



CITY COUNCIL
Linda Maio

ACTION CALENDAR

April 25, 2017

TO: Honorable Mayor and Members of the City Council

FROM: Councilmember Linda Maio and Mayor Jesse Arreguin

SUBJECT: Establish Socially Responsible Investment Policies

RECOMMENDATION: Establish City of Berkeley policies that ensure investments and service contracts are with socially responsible entities; declare that the City will not do business with financial institutions that engage in predatory practices, profit from harmful environmental endeavors, and undermine the health and rights of indigenous peoples, those of disadvantaged populations and of our communities; resolve to terminate financial implements with Wells Fargo Bank as soon as possible, and request a progress report in doing so in one year.

BACKGROUND:

In 2016 it was widely reported that Wells Fargo opened bank and credit card accounts for unsuspecting clients without their knowledge. Wells was placed under a Consent Order finding that it had opened 1,534,280 potentially fraudulent deposit accounts or transferred funds from existing accounts without clients' knowledge and consent. In addition, Wells Fargo has been engaged in financing the private prison industrial complex and the Dakota Access Pipeline. These practices are of great concern. Since we learned of these practices our banking services contract with Wells Fargo was reduced markedly, at Council request, and we are assured we will terminate as soon as possible. Wells Fargo will have to compete with other banks as we seek new services and our criteria for selection must be clear and consistent with the City's articulated values. This item emphasizes the need for clear and coherent policies that ensure the City's investments reside with ethical institutions and those with socially responsible values, and expresses its intent to disengage from Wells Fargo Bank as soon as possible. A request for a report back to Council on disengagement is included.

ENVIRONMENTAL SUSTAINABILITY:

Directs Berkeley toward more environmentally sustainable and ethical banking.

FINANCIAL IMPLICATIONS:

None.

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RESOLUTION NO. ##,###-N.S.

DECLARING THE CITY OF BERKELEY'S POLICY NOT TO DO BUSINESS WITH FINANCIAL INSTITUTIONS THAT EMPLOY UNETHICAL PRACTICES, INVEST IN ENVIRONMENTALLY UNSUSTAINABLE ENDEAVORS AND PRACTICES THAT UNDERMINE THE HEALTH AND RIGHTS OF INDIGENOUS PEOPLE AND THOSE OF DISADVANTAGED POPULATIONS, AND TO END ALL FINANCIAL RELATIONSHIPS WITH WELLS FARGO

WHEREAS, the City of Berkeley passed a fossil fuel divestment policy enacted July 1, 2013¹, making Berkeley the first city in the nation to formally adopt an official policy to divest current and future funds from 200 fossil fuel-producing companies; and

WHEREAS, In September of 2016, the City of Berkeley passed a Resolution in support of Standing Rock Sioux Tribe's opposition to the construction of the Dakota Access Pipeline²; and

WHEREAS, In January 2012³ and January 2017⁴ the City of Berkeley approved two statements on responsible banking policies calling for the city manager and staff to look into the process of moving the City's funds out of Wells Fargo Bank; and

WHEREAS, the Berkeley City Council also passed Resolution 65,436-N.S. in 2011, adopting the Statement of Investment Policies for the City of Berkeley, including Item 4 of Investment Objectives, entitled "Responsible Investing" .. This item stipulates the prohibition of doing business with oppressive states, of investment in nuclear arms, and divestment from gun manufacturers, tobacco companies, and publicly traded fossil fuel companies⁵; and

WHEREAS, In September 2015 the City of Oakland sued Wells Fargo over allegations of predatory lending when Wells Fargo targeted Oakland's African-American and Hispanic residents, along with minority churches and congregations, for loans that were more expensive and higher risk than those regularly made to white borrowers⁶; and

¹ http://www.ci.berkeley.ca.us/.../2013-04-30_Item_20_Divesting_from_Publicly.aspx

² http://www.cityofberkeley.info/Clerk/City_Council/2016/09_Sep/City_Council_09-27-2016_-_Regular_Meeting_Agenda.aspx

³ [http://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2012/01Jan/Item%2011\(1\).pdf](http://www.cityofberkeley.info/uploadedFiles/Clerk/Level_3_-_City_Council/2012/01Jan/Item%2011(1).pdf)

⁴ http://www.cityofberkeley.info/Clerk/City_Council/2017/01_Jan/City_Council__01-24-2017_-_Regular_Meeting_Agenda.aspx

⁵ Annual Investment Report, Revisions to Investment Policies and ...Jul 8, 2014 ... Adopt a Resolution accepting the Annual Investment Report, accepting 65,436 -N.S. dated September 20, 2011, the City Council Purchases of such corporate notes as mortgage pass through, collateralized mortgage. www.cityofberkeley.info/.../2014-07-08_Item_03_Annual_Investment_Report.aspx

Annual Investment Report, Revisions to Investment ... - City of Berkeley Jul 2, 2013 ... Adopt a Resolution accepting the Annual Investment Report, accepting the changes to 65,436-N.S. dated September 20, 2011, the City Council adopted the For example, although Mortgage Pass through securities are. https://www.cityofberkeley.info/.../2013-07-02_Item_02_Annual_Investment_Report.aspx

⁶ <http://www.bizjournals.com/sanfrancisco/blog/2015/09/wells-fargo-oakland-lawsuit-predatory-lending-wfc.html>
City of Oakland sues Wells Fargo over allegations of predatory lending

WHEREAS, since 2011, Wells Fargo Bank has created more than two million unauthorized bank and credit accounts. These actions were the subject of Congressional Hearings in the U.S. Senate and in the House of Representatives. On September 4, 2016, the Consumer Financial Protection Bureau (CFPB) placed Wells Fargo under a Consent Order related to its unfair consumer practices⁷. People of color, indigenous people, the elderly and the poor were among the targets of these schemes, adversely affecting the credit ratings of many victims. Because of the controversy surrounding this scandal, Wells Fargo Bank terminated 5,300 lower paid workers, while not one executive was held responsible⁸; and

WHEREAS, Wells Fargo acted as the issuing lender for a \$900 million credit line to Correction Corporation of America (now known as CoreCivic Inc.) a private prison industry leader, and as a syndication agent to the GEO group's \$900 million credit line, hence playing a crucial role in the mass incarceration of immigrants and people of color; and

WHEREAS, the City of Berkeley passed a resolution on July of 2016, to divest from private prisons because it is well-documented that private prison companies have a history of human rights abuses⁹. The AFSC¹⁰, the Marshall Project, In the Public Interest (ITPI) and other independent investigators have documented extensive human rights violations inside these prisons and practices that exploit prisoners for profits; and

WHEREAS, Wells Fargo Bank has \$120 million invested directly in the Dakota Access Pipeline project in North Dakota¹¹. The Dakota Access Pipeline is another egregious example of the U.S. government and corporations violating treaty obligations and tribal sovereignty, allowing hazardous, environmentally destructive activities on tribal lands with irreversible impacts on cultural places, the health and wellbeing of all people, and the environment.

WHEREAS, the City of Berkeley has already, in 2017, reduced banking services from Wells Fargo.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BERKELEY, THAT THE CITY OF BERKELEY:

Will terminate its banking contract and any other financial instruments it holds with Wells Fargo as soon as possible; and will include criteria in new Requests for Banking Proposals (RFP) requiring bidders to adhere to fair, socially, and environmentally responsible banking; and

BE IT FURTHER RESOLVED THAT the RFP will exclude from bidding any financial institution that has engaged in:

- Supporting, servicing, or constructing fossil fuel infrastructure projects and other environmentally extractive practices
- Supporting, servicing, or constructing privately owned prisons

⁷ http://files.consumerfinance.gov/f/documents/092016_cfpb_WFBconsentorder.pdf

⁸ <http://chdirt.com/articles/20160908/17582535469/holy-crap-wells-fargo-has-to-fire-5300-employees-scam-billing.shtml>

⁹ <http://records.cityofberkeley.info/Agenda/Meetings/ViewMeeting?id=193&doctype=1>

¹⁰ <http://investigate.afsc.org/>

¹¹ <https://stories.wf.com/wells-fargos-involvement-funding-dakota-access-pipeline/>

- Discriminatory consumer and small business lending and servicing based on the federally protected classes established under the Civil Rights Act of 1964
- Fraudulent misconduct against clients, investors, debt holders, transactional counterparties, or the broader public.

This includes providing financial support to or investing in the above practices as well as serving as financial conduit or counterparty (swap agreements, escrow) to engaging in these practices; and

BE IT FURTHER RESOLVED, that The City finds it a priority to protect the City's interests and the public's trust by conducting City business with partners that are committed to and consistently demonstrate engaging in fair and responsible business practices; and

BE IT FURTHER RESOLVED, that the general purpose and intent of this action is to ensure that the City of Berkeley's contracting practices support partners who are engaging in fair and responsible business practices and avoid conducting City business with partners that engage in criminal or systematic deceptive, fraudulent, or abusive business practices.