



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

February 26, 2009

DIVISION OF
CORPORATION FINANCE

David S. Huntington
Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, New York 10019-6064

Re: In the Matter of Auction Rate Securities, Wachovia Securities, LLC (C-7471)
**Regarding Wells Fargo & Company and Prudential Financial, Inc. Waiver
Requests of Ineligible Issuer Status under Rule 405 of the Securities Act**

Dear Mr. Huntington:

This is in response to your letter dated February 18, 2009, written on behalf of Wachovia Securities LLC (Company) and its indirect parents Wells Fargo & Company (Wells Fargo) and Prudential Financial, Inc. (Prudential) constituting an application for relief from Wells Fargo and Prudential being considered "ineligible issuers" under Rule 405(1)(vi) of the Securities Act of 1933 (Securities Act) arising from the settlement of a civil injunctive proceeding with the Commission. On February 5, 2009, the Commission filed a civil injunctive complaint (Complaint) in the United States District Court for the Northern District of Illinois, against the Company. The Complaint alleges that the Company violated Section 15(c) of the Securities Exchange Act of 1934 (Exchange Act). The Company filed a consent in which it agreed, without admitting or denying the allegations of the Commission's Complaint, to the entry of a Final Judgment against it. The Final Judgment as entered on February 17, 2009, permanently enjoins the Company from violating Section 15(c) of the Exchange Act.

Based on the facts and representations in your letter, and assuming the Company, Wells Fargo and Prudential comply with the Final Judgment, the Commission, pursuant to delegated authority has determined that Wells Fargo and Prudential have made a showing of good cause under Rule 405(2) and that Wells Fargo and Prudential will not be considered ineligible issuers by reason of the entry of the Final Judgment. Accordingly, the relief described above from Wells Fargo and Prudential being ineligible issuers under Rule 405 of the Securities Act is hereby granted and the effectiveness of such relief is as of the date of the entry of the Final Judgment. Any different facts from those represented or non-compliance with the Final Judgment might require us to reach a different conclusion.

Sincerely,

A handwritten signature in cursive script that reads "Mary Kosterlitz".

Mary Kosterlitz
Chief, Office of Enforcement Liaison
Division of Corporation Finance

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*NOT ADMITTED TO THE NEW YORK BAR

February 18, 2009

FIRST CLASS MAIL AND EMAIL

Mary J. Kosterlitz, Esq.
Chief, Office of Enforcement Liaison
Division of Corporation Finance, Stop 3628
Securities and Exchange Commission
100 F Street, N.E.
Washington, DC 20549

Re: In the Matter of Auction Rate Securities Liquidity, Wachovia Securities, LLC (File No. C-7471); Securities and Exchange Commission v. Wachovia Securities, LLC (N.D.Ill. 2009) – Waiver Request under Rule 405

Dear Ms. Kosterlitz:

We submit this letter on behalf of Wachovia Securities, LLC (the "Settling Firm"), Wells Fargo & Company ("Wells Fargo") and Prudential Financial, Inc. ("Prudential"), in connection with a contemplated settlement between the Settling Firm and the Securities and Exchange Commission (the "Commission") in the above referenced civil proceeding relating to the Settling Firm's sale of auction rate securities to its customers.

The Settling Firm is an indirect subsidiary of Wells Fargo. Through its direct and indirect subsidiaries, Wells Fargo offers banking, brokerage, advisory and other financial

services to institutional and individual customers worldwide. The Settling Firm may also be considered an indirect subsidiary of Prudential.¹

We hereby request, pursuant to Rule 405 ("Rule 405") promulgated under the Securities Act of 1933, as amended (the "Securities Act"), that the Division of Corporation Finance (the "Division"), acting pursuant to delegated authority, grant a waiver to Wells Fargo and Prudential with respect to any "ineligible issuer" status (as defined in Rule 405) that may arise as a result of the entry of the Final Judgment (as defined below) or any related state or territory court injunction.² We request that this waiver be made effective upon entry of the Final Judgment.

BACKGROUND

The Settling Firm has engaged in settlement discussions with the staff of the Division of Enforcement in connection with the civil proceeding referenced above. As a result of these discussions, the Settling Firm has submitted an executed consent dated January 27, 2009 (the "Consent"). In the Consent, the Settling Firm has agreed to the entry of a judgment (the "Final Judgment") in the United States District Court for the Northern District of Illinois relating to a complaint (the "Complaint"), which was filed by the Commission on February 5, 2009. Under the terms of the Consent, the Settling Firm neither admits nor denies the allegations in the Complaint or the findings in the Final Judgment, except as to jurisdiction.

The Complaint alleges that the Settling Firm violated Section 15(c) of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), by selling auction rate securities to its customers without adequately disclosing the risks involved in purchasing these securities. As a result of widespread auction failures beginning in February 2008, many customers who thought they had acquired liquid securities (equivalent to cash) were left with no market for their auction rate securities and no means of realizing the par value of their auction rate securities. The Final Judgment enjoins the Settling Firm from future violations of Section 15(c) of the Exchange Act and requires the Settling Firm to take certain other remedial measures.

¹ The Settling Firm is a subsidiary of Wachovia Securities Financial Holdings, LLC ("WSFH"), a joint venture between Wells Fargo (as a result of its merger with Wachovia Corporation) and Prudential. Prudential's precise indirect ownership interest in WSFH, taking into account, among other things, Wachovia Corporation's 2007 acquisition of A.G. Edwards, Inc., is in the process of being determined. We request that any waiver granted apply to Prudential to the extent that Prudential is deemed a parent company of Wachovia Securities.

² The Settling Firm expects also to enter into settlement agreements regarding the activity referred to in the Complaint (as defined below) with certain states or territories. To the extent that any such settlement agreement may result in an injunction by a court of competent jurisdiction that would cause an ineligibility under Rule 405, this request also covers any such resulting ineligibility.

DISCUSSION

In 2005, the Commission adopted rules that significantly modified the registration, communications and offering processes under the Securities Act. See Securities Act Release No. 33-8591 (the "Offering Reform Release"). The changes eliminate certain restrictions on offerings and provide more timely investment information to investors without mandating delays in the offering process that were considered by the Commission to be inconsistent with the needs of issuers for timely access to capital. Among the changes were the creation of a new category of issuer, defined in Rule 405 as a "well-known seasoned issuer," and a new category of offering communication, defined in Rule 405 as a "free writing prospectus." The changes to Rule 405 also added a definition of another category of issuer, defined as an "ineligible issuer," which is excluded from the category of well-known seasoned issuer and which is not eligible to make communications by way of a free writing prospectus, except in limited circumstances. See Rules 164(e) and 433(b)(2) under the Securities Act.

An issuer is an ineligible issuer for the purposes of Rule 405 if, among other things, "[w]ithin the past three years . . . the issuer or any entity that at the time was a subsidiary of the issuer was made the subject of any judicial or administrative decree or order arising out of a governmental action that . . . [p]rohibits certain conduct or activities regarding, including future violations of, the anti-fraud provisions of the federal securities laws." Ineligible issuer status may be waived if "the Commission determines, upon a showing of good cause, that it is not necessary under the circumstances that the issuer be considered an ineligible issuer." The Commission has delegated to the Division of Corporation Finance the authority to grant or deny applications requesting that an issuer not be considered an ineligible issuer as defined in Rule 405.

Accordingly, we hereby request that a waiver be granted to Wells Fargo and Prudential with respect to any "ineligible issuer" status that may arise under Rule 405 as a result of the entry of the Final Judgment or any related state or territory court injunction, and that the waiver be effective upon entry of the Final Judgment. For the following reasons, we do not believe that the protection of investors or the public interest would be served by denying Wells Fargo and Prudential the benefits afforded by the Securities Act to issuers that are not classified as ineligible issuers:

1. The Settling Firm's conduct addressed in the Final Judgment does not relate to activities undertaken by Wells Fargo or Prudential with respect to their own disclosure as issuers of securities or in any of their own disclosure in their filings with the Commission.
2. The Settling Firm and its affiliates have a strong record of compliance with the securities laws. In addition, the Settling Firm voluntarily cooperated with the Enforcement Division's investigation of this matter and agreed to pursue a comprehensive settlement at the request of the Enforcement Division.

3. Being considered ineligible issuers will preclude Wells Fargo and Prudential from taking advantage of many of the benefits described in the Offering Reform Release and will leave these companies at a significant disadvantage to their peer firms and hinder necessary and periodic access to the capital markets through significantly increased time, labor and cost of such access.
4. The disqualification of Wells Fargo and Prudential from the benefits described in the Offering Reform Release is unduly and disproportionately severe, given that the Commission staff has negotiated a settlement with the Settling Firm and reached a satisfactory conclusion to this matter.

In light of the foregoing, we respectfully submit that it is not necessary under the circumstances that Wachovia and Prudential be considered ineligible issuers as a result of the entry of the Final Judgment or any related state or territory court injunction, and that they has shown good cause that relief should be granted.

Please do not hesitate to contact me at (212) 373-3124 regarding this request.

Sincerely,



David S. Huntington

Cc: Doug Kelly, Wachovia Securities, LLC
David Hebner, Wachovia Securities, LLC
Robert L. Lee, Wells Fargo & Company
Kathryn Quirk, Prudential Financial, Inc.
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