

\$2,345,000,000 in aggregate net assets. Applicants also state that, as of December 31, 2001, the aggregate net assets of the Hartford Funds were approximately \$33,077,000,000. Applicants thus assert that the Fortis Funds' assets would represent approximately 7.09% of the aggregate net assets of the Hartford Funds.

5. Applicants state that two of the seven directors who serve on the Boards of Hartford Funds are "interested persons," within the meaning of section 2(a)(19) of the Act, of the Hartford Advisers. Applicants state that none of the directors owns any interest in or is otherwise an "interested person" of Fortis or the Fortis Funds.

6. Applicants state that to comply with section 15(f)(1)(A) of the Act, Hartford Funds would have to alter the composition of their Boards, either by asking experienced directors to resign or by adding a new director. Applicants, further state that adding a new director could require a shareholder vote, not only of shareholders of the acquiring Hartford Funds but also the shareholders of the other series of the Hartford Funds not otherwise affected by the Reorganization. Applicants assert that adding an additional non-interested director to the Boards of Hartford Funds could entail a lengthy process and increase the ongoing costs of Hartford Funds.

7. For the reasons stated above, applicants submit that the requested relief is necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**

*Deputy Secretary.*

[FR Doc. 02-1898 Filed 1-24-02; 8:45 am]

BILLING CODE 8010-01-P

## SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 25371; 812-12656]

### Wells Fargo Funds Management LLC and Wells Fargo Funds Trust; Notice of Application

January 18, 2002.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of application under section 6(c) of the Investment Company Act of 1940 (the "Act") requesting an

exemption from section 12(d)(3) of the Act.

#### *Summary of the Application:*

Applicants request an order to permit a registered open-end management investment company to: (a) Acquire securities of an entity involved in securities-related activities in connection with a merger with another non-affiliated registered open-end management investment company and; (b) continue to hold the securities for up to two years to effect their orderly liquidation following the merger.

**Filing Dates:** The application was filed on October 9, 2001, and amended on January 7, 2002. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is reflected in this notice.

**Hearing or Notification of Hearing:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on February 11, 2002, and should be accompanied by proof of service on applicants in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549-0609. Applicants, 525 Market Street, 12th Floor, San Francisco, CA 94105.

#### **FOR FURTHER INFORMATION CONTACT:**

Bruce R. MacNeil, Senior Counsel, at (202) 942-0634, or Nadya B. Roytblat, Assistant Director, at (202) 942-0564 (Office of Investment Company Regulation, Division of Investment Management).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch, 450 Fifth Street, NW, Washington, DC 20549-0102 (telephone (202) 942-8090).

#### **Applicants' Representations**

1. Wells Fargo Funds Trust, a Delaware business trust, is registered under the Act as an open-end management investment company and consists of multiple series, including Wells Fargo Specialized Financial Services Fund (the "Acquiring Fund").

Wells Fargo Funds Management, LLC ("WFFM"), a Delaware limited liability company, is an investment adviser registered under the Investment Advisers Act of 1940 and is an indirect wholly owned subsidiary of Wells Fargo & Company ("Wells Fargo"), a publicly-traded Delaware corporation, whose principal businesses are retail and commercial banking and providing financial services. Although a significant majority of Wells Fargo's annual revenues derive from its core banking business, Wells Fargo may also be deemed to be engaged in "securities related activities," as defined by rule 12d3-1 under the Act.

2. SIFE Trust Fund (the "Acquired Fund," and together with the Acquiring Fund, the "Funds") is registered under the Act as an open-end management investment company. The Acquired Fund has investment objectives and policies substantially similar to the Acquiring Fund and has been in continuous operation since July 2, 1962. SIFE, a California corporation, currently acts as investment adviser to the Acquired Fund. Pursuant to an Agreement and Plan of Reorganization, SIFE is expected to merge with and into a wholly-owned subsidiary of Wells Fargo on February 22, 2002. In addition, in February, 2002, the Acquired Fund will transfer all of its assets and liabilities to the Acquiring Fund in exchange for shares of the Acquiring Fund (the "Reorganization"). Upon the effectiveness of the Reorganization, WFFM will act as investment adviser to the Acquiring Fund.

3. Between May, 1989, and September, 1999, the Acquired Fund made 14 separate purchases of Wells Fargo stock totaling 680,000 shares, in compliance with the Act and the rules thereunder. Each purchase was made on the open market at prices ranging from \$4.57 per share to \$44.34 per share, at a total cost of \$19,774,452. All such purchases were made prior to the time that Wells Fargo and SIFE began negotiating the purchase of SIFE by Wells Fargo. The Acquired Fund currently holds 500,000 shares of Wells Fargo stock equal to approximately 3% of its total net assets and these shares represents an unrealized gain to the Acquired Fund of \$8,844,244 (the "Wells Fargo Position"). In connection with the Reorganization, the Acquired Fund will transfer the Wells Fargo Position to the Acquiring Fund (the "Transfer"). The Reorganization is expected to qualify as a tax-free reorganization under the Internal Revenue Code, and accordingly, the tax basis of all securities holdings and other

assets of the Acquired Fund will be transferred to the Acquiring Fund.

4. Each Fund's board of trustees ("Board"), including a majority of the trustees who are not "interested persons," as defined in section 2(a)(19) of the Act, approved the Reorganization and concluded that the Reorganization was in the best interest of the respective Fund. In approving the Reorganization, each Board considered the Wells Fargo Position. To effect the Reorganization, a shareholder meeting of the Acquired Fund's shareholders will be held on or about January 31, 2002. A proxy statement soliciting shareholder approval, which discussed the Wells Fargo Position, was mailed in November, 2001.

#### Applicants' Legal Analysis

1. Section 12(d)(3) of the Act, in relevant part, prohibits a registered investment company from purchasing or otherwise acquiring any security issued by any person who is a broker, dealer, investment adviser, or engaged in the business of underwriting. Rule 12d3-1 under the Act exempts certain transactions from the prohibitions of section 12(d)(3) if specified conditions are met. Rule 12d3-1(c) provides that the exemption provided by the rule is not available when the issuer of the securities is the investment company's investment adviser, promoter, or principal underwriter, or an affiliated person thereof.

2. Applicants state that because Wells Fargo is an affiliated person of WFFM, the Acquiring Fund's investment adviser, the Transfer and the Acquiring Fund's continued holding of the Wells Fargo Position would not meet the conditions of rule 12d3-1(c).<sup>1</sup> Applicants request relief from section 12(d)(3) to permit the Acquiring Fund to effect the Transfer and the continued holding for up to two years of the Wells Fargo Position following the Reorganization in order to permit the Acquiring Fund to effect its orderly liquidation.

3. Section 6(c) of the Act authorizes the SEC to exempt persons or transactions from the provisions of the Act to the extent that the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies and provisions of the Act. Applicants state that the requested relief meets this standard.

4. Applicants state that the relief is warranted because none of the abuses

that section 12(d)(3) was intended to prevent are present in the instant situation and the two-year disposition period will permit the Acquiring Fund to maximize the realization of gain on the orderly sale of the Wells Fargo Position while minimizing the tax effects of the disposition. Applicants also state that the Acquired Fund obtained the Wells Fargo Position in compliance with the Act and the rules thereunder.

#### Applicants' Condition

Applicants agree that any order granting the requested relief will be subject to the following condition:

Applicants will seek to liquidate the Wells Fargo Position as soon as possible, consistent with the maximization of shareholder return and the best interests of the Acquiring Fund, and in any case, within two years of the date of the Reorganization.

For the Commission, by the Division of Investment Management, under delegated authority.

**Margaret H. McFarland,**  
*Deputy Secretary.*

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**BILLING CODE 8010-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

##### Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meeting during the week of January 28, 2002: a closed meeting will be held on Tuesday, January 29, 2002, at 10 a.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), (9)(B), and (10) and 17 CFR 200.402(a)(3), (5), (7), 9(ii) and (10), permit consideration of the scheduled matters at the closed meetings.

The subject matters of the closed meeting scheduled for Tuesday, January 22, 2002, will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings of an enforcement nature; and

Formal orders of investigation.

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact:

The Office of the Secretary at (202) 942-7070.

Dated: January 22, 2002.

**Jill M. Peterson,**  
*Assistant Secretary.*

[FR Doc. 02-1987 Filed 1-23-02; 11:57 am]

**BILLING CODE 8010-01-P**

#### SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33-8056; 34-45321; FR-61]

#### Commission Statement About Management's Discussion and Analysis of Financial Condition and Results of Operations

**AGENCY:** Securities and Exchange Commission ("Commission").

**ACTION:** Commission statement.

**SUMMARY:** The Commission today is issuing a statement regarding Management's Discussion and Analysis of Financial Condition and Results of Operations. The release sets forth certain views of the Commission regarding disclosure that should be considered by registrants. Disclosure matters addressed by the release are liquidity and capital resources including off-balance sheet arrangements; certain trading activities that include non-exchange traded contracts accounted for at fair value; and effects of transactions with related and certain other parties.

**FOR FURTHER INFORMATION CONTACT:** Questions about this statement should be referred to Jackson Day or Robert Bayless, Office of the Chief Accountant (202 942-4400) or Paula Dubberly, Division of Corporation Finance (202 942-2900), Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549-1103.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On December 31, 2001, the Commission received a petition from the accounting firms of Arthur Andersen LLP, Deloitte and Touche LLP, Ernst & Young LLP, KPMG LLP, and PricewaterhouseCoopers LLP.<sup>1</sup> The petition, which was endorsed by the

<sup>1</sup> See Investment Company Act Release No. 3542. (Sep. 21, 1962).

<sup>1</sup> The petition is posted on the Commission's web page ([www.sec.gov](http://www.sec.gov)) under Regulatory Actions, Petitions for Rulemaking.