NAV	\$ 2,893	7,315	16	10,224	69	447	24	540
Investments at NAV (6)				478				—
Net receivables				61				—
<b>Total plan assets</b>				<b>\$ 10,763</b>				<b>540</b>
<b>December 31, 2018</b>								
Cash and cash equivalents	\$ 2	284	—	286	69	22	—	91
Long duration fixed income (1)	902	4,414	—	5,316	—	—	—	—
Intermediate (core) fixed income (2)	—	118	—	118	—	183	—	183
High-yield fixed income	—	114	—	114	—	—	—	—
International fixed income	55	186	—	241	—	—	—	—
Domestic large-cap stocks (3)	582	238	—	820	—	115	—	115
Domestic mid-cap stocks	167	89	—	256	—	28	—	28
Domestic small-cap stocks	141	7	—	148	—	17	—	17
Global stocks (4)	72	357	—	429	—	—	—	—
International stocks (5)	449	110	—	559	9	40	—	49
Emerging market stocks	—	205	—	205	—	—	—	—
Real estate	148	33	14	195	—	—	—	—
Hedge funds/absolute return	63	32	—	95	—	—	—	—
Other	34	44	8	86	4	—	24	28
Plan investments - excluding investments at NAV	\$ 2,615	6,231	22	8,868	82	405	24	511
Investments at NAV (6)				566				—
Net receivables				43				—
<b>Total plan assets</b>				<b>\$ 9,477</b>				<b>511</b>

- (1) This category includes a diversified mix of assets, which are being managed in accordance with a duration target of approximately 10 years and an emphasis on corporate credit bonds combined with investments in U.S. Treasury securities and other U.S. agency and non-agency bonds.
- (2) This category includes assets that are intermediate duration, investment grade bonds held in investment strategies benchmarked to the Bloomberg Barclays Capital U.S. Aggregate Bond Index, including U.S. Treasury securities, agency and non-agency asset-backed bonds and corporate bonds.
- (3) This category covers a broad range of investment styles, including active, enhanced index and passive approaches, as well as style characteristics of value, core and growth emphasized strategies. Assets in this category are currently diversified across eight unique investment strategies with no single investment manager strategy representing more than 2.0% of total plan assets.
- (4) This category consists of five unique investment strategies providing exposure to broadly diversified, global equity investments, which generally have an allocation of 40-60% in U.S. domiciled equities and an equivalent allocation range in non-U.S. equities, with no single strategy representing more than 1.5% of total Plan assets.
- (5) This category includes assets diversified across four unique investment strategies providing exposure to companies in developed market, non-U.S. countries with no single strategy representing more than 2.5% of total plan assets.
- (6) Consists of certain investments that are measured at fair value using NAV per share (or its equivalent) as a practical expedient and are excluded from the fair value hierarchy.

## Note 23: Employee Benefits and Other Expenses (continued)

Table 23.9 presents the changes in Level 3 pension plan and other benefit plan assets measured at fair value.

**Table 23.9: Fair Value Level 3 Pension and Other Benefit Plan Assets**

(in millions)	Balance beginning of year	Gains (losses)		Purchases, sales and settlements (net)	Transfers Into/ (Out of) Level 3	Balance end of year
		Realized	Unrealized (1)			
<b>Quarter ended December 31, 2019</b>						
<b>Pension plan assets:</b>						
Real estate	\$ 14	1	1	(9)	—	7
Other	8	—	2	(1)	—	9
<b>Total pension plan assets</b>	<b>\$ 22</b>	<b>1</b>	<b>3</b>	<b>(10)</b>	<b>—</b>	<b>16</b>
<b>Other benefits plan assets:</b>						
Other	\$ 24	—	—	—	—	24
<b>Total other benefit plan assets</b>	<b>\$ 24</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>24</b>
<b>Quarter ended December 31, 2018</b>						
<b>Pension plan assets:</b>						
Real estate	\$ 20	(2)	(1)	(3)	—	14
Other	8	—	—	—	—	8
<b>Total pension plan assets</b>	<b>\$ 28</b>	<b>(2)</b>	<b>(1)</b>	<b>(3)</b>	<b>—</b>	<b>22</b>
<b>Other benefits plan assets:</b>						
Other	\$ 23	1	—	—	—	24
<b>Total other benefit plan assets</b>	<b>\$ 23</b>	<b>1</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>24</b>

(1) All unrealized gains (losses) relate to instruments held at period end.

**VALUATION METHODOLOGIES** Following is a description of the valuation methodologies used for assets measured at fair value.

*Cash and Cash Equivalents* – includes investments in collective investment funds valued at fair value based upon the fund's NAV per share held at year-end. The NAV per share is quoted on a private market that is not active; however, the NAV per share is based on underlying investments traded on an active market. This group of assets also includes investments in registered investment companies valued at the NAV per share held at year-end and in interest-bearing bank accounts.

*Long Duration, Intermediate (Core), High-Yield, and International Fixed Income* – includes investments traded on the secondary markets; prices are measured by using quoted market prices for similar securities, pricing models, and discounted cash flow analyses using significant inputs observable in the market where available, or a combination of multiple valuation techniques. This group of assets also includes highly liquid government securities such as U.S. Treasuries, limited partnerships valued at the NAV, registered investment companies and collective investment funds described above.

*Domestic, Global, International and Emerging Market Stocks* – investments in exchange-traded equity securities are valued at quoted market values. This group of assets also includes investments in registered investment companies and collective investment funds described above.

*Real Estate* – includes investments in real estate, which are valued at fair value based on an income capitalization valuation approach. Market values are estimates, and the actual market price of the real estate can only be determined by negotiation between independent third parties in sales transactions. This group of assets also includes investments in exchange-traded equity securities and collective investment funds described above.

*Hedge Funds / Absolute Return* – includes investments in registered investment companies, and limited partnerships, as described above.

*Other* – insurance contracts that are stated at cash surrender value. This group of assets also includes investments in registered investment companies and collective investment funds described above.

The methods described above may produce a fair value calculation that may not be indicative of net realizable value or reflective of future fair values. While we believe our valuation methods are appropriate and consistent with other market participants, the use of different methodologies or assumptions to determine the fair value of certain financial instruments could result in a different fair value measurement at the reporting date.

## Defined Contribution Retirement Plans

We sponsor a qualified defined contribution retirement plan, the Wells Fargo & Company 401(k) Plan (401(k) Plan). Under the 401(k) Plan, after 1 month of service, eligible employees may contribute up to 50% of their certified compensation, subject to statutory limits. Eligible employees who complete one year of service are eligible for quarterly company matching contributions, which are generally dollar for dollar up to 6% of an employee's eligible certified compensation. Matching contributions are 100% vested. The 401(k) Plan includes an employer discretionary profit sharing contribution feature to allow us to make a contribution to eligible employees' 401(k) Plan accounts for a plan year. Eligible employees who complete one year of service are eligible for profit sharing contributions. Profit sharing contributions are vested after three years of service. Total defined contribution retirement plan expenses were \$1.1 billion in 2019 and \$1.2 billion in both 2018 and 2017.

## Other Expenses

Table 23.10 separately presents other expenses exceeding 1% of the sum of net interest income and total noninterest income in any of the years presented.

**Table 23.10: Other Expenses**

(in millions)	Year ended December 31,		
	2019	2018	2017
Operating losses	\$ 4,321	3,124	5,492
Outside professional services	3,198	3,306	3,813
Contract services (1)	2,489	2,192	1,638
Leases (2)	1,155	1,334	1,351
Advertising and promotion	1,076	857	614
Outside data processing	673	660	891
Other	3,840	4,129	3,789
Total other noninterest expense	\$ 16,752	15,602	17,588

- (1) The amount for 2017 has been revised to conform with the current period presentation whereby temporary help is included in contract services rather than in all other noninterest expense.
- (2) Represents expenses for assets we lease to customers.

## Note 24: Income Taxes

Table 24.1 presents the components of income tax expense.

**Table 24.1: Income Tax Expense**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Current:</b>			
Federal	\$ 5,244	2,382	3,507
State and local	2,005	1,140	561
Non-U.S.	154	170	183
Total current	7,403	3,692	4,251
<b>Deferred:</b>			
Federal	(2,374)	1,706	156
State and local	(863)	236	564
Non-U.S.	(9)	28	(54)
Total deferred	(3,246)	1,970	666
Total	\$ 4,157	5,662	4,917

The tax effects of our temporary differences that gave rise to significant portions of our deferred tax assets and liabilities are presented in Table 24.2.

**Table 24.2: Net Deferred Tax Liability (1)**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Deferred tax assets</b>		
Allowance for credit losses	\$ 2,587	2,644
Deferred compensation and employee benefits	2,969	2,893
Accrued expenses	874	815
PCI loans	69	467
Basis difference in debt securities	690	98
Net unrealized losses on debt securities	—	1,022
Net operating loss and tax credit carry forwards	363	366
Other	1,207	1,272
Total deferred tax assets	8,759	9,577
<b>Deferred tax assets valuation allowance</b>	<b>(306)</b>	<b>(315)</b>
<b>Deferred tax liabilities</b>		
Mortgage servicing rights	(3,080)	(3,475)
Leasing	(4,413)	(4,271)
Basis difference in investments	(1,626)	(1,301)
Mark to market, net	(4,146)	(7,252)
Intangible assets	(511)	(427)
Net unrealized gains on debt securities	(504)	—
Insurance reserves	(561)	(696)
Other	(890)	(831)
Total deferred tax liabilities	(15,731)	(18,253)
<b>Net deferred tax liability (2)</b>	<b>\$ (7,278)</b>	<b>(8,991)</b>

- (1) Prior period amounts have been revised to conform with the current period presentation.  
(2) The net deferred tax liability is included in accrued expenses and other liabilities.

Deferred taxes related to net unrealized gains (losses) on debt securities, net unrealized gains (losses) on derivatives, foreign currency translation, and employee benefit plan adjustments are recorded in cumulative OCI. In 2018, we reclassified \$400 million from cumulative OCI to retained earnings to update amounts to an appropriate tax rate under the Tax Act. See Note 26 (Other Comprehensive Income) for more information.

We have determined that a valuation allowance is required for 2019 in the amount of \$306 million, predominantly attributable to deferred tax assets in various state and non-U.S. jurisdictions where we believe it is more likely than not that these deferred tax assets will not be realized. In these jurisdictions, carry back limitations, lack of sources of taxable income, and tax planning strategy limitations contributed to our conclusion that the deferred tax assets would not be realizable. We have concluded that it is more likely than not that the remaining deferred tax assets will be realized based on our history of earnings, sources of taxable income in carry back periods, and our ability to implement tax planning strategies.

At December 31, 2019, we had net operating loss carry forwards with related deferred tax assets of \$363 million. If these carry forwards are not utilized, they will mostly expire in varying amounts through December 31, 2039.

We do not intend to distribute earnings of certain non-U.S. subsidiaries in a taxable manner, and therefore intend to limit distributions of non-U.S. earnings previously taxed in the U.S., that would qualify for the 100% dividends received deduction, and that would not result in any significant state or non-U.S. taxes. All other undistributed non-U.S. earnings will continue to be permanently reinvested outside the U.S. and the related tax liability on these earnings is insignificant.

Table 24.3 reconciles the statutory federal income tax expense and rate to the effective income tax expense and rate. Our effective tax rate is calculated by dividing income tax

expense by income before income tax expense less the net income from noncontrolling interests.

**Table 24.3: Effective Income Tax Expense and Rate**

(in millions)	December 31,					
	2019		2018		2017	
	Amount	Rate	Amount	Rate	Amount	Rate
Statutory federal income tax expense and rate	\$ 4,978	21.0%	\$ 5,892	21.0%	\$ 9,485	35.0%
Change in tax rate resulting from:						
State and local taxes on income, net of federal income tax benefit	896	3.8	1,076	3.9	926	3.4
Tax-exempt interest	(460)	(2.0)	(494)	(1.8)	(812)	(3.0)
Tax credits	(1,715)	(7.2)	(1,537)	(5.5)	(1,419)	(5.2)
Non-deductible accruals	653	2.7	236	0.8	1,320	4.9
Tax reform	—	—	164	0.6	(3,713)	(13.7)
Other	(195)	(0.8)	325	1.2	(870)	(3.3)
Effective income tax expense and rate	\$ 4,157	17.5%	\$ 5,662	20.2%	\$ 4,917	18.1%

All three years include income tax expense related to non-tax-deductible litigation accruals. The 2019 and 2018 effective tax rates reflect the reduction in the U.S. federal statutory income tax rate from 35% to 21% resulting from the Tax Cuts & Jobs Act (Tax Act). The 2018 effective tax rate also reflected the reconsideration of reserves for state income taxes following the U.S. Supreme Court opinion in *South Dakota v. Wayfair, Inc.* as well as \$164 million of income tax expense resulting from the final re-measurement of our initial estimates for the impacts of the Tax Act. The 2017 effective income tax rate included an estimated impact of the Tax Act, including a benefit of \$3.9 billion resulting from the re-measurement of the Company's estimated net deferred tax liability as of December 31, 2017, partially offset by \$173 million of income tax expense for the estimated deemed repatriation of the Company's previously undistributed non-U.S. earnings.

Table 24.4 presents the change in unrecognized tax benefits.

**Table 24.4: Change in Unrecognized Tax Benefits**

(in millions)	Year ended December 31,	
	2019	2018
Balance at beginning of year	\$ 5,750	5,167
Additions:		
For tax positions related to the current year	123	393
For tax positions related to prior years	91	503
Reductions:		
For tax positions related to prior years	(378)	(262)
Lapse of statute of limitations	(5)	(7)
Settlements with tax authorities	(123)	(44)
Balance at end of year	\$ 5,458	5,750

Of the \$5.5 billion of unrecognized tax benefits at December 31, 2019, approximately \$3.8 billion would, if recognized, affect the effective tax rate. The remaining \$1.7 billion of unrecognized tax benefits relates to income tax positions on temporary differences.

We recognize interest and penalties related to unrecognized tax benefits as a component of income tax expense. As of December 31, 2019 and 2018, we have accrued approximately \$998 million and \$968 million, respectively, for the payment of interest and penalties. In 2019, we recognized in income tax expense a net tax expense related to interest and penalties of \$35 million. In 2018, we recognized in income tax expense a net tax expense related to interest and penalties of \$200 million.

We are subject to U.S. federal income tax as well as income tax in numerous state and non-U.S. jurisdictions. We are routinely examined by tax authorities in these various jurisdictions. The IRS is currently examining the 2015 through 2016 consolidated U.S. federal income tax returns of Wells Fargo & Company and its subsidiaries. In addition, we are currently subject to examination by various state, local and non-U.S. taxing authorities. With few exceptions, Wells Fargo and its subsidiaries are not subject to federal, state, local and non-U.S. income tax examinations for taxable years prior to 2007.

We are litigating or appealing various issues related to prior IRS examinations for the periods 2003 through 2014. For the 2003 through 2006 periods, we have paid the IRS the contested income tax and interest associated with these issues and refund claims have been filed for the respective years. It is possible that one or more of these examinations, appeals or litigation may be resolved within the next twelve months resulting in a decrease of up to \$1.3 billion to our gross unrecognized tax benefits.

## Note 25: Earnings and Dividends Per Common Share

Table 25.1 shows earnings per common share and diluted earnings per common share and reconciles the numerator and denominator of both earnings per common share calculations. See Note 1 (Summary of Significant Accounting Policies) for

discussion on share repurchases, and the Consolidated Statement of Changes in Equity and Note 21 (Common Stock and Stock Plans) for information about stock and options activity and terms and conditions of warrants.

**Table 25.1: Earnings Per Common Share Calculations**

(in millions, except per share amounts)	Year ended December 31,		
	2019	2018	2017
Wells Fargo net income	\$ 19,549	22,393	22,183
Less: Preferred stock dividends and other (1)	1,611	1,704	1,629
Wells Fargo net income applicable to common stock (numerator)	\$ 17,938	20,689	20,554
<b>Earnings per common share</b>			
Average common shares outstanding (denominator)	4,393.1	4,799.7	4,964.6
Per share	\$ 4.08	4.31	4.14
<b>Diluted earnings per common share</b>			
Average common shares outstanding	4,393.1	4,799.7	4,964.6
Add: Stock options (2)	0.8	8.0	17.1
Restricted share rights (2)	31.5	26.3	24.7
Warrants (2)	—	4.4	10.9
Diluted average common shares outstanding (denominator)	4,425.4	4,838.4	5,017.3
Per share	\$ 4.05	4.28	4.10

(1) The years ended December 31, 2019 and December 31, 2018, includes \$220 million and \$155 million, respectively, as a result of eliminating the discount on our Series K and Series J Preferred Stock. The Series K Preferred Stock was partially redeemed on September 16, 2019, and the Series J Preferred stock was redeemed on September 17, 2018.

(2) Calculated using the treasury stock method.

Table 25.2 presents the outstanding Convertible Preferred Stock, Series L, and options to purchase shares of common stock that were anti-dilutive and therefore not included in the calculation of diluted earnings per common share.

**Table 25.2: Outstanding Anti-Dilutive Securities**

(in millions)	Weighted-average shares		
	Year ended December 31,		
	2019	2018	2017
Convertible Preferred Stock, Series L (1)	25.3	25.3	25.3
Stock options (2)	—	0.3	1.9

(1) Calculated using the if-converted method.

(2) Calculated using the treasury stock method.

Table 25.3 presents dividends declared per common share.

**Table 25.3: Dividends Declared Per Common Share**

	Year ended December 31,		
	2019	2018	2017
Per common share	\$ 1.92	1.64	1.54

## Note 26: Other Comprehensive Income

Table 26.1 provides the components of other comprehensive income (OCI), reclassifications to net income by income statement line item, and the related tax effects.

**Table 26.1: Summary of Other Comprehensive Income**

(in millions)	Year ended December 31,								
	2019			2018			2017		
	Before tax	Tax effect	Net of tax	Before tax	Tax effect	Net of tax	Before tax	Tax effect	Net of tax
<b>Debt securities (1):</b>									
Net unrealized gains (losses) arising during the period	\$ 5,439	(1,337)	4,102	(4,493)	1,100	(3,393)	2,719	(1,056)	1,663
Reclassification of net (gains) losses to net income:									
Interest income on debt securities (2)	263	(65)	198	357	(88)	269	198	(75)	123
Net gains on debt securities	(140)	34	(106)	(108)	27	(81)	(479)	181	(298)
Net gains from equity securities (3)	—	—	—	—	—	—	(456)	172	(284)
Other noninterest income	(1)	—	(1)	(1)	—	(1)	—	—	—
Subtotal reclassifications to net income	122	(31)	91	248	(61)	187	(737)	278	(459)
Net change	5,561	(1,368)	4,193	(4,245)	1,039	(3,206)	1,982	(778)	1,204
<b>Derivatives and hedging activities:</b>									
<b>Fair Value Hedges:</b>									
Change in fair value of excluded components on fair value hedges (4)	(3)	1	(2)	(254)	63	(191)	(253)	95	(158)
<b>Cash Flow Hedges:</b>									
Net unrealized losses arising during the period on cash flow hedges	(21)	5	(16)	(278)	67	(211)	(287)	108	(179)
Reclassification of net (gains) losses to net income:									
Interest income on loans	291	(72)	219	292	(72)	220	(551)	208	(343)
Interest expense on long-term debt	8	(2)	6	2	—	2	8	(3)	5
Subtotal reclassifications to net income	299	(74)	225	294	(72)	222	(543)	205	(338)
Net change	275	(68)	207	(238)	58	(180)	(1,083)	408	(675)
<b>Defined benefit plans adjustments:</b>									
Net actuarial and prior service gains (losses) arising during the period	(40)	10	(30)	(434)	106	(328)	49	(12)	37
Reclassification of amounts to noninterest expense and employee benefits (5):									
Amortization of net actuarial loss	141	(35)	106	127	(31)	96	150	(57)	93
Settlements and other	(8)	5	(3)	126	(29)	97	3	2	5
Subtotal reclassifications to noninterest expense and employee benefits	133	(30)	103	253	(60)	193	153	(55)	98
Net change	93	(20)	73	(181)	46	(135)	202	(67)	135
<b>Foreign currency translation adjustments:</b>									
Net unrealized gains (losses) arising during the period	73	(2)	71	(156)	1	(155)	96	3	99
Net change	73	(2)	71	(156)	1	(155)	96	3	99
Other comprehensive income (loss)	\$ 6,002	(1,458)	4,544	(4,820)	1,144	(3,676)	1,197	(434)	763
Less: Other comprehensive loss from noncontrolling interests, net of tax			—			(2)			(62)
Wells Fargo other comprehensive income (loss), net of tax			\$ 4,544			(3,674)			825

(1) The year ended December 31, 2017, includes net unrealized gains (losses) arising during the period from equity securities of \$81 million and reclassification of net (gains) losses to net income related to equity securities of \$(456) million. In connection with our adoption in first quarter 2018 of ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): *Recognition and Measurement of Financial Assets and Financial Liabilities*, the years ended December 31, 2018, and December 31, 2019, reflect net unrealized gains (losses) arising during the period and reclassification of net (gains) losses to net income from only debt securities.

(2) Represents net unrealized gains and losses amortized over the remaining lives of securities that were transferred from the available-for-sale portfolio to the held-to-maturity portfolio.

(3) Net gains from equity securities is presented for table presentation purposes. After our adoption of ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): *Recognition and Measurement of Financial Assets and Financial Liabilities* on January 1, 2018, this line will not contain balances as realized and unrealized gains and losses on marketable equity investments will be recorded in earnings.

(4) Represents changes in fair value of cross-currency swaps attributable to changes in cross-currency basis spreads, which are excluded from the assessment of hedge effectiveness and recorded in other comprehensive income.

(5) Effective January 1, 2018, we adopted ASU 2017-07 – *Improving the Presentation of Net Periodic Pension Cost and Net Periodic Postretirement Benefit Cost*. Accordingly, 2018 and 2019 balances are reclassified to other noninterest expense on the consolidated statement of income. For 2017 these balances were reclassified to employee benefits.

## Note 26: Other Comprehensive Income (continued)

Table 26.2 provides the cumulative OCI balance activity on an after-tax basis.

**Table 26.2: Cumulative OCI Balances**

(in millions)	Debt securities (1)	Fair value hedges (2)	Cash flow hedges (3)	Defined benefit plans adjustments	Foreign currency translation adjustments	Cumulative other comprehensive income (loss)
Balance, December 31, 2016	\$ (1,099)	—	89	(1,943)	(184)	(3,137)
Transition adjustment (4)	—	169	(1)	—	—	168
Balance, January 1, 2017	(1,099)	169	88	(1,943)	(184)	(2,969)
Net unrealized gains (losses) arising during the period	1,663	(158)	(179)	37	99	1,462
Amounts reclassified from accumulated other comprehensive income	(459)	—	(338)	98	—	(699)
Net change	1,204	(158)	(517)	135	99	763
Less: Other comprehensive income (loss) from noncontrolling interests	(66)	—	—	—	4	(62)
Balance, December 31, 2017	171	11	(429)	(1,808)	(89)	(2,144)
Transition adjustment (5)	(118)	—	—	—	—	(118)
Balance, January 1, 2018	53	11	(429)	(1,808)	(89)	(2,262)
Reclassification of certain tax effects to retained earnings (6)	31	2	(89)	(353)	9	(400)
Net unrealized losses arising during the period	(3,393)	(191)	(211)	(328)	(155)	(4,278)
Amounts reclassified from accumulated other comprehensive income	187	—	222	193	—	602
Net change	(3,175)	(189)	(78)	(488)	(146)	(4,076)
Less: Other comprehensive loss from noncontrolling interests	—	—	—	—	(2)	(2)
Balance, December 31, 2018	(3,122)	(178)	(507)	(2,296)	(233)	(6,336)
<b>Transition adjustment (7)</b>	<b>481</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>481</b>
<b>Balance, January 1, 2019</b>	<b>(2,641)</b>	<b>(178)</b>	<b>(507)</b>	<b>(2,296)</b>	<b>(233)</b>	<b>(5,855)</b>
<b>Net unrealized gains (losses) arising during the period</b>	<b>4,102</b>	<b>(2)</b>	<b>(16)</b>	<b>(30)</b>	<b>71</b>	<b>4,125</b>
<b>Amounts reclassified from accumulated other comprehensive income</b>	<b>91</b>	<b>—</b>	<b>225</b>	<b>103</b>	<b>—</b>	<b>419</b>
<b>Net change</b>	<b>4,193</b>	<b>(2)</b>	<b>209</b>	<b>73</b>	<b>71</b>	<b>4,544</b>
<b>Less: Other comprehensive income (loss) from noncontrolling interests</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>	<b>—</b>
<b>Balance, December 31, 2019</b>	<b>\$ 1,552</b>	<b>(180)</b>	<b>(298)</b>	<b>(2,223)</b>	<b>(162)</b>	<b>(1,311)</b>

- (1) The year ended December 31, 2017, includes net unrealized gains (losses) arising during the period from equity securities of \$81 million and reclassification of net (gains) losses to net income related to equity securities of \$(456) million. In connection with our adoption in first quarter 2018 of ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): *Recognition and Measurement of Financial Assets and Financial Liabilities*, the years ended December 31, 2018, and December 31, 2019, reflect net unrealized gains (losses) arising during the period and reclassification of net (gains) losses to net income from only debt securities.
- (2) Substantially all of the amounts for fair value hedges are foreign exchange contracts.
- (3) Substantially all of the amounts for cash flow hedges are foreign exchange contracts for the year-ended December 31, 2019, and interest rate contracts for the years ended December 31, 2018 and 2017.
- (4) Transition adjustment relates to our adoption of ASU 2017-12 – Derivatives and Hedging (Topic 815): *Targeted Improvements to Accounting for Hedging Activities*.
- (5) The transition adjustment relates to our adoption of ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): *Recognition and Measurement of Financial Assets and Financial Liabilities*.
- (6) Represents the reclassification from other comprehensive income to retained earnings as a result of our adoption of ASU 2018-02 – Income Statement-Reporting Comprehensive Income (Topic 220): *Reclassification of Certain Tax Effects from Accumulated Other Comprehensive Income* in third quarter 2018.
- (7) The transition adjustment relates to our adoption of ASU 2017-08 – Receivables – Nonrefundable Fees and Other Costs (Subtopic 310-20): *Premium Amortization on Purchased Callable Debt Securities*. See Note 1 (Summary of Significant Accounting Policies) for more information.



## Note 27: Operating Segments

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As of December 31, 2019, we had three reportable operating segments: Community Banking; Wholesale Banking; and Wealth and Investment Management (WIM). We define our operating segments by product type and customer segment and their results are based on our management reporting process. The management reporting process is based on U.S. GAAP with specific adjustments, such as for funds transfer pricing for asset/liability management, for shared revenues and expenses, and tax-equivalent adjustments to consistently reflect income from taxable and tax-exempt sources. The management reporting process measures the performance of the operating segments based on our management structure and is not necessarily comparable with similar information for other financial services companies. On February 11, 2020, we announced a new organizational structure with five principal lines of business: Consumer and Small Business Banking; Consumer Lending; Commercial Banking; Corporate and Investment Banking; and Wealth and Investment Management. The Company is currently in the process of transitioning to this new organizational structure, including identifying leadership for some of these principal business lines and aligning management reporting and allocation methodologies. These changes will not impact the consolidated financial results of the Company, but are expected to result in changes to our operating segments. We will update our operating segment disclosures, including comparative financial results, when the Company completes its transition and is managed in accordance with the new organizational structure.

**Community Banking** offers a complete line of diversified financial products and services for consumers and small businesses with annual sales generally up to \$5 million in which the owner generally is the financial decision maker. These financial products and services include checking and savings accounts, credit and debit cards, and automobile, student, mortgage, home equity and small business lending, as well as referrals to Wholesale Banking and WIM business partners.

Community Banking serves customers through a complete range of channels, including traditional and in-supermarket and other small format branches, ATMs, digital (online, mobile, and social), and contact centers (phone, email and correspondence).

The Community Banking segment also includes the results of our Corporate Treasury activities net of allocations (including funds transfer pricing, capital, liquidity and certain corporate expenses) in support of other segments and results of investments in our affiliated venture capital and private equity partnerships.

**Wholesale Banking** provides financial solutions to businesses with annual sales generally in excess of \$5 million and to financial institutions globally. Wholesale Banking provides a complete line of commercial, corporate, capital markets, cash management and real estate banking products and services. These include traditional commercial loans and lines of credit, letters of credit, asset-based lending, equipment leasing, international trade facilities, trade financing, collection services, foreign exchange services, treasury management, institutional fixed-income sales, interest rate, commodity and equity risk management, online/electronic products such as the *Commercial Electronic Office*<sup>®</sup> (CEO<sup>®</sup>) portal, corporate trust fiduciary and agency services, and investment banking services. Wholesale Banking also supports the CRE market with products and services such as construction loans for commercial and residential development, land acquisition and development loans, secured and unsecured lines of credit, interim financing arrangements for completed structures, rehabilitation loans, affordable housing loans and letters of credit, permanent loans for securitization, and CRE loan servicing.

**Wealth and Investment Management** provides a full range of personalized wealth management, investment and retirement products and services to clients across U.S.-based businesses including Wells Fargo Advisors, The Private Bank, Abbot Downing, and Wells Fargo Asset Management. We deliver financial planning, private banking, credit, investment management and fiduciary services to high-net worth and ultra-high-net worth individuals and families. We also serve clients' brokerage needs and provide investment management capabilities delivered to global institutional clients through separate accounts and the Wells Fargo Funds.

**Other** includes the elimination of certain items that are included in more than one business segment, substantially all of which represents products and services for Wealth and Investment Management customers served through Community Banking distribution channels.

## Note 27: Operating Segments (continued)

Table 27.1 presents our results by operating segment.

**Table 27.1: Operating Segments**

(income/expense in millions, average balances in billions)	Community Banking	Wholesale Banking	Wealth and Investment Management	Other (1)	Consolidated Company
<b>2019</b>					
<b>Net interest income (2)</b>	\$ 27,610	17,699	4,037	(2,115)	47,231
<b>Provision (reversal of provision) for credit losses</b>	2,319	378	5	(15)	2,687
<b>Noninterest income</b>	17,706	9,978	13,304	(3,156)	37,832
<b>Noninterest expense</b>	32,696	15,352	13,709	(3,579)	58,178
<b>Income (loss) before income tax expense (benefit)</b>	10,301	11,947	3,627	(1,677)	24,198
<b>Income tax expense (benefit) (3)</b>	2,426	1,246	904	(419)	4,157
<b>Net income (loss) before noncontrolling interests</b>	7,875	10,701	2,723	(1,258)	20,041
<b>Less: Net income (loss) from noncontrolling interests</b>	477	5	10	—	492
<b>Net income (loss)</b>	\$ 7,398	10,696	2,713	(1,258)	19,549
<b>2018</b>					
Net interest income (2)	\$ 29,219	18,690	4,441	(2,355)	49,995
Provision (reversal of provision) for credit losses	1,783	(58)	(5)	24	1,744
Noninterest income	17,694	10,016	11,935	(3,232)	36,413
Noninterest expense	30,491	16,157	12,938	(3,460)	56,126
Income (loss) before income tax expense (benefit)	14,639	12,607	3,443	(2,151)	28,538
Income tax expense (benefit) (3)	3,784	1,555	861	(538)	5,662
Net income (loss) before noncontrolling interests	10,855	11,052	2,582	(1,613)	22,876
Less: Net income (loss) from noncontrolling interests	461	20	2	—	483
Net income (loss)	\$ 10,394	11,032	2,580	(1,613)	22,393
<b>2017</b>					
Net interest income (2)	\$ 28,658	18,810	4,641	(2,552)	49,557
Provision (reversal of provision) for credit losses	2,555	(19)	(5)	(3)	2,528
Noninterest income	18,360	11,190	12,431	(3,149)	38,832
Noninterest expense	32,615	16,624	12,623	(3,378)	58,484
Income (loss) before income tax expense (benefit)	11,848	13,395	4,454	(2,320)	27,377
Income tax expense (benefit) (3)	634	3,496	1,668	(881)	4,917
Net income (loss) before noncontrolling interests	11,214	9,899	2,786	(1,439)	22,460
Less: Net income (loss) from noncontrolling interests	276	(15)	16	—	277
Net income (loss)	\$ 10,938	9,914	2,770	(1,439)	22,183
<b>2019</b>					
<b>Average loans</b>	\$ 459.4	475.3	75.6	(59.3)	951.0
<b>Average assets</b>	1,028.4	861.0	84.3	(60.3)	1,913.4
<b>Average deposits</b>	782.0	422.5	146.0	(64.2)	1,286.3
<b>2018</b>					
Average loans	463.7	465.7	74.6	(58.8)	945.2
Average assets	1,034.1	830.5	83.9	(59.6)	1,888.9
Average deposits	757.2	423.7	165.0	(70.0)	1,275.9

- (1) Includes the elimination of certain items that are included in more than one business segment, substantially all of which represents products and services for WIM customers served through Community Banking distribution channels.
- (2) Net interest income is the difference between interest earned on assets and the cost of liabilities to fund those assets. Interest earned includes actual interest earned on segment assets as well as interest credits for any funding of a segment available to be provided to other segments. The cost of liabilities includes actual interest expense on segment liabilities as well as funding charges for any funding provided from other segments.
- (3) Income tax expense (benefit) for our Wholesale Banking operating segment included income tax credits related to low-income housing and renewable energy investments of \$1.8 billion, \$1.6 billion and \$1.4 billion for the years ended December 31, 2019, 2018 and 2017 respectively.

## Note 28: Parent-Only Financial Statements

The following tables present Parent-only condensed financial statements.

**Table 28.1: Parent-Only Statement of Income**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Income</b>			
Dividends from subsidiaries (1)	\$ 21,930	22,427	20,746
Interest income from subsidiaries	3,356	3,298	1,984
Other interest income	43	49	146
Other income	(162)	(424)	1,238
Total income	25,167	25,350	24,114
<b>Expense</b>			
Interest expense:			
Indebtedness to nonbank subsidiaries	664	644	189
Short-term borrowings	—	2	—
Long-term debt	4,931	4,541	3,595
Other	2	3	5
Noninterest expense	1,327	286	1,888
Total expense	6,924	5,476	5,677
<b>Income before income tax benefit and equity in undistributed income of subsidiaries</b>			
	18,243	19,874	18,437
Income tax benefit	(945)	(544)	(319)
Equity in undistributed income of subsidiaries	361	1,975	3,427
<b>Net income</b>	<b>\$ 19,549</b>	<b>22,393</b>	<b>22,183</b>

(1) Includes dividends paid from indirect bank subsidiaries of \$21.8 billion, \$20.8 billion and \$17.9 billion in 2019, 2018 and 2017, respectively.

**Table 28.2: Parent-Only Statement of Comprehensive Income**

(in millions)	Year ended December 31,		
	2019	2018	2017
Net income	\$ 19,549	22,393	22,183
Other comprehensive income (loss), net of tax:			
Debt securities (1)	(45)	(12)	94
Derivatives and hedging activities	(12)	(198)	(158)
Defined benefit plans adjustment	75	(132)	118
Equity in other comprehensive income (loss) of subsidiaries	4,526	(3,332)	771
<b>Other comprehensive income (loss), net of tax:</b>	<b>4,544</b>	<b>(3,674)</b>	<b>825</b>
<b>Total comprehensive income</b>	<b>\$ 24,093</b>	<b>18,719</b>	<b>23,008</b>

(1) The year ended December 31, 2017 includes net unrealized gains arising during the period from equity securities of \$3 million and reclassification of net (gains) to net income related to equity securities of \$(21) million. In connection with our adoption in first quarter 2018 of ASU 2016-01 – Financial Instruments – Overall (Subtopic 825-10): *Recognition and Measurement of Financial Assets and Financial Liabilities*, the years ended December 31, 2019 and 2018, reflect net unrealized gains (losses) arising during the period and reclassification of net (gains) losses to net income from only debt securities.

**Note 28: Parent-Only Financial Statements (continued)****Table 28.3: Parent-Only Balance Sheet**

(in millions)	Dec 31, 2019	Dec 31, 2018
<b>Assets</b>		
Cash, cash equivalents, and restricted cash due from:		
Subsidiary banks	\$ 14,948	16,301
Nonaffiliates	1	—
Debt securities:		
Available-for-sale, at fair value	1	1
Loans to nonbank subsidiaries	145,383	139,163
Investments in subsidiaries (1)	208,076	202,695
Equity securities	1,007	2,164
Other assets	4,608	4,639
Total assets	\$ 374,024	364,963
<b>Liabilities and equity</b>		
Accrued expenses and other liabilities	\$ 8,050	6,986
Long-term debt	152,628	135,079
Indebtedness to nonbank subsidiaries	26,200	26,732
Total liabilities	186,878	168,797
Stockholders' equity	187,146	196,166
Total liabilities and equity	\$ 374,024	364,963

(1) The years ended December 31, 2019, and December 31, 2018, include indirect ownership of bank subsidiaries with equity of \$170.4 billion and \$167.6 billion, respectively.

**Table 28.4: Parent-Only Statement of Cash Flows**

(in millions)	Year ended December 31,		
	2019	2018	2017
<b>Cash flows from operating activities:</b>			
Net cash provided by operating activities	\$ 27,601	19,024	22,233
<b>Cash flows from investing activities:</b>			
Available-for-sale debt securities:			
Proceeds from sales:			
Subsidiary banks	—	—	8,658
Nonaffiliates	—	—	8,824
Prepayments and maturities:			
Subsidiary banks	—	—	10,250
Purchases:			
Subsidiary banks	—	—	(3,900)
Equity securities, not held for trading:			
Proceeds from sales and capital returns	326	355	743
Purchases	(1,052)	(220)	(215)
Loans:			
Net advances to subsidiaries	(3)	(7)	(35,876)
Capital notes and term loans made to subsidiaries	(5,286)	(2,441)	(73,729)
Principal collected on notes/loans made to subsidiaries	1,703	756	69,286
Net decrease (increase) in investment in subsidiaries	(384)	2,407	(2,029)
Other, net	22	109	113
Net cash provided (used) by investing activities	(4,674)	959	(17,875)
<b>Cash flows from financing activities:</b>			
Net increase (decrease) in short-term borrowings and indebtedness to subsidiaries	(636)	12,467	(8,685)
Long-term debt:			
Proceeds from issuance	20,369	1,876	22,217
Repayment	(8,143)	(9,162)	(13,709)
Preferred stock:			
Proceeds from issuance	—	—	677
Redeemed	(1,550)	(2,150)	—
Cash dividends paid	(1,391)	(1,622)	(1,629)
Common stock:			
Proceeds from issuance	380	632	1,211
Stock tendered for payment of withholding taxes	(302)	(331)	(393)
Repurchased	(24,533)	(20,633)	(9,908)
Cash dividends paid	(8,198)	(7,692)	(7,480)
Other, net	(275)	(248)	(138)
Net cash used by financing activities	(24,279)	(26,863)	(17,837)
<b>Net change in cash, cash equivalents, and restricted cash</b>	<b>(1,352)</b>	<b>(6,880)</b>	<b>(13,479)</b>
Cash, cash equivalents, and restricted cash at beginning of year	16,301	23,181	36,660
<b>Cash, cash equivalents, and restricted cash at end of year</b>	<b>\$ 14,949</b>	<b>16,301</b>	<b>23,181</b>

## Note 29: Regulatory and Agency Capital Requirements

The Company and each of its subsidiary banks are subject to regulatory capital adequacy requirements promulgated by federal bank regulatory agencies. The Federal Reserve establishes capital requirements for the consolidated financial holding company, and the OCC has similar requirements for the Company's national banks, including Wells Fargo Bank, N.A. (the Bank).

Table 29.1 presents regulatory capital information for Wells Fargo & Company and the Bank in accordance with the Basel III capital requirements. We must report the lower of our Common Equity Tier 1 (CET1), tier 1 and total capital ratios calculated under the Standardized Approach and under the Advanced Approach in the assessment of our capital adequacy. The Standardized Approach applies assigned risk weights to broad risk categories, while the calculation of risk-weighted assets (RWAs) under the Advanced Approach differs by requiring applicable banks to utilize a risk-sensitive methodology, which relies upon the use of internal credit models, and includes an

operational risk component. The Basel III capital requirements for calculating CET1 and tier 1 capital, along with RWAs, are fully phased-in. However, the requirements for determining tier 2 and total capital are still in accordance with Transition Requirements and are scheduled to be fully phased-in by the end of 2021. Accordingly, the information presented below reflects fully phased-in CET1 capital, tier 1 capital, and RWAs, but reflects total capital still in accordance with Transition Requirements.

At December 31, 2019, the Bank and our other insured depository institutions were considered well-capitalized under the requirements of the Federal Deposit Insurance Act.

The Bank is an approved seller/servicer of mortgage loans and is required to maintain minimum levels of shareholders' equity, as specified by various agencies, including the United States Department of Housing and Urban Development, GNMA, FHLMC and FNMA. At December 31, 2019, the Bank met these requirements.

**Table 29.1: Regulatory Capital Information**

(in millions, except ratios)	Wells Fargo & Company				Wells Fargo Bank, N.A.			
	December 31, 2019		December 31, 2018		December 31, 2019		December 31, 2018	
	Advanced Approach	Standardized Approach	Advanced Approach	Standardized Approach	Advanced Approach	Standardized Approach	Advanced Approach	Standardized Approach
<b>Regulatory capital:</b>								
Common equity tier 1	\$ 138,760	138,760	146,363	146,363	145,149	145,149	142,685	142,685
Tier 1	158,949	158,949	167,866	167,866	145,149	145,149	142,685	142,685
Total	188,333	196,223	198,798	207,041	158,615	166,056	155,558	163,380
<b>Assets:</b>								
Risk-weighted assets	1,230,066	1,245,853	1,177,350	1,247,210	1,110,379	1,152,791	1,058,653	1,154,182
Adjusted average assets (1)	1,913,297	1,913,297	1,850,299	1,850,299	1,695,807	1,695,807	1,652,009	1,652,009
<b>Regulatory capital ratios:</b>								
Common equity tier 1 capital	11.28%	11.14 *	12.43	11.74 *	13.07	12.59 *	13.48	12.36 *
Tier 1 capital	12.92	12.76 *	14.26	13.46 *	13.07	12.59 *	13.48	12.36 *
Total capital	15.31 *	15.75	16.89	16.60 *	14.28 *	14.40	14.69	14.16 *
Tier 1 leverage (1)	8.31	8.31	9.07	9.07	8.56	8.56	8.64	8.64
<b>Supplementary leverage: (2)</b>								
Total leverage exposure	\$ 2,247,729		2,174,564		2,006,180		1,957,276	
Supplementary leverage ratio	7.07%		7.72		7.24		7.29	

\*Denotes the lowest capital ratio as determined under the Advanced and Standardized Approaches.

(1) The leverage ratio consists of Tier 1 capital divided by total average assets, excluding goodwill and certain other items.

(2) The supplementary leverage ratio (SLR) consists of Tier 1 capital divided by total leverage exposure. Total leverage exposure consists of total average assets, less goodwill and other permitted Tier 1 capital deductions (net of deferred tax liabilities), plus certain off-balance sheet exposures.

Table 29.2 presents the minimum required regulatory capital ratios under Transition Requirements to which the

Company and the Bank were subject as of December 31, 2019, and December 31, 2018.

**Table 29.2: Minimum Required Regulatory Capital Ratios – Transition Requirements (1)**

	Wells Fargo & Company		Wells Fargo Bank, N.A.	
	December 31, 2019	December 31, 2018	December 31, 2019	December 31, 2018
<b>Regulatory capital ratios:</b>				
Common equity tier 1 capital	9.00%	7.875	7.000	6.375
Tier 1 capital	10.500	9.375	8.500	7.875
Total capital	12.500	11.375	10.500	9.875
Tier 1 leverage	4.000	4.000	4.000	4.000
Supplementary leverage (2)	5.000	5.000	6.000	6.000

(1) At December 31, 2019, under transition requirements, the CET1, tier 1 and total capital minimum ratio requirements for Wells Fargo & Company include a capital conservation buffer of 2.500% and a global systemically important bank (G-SIB) surcharge of 2.000%. Only the 2.500% capital conservation buffer applies to the Bank at December 31, 2019.

(2) Wells Fargo & Company is required to maintain a SLR of at least 5.000% (comprised of a 3.000% minimum requirement plus a supplementary leverage buffer of 2.000%) to avoid restrictions on capital distributions and discretionary bonus payments. The Bank is required to maintain a SLR of at least 6.000% to be considered well-capitalized under applicable regulatory capital adequacy guidelines.

## Report of Independent Registered Public Accounting Firm

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To the Stockholders and Board of Directors  
Wells Fargo & Company:

### *Opinion on the Consolidated Financial Statements*

We have audited the accompanying consolidated balance sheets of Wells Fargo & Company and Subsidiaries (the Company) as of December 31, 2019 and 2018, the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes (collectively, the consolidated financial statements). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2019 and 2018, and the results of its operations and its cash flows for each of the years in the three-year period ended December 31, 2019, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) (PCAOB), the Company's internal control over financial reporting as of December 31, 2019, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission, and our report dated February 26, 2020, expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

### *Basis for Opinion*

These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with the U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud. Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

### *Critical Audit Matters*

The critical audit matters communicated below are matters arising from the current period audit of the consolidated financial statements that were communicated or required to be communicated to the audit committee and that: (1) relate to accounts or disclosures that are material to the consolidated financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the consolidated financial statements, taken as a whole, and we are not, by communicating the critical audit matters below, providing separate opinions on the critical audit matters or on the accounts or disclosures to which they relate.

### Assessment of the allowance for credit losses

As discussed in Notes 1 and 6 to the consolidated financial statements, the allowance for credit losses is the Company's estimate of credit losses inherent in the loan portfolio, including unfunded credit commitments, at the balance sheet date. The allowance for credit losses at December 31, 2019 was \$10.5 billion, or 1.09% of total loans. Of the total allowance for credit losses, \$9.2 billion relates to loans collectively evaluated for impairment in accordance with ASC 450-20 and \$1.3 billion relates to loans individually evaluated for impairment in accordance with ASC 310-10. The Company has an established process to determine the appropriateness of the allowance for credit losses that estimates the losses inherent in its portfolio and related unfunded credit commitments. The Company develops and documents its allowance methodology at the portfolio segment level - commercial and consumer. For each portfolio segment, losses are estimated collectively for groups of loans with similar characteristics, and individually or pooled for impaired loans.

We identified the assessment of the allowance for credit losses as a critical audit matter because of the complexity and significant judgment involved in evaluating the measurement uncertainty in the estimate. There was a high degree of subjectivity related to the selection of a credit loss estimation model that fits the credit risk characteristics for particular loan portfolios, including the assessment of limitations to credit loss estimation addressed through imprecision. There was also a high degree of subjectivity and potential for management bias related to determining an amount of imprecision for inclusion within the Company's overall estimate of inherent credit losses. Further, the assessment of credit risk ratings for commercial loans required the use of significant judgment as well as industry knowledge and experience to evaluate individual borrower's financial strength and the quality of collateral.

The primary procedures we performed to address this critical audit matter included the following: We tested certain internal controls over the Company's allowance for credit losses estimation process that are designed to (1) evaluate and monitor the ability of the model methodologies to estimate credit losses for selected commercial and consumer portfolios, (2) assess the limitations to credit loss estimation models, (3) determine the amount of imprecision for inclusion within the Company's overall estimate of the effect of quantitative and qualitative factors on inherent credit losses, and (4) assess credit risk ratings for commercial loans. We involved credit risk professionals with specialized skills and knowledge who assisted in testing the Company's process to evaluate the design of selected commercial and consumer portfolio model methodologies and the appropriateness of credit risk ratings to estimate losses in accordance with relevant U.S. generally accepted accounting principles and identify and assess the limitations to the credit loss estimation models. We evaluated the methodologies and assumptions used to estimate certain imprecision amounts. We tested the accuracy of the range for certain quantifiable imprecision amounts, including, as applicable, recalculation of the range and procedures over relevance and reliability of the inputs into the calculation of the range. We tested whether certain imprecision amounts reflect risks inherent in the processes and assumptions used to estimate the allowance for credit losses. We performed trend analyses on the imprecision amount relative to the allowance for credit losses to identify any potential for management bias considering portfolio trends, internal and external credit metrics, and economic factors.

#### Assessment of the residential mortgage servicing rights (MSRs)

As discussed in Notes 1, 10, 11, 12, and 19 to the consolidated financial statements, the Company recognizes MSRs when it purchases servicing rights from third parties, or retains servicing rights in connection with the sale or securitization of loans it originated. The Company has elected to carry its residential MSRs at fair value with periodic changes reflected in earnings. The Company's residential MSR asset as of December 31, 2019 was \$11.5 billion on an underlying loan servicing portfolio of \$1.1 trillion.

The Company uses a valuation model for determining fair value that calculates the present value of estimated future net servicing income cash flows. The model incorporates assumptions that market participants use in estimating future net servicing income cash flows. These assumptions include estimates of prepayment speeds, discount rates, default rates, cost to service (including delinquency and foreclosure costs), escrow account earnings, contractual servicing fee income, ancillary income and late fees. The estimated fair value of MSRs is periodically benchmarked to independent appraisals.

We identified the assessment of the valuation of residential MSRs as a critical audit matter because of the complexity and significant judgment involved in deriving the estimate. There was a high degree of subjectivity used to evaluate the following key assumptions because they are unobservable and the sensitivity of changes to those assumptions had a significant effect on the valuation: prepayment speeds, discount rate, and costs to service. There was also a high degree of subjectivity and potential for management bias related to updates made to key assumptions due to changes in market conditions, mortgage interest rates, or servicing standards.

The primary procedures we performed to address the critical audit matter included the following: We tested certain internal controls over the Company's residential MSR valuation process to (1) assess the valuation model, (2) evaluate the key assumptions used in determining the MSR fair value, and (3) compare the MSR fair value to independent appraisals. We involved valuation professionals with specialized skills and knowledge who assisted in evaluating the design of the valuation model used to estimate the MSR fair value in accordance with relevant U.S. generally accepted accounting principles, and to evaluate key assumptions (prepayment speeds, discount rates, and costs to service) based on an analysis of backtesting results and a comparison of key assumptions to available data for comparable entities and independent appraisals. We assessed the key assumption updates made during the year by considering backtesting results, external market events, and independent appraisals or other circumstances and by involving valuation professionals to assist in determining that there were no significant assumption updates that a market participant would have expected to be incorporated in the valuation at year end that were not incorporated.

/s/ KPMG LLP

We have served as the Company's auditor since 1931.

San Francisco, California  
February 26, 2020



## Quarterly Financial Data

### Condensed Consolidated Statement of Income - Quarterly (Unaudited)

(in millions, except per share amounts)	2019				2018			
	Quarter ended				Quarter ended			
	Dec 31,	Sep 30,	Jun 30,	Mar 31,	Dec 31,	Sep 30,	Jun 30,	Mar 31,
<b>Interest income</b>	\$ 15,595	16,499	16,986	17,003	16,921	16,364	16,015	15,347
<b>Interest expense</b>	4,395	4,874	4,891	4,692	4,277	3,792	3,474	3,109
<b>Net interest income</b>	11,200	11,625	12,095	12,311	12,644	12,572	12,541	12,238
Provision for credit losses	644	695	503	845	521	580	452	191
Net interest income after provision for credit losses	10,556	10,930	11,592	11,466	12,123	11,992	12,089	12,047
<b>Noninterest income</b>								
Service charges on deposit accounts	1,279	1,219	1,206	1,094	1,176	1,204	1,163	1,173
Trust and investment fees	3,572	3,559	3,568	3,373	3,520	3,631	3,675	3,683
Card fees	1,020	1,027	1,025	944	981	1,017	1,001	908
Other fees	656	858	800	770	888	850	846	800
Mortgage banking	783	466	758	708	467	846	770	934
Insurance	98	91	93	96	109	104	102	114
Net gains from trading activities	131	276	229	357	10	158	191	243
Net gains (losses) on debt securities	(8)	3	20	125	9	57	41	1
Net gains from equity securities	451	956	622	814	21	416	295	783
Lease income	343	402	424	443	402	453	443	455
Other	335	1,528	744	574	753	633	485	602
Total noninterest income	8,660	10,385	9,489	9,298	8,336	9,369	9,012	9,696
<b>Noninterest expense</b>								
Salaries	4,721	4,695	4,541	4,425	4,545	4,461	4,465	4,363
Commission and incentive compensation	2,651	2,735	2,597	2,845	2,427	2,427	2,642	2,768
Employee benefits	1,436	1,164	1,336	1,938	706	1,377	1,245	1,598
Technology and equipment	802	693	607	661	643	634	550	617
Net occupancy	749	760	719	717	735	718	722	713
Core deposit and other intangibles	26	27	27	28	264	264	265	265
FDIC and other deposit assessments	130	93	144	159	153	336	297	324
Other	5,099	5,032	3,478	3,143	3,866	3,546	3,796	4,394
Total noninterest expense	15,614	15,199	13,449	13,916	13,339	13,763	13,982	15,042
<b>Income before income tax expense</b>	3,602	6,116	7,632	6,848	7,120	7,598	7,119	6,701
Income tax expense	678	1,304	1,294	881	966	1,512	1,810	1,374
<b>Net income before noncontrolling interests</b>	2,924	4,812	6,338	5,967	6,154	6,086	5,309	5,327
Less: Net income from noncontrolling interests	51	202	132	107	90	79	123	191
<b>Wells Fargo net income</b>	\$ 2,873	4,610	6,206	5,860	6,064	6,007	5,186	5,136
Less: Preferred stock dividends and other	327	573	358	353	353	554	394	403
<b>Wells Fargo net income applicable to common stock</b>	\$ 2,546	4,037	5,848	5,507	5,711	5,453	4,792	4,733
<b>Per share information</b>								
Earnings per common share	\$ 0.61	0.93	1.31	1.21	1.22	1.14	0.98	0.97
Diluted earnings per common share	0.60	0.92	1.30	1.20	1.21	1.13	0.98	0.96
Average common shares outstanding	4,197.1	4,358.5	4,469.4	4,551.5	4,665.8	4,784.0	4,865.8	4,885.7
Diluted average common shares outstanding	4,234.6	4,389.6	4,495.0	4,584.0	4,700.8	4,823.2	4,899.8	4,930.7

**Average Balances, Yields and Rates Paid (Taxable-Equivalent basis) - Quarterly (1) - (Unaudited)**

(in millions)	Quarter ended December 31,					
	2019			2018		
	Average balance	Yields/ rates	Interest income/ expense	Average balance	Yields/ rates	Interest income/ expense
<b>Earning assets</b>						
Interest-earning deposits with banks	\$ 127,287	1.63%	\$ 523	150,091	2.18%	\$ 825
Federal funds sold and securities purchased under resale agreements	109,201	1.72	472	76,108	2.22	426
Debt securities (2):						
Trading debt securities	103,818	3.12	811	90,110	3.52	794
Available-for-sale debt securities:						
Securities of U.S. Treasury and federal agencies	15,636	1.79	70	7,195	1.80	32
Securities of U.S. states and political subdivisions	39,502	3.58	354	47,618	4.05	483
Mortgage-backed securities:						
Federal agencies	161,146	2.58	1,038	155,322	2.91	1,128
Residential and commercial	4,745	4.40	53	6,666	4.87	81
Total mortgage-backed securities	165,891	2.63	1,091	161,988	2.99	1,209
Other debt securities	40,497	3.88	395	46,072	4.46	518
Total available-for-sale debt securities	261,526	2.92	1,910	262,873	3.41	2,242
Held-to-maturity debt securities:						
Securities of U.S. Treasury and federal agencies	45,109	2.19	248	44,747	2.19	247
Securities of U.S. states and political subdivisions	12,701	3.88	123	6,247	4.34	67
Federal agency and other mortgage-backed securities	95,303	2.49	593	95,748	2.46	589
Other debt securities	39	3.28	1	68	3.65	1
Total held-to-maturity debt securities	153,152	2.51	965	146,810	2.46	904
Total debt securities	518,496	2.84	3,686	499,793	3.15	3,940
Mortgage loans held for sale (3)	23,985	3.90	234	17,044	4.46	190
Loans held for sale (3)	1,365	4.13	15	1,992	6.69	33
Loans:						
Commercial loans:						
Commercial and industrial - U.S.	283,650	3.84	2,747	281,431	4.40	3,115
Commercial and industrial - Non-U.S.	67,307	3.40	577	62,035	3.73	584
Real estate mortgage	122,136	4.07	1,255	120,404	4.51	1,369
Real estate construction	20,076	4.71	239	23,090	5.32	310
Lease financing	19,421	4.41	214	19,519	4.48	219
Total commercial loans	512,590	3.90	5,032	506,479	4.39	5,597
Consumer loans:						
Real estate 1-4 family first mortgage	292,388	3.66	2,678	285,260	4.02	2,868
Real estate 1-4 family junior lien mortgage	30,147	5.32	403	34,844	5.60	491
Credit card	39,898	12.26	1,233	37,858	12.69	1,211
Automobile	47,274	5.04	600	45,536	5.16	592
Other revolving credit and installment	34,239	6.60	571	36,359	6.95	637
Total consumer loans	443,946	4.92	5,485	439,857	5.25	5,799
Total loans (3)	956,536	4.37	10,517	946,336	4.79	11,396
Equity securities	38,278	2.81	269	37,412	2.79	261
Other	6,478	1.36	22	4,074	1.78	18
Total earning assets	\$ 1,781,626	3.51%	\$ 15,738	1,732,850	3.93%	\$ 17,089
<b>Funding sources</b>						
Deposits:						
Interest-bearing checking	\$ 63,292	1.09%	\$ 174	53,983	1.21%	\$ 165
Market rate and other savings	732,705	0.59	1,094	689,639	0.43	741
Savings certificates	32,358	1.68	137	21,955	0.87	48
Other time deposits	87,069	2.10	459	92,676	2.46	575
Deposits in non-U.S. offices	54,751	1.50	208	56,098	1.66	236
Total interest-bearing deposits	970,175	0.85	2,072	914,351	0.77	1,765
Short-term borrowings	115,949	1.50	439	105,962	2.04	546
Long-term debt	230,430	3.02	1,743	226,591	3.17	1,802
Other liabilities	27,279	2.04	141	27,365	2.41	164
Total interest-bearing liabilities	1,343,833	1.30	4,395	1,274,269	1.34	4,277
Portion of noninterest-bearing funding sources	437,793	—	—	458,581	—	—
Total funding sources	\$ 1,781,626	0.98	4,395	1,732,850	0.99	4,277
<b>Net interest margin and net interest income on a taxable-equivalent basis (4)</b>		<b>2.53%</b>	<b>\$ 11,343</b>		<b>2.94%</b>	<b>\$ 12,812</b>
<b>Noninterest-earning assets</b>						
Cash and due from banks	\$ 19,943			19,288		
Goodwill	26,389			26,423		
Other	113,885			100,486		
Total noninterest-earning assets	\$ 160,217			146,197		
<b>Noninterest-bearing funding sources</b>						
Deposits	\$ 351,738			354,597		
Other liabilities	53,879			51,739		
Total equity	192,393			198,442		
Noninterest-bearing funding sources used to fund earning assets	(437,793)			(458,581)		
Net noninterest-bearing funding sources	\$ 160,217			146,197		
Total assets	\$ 1,941,843			1,879,047		
<b>Average prime rate</b>			4.83%			5.28%
<b>Average three-month London Interbank Offered Rate (LIBOR)</b>			1.93%			2.62%

- (1) Yields/rates and amounts include the effects of hedge and risk management activities associated with the respective asset and liability categories.
- (2) Yields/rates are based on interest income/expense amounts for the period, annualized based on the accrual basis for the respective accounts. The average balance amounts represent amortized cost for the periods presented.
- (3) Nonaccrual loans and related income are included in their respective loan categories.
- (4) Includes taxable-equivalent adjustments of \$143 million and \$168 million for the quarters ended December 31, 2019 and 2018, respectively, predominantly related to tax-exempt income on certain loans and securities. The federal statutory tax rate was 21% for the periods ended December 31, 2019 and 2018.

## Glossary of Acronyms

<b>ACL</b>	Allowance for credit losses	<b>LCR</b>	Liquidity coverage ratio
<b>AFS</b>	Available-for-sale	<b>LHFS</b>	Loans held for sale
<b>ALCO</b>	Asset/Liability Management Committee	<b>LIBOR</b>	London Interbank Offered Rate
<b>ARM</b>	Adjustable-rate mortgage	<b>LIHTC</b>	Low income housing tax credit
<b>ASC</b>	Accounting Standards Codification	<b>LOCOM</b>	Lower of cost or market value
<b>ASU</b>	Accounting Standards Update	<b>LTV</b>	Loan-to-value
<b>AUA</b>	Assets under administration	<b>MBS</b>	Mortgage-backed security
<b>AUM</b>	Assets under management	<b>MLHFS</b>	Mortgage loans held for sale
<b>AVM</b>	Automated valuation model	<b>MSR</b>	Mortgage servicing right
<b>BCBS</b>	Basel Committee on Bank Supervision	<b>NAV</b>	Net asset value
<b>BHC</b>	Bank holding company	<b>NPA</b>	Nonperforming asset
<b>CCAR</b>	Comprehensive Capital Analysis and Review	<b>NSFR</b>	Net stable funding ratio
<b>CD</b>	Certificate of deposit	<b>OCC</b>	Office of the Comptroller of the Currency
<b>CDS</b>	Credit default swaps	<b>OCI</b>	Other comprehensive income
<b>CECL</b>	Current expected credit loss	<b>OTC</b>	Over-the-counter
<b>CET1</b>	Common Equity Tier 1	<b>OTTI</b>	Other-than-temporary impairment
<b>CFPB</b>	Consumer Financial Protection Bureau	<b>PCI</b>	Purchased credit-impaired
<b>CLO</b>	Collateralized loan obligation	<b>PTPP</b>	Pre-tax pre-provision profit
<b>CLTV</b>	Combined loan-to-value	<b>RBC</b>	Risk-based capital
<b>CPI</b>	Collateral protection insurance	<b>RMBS</b>	Residential mortgage-backed securities
<b>CRE</b>	Commercial real estate	<b>ROA</b>	Wells Fargo net income to average total assets
<b>DPD</b>	Days past due	<b>ROE</b>	Wells Fargo net income applicable to common stock to average Wells Fargo common stockholders' equity
<b>ESOP</b>	Employee Stock Ownership Plan		
<b>FASB</b>	Financial Accounting Standards Board	<b>ROTCE</b>	Return on average tangible common equity
<b>FDIC</b>	Federal Deposit Insurance Corporation	<b>RWAs</b>	Risk-weighted assets
<b>FHA</b>	Federal Housing Administration	<b>SEC</b>	Securities and Exchange Commission
<b>FHLB</b>	Federal Home Loan Bank	<b>S&amp;P</b>	Standard & Poor's Ratings Services
<b>FHLMC</b>	Federal Home Loan Mortgage Corporation	<b>SLR</b>	Supplementary leverage ratio
<b>FICO</b>	Fair Isaac Corporation (credit rating)	<b>SOFR</b>	Secured Overnight Financing Rate
<b>FNMA</b>	Federal National Mortgage Association	<b>SPE</b>	Special purpose entity
<b>FRB</b>	Board of Governors of the Federal Reserve System	<b>TDR</b>	Troubled debt restructuring
<b>GAAP</b>	Generally accepted accounting principles	<b>TLAC</b>	Total Loss Absorbing Capacity
<b>GNMA</b>	Government National Mortgage Association	<b>VA</b>	Department of Veterans Affairs
<b>GSE</b>	Government-sponsored entity	<b>VaR</b>	Value-at-Risk
<b>G-SIB</b>	Globally systemically important bank	<b>VIE</b>	Variable interest entity
<b>HQLA</b>	High-quality liquid assets	<b>WIM</b>	Wealth and Investment Management
<b>HTM</b>	Held-to-maturity		

**Exhibit 21****SUBSIDIARIES OF THE PARENT**

The table below is a list of direct and indirect subsidiaries of the Parent as of December 31, 2019, and the state or jurisdiction in which the subsidiaries are organized. Pursuant to Item 601(b)(21)(ii) of Regulation S-K, certain subsidiaries of the Parent have been omitted from this list because, considered in the aggregate as a single subsidiary, such subsidiaries would not constitute a “significant subsidiary” as that term is defined in Rule 1-02(w) of Regulation S-X.

Subsidiary	Jurisdiction of Incorporation or Organization
Danube Holdings I C.V.	Netherlands
Danube I Limited Partner, LLC	Delaware
EVEREN Capital Corporation	Delaware
Norwest Equity Partners IX, LP	Delaware
Norwest Venture Partners XII, LP	Delaware
Norwest Venture Partners XIII, LP	Delaware
NVP Associates, LLC	Delaware
OmniPlus Capital Corporation	Delaware
Peony Asset Management, Inc.	Delaware
Silver Asset Management, Inc.	Delaware
Sparta GP Holding REO Corp	Delaware
Union Hamilton Reinsurance, Ltd.	Bermuda
Wells Fargo Affordable Housing Community Development Corporation	North Carolina
Wells Fargo Bank, Ltd.	California
Wells Fargo Bank, National Association	United States
Wells Fargo Bank South Central, National Association	United States
Wells Fargo Capital Finance, LLC	Delaware
Wells Fargo Central Pacific Holdings, Inc.	California
Wells Fargo Clearing Services, LLC	Delaware
Wells Fargo Commercial Distribution Finance, LLC	Delaware
Wells Fargo Community Development Corporation	Nevada
Wells Fargo Community Investment Holdings, LLC	Delaware
Wells Fargo Dealer Floorplan Master Note Trust	Delaware
Wells Fargo Equipment Finance, Inc.	Minnesota
Wells Fargo Financial Leasing, Inc.	Iowa
Wells Fargo Funding, Inc.	Minnesota
Wells Fargo Funds Management, LLC	Delaware
Wells Fargo Insurance, Inc.	Minnesota
Wells Fargo Insurance Re, Inc.	Vermont
Wells Fargo Municipal Capital Strategies, LLC	Delaware
Wells Fargo National Bank West	United States
Wells Fargo Real Estate Investment Corporation	Delaware
Wells Fargo Securities, LLC	Delaware
Wells Fargo USA Holdings, Inc.	New Jersey
Wells Fargo Vendor Financial Services, LLC	California
WFC Holdings, LLC	Delaware

## Exhibit 23

### Consent of Independent Registered Public Accounting Firm

The Board of Directors  
Wells Fargo & Company:

We consent to the incorporation by reference in the registration statements noted below on Forms S-3, S-4, and S-8 of Wells Fargo & Company of our reports dated February 26, 2020, with respect to the consolidated balance sheets of Wells Fargo & Company and Subsidiaries as of December 31, 2019 and 2018, and the related consolidated statements of income, comprehensive income, changes in equity, and cash flows for each of the years in the three-year period ended December 31, 2019, and the related notes (collectively, the “consolidated financial statements”), and the effectiveness of internal control over financial reporting as of December 31, 2019, which reports appear in the December 31, 2019 Annual Report on Form 10-K of Wells Fargo & Company.

<u>Registration</u> <u>Statement Number</u>	<u>Form</u>	<u>Description</u>
333-236148	S-3	Universal Shelf 2020
333-221324 333-221324-01	S-3	Debt Shelf 2017
333-216234	S-3	Universal Shelf 2017
333-223517	S-3	Wells Fargo Direct Purchase and Dividend Reinvestment Plan
333-154879	S-4/S-8	Wachovia Corporation
333-232390	S-8	Deferred Compensation Plan
333-232389	S-8	Long-Term Incentive Compensation Plan
333-168819	S-8	Long-Term Incentive Compensation Plan
333-192903	S-8	Long-Term Incentive Compensation Plan
333-211639	S-8	401(k) Plan
333-180997	S-8	Directors Stock Compensation and Deferral Plan
333-176266	S-8	Special Deferral Plan for Select Employees and Special Award Plan
333-142941	S-8	Deferred Compensation Plan
333-207636	S-8	Deferred Compensation Plan
333-211638	S-8	Wells Fargo Stock Purchase Plan
333-161529	S-8	Wachovia Deferred Compensation Obligations
333-200400	S-8	Supplemental 401(k) Plan

/s/ KPMG LLP \_\_\_\_\_

San Francisco, California  
February 26, 2020

## Exhibit 24

### WELLS FARGO & COMPANY

#### Power of Attorney of Director

KNOW ALL MEN BY THESE PRESENTS, that the undersigned director of WELLS FARGO & COMPANY, a Delaware corporation, does hereby make, constitute, and appoint JAMES H. QUIGLEY, a director and Chairman of the Audit and Examination Committee of the Board of Directors, and JOHN D. BAKER II, THEODORE F. CRAVER, JR., CHARLES H. NOSKI, and RONALD L. SARGENT, directors and members of the Audit and Examination Committee of the Board of Directors, and each or any of them, the undersigned's true and lawful attorneys-in-fact, with power of substitution, for the undersigned and in the undersigned's name, place, and stead, to sign and affix the undersigned's name as such director of said Company to an Annual Report on Form 10-K for the fiscal year ended December 31, 2019, and all amendments thereto, to be filed by said Company with the Securities and Exchange Commission, Washington, D.C. under the Securities Exchange Act of 1934, and the rules and regulations of said Commission, and to file the same, with all exhibits thereto and other supporting documents, with said Commission, granting unto said attorneys-in-fact, and each or either of them, full power and authority to do and perform any and all acts necessary or incidental to the performance and execution of the powers herein expressly granted.

IN WITNESS WHEREOF, the undersigned has executed this power of attorney this 25th day of February, 2020.

/s/ JOHN D. BAKER II

/s/ CELESTE A. CLARK

/s/ THEODORE F. CRAVER, JR.

/s/ ELIZABETH A. DUKE

/s/ WAYNE M. HEWETT

/s/ DONALD M. JAMES

/s/ MARIA R. MORRIS

/s/ CHARLES H. NOSKI

/s/ RICHARD B. PAYNE, JR.

/s/ JUAN A. PUJADAS

/s/ JAMES H. QUIGLEY

/s/ RONALD L. SARGENT

/s/ CHARLES W. SCHARF

/s/ SUZANNE M. VAUTRINOT

## Exhibit 31(a)

### CERTIFICATION

I, Charles W. Scharf, certify that:

1. I have reviewed this Annual Report on Form 10-K for the period ended December 31, 2019, of Wells Fargo & Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ CHARLES W. SCHARF

Charles W. Scharf  
Chief Executive Officer

Date: February 26, 2020

## Exhibit 31(b)

### CERTIFICATION

I, John R. Shrewsberry, certify that:

1. I have reviewed this Annual Report on Form 10-K for the period ended December 31, 2019, of Wells Fargo & Company;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
  - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
  - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
  - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
  - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ JOHN R. SHREWSBERRY

John R. Shrewsberry  
Chief Financial Officer

Date: February 26, 2020



**Exhibit 32(a)**

**Certifications Pursuant to  
18 U.S.C. Section 1350,  
As Adopted Pursuant to  
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report on Form 10-K of Wells Fargo & Company (the “Company”) for the period ended December 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, Charles W. Scharf, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ CHARLES W. SCHARF

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Charles W. Scharf  
Chief Executive Officer

Date: February 26, 2020

**Exhibit 32(b)**

**Certifications Pursuant to  
18 U.S.C. Section 1350,  
As Adopted Pursuant to  
Section 906 of the Sarbanes-Oxley Act of 2002**

In connection with the Annual Report on Form 10-K of Wells Fargo & Company (the “Company”) for the period ended December 31, 2019, as filed with the Securities and Exchange Commission on the date hereof (the “Report”), I, John R. Shrewsberry, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. §1350, as adopted pursuant to §906 of the Sarbanes-Oxley Act of 2002, that:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ JOHN R. SHREWSBERRY

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John R. Shrewsberry  
Chief Financial Officer

Date: February 26, 2020