United States Senate

WASHINGTON, DC 20510

January 17, 2018

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 Seventh Street SW
Washington, D.C. 20219

Dear Comptroller Otting:

We write to express serious concerns that the Office of the Comptroller of the Currency (OCC) has not implemented recommendations from the OCC's review of supervision of sales practices at Wells Fargo. On April 19, 2017, the Office of Enterprise Governance and the Ombudsman issued a report entitled, "Lessons Learned Review of Supervision of Sales Practices at Wells Fargo" ("Review"),[1] which details the agency's failures to identify, manage, and respond to clear risks from sales practices at the bank from 2009 to 2016. The Review is a product of former Comptroller Thomas J. Curry's September 2016 directive to the Senior Deputy Comptroller for Enterprise Governance to conduct an independent review of the OCC's actions with respect to Wells Fargo and to identify any gaps in the agency's supervision.[2] The Review identifies significant deficiencies in the agency's supervision of Wells Fargo and recommends specific changes to ensure proper and effective supervision of the nation's largest banks,[3] however, the OCC has taken no steps to implement the recommendations leaving customers susceptible to predatory sales practices by these institutions.

On September 8, 2016, the OCC together with the Consumer Financial Protection Bureau (CFPB) and the Los Angeles City Attorney announced enforcement actions against Wells Fargo for sales practices tied to the unauthorized opening of deposit and credit card accounts.[4] At the time, Wells Fargo's internal analysis concluded that the bank opened more than 1.5 million deposit accounts and 565,443 credit card accounts without the knowledge or consent of customers.[5] On August 31, 2017, Wells Fargo announced the number of unauthorized accounts

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[1] OFFICE OF ENTERPRISE GOVERNANCE AND THE OMBUDSMAN, ENTERPRISE GOVERNANCE SUPERVISION, "LESSONS LEARNED REVIEW OF SUPERVISION OF SALES PRACTICES AT WELLS FARGO," (Apr. 19, 2017) (available at: https://www.occ.gov/publications/publications-by-type/other-publications-reports/pub-wells-fargo-supervision-lessons-learned-41917.pdf).

[2] *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 114th Cong. (2016) (statement of Thomas J. Curry, Comptroller of the Currency) (available at: https://www.occ.gov/news-issuances/news-releases/2016/nr-occ-2016-115a.pdf).

[3] LESSONS LEARNED REVIEW.

[4] Press Release, Office of the Comptroller of the Currency, OCC Assesses Penalty Against Wells Fargo, Orders Restitution for Unsafe or Unsound Sales Practices (Sept. 8, 2016) (available at: https://www.occ.treas.gov/news-issuances/news-releases/2016/nr-occ-2016-106.html).

[5] *In the matter of: Wells Fargo Bank, N.A., Consent Order*, U.S. CONSUMER FINANCIAL PROTECTION BUREAU (Sep. 8, 2016) (available at: http://files.consumerfinance.gov/f/documents/092016_cfpb_WFBconsentorder.pdf).

was much higher—its further review revealed the bank opened an additional 1.4 million unauthorized accounts, bringing the total to 3.5 million unauthorized accounts.[6]

In addition to the 3.5 million unauthorized accounts, since September of 2016, the bank has been subject to a nearly constant stream of reports of misconduct and anti-consumer practices throughout its various business lines, including but not limited to forcing auto loan borrowers to purchase unnecessary collision insurance[7] and improperly charging fees to customers to extend interest-rate commitments on home mortgage loans.[8] The bank's wide-ranging misconduct, which harmed millions of customers around the country, underscores the importance of timely, effective, and probing supervision not only for Wells Fargo, but for all large banks. Moreover, reports of interviews with employees at other banks suggest Wells Fargo is not the only institution that made significant profits from a combination of punishing sales quotas, low wages, misaligned compensation incentives, and deficient whistleblower processes and protections.[9]

Due to concerns that Wells Fargo was not the only bank engaged in such practices, in 2016 former Comptroller Thomas J. Curry directed a horizontal review of sales practices at large and mid-size banks supervised by the OCC, the results of which have not yet been made public.[10] It is clear, however, that these practices undermine the relationships between banks and their customers, and when multiplied by the millions, they can create vulnerabilities in the nation's banking system. It is the OCC's responsibility to ensure that banks that obtain a national charter operate in a safe and sound manner. Industry-wide pressure to boost profits is no justification for sales practices that harm customers. When the OCC fails to effectively monitor and intervene in the case of misconduct at regulated institutions, customers are susceptible to significant harm.

With respect to Wells Fargo, the agency's Review found that while the supervisory team was aware of issues with the bank's sales practices as early as 2010, it repeatedly failed to take action.[11] The supervisory team allowed a 2009 supervisory order requiring the bank to create an institution-wide system for complaint management to be left unaddressed until 2016. Despite access to information including employee complaints and whistleblower cases, the OCC's supervisory team failed to determine the "root causes" of complaints and neglected to follow-up

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[6] Press Release, Wells Fargo, Wells Fargo Reports Completion Of Expanded Third-Party Review Of Retail Banking Accounts, Paving Way To Complete Remediation Effort (Aug. 31, 2017) (available at: https://newsroom.wf.com/press-release/wells-fargo-reports-completion-expanded-third-party-review-retail-banking-accounts).

[7] Gretchen Morgenson, *Wells Fargo Forced Unwanted Auto Insurance on Borrowers*, N.Y. TIMES, July 27, 2017, available at: https://www.nytimes.com/2017/07/27/business/wells-fargo-unwanted-auto-insurance.html.

[8] Gretchen Morgenson and Emily Glazer, *Wells Fargo Is Dubbed a Repeat Offender and Faces New Wrath From Its Regulator*, WALL STREET JOURNAL, Nov. 29, 2017, available at: https://www.wsj.com/articles/wells-fargo-is-dubbed-a-repeat-offender-and-faces-new-wrath-from-its-regulator-1511951402.

[9] Anastasia Christman, NATIONAL EMPLOYMENT LAW PROJECT, BANKING ON THE HARD SELL: LOW WAGES AND AGGRESSIVE SALES METRICS PUT BANK WORKERS AND CUSTOMERS AT RISK, (June 2016) (available at: http://www.nelp.org/content/uploads/NELP-Report-Banking-on-the-Hard-Sell.pdf).

[10] *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 114th Cong. 64 (2016) (response of Thomas J. Curry, Comptroller of the Currency to U.S. Senator Robert Menendez) (available at: https://www.gpo.gov/fdsys/pkg/CHRG-114shrg23001/pdf/CHRG-114shrg23001.pdf).

[11] LESSONS LEARNED REVIEW.

on sales practices issues. While the agency identified aggressive sales practices as a potential problem in 2010, impacting the bank's operational risk rating that year, the agency took no further actions to review those issues from 2011 through 2014.[12] Furthermore, the Review found the supervisory team failed to effectively communicate and follow-up on supervisory issues at Wells Fargo, failed to consider the volume and significance of customer complaints, and failed to establish an effective process to review whistleblower cases.[13] In sum, over the course of seven years, the supervisory team at Wells Fargo missed countless opportunities to escalate concerns about aggressive sales practices, prevent additional harm to customers, and hold responsible parties accountable.

As a result of the Wells Fargo supervisory team's shortcomings, the Review recommends the adoption of several initiatives to enhance complaint and whistleblower analysis and follow-up, strengthen supervisory communication and institutional accountability, and ensure systemic root causes of risk are identified and addressed at both the supervised bank and throughout the industry at-large.

The Review was issued nearly nine months ago, and the OCC's continued failure to implement its recommendations leaves vulnerable customers of the nation's largest banks. We believe the OCC should implement the Review's recommendations without additional delay. As such, please provide a response no later than January 31, 2018. Please include in your response a detailed implementation schedule of each of the nine recommendations in the Review. Thank you for your attention to this matter.

Sincerely,

Robert Menendez

Sherrod Brown

Jack Reed

Elizabeth Warren

Chris Van Hollen

Catherine Cortez Masto

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[12] *Id.*

[13] *Id.*