March 6, 2024

Charles Scharf
Chief Executive Officer
Wells Fargo
420 Montgomery Street
San Francisco, CA 94104
Charles.Scharf@wellsfargo.com
(via Email & USPS)

Dear Mr. Scharf:

Wells Fargo & Company ("Wells Fargo") appears to be using debanking as a political tool to extend the policies of the Biden Administration throughout the economy. That is unacceptable.

The banking industry has become increasingly consolidated, with the top six banks controlling around half of all domestic deposits. This effectively turns the largest banks into economic regulators. Banks like Wells Fargo have committed to the Net-Zero Banking Alliance (NZBA), promising to align their customers' greenhouse gas emissions with aggressive 2030 targets in line with the Biden Administration's net-zero goals. Wells Fargo has gone beyond its NZBA commitments to debank whole economic sectors. Furthermore, Wells Fargo has institutionalized discrimination by imposing race and sex-based quotas into credit agreements with customers like BlackRock. Within this context, Wells Fargo's decisions to debank Republican candidates and gun industry participants reveal a new troubling trend.

Wells Fargo claims a commitment to "helping ensure that all people in … our communities … feel valued and respected and have equal access to resources, services, products, and opportunities to succeed."[1] This hasn't been true for those out of step with the Biden Administration's policies. Wells Fargo should cease its efforts to discriminate based on ESG objectives, and publicly commit to serving Americans in a fair, nondiscriminatory, and lawful manner. States possess meaningful authority over banks under civil rights and unfair and deceptive acts and practices (UDAP) statutes.

[1] https://www.wellsfargo.com/about/diversity/diversity-and-inclusion/

I. The Access Problem in the Banking Industry

Historically, American customers have had extensive banking choices. Vigorous competition kept even the biggest banks barely ahead of the pack. For example, 30 years ago, the top five banks only held about 11% of domestic deposits, combined.[2] Today, the top six banks combined hold over *50 percent* of the country's domestic deposits.[3] The consolidation issue is now so pronounced that the top six banks collectively hold more funds than the next *ninety-four banks combined* in the top 100.[4] This has given banks like Wells Fargo an outsize economic influence to an extent never seen in our society.

The federal government has exacerbated this consolidation process in two primary ways. First, by passing the Dodd-Frank Act in response to the failures of enormous financial institutions holding trillions of dollars,[5] the federal government imposed heavy regulatory burdens on banks. These regulatory burdens disproportionately affected smaller banks, which struggled to hire the personnel to shoulder the same burdens that much larger banks could handle in stride.[6] Smaller banks merged with larger banks or shut their doors.[7] In the six years after Dodd-Frank passed, "more than one in five U.S. banks … disappeared—1,708, or more than one every business day," and "virtually no new banks" were formed.[8]

Second, the implicit subsidy from the federal government has given a systemic advantage to larger banks and provided a subsidy estimated to amount to over $100 billion.[9] Consumers gravitate towards large banks in part because the federal government has shown it will bail out any bank it considers "too big to fail."[10] This also encourages larger banks to take greater financial risks and reap greater rewards, assuming that the Biden Administration will bail them out.

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[2] https://ilsr.org/rule/market-share-caps/

[3] https://wallethub.com/edu/sa/bank-market-share-by-deposits/25587

[4] https://www.federalreserve.gov/releases/lbr/current/

[5] https://www.wsj.com/articles/stop-equating-the-latest-bank-failures-to-the-2008-crisis-4d57bcd

[6] https://www.nytimes.com/roomfordebate/2016/04/14/has-dodd-frank-eliminated-the-dangers-in-the-banking-system/dodd-frank-is-hurting-community-banks; https://www.gao.gov/products/gao-16-169

[7] *See* https://www.nytimes.com/roomfordebate/2016/04/14/has-dodd-frank-eliminated-the-dangers-in-the-banking-system/dodd-frank-is-hurting-community-banks

[8] https://www.politico.com/agenda/story/2016/09/community-banks-dodd-frank-000197/

[9] https://www.aei.org/economics/the-100-billion-bailout/ (estimating the implicit subsidy to be between $98 billion and $150 billion)

[10] https://www.axios.com/2023/03/24/how-too-big-to-fail-banks-became-a-symbol-of-safety (

The risks taken by large banks are often in line with the Biden Administration's agenda. For example, as many of us explained in a previous letter, Silicon Valley Bank "appears to have been focused more on environmental issues than safe and sound operations."[11] SVB cared more about "climate risk" than financial risk, pouring money into speculative sustainability investments rather than cash-generating energy businesses.[12] SVB put its depositors at jeopardy to pursue Biden Administration priorities, and the federal government stepped in to guarantee the bank's deposits.

In contrast, there is no reason to believe that a smaller, community bank would receive the same treatment as SVB from the Biden Administration, putting smaller banks at a "terrible competitive disadvantage."[13] A consumer or business considering a smaller bank has no guarantees that the federal government will step in if things go south.

As described below, as the federal government has continued to provide an implicit subsidy worth billions, large banks like Wells Fargo have been carrying out the Biden Administration's preferred environmental and social policies, using debanking as a pseudo-regulatory tool.[14] These political debanking practices by the largest banks warrant enhanced scrutiny from states, an evaluation of whether states have adequate authority, and a reconsideration of whether federal preemption should apply to banks like Wells Fargo.

I. Wells Fargo's Debanking Commitments

1. Using Debanking to Regulate the Economy

You stated in March 2021 that "Wells Fargo is committed to aligning our activities to support the goals of the Paris Agreement and to helping transition to a net zero carbon economy."[15] The Paris Agreement is not law in the United States, so this

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[11] https://attorneygeneral.utah.gov/wp-content/uploads/2023/03/2023-03-21-Letter-to-Treasury-Fed-Reserve-OCC-FDIC-re-SVB.pdf

[12] https://attorneygeneral.utah.gov/wp-content/uploads/2023/03/2023-03-21-Letter-to-Treasury-Fed-Reserve-OCC-FDIC-re-SVB.pdf

[13] https://www.city-journal.org/article/americas-permanent-bank-bailout-regime

[14] With the federal government's "too big to fail" policy ever expanding, some have argued that the very largest banks "are now effectively branches of the U.S. Government." *See, e.g.*, https://www.city-journal.org/article/americas-permanent-bank-bailout-regime. Regardless, these banks wield an enormous amount of coercive power.

[15] https://newsroom.wf.com/English/news-releases/news-release-details/2021/Wells-Fargo-Sets-Goal-to-Achieve-Net-Zero-Greenhouse-Gas-Emissions-by-2050/default.aspx

commitment is transparently political, and Wells Fargo continues to take more and more debanking actions to accomplish its political goals.

When you made this statement, Wells Fargo publicly committed to net-zero greenhouse gas emissions by 2050, including emissions from clients in its financing portfolios.[16] A few months later, Wells Fargo pushed its commitment even further by joining the UN-convened Net-Zero Banking Alliance (NZBA), along with the five other largest banks in the country. Together, these banks are acting as economy-wide economic regulators, carrying out mandates that the Biden Administration has been unable to pass through our country's democratic processes.

Wells Fargo stated that joining the NZBA meant that Wells Fargo will align its "financing with the goal of achieving net-zero greenhouse gas (GHG) emissions by mid-century."[17] But the NZBA requires much more than a promise of net-zero by 2050. It requires that member banks set 2030 emissions reduction targets and submit those targets to part of the United Nations Environment Programme for review. So far, Wells Fargo has announced these targets:[18]

Sector	Metric	Baseline	2030 Target
Oil & Gas • Exploration and Production (Scopes 1, 2, and 3, category 11 (use of sold products)) • Refining (Scopes 1 and 2)	Absolute emissions	97.7 Mt CO2e[1] (as of December 31, 2019)	72.3 Mt CO2e
Power • Power generation (Scope 1)	Emissions intensity	273 kg CO2e/MWh[2,3] (as of December 31, 2019)	102 kg CO2e/MWh
Automotive • Tank-to-wheel (tailpipe) emissions (Scope 3, category 11 (use of sold products))	Emissions intensity	220 g CO2e/vkm[4] (as of December 31, 2021)[5]	103 g CO2e/vkm
Steel • Steel manufacturing (Scopes 1 and 2)	Emissions intensity	1.01 t CO2/t steel[6] (as of December 31, 2021)[5]	1.01[7] t CO2/t steel
Aviation • Tank-to-wake emissions (Scope 1)	Emissions intensity	969 g CO2e/RTK[8] (as of December 31, 2019)[5]	775 g CO2e/RTK

[16] https://newsroom.wf.com/English/news-releases/news-release-details/2021/Wells-Fargo-Sets-Goal-to-Achieve-Net-Zero-Greenhouse-Gas-Emissions-by-2050/default.aspx

[17] https://newsroom.wf.com/English/news-releases/news-release-details/2021/Wells-Fargo-Joins-Net-Zero-Banking-Alliance/default.aspx

[18] https://sites.wf.com/co2emission/docs/CO2eMission-July-2023-Supplement.pdf (p. 6)

These targets are only the beginning. Wells Fargo must set targets for sectors covering nearly the entire economy by the end of 2024: agriculture, aluminum, cement, coal, iron, commercial and residential real estate, and transport.[19]

Because these targets depend on emissions *produced by clients*, they necessarily lead to debanking. For example, Wells Fargo has pledged to reduce the emissions from its oil and gas clients by 26% by 2030 on its way to net zero by 2050. If Wells Fargo's oil and gas clients do not reduce their absolute emissions enough for Wells Fargo to meet its goal, Wells Fargo has only two paths to reach its objective: (1) condition financing on emissions reductions; and/or (2) cut off financing to enough oil and gas companies to achieve the specified reductions. Similarly, if Wells Fargo's lending portfolio for power companies is not achieving its emissions intensity goals, Wells Fargo will have to require emissions intensity reductions from those companies or deny them services.

Wells Fargo's targets for net zero will harm the reliability of the electrical grid amid burgeoning demand. Domestic demand for electricity is expected to increase up to 18% by 2030 and increase by 38% by 2050, with part of that rise driven by an increase in electric vehicles.[20] The massive power demands from Artificial Intelligence systems likely will increase these numbers even further.[21] Yet at a time when the country needs more electricity, Wells Fargo is focused on only allowing increases in certain types of electricity, targeting a *60%* reduction in power emissions intensity by 2030. This is squarely in line with the IEA's net-zero targets, which call for the percentage of power generation from fossil fuels to be reduced by about 60% from 2020 to 2030 and then drop to virtually zero in 2050, with only 2% of power coming from fossil fuels with carbon capture.[22] Thus, a 60% "emissions intensity reduction" target by 2030 to meet the IEA's projections amounts to a target to cut off funding to coal, oil, and gas production and switch to solar and wind production.

Moreover, the assumptions behind the pathways to net zero that Wells Fargo has pledged to follow are highly unrealistic. For example, the IEA assumes that there will be an 8% *reduction* in global energy demand by 2050, even though it admits that energy must be provided for "an economy more than twice as big and a population

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[19] https://www.unepfi.org/net-zero-banking/commitment/frequently-asked-questions/

[20] https://www.weforum.org/agenda/2024/01/energy-efficiency-abundant-affordable-clean-energy/

[21] https://www.wsj.com/tech/ai/ai-energy-consumption-fc79d94f

[22] International Energy Agency, *IEA's Net Zero by 2050 – A Roadmap for the Global Energy Sector*, 198, Table A.3 (Oct. 2021), https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf (showing that coal and gas power would go to zero, except for 2% from coal and gas sources with carbon capture).

with 2 billion more people."[23] The IEA attributes this massive reduction to the optimistic beliefs that the rate of energy intensity improvements will be three times faster than the average rate achieved over the last two decades, and that technologies that currently do not exist will materialize.[24] The IEA also assumes (without good reason) that countries will provide approximately $100 trillion to create the energy transition (in a conservative estimate).[25] Finally, the IEA's assumptions rely on the world installing the equivalent of installing the world's largest solar park almost *every day* until 2050.[26] When these assumptions are shown to be naïve, American consumers will be the ones harmed.

As noted above, under its NZBA commitments, Wells Fargo must soon set financing targets for agriculture. Net-zero demands for agriculture will result in higher costs for farmers and consumers. A recent study found that a carbon pricing program alone would drive up corn farmers' costs by 34%, and drive up family grocery bills by 15% across the board, including driving up the cost of beef by 70% and the cost of American cheese by 78%.[27] ESG activists have also proposed a range of other expensive and unfeasible solutions, including electric tractors and combines,[28] switching to organic or "green" fertilizers,[29] and convincing U.S. consumers (through whatever means necessary) to cut their beef consumption in half.[30]

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[23] International Energy Agency, *IEA's Net Zero by 2050 – A Roadmap for the Global Energy Sector*, 18 (Oct. 2021), https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf.

[24] International Energy Agency, *IEA's Net Zero by 2050 – A Roadmap for the Global Energy Sector*, 14–15 (Oct. 2021), https://iea.blob.core.windows.net/assets/deebef5d-0c34-4539-9d0c-10b13d840027/NetZeroby2050-ARoadmapfortheGlobalEnergySector_CORR.pdf.

[25] GFANZ, *Achieving 1.5°C Now at Scale Needed to Deliver the Transition* (Nov. 2021), https://www.gfanzero.com/press/amount-of-finance-committed-to-achieving-1-5c-now-at-scale-needed-to-deliver-the-transition.

[26] *Id.* at 14.

[27] https://www.buckeyeinstitute.org/research/detail/new-buckeye-institute-report-finds-net-zero-climate-control-policies-fail-farmers-families

[28] McKinsey & Co., *Agriculture and Climate Change*, 15 (2020), https://www.mckinsey.com/~/media/mckinsey/industries/agriculture/our%20insights/reducing%20agriculture%20emissions%20through%20improved%20farming%20practices/agriculture-and-climate-change.pdf

[29] Climate Action 100+, *Global Sector Strategies: Recommended Investor Expectations for Food and Beverage* 23, 27–28 (2021), https://www.climateaction100.org/wp-content/uploads/2021/08/Global-Sector-Strategies-Food-and-Beverage-Ceres-PRI-August-2021.pdf.

[30] *See* Ceres, *The Investor Guide to Climate Transition Plans in the U.S. Food Sector*, 20 (May 2022), https://www.ceres.org/resources/reports/investor-guide-climate-transition-plans-us-food-sector ("[G]lobal per capita meat consumption must be reduced to around 1.5 burgers per person per week by 2050 to align with a 1.5°C scenario."); Richard Waite et al., *6 Pressing Questions About Beef and Climate Change, Answered*, WORLD RES. INST. (Mar. 7, 2022), https://www.wri.org/insights/6-pressing-

2. Wells Fargo's General Debanking Policies

In addition to its NZBA commitments and the targets it has set pursuant to those commitments, Wells Fargo also has made public commitments that it will deny services to certain companies. For example, Wells Fargo "will not provide new direct credit, capital markets origination or corporate advisory services to, or make corporate principal investments in, clients deriving the majority of their revenues from the extraction of coal" or to "coal mining companies deriving the majority of their revenues from mountaintop removal coal operations."[31]

Blanket prohibitions and policies against providing service to certain customers lead to the inevitable question—who is next? Which types of companies or people will Wells Fargo determine cannot be allowed as customers? Is this why Wells Fargo apparently closed the accounts of former Republican candidates Lauren Witzke and Pete D'Abrosca on the same day in 2021?[32]

3. Wells Fargo's Policies on Firearms

In 2021, you told Congress that Wells Fargo's relationship with the National Rifle Association (NRA) was "declining," and a bank spokesperson told the press that Wells Fargo had been "quietly winding down" the relationship.[33] Wells Fargo's debanking policies on this issue appear to be expanding since then. Last year, Wells Fargo abruptly informed a Florida gun dealer (Wex Gunworks) that Wells Fargo was canceling its business line of credit, and sent a letter stating that "the reason(s) for this action is: Banking guidelines excludes *lending to certain types of businesses*."[34] When pressed, Wells Fargo refused to provide any other details.[35]

Based on this information, it appears that Wells Fargo is moving towards (or already has quietly embraced) designating gun sellers as a "type of business" that

questions-about-beef-and-climate-change-answered ("1.5 burgers per person per week [is] about half of current U.S. levels").

[31] Wells Fargo, Environmental and Social Impact Management Framework (2022), at 6, https://www08.wellsfargomedia.com/assets/pdf/about/corporate-responsibility/environmental-social-impact-management.pdf.

[32] https://www.breitbart.com/tech/2021/06/16/financial-blacklisting-wells-fargo-shuts-down-gop-senate-candidate-lauren-witzkes-bank-account/; https://nationalfile.com/breaking-wells-fargo-cancels-american-greatness-writer-pete-dabroscas-account-moments-after-canceling-lauren-witzke/

[33] https://www.reuters.com/article/idUSKCN22B07N/

[34] https://thereload.com/wells-fargo-cancels-prominent-florida-gun-dealers-accounts-wont-work-with-certain-types-of-business/ (italics added)

[35] https://thereload.com/wells-fargo-cancels-prominent-florida-gun-dealers-accounts-wont-work-with-certain-types-of-business/

will be denied lending services, much as Wells Fargo has already done to certain coal-related businesses, as stated above.

4. *Wells Fargo Setting Financing Terms Based on Racial Quotas and Other ESG Criteria*

In 2021, Wells Fargo amended a multi-billion-dollar credit agreement with asset manager BlackRock. But this was no ordinary amendment. The amendment conditioned BlackRock's payment amount to Wells Fargo on BlackRock's "Black, African American, Hispanic and Latino Employment Rate."[36] In other words, Wells Fargo agreed that if BlackRock met racial quotas, then Wells Fargo would decrease the amount that BlackRock had to pay under the agreement. If BlackRock failed to meet racial quotas, then BlackRock would have to pay more to Wells Fargo.

Racial discrimination in employment is illegal under state and federal law, yet in this agreement, Wells Fargo appears to be not only allowing, but *incentivizing* such discrimination. Offering financial incentives for companies to enforce racial quotas raises serious questions, including whether contracts like these represent a conspiracy to violate the law.

Wells Fargo also appears to be party to other "ESG-linked" agreements tying loan terms to ESG objectives, including at Trimble ("Gender Diverse Employee Percentage," "GHG Emissions Percentage"),[37] AECOM ("CO2 Intensity Applicable Rate Adjustment"),[38] Inflexion (carbon intensity and "senior management team diversity"),[39] Great Portland Estates (energy intensity of portfolio)[40] and Prudential Financial ("GHG Percentage Reduction Applicable Margin Adjustment").[41] Such agreements are a back-door effort to use bank market share to impose enforce Biden Administration policies outside of the democratic process.

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[36] https://www.sec.gov/Archives/edgar/data/1364742/000119312521107747/d113222dex101.htm (pp. 15, 43, 100–03).

[37] https://content.edgar-online.com/ExternalLink/EDGAR/0000864749-22-000205.html?hash=6308e37e28f6afc25deb41034a3df466d98f9eb9a8575f9aeb245f62bd6cb48a&dest=exhibit101-termloancredita_htm#exhibit101-termloancredita_htm

[38] https://www.sec.gov/Archives/edgar/data/868857/000110465921019804/acm-20201231xex10d2.htm

[39] https://www.newprivatemarkets.com/got-an-esg-or-impact-linked-credit-facility-let-us-know/

[40] https://www.propertyweek.com/insight/five-banks-arrange-450m-esg-linked-facility-for-great-portland-estates/5106844.article

[41] https://www.sec.gov/Archives/edgar/data/1137774/000119312521229201/d204503dex101.htm

II. Questions

Wells Fargo's conduct and commitments may implicate state unfair and deceptive acts and practices (UDAP) laws or civil rights laws. Additionally, if banks like Wells Fargo are restricting access to financial services to act as pseudo-governmental gate-keepers, then states need to revisit the current division of supervision power between state and federal regulators for the largest banks.

We urge Wells Fargo to move away from the debanking policies it has embraced, as well as those it appears to be poised to embrace.

In light of the concerns above, please answer the following questions by **April 4, 2024**:

1. What will Wells Fargo do if its existing clients do not reduce emissions enough for Wells Fargo to meet its emissions reduction targets? Please outline all possible courses of action and in what circumstances each course of action would be used.
2. Why did Wells Fargo debank Wex Gunworks, Lauren Witzke, and Pete D'Abrosca? Please provide all documents related to each decision and the name of an employee with knowledge of each circumstance.
3. What are the "certain types of businesses" that Wells Fargo will not lend to, as referenced in Wells Fargo's letter to Wex Gunworks?
4. Under what circumstances does Wells Fargo put ESG-related terms in its financing contracts?
5. Does Wells Fargo agree that race or sex-based employment quotas are unlawful?
6. Why has Wells Fargo agreed to financing terms with BlackRock that incentivize BlackRock to employ a certain percentage of certain races and avoid hiring employees of other races?

Thank you for your attention to this important matter. Please send your responses no later than **April 4, 2024**. Please feel free to contact my office if you have any questions.

Sincerely,

AUSTIN KNUDSEN
Attorney General of Montana

TIM GRIFFIN
Attorney General of Arkansas

TODD ROKITA
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