



DIVISION OF  
CORPORATION FINANCE

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, D.C. 20549

April 15, 2024

Luke Morgan  
As You Sow

Re: Wells Fargo & Company (the "Company")  
Incoming letter dated March 15, 2024

Dear Luke Morgan:

This letter is in response to your correspondence concerning the shareholder proposal submitted to the Company by Warren Wilson College and co-filers. In response to a December 29, 2023 request from the Company, on March 6, 2024 we issued a letter expressing our informal views on the matter. You have asked us to reconsider our position or present the matter to the Commission.

The staff gives due consideration to management's schedule for printing its proxy materials in determining whether to act upon requests for reconsideration and Commission review. *See* Statement of Informal Procedures for the Rendering of Staff Advice with Respect to Shareholder Proposals, Exchange Act Release No. 12599 (July 7, 1976). In light of the Company's timing considerations, we have determined not to act upon the request for reconsideration and Commission review.

Copies of all of the correspondence on which this response is based will be made available on our website at <https://www.sec.gov/corpfin/2023-2024-shareholder-proposals-no-action>.

Sincerely,

Michael P. Seaman  
Chief Counsel  
Division of Corporation Finance

cc: Lori Zyskowski  
Gibson, Dunn & Crutcher LLP

March 15, 2024

**VIA ONLINE SUBMISSION**

Office of Chief Counsel  
Division of Corporation Finance  
U.S. Securities and Exchange Commission  
100 F Street NE  
Washington, DC 20549

Email: [shareholderproposals@sec.gov](mailto:shareholderproposals@sec.gov)

**Re: Request for Staff Reconsideration, and Presentation to Commission for Review, of March 6, 2024 Staff Decision Concurring in Wells Fargo & Company's Exclusion of Shareholder Proposal of Warren Wilson College**

Ladies and Gentlemen:

By letter dated March 6, 2024, the Staff stated that it would not recommend enforcement action to the Commission if Wells Fargo & Company (the "Company" or "Wells Fargo") were to omit from its 2024 proxy materials a shareholder proposal requesting information concerning its climate transition planning (the "Proposal"), submitted by Warren Wilson College (the "Proponent"). Proponent respectfully requests that the Staff reconsider the no-action decision and/or present it to the Commission for review. As described herein, the decision is inconsistent with the Commission's subsequently released Final Rule for "The Enhancement and Standardization of Climate-Related Disclosures for Investors."<sup>1</sup>

As explained in the Proposal and in Proponent's no-action response letter, Wells Fargo has adopted certain climate goals and commitments, including a commitment to reach net zero financed emissions by 2050. To meet that commitment, the Company has implemented a transition plan involving sectoral 2030 interim targets. The Proposal requests basic information concerning the Company's likelihood of meeting those targets, based on the Company's own disclosures that it gathers such data. The requested information seeks a basic statement of the proportion of financed emissions associated with clients aligned with a 1.5° pathway, *i.e.*, based on client transition readiness, is it likely that Wells Fargo can meet its 2030 goals? The Staff concurred with the Company's argument that this simple disclosure request constitutes micromanagement.

However, on March 6, 2024, the Commission adopted the Climate Disclosure Rule. That Rule recognized the necessity of full and complete disclosure by issuers concerning any climate transition plans they adopt:

As noted in the Proposing Release, registrants may adopt transition plans to mitigate or adapt to climate-related risks as an important part of their climate-related risk management strategy, particularly if the registrant has made

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<sup>1</sup> See Final Rule, *The Enhancement and Standardization of Climate-Related Disclosures for Investors*, Securities and Exchange Commission (Mar. 6, 2024), <https://www.sec.gov/files/rules/final/2024/33-11275.pdf> (hereinafter the "Climate Disclosure Rule").

commitments, or operates in a jurisdiction that has made commitments, to reduce its GHG emissions. We recognize that not every registrant has a transition plan and, as noted above, this rulemaking does not seek to prescribe any particular tools, strategies, or practices with respect to climate-related risks. If, however, a registrant has adopted such a plan, information regarding the plan is important to help investors evaluate a registrant's management of its identified climate-related risks and assess the potential impacts of a registrant's strategy to achieve its short- or long-term climate-related targets or goals on its business, results of operations, and/or its financial condition. Moreover, a registrant's transition plan may have a significant impact on its overall business strategy, for example, where companies operate in jurisdictions with laws or regulations in place designed to move them away from high emissions products and services. Because the steps a registrant plans to take pursuant to its transition plan may have a material impact on its business, results of operations, or financial condition, investors have sought more detailed disclosure about transition plans.<sup>2</sup>

As such, the Commission adopted a rule requiring the disclosure of information about issuers' climate transition plans, specifically noting that "many registrants are not providing decision-useful information about their transition plans."<sup>3</sup> Compare with Proponent's No-Action Response Letter at p. 6 (noting necessity of requested information for investors' decision-making).

The final rule defines a "transition plan" as "a registrant's strategy and implementation plan to reduce climate-related risks, which may include a plan to reduce its GHG emissions in line with its own commitments."<sup>4</sup> It then makes, as relevant here, two essential disclosure requirements:

- First, "[i]f a registrant has adopted a transition plan to manage a material transition risk, describe the plan." The registrant must further "update its annual report disclosure about the transition plan each fiscal year by describing any actions taken during the year under the plan, including how such actions have impacted the registrant's business, results of operations, or financial condition." And the registrant must include "quantitative and qualitative disclosure of material expenditures incurred and material impacts on financial estimates and assumptions as a direct result of the transition plan disclosed."<sup>5</sup>
- Second, registrants "must disclose any climate-related target or goal if such target or goal has materially affected or is reasonably likely to materially affect the registrant's business, results of operations, or financial condition." Moreover, critically, the "registrant **must provide any additional information or explanation necessary to an understanding of the material impact or reasonably likely material impact of the target or goal,**" including "but not limited to" (a) "qualitative description of how the registrant intends to meet its climate-related targets or goals," (b) "**any progress made**

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<sup>2</sup> Climate Disclosure Rule at 132 (emphasis added).

<sup>3</sup> *Id.* at 133 (emphasis added).

<sup>4</sup> *Id.* at 852.

<sup>5</sup> *Id.* at 855.

**toward meeting the target or goal and how any such progress has been achieved,” to be updated annually,** including a qualitative discussion of impacts to the registrant’s business.<sup>6</sup>

For the reasons described in Proponent’s No-Action Response Letter, the disclosures sought by the Proposal fall directly within the scope of the Climate Disclosure Rule. Thus, it is impossible to argue that the Proposal “micromanages” the Company, either by seeking information that is “too granular” or, as the Company argued, by limiting the Company’s discretion not to disclose the requested information. The Climate Disclosure Rule firmly establishes that the information sought in the Proposal is properly of interest to investors, that the information is *less granular* than much of the information required to be disclosed by the Climate Disclosure Rule, and the Climate Disclosure Rule puts to rest any argument that the Company has unfettered discretion to decide the nature of its climate disclosures.

The Company is collecting this data, the data is critical to investor understanding of the likelihood of success of the Company’s data, and the Company is refusing to disclose this dispositive information, even in a broad and undifferentiated manner. As the Proponent’s No-Action Response Letter explained, the information sought in the Proposal is *necessary* for investors to understand the progress the Company is making towards its overall 2050 Net Zero financed emissions goal, as well as in the implementation of its 2030 interim target transition plan. The Company’s current disclosures concede as much by acknowledging that the central component of its climate strategy consists of the “setting [of] interim, emissions-based targets” and that to meet those targets Wells Fargo is “focusing on . . . [s]upporting clients’ transition[s].”<sup>7</sup>

In light of acknowledgment from the Company that its interim targets “inform [its] approach to [client] engagement,”<sup>8</sup> and that Wells Fargo may experience “[d]ecline in market share or profit from failure to . . . identify clients failing to transition,”<sup>9</sup> there can be no question that its clients’ transition progress is a material component of the Company’s climate transition planning and its climate-related goals — and that its transition planning and its climate-related goals are material to the Company’s business. The Proposal simply asks the Company to disclose aggregate information about its clients’ transition progress. The information requested by the Proposal is therefore arguably *required* by the Climate Disclosure Rule, as that Rule is intended, as the Commission states, to help investors “evaluate a registrant’s management of its identified climate-related risks and assess the potential impacts of a registrant’s strategy to achieve its short- or long-term climate-related targets or goals on its business, results of operations, and/or its financial condition.”<sup>10</sup>

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<sup>6</sup> *Id.* at 858 (emphasis added).

<sup>7</sup> *Task Force on Climate Related Financial Disclosures Report* (“2023 TCFD Report”) at 3, 28, Wells Fargo (July 2023), <https://www08.wellsfargomedia.com/assets/pdf/about/corporate-responsibility/climate-disclosure.pdf>.

<sup>8</sup> *CO2eMission July 2023 Supplement* at 5, Wells Fargo (July 2023), <https://sites.wf.com/co2emission/docs/CO2eMission-July-2023-Supplement.pdf>.

<sup>9</sup> 2023 TCFD Report at 38.

<sup>10</sup> *See* Climate Disclosure Rule at 132.

Finally, as Proponent noted in its initial response, the information requested by the Proposal, when compared to the Company’s existing disclosures, is necessary to evaluate the potential “significant impact” that the Company’s “transition plan may have . . . on its overall business strategy.”<sup>11</sup> This is true in part because the Company’s clients’ transition progress will, in part, determine “whether the Company can rely on client emission reductions to meet its goals, or whether it must plan additional actions to meet its net zero goals.”<sup>12</sup> The information provided by the Proposal — which the Company is already collecting — can provide investors with full disclosure as to this fact.

As such, while Proponent disagrees strongly with the Staff’s initial no-action decision, if there was any question whether the Proposal fell into either the “granularity” or “Company discretion” prongs of the micromanagement standard, the Climate Disclosure Rule puts it firmly to rest and arguably compels the disclosure of the information requested in the Proposal.<sup>13</sup>

Based on the foregoing, Proponent believes that the no-action decision bears revisiting and respectfully requests that the Staff reconsider it. Failing that, Proponent requests that the Division of Corporation Finance forward to the Commission this petition for review.

Sincerely,



Luke Morgan  
Staff Attorney, *As You Sow*

cc:

Lori Zyskowski, Gibson, Dunn & Crutcher LLP  
Mara Garcia Kaplan, Wells Fargo & Company  
Mary Minette, Mercy Investment Services, Inc.

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<sup>11</sup> *See id.*

<sup>12</sup> Proponent No-Action Response at 5.

<sup>13</sup> It goes without saying that agencies are required, first and foremost, to follow their own rules. To contravene the Commission’s Climate Disclosure Rule therefore would constitute arbitrary and capricious agency action. *See Acherar Broadcasting Co. v. FCC*, 62 F.3d 1441 (D.C. Cir. 1995) (acknowledging “rudimentary principle that agencies are bound to adhere to their own rules and procedures”).

March 18, 2024

VIA ONLINE SUBMISSION

Office of Chief Counsel  
Division of Corporation Finance  
Securities and Exchange Commission  
100 F Street, NE  
Washington, DC 20549

Re: *Wells Fargo & Company*  
*Shareholder Proposal of Warren Wilson College, et al.*  
*Securities Exchange Act of 1934—Rule 14a-8*

Ladies and Gentlemen:

By letter submitted March 15, 2024, As You Sow, on behalf of Warren Wilson College (the “Proponent”), requested that the staff of the Division of Corporation Finance (the “Staff”) of the Securities and Exchange Commission (the “Commission”) reconsider its decision, dated March 6, 2024, concurring that Wells Fargo & Company (the “Company”) may omit a shareholder proposal (the “Proposal”) that As You Sow submitted on behalf of the Proponent and Minnesota Valley National Wildlife Refuge Trust, and co-filed by Mercy Investment Services, Inc. on behalf of the Adrian Dominican Sisters and the Daughters of Charity (together, the “Proponents”) from the Company’s proxy statement and form of proxy for its 2024 Annual Meeting of Shareholders (the “2024 Proxy Materials”) under Rule 14a-8(i)(7) (the “Request for Reconsideration”). As discussed further below, the Company believes the Proponents’ request should be denied as it is untimely.

By way of background, we submitted a no-action request (the “No-Action Request”) on behalf of the Company and with a copy to the Proponents on December 29, 2023, no later than 80 days prior to the date that the Company intended to file its definitive 2024 Proxy Materials with the Commission. As You Sow subsequently submitted to the Staff a letter on behalf of the Proponents, dated January 29, 2024. The Staff responded to the No-Action Request on March 6, 2024, concurring that the Company could exclude the Proposal under Rule 14a-8(i)(7).

Since receiving the Staff’s response to the No-Action Request, the Company has printed its form of proxy card and proxy statement, and will be filing its definitive proxy statement today, March 18, 2024. The filing and mailing of the proxy statement must occur in short order in order to utilize notice and access under Rule 14a-16. Therefore, granting the Request for

Office of Chief Counsel  
Division of Corporation Finance  
March 18, 2024  
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Reconsideration would impose significant burdens and expense on the Company. Likewise, if required, mailing supplemental proxy materials and soliciting revised proxies for the 2024 Annual Meeting of Shareholders would impose substantial time and expense burdens on the Company and create potential confusion among shareholders. As such, it would be unfair and unduly burdensome for the Staff to consider the Request for Reconsideration at this time.

The Request for Reconsideration asks the Staff to reconsider its determination on the No-Action Request following its adoption of climate-related disclosure requirements and to require that the Proposal appear in the Company's 2024 Proxy Materials. For the reasons described above, this request is untimely. In light of these considerations, the Staff should deny the Proponents' Request for Reconsideration.

If we can be of any further assistance in this matter, please do not hesitate to call me at (212) 351-2309 or Mara Garcia Kaplan, Senior Vice President, Assistant General Counsel, Corporate Governance & Securities, at (651) 263-3117. Correspondence regarding this letter should be sent to [shareholderproposals@gibsondunn.com](mailto:shareholderproposals@gibsondunn.com).

Sincerely,



Lori Zyskowski

cc: Mara Garcia Kaplan, Senior Vice President, Assistant General Counsel, Corporate Governance & Securities  
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