

August 30, 2019

Joseph Otting
Comptroller
Office of the Comptroller of the Currency
400 7th Street, SW
Washington, DC 20001

Dear Comptroller Otting:

I write to express my alarm about recent reports that Wells Fargo appears to be keeping accounts active for months after telling customers that they were closed, and charging customers hundreds or even thousands of dollars in overdraft fees for charges made against these “closed” accounts.¹ The Office of Comptroller of the Currency (OCC) is Wells Fargo’s primary regulator and the OCC has entered into multiple consent orders with the bank connected with a variety of scams that cheated millions of customers. The latest revelation -- that nearly three years after the OCC, along with the Consumer Financial Protection Bureau (CFPB), took action against Wells Fargo for opening millions of fake accounts, the bank is once again profiting off of accounts that its customers do not know that they hold -- suggests not only that deep structural problems remain at the bank, but also that its regulators have not figured out how to keep Wells Fargo customers from being cheated.

According to a report last week in the *New York Times*, Wells Fargo routinely keeps open accounts that customers have been told are closed, causing the accounts to accrue overdraft fees anytime an additional charge – even a fraudulent charge – hits the account.² While the full scope and magnitude of this problem are not yet clear, one customer reportedly indicated that he was charged almost \$1,500 in fees on his “closed” account and a single Wells Fargo whistleblower apparently took in approximately \$100,000 in overdraft fees in just eight months.³ Customers who are affected can pay a heavy price – they “usually learn what happened only after their overdrawn accounts are sent to Wells Fargo’s collections department ... [and are] reported to a national database ... which compiles names of delinquent bank customers ... [t]hat often means a customer cannot open a new bank account anywhere.”⁴ Moreover, according to reports, customers who attempted to mitigate the problem with Wells Fargo employees were told “[t]he accounts are closed out – we cannot do anything.”⁵

¹ New York Times, Wells Fargo Closed their Accounts but the Fees Continued to Mount, Emily Flitter, August 16, 2019, <https://www.nytimes.com/2019/08/16/business/wells-fargo-overdraft-fees.html>.

² New York Times, Wells Fargo Closed their Accounts but the Fees Continued to Mount, Emily Flitter August 16, 2019, <https://www.nytimes.com/2019/08/16/business/wells-fargo-overdraft-fees.html>.

³ *Id.*

⁴ *Id.*

⁵ *Id.*

I'm concerned that these latest revelations suggest that Wells Fargo is not complying with its existing obligations under its open Cease and Desist Orders with the OCC. For example, in its April 2018 Order, the OCC requires Wells Fargo to establish "[a]n effective compliance risk framework that establishes the responsibility and accountability for respective front line units and independent compliance risk management."⁶ After the framework is established and approved, the Order provides that the Wells Fargo Board, "shall ensure the Bank executes and thereafter adheres to the Plans."⁷

As I have written to CFPB Director Kathy Kraninger in the attached letter, I believe that Wells Fargo has violated the Dodd-Frank Act's ban on deceptive practices and the Fair Credit Reporting Act. A bank that is blatantly violating numerous the consumer protection laws in branches across the country has not "establishe[d] the responsibility and accountability for respective front line units."

You have previously written to me about your concern regarding Wells Fargo's commitment to reforms. In response to an inquiry, you wrote to me in April saying:

"[w]e share your concerns regarding the progress of Wells Fargo toward meeting our regulatory expectations as set forth in the outstanding enforcement actions against [the] bank...OCC supervision staff members continue to monitor the bank's work to remediate deficiencies identified in our April 2018 order as well as orders issued in September 2016 directly related to unsafe and unsound practices and November 2015 related to Bank Secrecy Act Compliance. The OCC is fully engaged and prepared to ensure Wells Fargo corrects the identified deficiencies, remediates identified harm to its customers, and operates in a safe and sound manner going forward."⁸

I share those concerns. Three years after the OCC took enforcement action related to the fake accounts scandal, new consumer scams keep pouring out of Wells Fargo. I'm deeply concerned not only about the bank's unwillingness to right its ship but also about your agency's inability to keep Wells Fargo from cheating its customers even with the bank under the intense scrutiny you describe. To help me better understand the OCC's actions, I ask that you answer the following questions no later than September 13, 2019.

1. When did the OCC first learn that Wells Fargo was keeping accounts open for months that customers thought had been closed?
2. Please provide the final Compliance Risk Frameworks or similar required remedial plans developed pursuant to the April 2018, September 2016, and November 2015 OCC Cease and Desist Orders.


⁶ Office of the Comptroller of the Currency, "2018-025: In the matt <https://www.occ.gov/static/enforcement-actions/ea2018-025.pdf>

⁷ Id.

⁸ Office of Senator Elizabeth Warren "Press Release: Regulators Unsatisfied with Wells Fargo, Prepared to ensure the Bank's Compliance with Consent Orders," April 9, 2019, <https://www.warren.senate.gov/newsroom/press-releases/regulators-unsatisfied-with-wells-fargo-prepared-to-ensure-the-banks-compliance-with-consent-orders>.

- a. Do you continue to have the concerns outlined above about Wells Fargo's compliance with the Cease and Desist Orders?
 - b. Does the OCC believe that the allegations, if true violated the consent orders?
3. How often is Wells Fargo typically examined?
4. In its examinations, does the OCC investigate account closing procedure?

Sincerely,



Elizabeth Warren
United States Senator