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FEDERAL EXPRESS

Sebastian Gomez Abero, Esq.
Chief, Office of Small Business Policy
Division of Corporation Finance
U.S. Securities and Exchange Commission
100 F Street N.E.
Washington, D.C. 20549

Re: In the Matter of Wells Fargo Advisors, LLC

Dear Mr. Gomez Abero:

This letter is submitted on behalf of our client, Wells Fargo Advisors, LLC ("WFA"), the settling respondent in the above-captioned administrative proceeding brought by the Securities and Exchange Commission (the "Commission"). WFA hereby requests, pursuant to Rule 506(d)(2)(ii) of Regulation D under the Securities Act of 1933 (the "Securities Act"), a waiver of any disqualification from relying on an exemption under Rule 506 of Regulation D that is applicable as a result of the entry of an order against WFA (the "Order") on September 22, 2014, which is described below.[1]

BACKGROUND

The staff of the Division of Enforcement ("Enforcement") has engaged in settlement discussions with WFA in connection with the above-captioned administrative proceeding, in which the Commission found that between 2009 and at least April 2013, WFA failed to adequately establish, maintain, and enforce written policies and procedures that were reasonably designed to prevent the misuse of material non-public information. The Commission also found that during the course of the Commission staff's investigation, WFA violated certain provisions of the federal securities laws relating to books and records.

[1] *In the Matter of Wells Fargo Advisors, LLC*, Exchange Act Release No. 73175, Investment Advisers Act Release No. 3928 (Sept. 22, 2014).

As a result of the settlement discussions with Enforcement, WFA submitted an Offer of Settlement (the "Offer") that the Commission has determined to accept. In the Offer, solely for the purpose of settling the proceeding, WFA agreed to consent to the entry of the Order making certain findings and to the jurisdiction of the Commission over it and over the subject matter of the proceeding. Under the Order, WFA admitted to certain findings and acknowledged that its conduct violated certain federal securities laws.

The Order, which was issued pursuant to Sections 15(b) and 21C of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act"), found that WFA's policies and procedures were not adequately established, maintained, or enforced with respect to "look back" reviews conducted by the Retail Control Group within WFA's Compliance Department. These "look back" reviews of trading in employee accounts and in customer and client accounts after market-moving announcements were designed to detect whether trades may have been based on material non-public information. The Order found that the manner in which WFA's policies and procedures were established, maintained, and enforced affected a number of the "look back" reviews performed by WFA, including a 2010 review of trading in the securities of Burger King Holdings, Inc.[2] The Order further found that during the course of the Commission staff's investigation, WFA unreasonably delayed the production of certain documents and produced a document that had been altered by a WFA employee.

Based on the conduct described, the Order found that WFA willfully violated Exchange Act Sections 15(g), 17(a), and 17(b); Exchange Act Rule 17a-4(j); and Advisers Act Sections 204A and 204(a). The Order censured WFA and ordered it to cease and desist from committing or causing any violations and any future violations of the same provisions. In addition, the Order required WFA to pay a civil money penalty in the amount of $5 million. The Order also required WFA to comply with undertakings related to the retention of an Independent Compliance Consultant ("Compliance Consultant") within 30 days of the issuance of the Order.

DISCUSSION

WFA understands that the entry of the Order will disqualify it, certain affiliated entities, and other issuers from relying on an exemption under Rule 506 of Regulation D. WFA is concerned that, should it be deemed to be an issuer, predecessor of an issuer, affiliated issuer, general partner or managing member of an issuer, or promoter of securities—or should it be

[2] The Commission brought insider trading charges against a former registered representative in a WFA branch office, Waldyr Da Silva Prado Neto ("Prado"), for trading in these securities. *SEC v. Waldyr Da Silva Prado Neto*, Civil Action No. 12-CIV-7094, Litigation Release No. 22486 (Sept. 21, 2012). Prado was permanently enjoined from committing future violations on January 7, 2014. Litigation Release No. 22905 (Jan. 14, 2014). Based on the court's entry of the permanent injunction, administrative proceedings were instituted against Prado. Exchange Act Release No. 71379 (Jan. 23, 2014). The Initial Decision barring Prado from the securities industry was issued on May 20, 2014. Initial Decision Release No. 600 (May 20, 2014). The Initial Decision became final on July 1, 2014. Exchange Act Release No. 72513 (July 1, 2014). Prado was criminally charged with conspiracy to commit securities fraud, securities fraud, and fraud in connection with a tender offer in *USA v. Waldyr Prado, et al.*, SDNY Case No. 13MAG2201 (Sept. 13, 2013).

deemed to be acting in any other capacity described in Securities Act Rule 506 for purposes of Rule 506(d)(l)(iv)—WFA and other entities, including third parties that engage WFA to act in (or otherwise involve WFA in) one of the listed capacities in connection with their securities offering(s) ("Covered Persons"), would be prohibited from relying upon the offering exemption.

The Commission has the authority to waive the Rule 506 of Regulation D disqualification upon a showing of good cause that such disqualification is not necessary under the circumstances.[3] The Commission has delegated this authority to the Division of Corporation Finance ("Corporation Finance").[4] WFA requests that Corporation Finance, acting pursuant to its delegated authority from the Commission, waive any disqualifying effects that the Order will have under Rule 506 of Regulation D as a result of its entry as to WFA on the following grounds:

1. WFA's conduct underlying the Order does not relate to offers or sales of securities by WFA. Rather, the conduct underlying the Order relates to WFA's failure to adequately establish, maintain, and enforce written policies and procedures that were reasonably designed to prevent the misuse of material non-public information—specifically, WFA's policies and procedures related to "look back" reviews by the Retail Control Group to identify potential instances of trading on inside information—and to WFA's failure to comply with certain books and records provisions of the federal securities laws.

2. WFA has taken many, and will take additional, steps to address the conduct at issue in the Order. During the investigation, when questions arose concerning the accuracy of information provided by an employee, WFA placed the employee on administrative leave and eventually terminated the employee. In addition, prior to the issuance of the Order, WFA initiated an assessment designed to address and enhance its compliance with Exchange Act Section 15(g) and Advisers Act Section 204A through its process for conducting "look back" reviews. As a part of this assessment, WFA added and trained more analysts to conduct the "look back" reviews. WFA designated additional managers to supervise the reviews and required that each review conducted by an analyst be reviewed by a manager. WFA improved the requirements and guidance for what information and documents must be analyzed during the reviews and for record-keeping of conducted reviews. WFA implemented enhanced methods for tracking the status of the reviews and the results of these reviews, including establishing a database to assist with review tracking. The database allows the Retail Control Group to track, among other items, what reviews have been opened, to whom reviews are assigned, which reviews are ongoing, how long reviews have been open, and which reviews are pending management review. In addition, WFA improved the process for sharing information about the "look back" reviews both within WFA's Retail Control Group and with other WFA compliance groups. For example, WFA's Retail Control Group shares with WFA's AML Group the securities and accounts that the Retail Control Group analyzes as a part of its reviews. Further, WFA's Retail Control Group participates in monthly meetings

[3] *See* 17 C.F.R. § 230.506(d)(2)(ii).

[4] *See* 17 CFR § 200.30-1(c).

with representatives from groups outside of the Retail Control Group, including the Managing Director of WFA's Central Supervision Unit and the Manager of WFA's AML Group, to discuss recent "look back" reviews. WFA's Retail Control Group also provided training to WFA's AML Group and WFA's Central Supervision Unit about detection of potential insider trading.

Additionally, pursuant to the Order, WFA will take still other steps to address the conduct underlying the Order. Most importantly, WFA will comply with the undertakings in the Order, including to: (a) retain the Compliance Consultant to conduct a review of WFA's supervisory, compliance, and other policies and procedures under Section 15(g) of the Exchange Act and Section 204A of the Advisers Act, as well as of the making, keeping, and preservation of required books and records by WFA's Retail Control Group; (b) have the Compliance Consultant submit a written and dated report of its findings to WFA and to Commission staff, describing the review performed, the conclusions reached, and any recommendations for changes in or improvements to WFA's policies and procedures; (c) adopt all recommendations contained in the report, unless WFA advises the Compliance Consultant and Commission staff that such recommendations are unduly burdensome, impractical, or inappropriate; (d) certify in writing its adoption and implementation of the Compliance Consultant's recommendations; and (e) cooperate fully with the Compliance Consultant and provide the Compliance Consultant with access to such of its files, books, records, and personnel as may be reasonably requested. In sum, WFA has taken and will continue to take concrete steps to address the conduct at issue in the Order. The steps are designed to preclude the possibility of similar conduct occurring in the future and make disqualifying WFA and Covered Persons from relying on Rule 506 of Regulation D in connection with an offering unnecessary.

3. The disqualification of WFA and Covered Persons from relying on the exemption under Rule 506 of Regulation D would have a material adverse impact not only on WFA, but also on third parties (*i.e.*, Covered Persons) that have historically retained WFA in promoter- and/or solicitor-type capacities to distribute securities offered in reliance on the exemption. WFA estimates that, since 2010, it has served in a promoter- and/or solicitor-type capacity in connection with approximately $2 billion of securities offered by Covered Persons in reliance on Rule 506 of Regulation D. More specifically, over that period, WFA raised over $800 million for existing private funds advised by Covered Persons and offered in reliance on Rule 506. In addition, over the same period, WFA raised over $1.2 billion for new private funds advised by Covered Persons and offered in reliance on Rule 506.[5] Further, due to WFA's participation in such offerings, other Wells

[5] Because, in most instances, new private funds were created to meet the demands of WFA's clients, an affiliate of WFA, Alternative Strategies Group, Inc. ("ASGI"), a registered investment adviser, typically served as the general partner, managing member and/or investment adviser of the funds. The funds were structured either as i) feeder funds, each of which invested substantially all of its assets into a separate, third-party managed master fund, which in turn invested its assets in accordance with its investment objectives; or ii) funds that invested their assets directly in accordance with their investment objectives, and for which ASGI had engaged third parties to serve as sub-adviser. In each case, the investment management function was performed by third parties, either the investment advisers to the master funds or the sub-advisers to the funds that invested directly. Each of these third parties received compensation in their capacity as investment managers with respect to these funds.

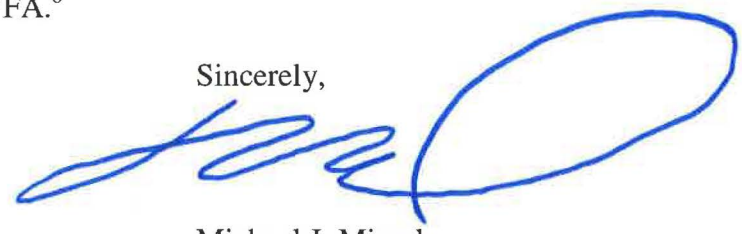
Fargo entities were also able to distribute the same private funds' securities to their investors (*i.e.*, other Wells Fargo entities' clients) who qualified to participate in Rule 506 offerings. These activities by Wells Fargo entities other than WFA raised approximately an additional $2 billion for the private funds. Thus, in total, the distribution efforts of Wells Fargo entities, including WFA, raised approximately $4 billion for private funds managed by Covered Persons, which are assets under management that such Covered Persons otherwise would not have. WFA engages in current and ongoing activities in which it serves in either promoter- and/or solicitor-type capacities in connection with approximately 30 active offerings in which approximately $400 million of securities are annually offered by Covered persons in reliance on Rule 506 of Regulation D. To the extent that, in the future, WFA is disqualified from engaging in such activities, Covered Persons could not access WFA's distribution network to raise assets under management, which would unduly burden their distribution efforts and unnecessarily restrict the investment options available to Wells Fargo clients, as well as place WFA in a competitive disadvantage to WFA's peer firms that can engage in such activities for appropriate clients. For these reasons, and because, as noted above, the conduct underlying the Order is unrelated to an offering or sale of securities by WFA (or a Covered Person), disqualifying WFA (and, effectively, Covered Persons) from relying on the exemption under Rule 506 of Regulation D is not necessary.

4. The misconduct alleged in the Order is not criminal in nature and is not scienter-based.

5. For a period of five years from the date of the Order, WFA will furnish (or cause to be furnished) to each purchaser in a Rule 506 of Regulation D offering that would otherwise be subject to disqualification under Rule 506(d)(l)(iv) as a result of the Order a description in writing of the Order a reasonable time prior to sale.

For the foregoing reasons, any disqualification from reliance on the Rule 506 of Regulation D offering exemption effectuated by the Order, as a collateral consequence thereof, is not necessary under the circumstances. Further, WFA has shown good cause that the relief requested, a waiver from disqualification, should be granted. Accordingly, WFA respectfully urges Corporation Finance, under its delegated authority and pursuant to Rule 506(d)(2)(ii) of Regulation D, to waive the disqualification provision in Rule 506 of Regulation D as a result of the entry of the Order as to WFA.[6]

Sincerely,



Michael J. Missal

[6] We note in support of this request that the Commission has granted relief under Rule 506 of Regulation D for similar reasons or in similar circumstances. *See, e.g.*, *Jefferies LLC*, S.E.C. No-Action Letter (pub. avail. Mar. 12, 2014); *Instinet, LLC*, S.E.C. No-Action Letter (pub. avail. Dec. 26, 2013); *RBS Securities Inc.*, S.E.C. No-Action Letter (pub. avail. Nov. 25, 2013).