

Richard D. Levy Senior Vice President & Controller

MAC A0163-039
343 Sansome Street, 3rd Floor
San Francisco, CA 94104
415 222-3119
415 975-6871 Fax
richard.d.levy@wellsfargo.com

Letter of Comment No: 77
File Reference: 1204-001

October 28, 2005

Via email

Technical Director
File Reference No. 1204-001
Financial Accounting Standards Board
401 Merritt 7
P.O. Box 5116
Norwalk, CT 06856-5116

Re: File Reference No. 1204-001 – Invitation to Comment Proposed

Statement of Financial Accounting Standards, Business Combinations, a replacement of FASB Statement No. 141

Wells Fargo & Company (Wells Fargo) is a diversified financial services company with over \$453 billion in assets providing banking, insurance, investments, mortgage and consumer finance services. We appreciate the opportunity to comment on the issues being considered by the Board in determining whether to revise U.S. accounting standards for business combinations.

Wells Fargo supports the Board's efforts to improve financial reporting for business combinations while promoting international convergence in this area. However, we have certain practical and conceptual concerns with the proposed statement as follows:

- We strongly disagree with the Board's tentative conclusion that prohibits the carrying over of an acquired company's allowance for loan losses.
- We believe that contingent consideration should not be recorded until it is determinable beyond a reasonable doubt.
- We think that the value of securities issued in a business combination should be measured at the date the terms of an acquisition are agreed to and announced.
- We believe that acquisition related costs and restructuring costs should continue to be included in the cost of an acquisition.
- We disagree that adjustments to the initial accounting for an acquisition made during the measurement period should result in restatement of the prior financial statements.

Allowance for Loan Losses

Under the proposed guidance, loans acquired in a business combination would be measured at fair value. Therefore, the acquirer would not recognize a separate valuation allowance for uncollectible amounts as of the acquisition date. Rather, the impact of creditworthiness should be reflected in the fair valuation of the acquired loans. This represents a very significant change to accounting for business combinations, particularly for financial institutions where loans frequently represent one of the largest assets. We note that the Board's conclusions in this area are consistent with the fair value measurement approach in AICPA Statement of Position 03-3, Accounting for Certain Loans or Debt Securities Acquired in a Transfer (SOP 03-3), which also prohibits carrying over or creation of valuation allowances in the initial accounting for all loans that have experienced credit deterioration acquired in transfers, including those acquired in connection with a business combination. We have encountered negative consequences to date with these SOP 03-3 requirements. Today's automated loan systems do not adequately handle accounting for loans under SOP 03-3. As a result, institutions have been forced to manually account for acquired loans within the scope of SOP 03-3. The complexity of the accounting and manual effort involved are significant and will grow under the current provisions of the proposed statement. The proposed statement will also result in inconsistent reporting of loans for a single institution, depending on whether the loans were originated by that institution or acquired in a business combination. The inconsistent reporting of loans will result in lack of comparability of financial statements between companies depending on the volume of loans acquired by each entity, providing less transparency to financial statement users. No amount of disclosure can remedy inconsistency of accounting for the same asset class.

Any proposed accounting guidance must acknowledge the uniquely regulated environment of financial institutions where stability and capital preservation are important considerations and primary regulatory concerns. The allowance for loan losses protects capital, in a federally insured and regulated financial institution, under a wide range of economic conditions. The current accounting rule of carrying over an allowance for loan losses has proven very effective during a wide range of economic cycles, and is accepted by all bank regulators and the Securities and Exchange Commission in Staff Accounting Bulletin Topic 2.A.5, Adjustments to Allowances for Loan Losses in Connection with Business Combinations. The inability under the proposed statement to carry over the allowance for loan losses of an acquired institution will negatively impact a key measure of an institution's safety and soundness.

We encourage the Board to retain the practical exception to fair value accounting included in paragraph 37(b) of FASB Statement No. 141, *Business Combinations*, that receivables be measured at "present values of amounts to be received determined at appropriate current interest rates, less allowances for uncollectibility and collection costs, if necessary".

Contingent Consideration

We do not agree with the Board's conclusion that the acquisition date fair value of contingent consideration should be included as part of the total consideration transferred. We are concerned

about the ability to reliably measure contingent consideration agreements, given the wide range of terms of these agreements and the total lack of any objectively verifiable market data. We believe that recording a contingent liability contradicts the long-standing requirements of FASB Statement No. 5, Accounting for Contingencies. We also do not agree with the Board's position that contingent consideration should be remeasured to fair value at each reporting date, with subsequent adjustments recognized in operating results. We believe that contingent consideration payments are an integral economic aspect of business combinations and the proposed impact of remeasuring these arrangements in the income statement will lead to suboptimal economic behavior to avoid disadvantaging accounting results. Specifically, we are concerned that the proposed accounting for contingent consideration will result in structuring business combinations to achieve a particular accounting result. We believe that current accounting for contingent consideration is appropriate and preserves the ability for rationally structured "earnouts" in business combinations.

Acquisition Date Fair Value

The Board has tentatively concluded that fair value of consideration transferred would be measured as of the acquisition date. Under today's current practice, the fair value of the acquirer's marketable equity securities that are issued as consideration in a business combination are measured for purposes of determining the cost of the acquisition as of the date that the terms of the acquisition are agreed to and announced. We support the current practice. We believe that changes in the fair value of an acquirer's stock that may occur between the date the acquisition is agreed to and announced and the date the acquisition is consummated are not indicative of the exchange agreed to by the parties and therefore should not be reflected in the fair value of the consideration transferred. The decision to enter into a business combination considers the value of a security at the time the decision is made and the economics of the deal could change if the value of the securities changes before the closing date.

Acquisition Related Costs

We believe that acquisition related costs are part of the buyer's total purchase price. We do not agree with the Board's tentative conclusion that these costs are not part of the fair value exchanged between the buyer and seller for the acquired business and therefore should be expensed as incurred. Acquisition related costs are an integral part of all business combinations. They are widely viewed by acquirers as part of the total cost of an acquisition and should continue to be accounted for as such. They are included in the total cost of a transaction for purposes of evaluating the economics of a potential acquisition. Including these costs in the total purchase price conforms to the generally accepted practice of capitalizing all costs required to get an asset ready for use. Expensing these costs in the period in which they are paid does not result in the appropriate matching of revenues and expenses. Current period income would be reduced for costs that have been incurred for an acquisition that benefits future periods.

Restructuring Costs

We believe that restructuring costs that are planned by a buyer at the time of an acquisition should be considered part of the total purchase price of the acquisition. They are an integral part of the acquisition since they are required in order to achieve the planned synergies expected to be achieved for the acquisition and they would not be incurred except for the combination. It has been our experience that the ability to achieve synergies directly impacts the price we are willing to pay for an acquisition target and inclusion of these costs in the total purchase price best reflects this economic reality. When restructuring costs are identified at that time of an acquisition and management has committed to a restructuring plan, we believe that liabilities should be established for these costs and that they should be included in the purchase price. Any excess restructuring cost liabilities should continue to reduce goodwill from the acquisition.

Adjustments during the Measurement Period

The Board has tentatively concluded that any adjustments that are made during the measurement period to the provisional values assigned at the acquisition date would be pushed back to the date of acquisition. This would require that comparative financial statements for prior periods would be adjusted as a result of finalizing the initial accounting for a business combination. As a practical matter, the valuation of assets acquired and liabilities assumed is a very complex process and is subject to a high degree of judgment. As a result, the initial accounting accorded a business frequently is adjusted as new and better information is obtained during the measurement period. Requiring a restatement of financial statements for these changes is very impractical, costly and certainly disruptive to users of financial statements. We are also particularly concerned that the frequent restatements that are likely to occur as a result of this provision would expose public companies to increased litigation and Sarbanes-Oxley certification difficulties. We support the present practice where adjustments made during the measurement period are accounted for prospectively.

Conclusion

Based on the foregoing, we do not support the issuance of the proposed statement in its present form. We believe that many of the changes proposed by the Board will result in unnecessary earnings variability and less financial statement transparency. We are especially concerned with the negative impact that the prohibition of carrying forward of an acquired allowance for loan losses will have on the banking industry.

* * *

We appreciate the opportunity to comment on the issues contained in the Board's invitation. If you have any questions, please contact me at (415) 222-3119.

Sincerely,

/s/ Richard D. Levy

Richard D. Levy Senior Vice President & Controller

CC: Mr. Zane D. Blackburn, Office of the Comptroller of the Currency

Ms. Donna Fisher, American Bankers Association

Ms. Gail Haas, The Clearing House Association, L.L.C.

Mr. Charles H. Holm, Federal Reserve Bank

Mr. Robert F. Storch, Federal Deposit Insurance Corporation