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Via e-mail: rule-comment@sec.gov

Ms. Nancy M. Morris
Secretary
Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: File Number S7-03-06
Release No. 33-8735 – Proposed Rule for Compensation Disclosure for Three Additional Highly Compensated Employees (the "Proposed Rule")

Dear Ms. Morris:

I am submitting this letter on behalf of Wells Fargo & Company, a publicly held registered bank holding company ("Wells Fargo"), to provide comments to the Securities and Exchange Commission ("SEC") on the Proposed Rule. Wells Fargo is a diversified financial services company with approximately $483 billion in assets, providing banking, insurance, investments, mortgage and consumer finance products and services to more than 23 million customers from more than 6,100 stores and the internet. Wells Fargo has more than 80 diverse businesses, operates in all 50 states in the United States and in other countries, and is one of the 40 largest private employers in the United States with over 150,000 employees.

Wells Fargo strongly opposes the Proposed Rule and recommends the SEC not adopt it for the following reasons:

- **<u>The Proposed Rule is Unduly Burdensome and Does Not Further the SEC's Purpose</u>**

  If the three additional highly compensated employees are determined in the same manner that named executive officers ("NEOs") are determined for the summary compensation table ("SCT") in the proxy statement, the Proposed Rule will be difficult and unduly burdensome for large diversified organizations to implement. The Proposed Rule presumes that the compensation systems for complex, multi-business organizations like Wells Fargo are standardized, when in fact a number of variations exist because of the different types of businesses involved and the different competitive and other factors that may affect compensation decisions across business lines. Wells Fargo is concerned that the SEC has not fully considered the challenges the Proposed Rule places on large, multi-business organizations.

  Wells Fargo would need to annually monitor and research the total compensation paid to at least 500 employees to be able to determine if it has employees who are not executive officers (the "non-executive employees") but earned more than any NEO in any given year. As discussed below, certain variable elements included in the calculation of total compensation would make it very difficult for Wells Fargo, and other large accelerated filers, to timely and correctly identify the three (or fewer) employees. First, the dollar value of bonuses and non-equity incentive plan compensation (collectively, "Bonuses") earned during the last completed fiscal year must be considered even if the amount of such Bonuses is not determined or paid until the next fiscal year. Like many other large, multi-business companies, bonus programs for non-executive employees can vary across business lines and the actual Bonuses awarded under these programs are not determined until the first quarter following the end of the last completed fiscal year (e.g., Bonuses for 2006 performance are decided in February 2007). Also, unlike Bonuses paid to executive officers, which are determined by the Human Resources Committee of the Board of Directors of Wells Fargo (the "HRC"), Bonuses paid to non-executive employees are determined on a business line-by-business line basis. Second, some of the items included in "All Other Compensation" in the SCT, such as perquisites and amounts paid or accrued pursuant to severance agreements, may also be determined in part on a business line-by-business line basis. Since different business lines may have different bonus and perquisite programs that are tailored to the specific industry in which they operate and to their operating budgets and since the business lines, and not the HRC, determine some of the other variable elements included in total compensation for the 500 employees, the challenge and burden for Wells Fargo and other large diversified organizations to collect and analyze the necessary data on a large number of employees, and then prepare and timely file the required disclosures, is considerable.

Furthermore, the variable and specialized factors that may influence Bonus decisions for non-executive employees in any given year are likely to be entirely different across the enterprise and provide no relative basis of comparison to NEO compensation. Because the amount of Bonuses received by non-executive employees in different business lines may be highly variable from year to year, the non-executive employees described in the proxy statement would likely change from year to year. The proxy statement disclosure would lack continuity and comparability from year to year because the compensation of non-executive employees frequently is influenced by an extraordinary or non-recurring payment, such as a one-time signing or retention bonus or an extraordinary bonus for a stellar year or particular event. Therefore, the Proposed Rule will not result in the disclosure of compensation information that will give shareholders a better understanding of the compensation structure for the NEOs or even the general compensation practices of the company.

As many other commentators have pointed out, the Proposed Rule will impose significant burdens on companies, especially large diversified companies, that will need to expend a significant amount of time and money to collect and analyze the data that will be required to make the proposed disclosure. These expenditures are not likely to decrease over time because each year these large organizations will need to analyze data from a large and ever-changing group of employees to determine if anyone meets the compensation criteria. Wells Fargo believes that the disclosure required by the Proposed Rule unduly burdens large accelerated filers without providing any benefit to shareholders.

- **The Proposed Rule Will Cause Competitive Harm**

  As a large diversified financial services company, Wells Fargo relies on a significant number of key non-executive employees who, because of their specialized skills, client relationships and the competitive market for their talent, are highly compensated. The competition for these key employees in the financial services industry is great. The compensation disclosure of certain non-executive employees would give Wells Fargo's competitors a material advantage in competing against it for its highly skilled, specialized workforce by giving its competitors access to highly sensitive and confidential information. Although the names of employees would not be disclosed, the Proposed Rule requires a description of the employee's job position, so it is likely that competitors will be able to identify these employees (and possibly a new group of employees each year). Competitors will use the disclosed information to attempt to lure these highly productive employees away from Wells Fargo. As a result, the disclosure will likely lead to overall higher compensation costs as Wells Fargo may need to pay more to attract and retain these highly skilled employees. Moreover, many key employees maintain strong, personal relationships with their clients, and the departure of these key employees could also cause the loss of their clients, which would have an additional adverse effect on the company and its shareholders. The disclosure of non-executive employee compensation may also lead valued employees to seek new positions at private companies to protect their privacy and avoid public disclosure of their compensation.

- **The Proposed Rule Will Negatively Affect Employees**

  In addition to the unwarranted intrusion into the personal privacy of employees (since employee compensation is confidential and potential conflicts of interest and related corporate governance concerns are not implicated), the Proposed Rule will likely foster a culture of dissatisfaction and negatively impact employee morale. Employees will be able to deduce the identity of any person for which compensation information is disclosed in the proxy statement. This is likely to cause jealousy among employees. It will also likely increase demands for higher compensation by employees who are similarly situated (or believe they are similarly situated) within the company who are not compensated as well but believe they should be, and possibly even by NEOs who may believe, given their positions within the company, that they should be the most highly compensated individuals. Again, the end result will be overall higher compensation costs for companies.

- **The Proposed Rule is Confusing and Unclear**

  In addition to being unduly burdensome to identify those employees who satisfy the compensation criteria of the Proposed Rule, it will also be difficult to identify those employees who satisfy the policy making criteria of the Proposed Rule because this standard is overly vague and unclear and is not sufficiently distinct from the SEC's current definition of an "executive officer." The SEC defines an "executive officer" to include "any other officer who performs a policy making function or any other person who performs similar policy making functions for the registrant." Since large, complex public companies already face difficulties in determining which of their employees are executive officers under this definition, they certainly will face even greater difficulties in trying to determine if any employee who satisfies the compensation criteria of the Proposed Rule was responsible for significant policy decisions or was able to significantly influence policy at the company, a significant subsidiary or a principal business unit, division or function. It is unclear why the existing definition of executive officer does not already encompass them. If a company decides that an employee was responsible for significant policy decisions or was able to significantly influence policy at a significant subsidiary, how is that not tantamount to performing a policy making function for the registrant? Furthermore, determining whether an employee exerts a policy-making influence involves a highly factual, and ultimately subjective, analysis that will be difficult for companies to make because it most likely will be based on personal relationships and other factual matters which will need to be researched and analyzed for each employee who satisfies the compensation criteria. The SEC appears to want disclosure of compensation information for employees who are not executive officers, but proposes to obtain it by further blurring the line between who is and is not an executive officer. This standard may subject companies to regulatory second-guessing and legal liability. Wells Fargo believes that this requirement is not adequately defined and, therefore, the SEC should not adopt the Proposed Rule.

- **The Required Disclosure Is Not Material to Shareholders**

  The Proposed Rule would not provide additional material information to shareholders. All material information and compensation arrangements not in the ordinary course of business are already required to be disclosed in the annual SEC filings, such as Management's Discussion and Analysis of Financial Condition and Results of Operations under Item 303 of Regulation S-K, Related Party Transactions under Section 404 of Regulation S-K and/or as a material exhibit under Item 601 of Regulation S-K. Moreover, the SEC has not explained why information about this category of expense (non-executive employee compensation expense), more than any other expense item, should be separately disclosed.

For the foregoing reasons, Wells Fargo respectfully recommends that the SEC not adopt the Proposed Rule. Wells Fargo believes that the Proposed Rule will, if adopted, harm instead of help shareholders. The Proposed Rule will require companies to incur significant time and expense to design, implement and maintain enterprise-wide procedures and systems to collect and analyze a large amount of data in order to make the additional compensation disclosure, and will not provide shareholders with additional meaningful information about a company's compensation practices. Disclosure of this compensation information will likely negatively impact employee morale and assist competitors in their recruiting efforts to lure away key employees (and their clients), which will cause employee compensation expenses to increase and company revenue to decrease. The Proposed Rule will also make it more difficult and expensive for public companies to attract and retain highly compensated employees, to the detriment of both the company and its shareholders. In sum, Wells Fargo believes that the SEC should not adopt the Proposed Rule because the potential benefit, if any, is so heavily outweighed by the burden and, more importantly, the detrimental consequences.

If the SEC adopts the Proposed Rule in spite of the great potential for a number of unintended negative consequences, then Wells Fargo believes that the SEC should modify the Proposed Rule so that the final rule does not present unique difficulties for large accelerated filers. As mentioned above, under the Proposed Rule it will be very difficult and unduly burdensome to timely identify the additional three highly compensated employees by calculating the total compensation paid to these employees in the same manner as is used to determine the NEOs in the SCT. Wells Fargo recommends that this determination be made solely by reference to annual salary for the last completed fiscal year, any cash Bonus determined and paid in the last completed fiscal year and stock options/awards granted in the last completed fiscal year. If compensation was determined in this manner, large, multi-business organizations such as Wells Fargo would be able to begin compensation comparisons before the end of the covered fiscal year for the large number of employees it will need to track to be able to determine if any of these employees could have compensation greater than any NEO. In addition, Wells Fargo respectfully requests that the SEC clarify the type or level of employees to whom the additional disclosure applies and postpone effectiveness of the additional disclosure until the 2008 proxy season to give large accelerated filers time to implement the necessary procedures and systems.

Wells Fargo appreciates the opportunity to offer its comments on the Proposed Rule. Wells Fargo has also participated in drafting the comments to the Proposed Rule provided by the Financial Services Roundtable ("FSR") in its letter to the SEC dated October 23, 2006, and supports the comments and recommendations submitted by the FSR. If you have any questions or comments with respect to the issues raised in this letter, please do not hesitate to contact me.

Very truly yours,

Laurel A. Holschuh

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