

United States Senate

WASHINGTON, DC 20510

March 22, 2019

Hon. Joseph M. Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
U.S. Department of the Treasury
400 7th St. S.W.
Washington, D.C. 20219

Hon. Kathy Kraninger
Director
Consumer Financial Protection Bureau
1700 G St. N.W.
Washington, D.C. 20552

Dear Comptroller Otting and Director Kraninger,

I am writing today regarding new concerns about Wells Fargo N.A. (Wells Fargo) compliance with the April 2018 settlement between the bank, the Office of the Comptroller of the Currency (OCC), and the Consumer Financial Protection Bureau (CFPB). The settlement requires Wells Fargo to provide restitution to consumers harmed by its failure to adequately manage its auto-lending and mortgage practices.¹ Recent reporting, however, suggests that Wells Fargo has made limited progress in refunding consumers affected by the wrongdoing.² We write to request information on the OCC and CFPB's efforts to ensure that Wells Fargo customers receive the remediation they were promised.

Wells Fargo Forced Hundreds of Thousands of Customers to Purchase Unnecessary Car Insurance—Leading to a \$1 Billion Settlement

Wells Fargo offers its customers a variety of vehicle financing services.³ Like many financial institutions, Wells Fargo requires customers to buy auto insurance as a condition for providing an auto-backed loan. If borrowers fail to purchase insurance after receiving a loan, Wells Fargo can enroll them in “force-placed” insurance policies to bring them into compliance with their loan contracts. “Force-placed” insurance policies are typically “a lot more expensive than what

¹ Consumer Financial Protection Bureau, “Bureau of Consumer Financial Protection Announces Settlement With Wells Fargo For Auto-Loan Administration and Mortgage Practices,” April 20, 2018, <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-announces-settlement-wells-fargo-auto-loan-administration-and-mortgage-practices/>.

² The Capitol Forum, “Wells Fargo: Customer Cheated on Car Insurance May Get Nothing in Confused Payout,” March 6, 2019.

³ Wells Fargo, “Auto Loan & Vehicle Financing,” <https://www.wellsfargo.com/auto-loans/>.

[consumers] can obtain by shopping for an insurance policy” on their own⁴ and “protect[] only the lender, not” the consumer⁵—further encouraging borrowers to purchase their own insurance.

In July 2017, Wells Fargo announced that its auto dealer services division had forced hundreds of thousands of customers to purchase auto insurance they did not need.⁶ The bank, failed to “sufficiently monitor” its insurance vendor and its vendor’s “internal processes,” and required up to 570,000 customers with auto insurance to pay for “duplicative or unnecessary” force-placed insurance policies. These customers were “charged substantial premiums—typically just over \$1,000 a policy—for” this unnecessary insurance—potentially resulting in the repossession of at least 27,000 customers’ vehicles.⁷

In April 2018, the OCC and the CFPB announced a \$1 billion settlement with Wells Fargo related to its auto-lending activities and a separate scandal involving its administration of rate-lock mortgages.⁸ The OCC found that the bank engaged in “reckless, unsafe or unsound compliance risk management practices” and caused “the improper placement...of collateral protection insurance (“CPI”) policies on automobile loan accounts.”⁹ Wells Fargo also “improperly charged [borrowers] CPI premiums, interest, and fees” and “improperly repossessed vehicles from borrowers who had defaulted on their loans due to improperly placed or maintained CPI policies”—practices that “constituted unfair acts or practices...in violation of the unfair acts or practices provision of Section 5 of the Federal Trade Commission Act.”¹⁰ The CFPB, meanwhile, found that Wells Fargo’s auto-lending practices violated the Consumer Financial Protection Act.¹¹

⁴ New York State Department of Financial Services, “Force-Placed Insurance: What You Need to Know,” <https://www.dfs.ny.gov/consumer/forced-placed.htm>.

⁵ Consumer Financial Protection Bureau, “What is force-placed insurance?” June 8, 2016, <https://www.consumerfinance.gov/ask-cfpb/what-is-force-placed-insurance-en-827/>.

⁶ CNN Money, “Wells Fargo may have forced 570,000 customers into unneeded auto insurance,” July 28, 2017, <https://money.cnn.com/2017/07/28/investing/wells-fargo-auto-insurance-car-loans/index.html>; Consumer Financial Protection Bureau, Administration Proceeding, File No. 2018-BCFP-0001, *Consent Order in the Matter of Wells Fargo Bank, N.A.*, April 20, 2018, https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-bank-na_consent-order_2018-04.pdf.

⁷ CNN Money, “Wells Fargo may have forced 570,000 customers into unneeded auto insurance,” July 28, 2017, <https://money.cnn.com/2017/07/28/investing/wells-fargo-auto-insurance-car-loans/index.html>; Consumer Financial Protection Bureau, Administration Proceeding, File No. 2018-BCFP-0001, *Consent Order in the Matter of Wells Fargo Bank, N.A.*, April 20, 2018, https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-bank-na_consent-order_2018-04.pdf.

⁸ Office of the Comptroller of the Currency, “OCC Assesses \$500 Million Penalty Against Wells Fargo, Orders Restitution for Unsafe or Unsound Practices,” April 20, 2018, <https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-41.html>.

⁹ Office of the Comptroller of the Currency, “Consent Order for A Civil Money Penalty, In the Matter of Wells Fargo Bank, N.A.: #2018-026,” April 20, 2018, <https://www.occ.gov/static/enforcement-actions/ea2018-026.pdf>.

¹⁰ Office of the Comptroller of the Currency, “Consent Order for A Civil Money Penalty, In the Matter of Wells Fargo Bank, N.A.: #2018-026,” April 20, 2018, <https://www.occ.gov/static/enforcement-actions/ea2018-026.pdf>.

¹¹ Consumer Financial Protection Bureau, “Bureau of Consumer Financial Protection Announces Settlement With Wells Fargo For Auto-Loan Administration and Mortgage Practices,” April 20, 2018, <https://www.consumerfinance.gov/about-us/newsroom/bureau-consumer-financial-protection-announces-settlement-wells-fargo-auto-loan-administration-and-mortgage-practices/>.

In addition to assessing a civil penalty against Wells Fargo, the OCC and CFPB “ordered the bank to provide restitution to customers harmed by its unsafe or unsound practices.”¹² Wells Fargo agreed to develop a “Remediation Plan”—outlining its plans to identify affected customers, provide them with financial compensation, and help them amend credit reports affected by the bank’s behavior—and submit it to the OCC and CFPB for review and approval.¹³

The agencies maintained their right to take action against Wells Fargo should it fail to comply with the settlement. The OCC’s consent order made clear that the OCC could “assess future civil money penalties, or take other supervisory and/or enforcement actions” against Wells Fargo, including “issuing [a] cease and desist order...that imposes business restrictions and/or requires [Wells Fargo] to make changes to its senior executive officers or any and/or all members of the Board.” The OCC also “may require [Wells Fargo] to engage an independent third party to validate that the Bank’s implementation of its “Remediation Plan” is adequate.”¹⁴ The CFPB asserted its authority to “impose the maximum amount of civil money penalties allowed” for “any violation of [its] Consent Order.”¹⁵

New Report Reveals Wells Fargo’s Failed Auto-Lending Remediation Efforts

Despite its responsibility to “make restitution to customers,” Wells Fargo has made only halting progress in its efforts to compensate customers it defrauded. According to a new report in *Capitol Forum*, Wells Fargo’s initial steps to identify and compensate harmed customers—taken prior to the OCC and CFPB settlement—were rushed and disorganized. The bank “handed off much of the job to a few dozen laid-off employees who were brought back to meet daily quotas for their work,” and managers encouraged them to “examine as many as 120 files per eight-hour shift—or one file every four minutes.” According to the employees, “the pressure...made a thorough investigation impossible.”¹⁶

Problems persist, despite the April 2018 settlement. In the summer of 2018, Wells Fargo reportedly “scrapped the database” it was using “to identify...repossession cases” because it was “unreliable.”¹⁷ In September 2018, the OCC rejected the bank’s plan to pay back harmed customers, reportedly telling Wells Fargo “it needed more assurances that the bank would find

¹² Office of the Comptroller of the Currency, “OCC Assesses \$500 Million Penalty Against Wells Fargo, Orders Restitution for Unsafe or Unsound Practices,” April 20, 2018, <https://www.occ.gov/news-issuances/news-releases/2018/nr-occ-2018-41.html>.

¹³ Consumer Financial Protection Bureau, Administration Proceeding, File No. 2018-BCFP-0001, *Consent Order in the Matter of Wells Fargo Bank, N.A.*, April 20, 2018, https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-bank-na_consent-order_2018-04.pdf; Office of the Comptroller of the Currency, “Consent Order, In the Matter of Wells Fargo Bank, N.A.: #2018-025,” April 20, 2018, <https://www.occ.gov/static/enforcement-actions/ea2018-025.pdf>.

¹⁴ Office of the Comptroller of the Currency, “Consent Order, In the Matter of Wells Fargo Bank, N.A.: #2018-025,” April 20, 2018, <https://www.occ.gov/static/enforcement-actions/ea2018-025.pdf>.

¹⁵ Consumer Financial Protection Bureau, Administration Proceeding, File No. 2018-BCFP-0001, *Consent Order in the Matter of Wells Fargo Bank, N.A.*, April 20, 2018, https://files.consumerfinance.gov/f/documents/cfpb_wells-fargo-bank-na_consent-order_2018-04.pdf.

¹⁶ The Capitol Forum, “Wells Fargo: Customer Cheated on Car Insurance May Get Nothing in Confused Payout,” March 6, 2019.

¹⁷ The Capitol Forum, “Wells Fargo: Customer Cheated on Car Insurance May Get Nothing in Confused Payout,” March 6, 2019.

and repay everyone who was overcharged.”¹⁸ In October 2018, Comptroller Otting told the Senate Banking Committee that the OCC was “not comfortable” with Wells Fargo’s efforts to compensate consumers¹⁹, and in November 2018, reports surfaced that the bank was “fighting to shut some customers out of [its] sweeping plan to compensate” overcharged drivers.²⁰ Furthermore, according to Wells Fargo workers, “problems remain:” bank employees are “relying on co-workers instead of an independent auditor to check each other’s reviews, compounding the chances for errors,” and the bank is “is “hindering the remediation efforts by not seeking input from the affected drivers.”²¹

Conclusion

The violations that led to the settlement between the OCC, the CFPB, and Wells Fargo are not isolated incidents. In the last several years, Federal regulators have uncovered nearly a dozen separate instances of illegal activity at the bank.²² Wells Fargo also has a history of failing to comply with the consent orders from regulators—including the OCC.²³ Notably, an OCC spokesperson took the unusual step of rebuking Wells Fargo last week, saying, “We continue to be disappointed with Wells Fargo Bank N.A.’s performance under our consent orders and its inability to execute effective corporate governance and a successful risk-management program. We expect national banks to treat their customers fairly, operate in a safe and sound manner, and follow the rules of law.”²⁴

Under the CFPB and the OCC’s existing consent order, the agencies can take additional supervisory or enforcement action against Wells Fargo. Regulators can “issu[e] [a] cease and desist order...that imposes business restrictions and/or requires [Wells Fargo] to make changes to its senior executive officers or any and/or all members of the Board” or require Wells Fargo to employ a third-party monitor to ensure complete implementation of its remediation program.²⁵

¹⁸ Reuters, “Exclusive: U.S. regulators reject Wells Fargo’s plan to repay customers—sources,” Patrick Rucker, September 11, 2018, <https://www.reuters.com/article/us-wells-fargo-insurance-exclusive/exclusive-u-s-regulators-reject-wells-fargos-plan-to-repay-customers-sources-idUSKCN1LR2LG>.

¹⁹ Bloomberg, “Wells Fargo Regulator Unsatisfied With Its Auto-Lending Response,” Jesse Hamilton and Elizabeth Dexheimer, October 2, 2018, <https://www.bloomberg.com/news/articles/2018-10-02/wells-fargo-regulator-unsatisfied-with-its-auto-lending-response>.

²⁰ Automotive News, “Wells Fargo fights to leave customers out of auto payout plan,” Patrick Rucker and Imani Moise, November 21, 2018, https://www.autonews.com/article/20181121/FINANCE_AND_INSURANCE/181129927/wells-fargo-fights-to-leave-customers-out-of-auto-payout-plan.

²¹ The Capitol Forum, “Wells Fargo: Customer Cheated on Car Insurance May Get Nothing in Confused Payout,” March 6, 2019.

²² See e.g., Letter from Senator Elizabeth Warren to Chairman of the Board of Governors of the Federal Reserve System Jerome Powell, October 18, 2018.

²³ See e.g., Letter from Senator Elizabeth Warren to Chairman of the Board of Governors of the Federal Reserve System Jerome Powell, February 22, 2019.

²⁴ Bloomberg, “As Wells Fargo CEO Draws Bipartisan Rebuke, OCC Takes Swipe Too,” March 12, 2019, <https://www.bloomberg.com/news/articles/2019-03-12/wells-fargo-gets-occ-rebuke-during-ceo-s-congressional-hearing>.

²⁵ Office of the Comptroller of the Currency, “Consent Order, In the Matter of Wells Fargo Bank, N.A.: #2018-025,” April 20, 2018, <https://www.occ.gov/static/enforcement-actions/ea2018-025.pdf>.


The OCC and the CFPB are responsible for ensuring that Wells Fargo adequately compensates consumers defrauded by the bank. Recent reporting suggests that the bank is failing to do so. To help us better understand your agencies' oversight of Wells Fargo's remediation efforts, please provide us with answers to the following questions no later than April 5, 2019:

1. Since September 2018, after OCC rejected the initial plan, has Wells Fargo submitted a new remediation plan—as required by the April 2018 settlement—to the OCC and the CFPB outlining how it will compensate customers harmed by its illegal auto-lending activities? If so, please provide a copy of the remediation plan and the date on which Wells Fargo submitted it to regulators.
2. Have the OCC and the CFPB approved a Wells Fargo remediation plan described in Question 1?
 - a. If so, please provide an explanation of why the OCC and CFPB found the remediation plan sufficient. What specific changes did Wells Fargo make to the plan the OCC rejected in September 2018?
 - b. If not, please provide an explanation of why the OCC and CFPB rejected the plan.
3. The OCC can require Wells Fargo to “engage an independent third party” to ensure that the bank adequately remediates impacted customers. Has the OCC required Wells Fargo to engage an independent third party to ensure that it compensates victims of its illegal auto-lending activities? If so, please provide details on the third party that Wells Fargo has enlisted to ensure its compliance. If not, please explain why not.
4. The OCC can “impose business restrictions” and require Wells Fargo to “make changes to its senior executive officers” and Board members, should it fail to comply with the April 2018 settlement. Has the OCC done so or considered doing so? If so, please provide details on the factors the OCC is weighing in making its decision. If not, please explain why not.
5. The CFPB can “impose the maximum amount of civil money penalties allowed” for “any violation of [its] Consent Order.” Has the CFPB considered imposing civil monetary penalties on Wells Fargo as a result of its efforts to remediate customers harmed by its illegal auto-lending activities? If so, please provide details on the factors the CFPB is weighing in making its decision. If not, please explain why not.

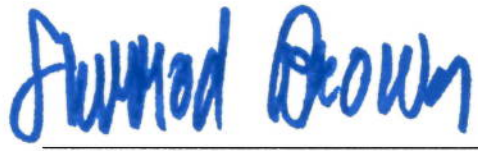
Given Wells Fargo's history of unlawful activity and its current leadership's apparent inability to successfully make things right, we strongly urge the OCC and the CFPB to take additional action. Regulators should require Wells Fargo to replace the bank's President and CEO Timothy Sloan and to install a third-party monitor so that customers the bank cheated can receive the restitution they deserve.

Please do not hesitate to reach out to Susannah Savage on Senator Warren's staff at 202-224-2246 or Corey Frayer on Senator Brown's staff at 202-224-1569 with any questions or concerns.

Sincerely,



Elizabeth Warren
United States Senator



Sherrod Brown
United States Senator