

August 31, 2017

Chairman Michael Crapo
Senate Banking Committee
Washington, D.C. 20510

Ranking Member Sherrod Brown
Senate Banking Committee
Washington, D.C. 20510

Chairman Jeb Hensarling
House Financial Services Committee
Washington, D.C. 20515

Ranking Member Maxine Waters
House Financial Services Committee
Washington, D.C. 20515

Dear Chairmen Crapo and Hensarling and Ranking Members Brown and Waters,

We write to urge your Committees to hold hearings to consider recent reports of Wells Fargo's ongoing misconduct. The Senate Banking and House Financial Services Committees held hearings on Wells Fargo's fraudulent account scandal nearly one year ago when federal enforcement actions led by the Consumer Financial Protection Bureau exposed the bank's misconduct.¹ Reports in recent weeks reveal that fraudulent activity was significantly more widespread than previously understood. As explained below, further examination suggests the bank may have intentionally misled members of your Committees or withheld relevant information – raising questions of potential criminal misconduct under 18 U.S.C. section 1001.

Just this morning, estimates of the total number of unauthorized accounts ballooned to 3.5 million.² Earlier this month, the bank settled federal claims alleging Wells Fargo overcharged veterans and concealed this misconduct from the U.S. Department of Veterans Affairs to obtain guarantees for the loans under a federal mortgage-refinancing program.³ Wells Fargo also faces allegations that it overcharged small businesses for credit card processing in an overbilling scheme that targeted “less sophisticated” mom-and-pop shops.⁴

On July 27, the public learned that Wells Fargo charged more than 800,000 people for auto insurance they did not need, leading 274,000 customers to become delinquent on their loans and nearly 25,000 to have their vehicles repossessed.⁵ Some customers apparently suffered multiple

¹ U.S. Senate Committee on Banking, Housing, and Urban Affairs, *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response*, Sept. 20, 2016; U.S. House of Representatives Financial Services Committee, *Holding Wall Street Accountable: Investigating Wells Fargo's Opening of Unauthorized Customer Accounts*, Sept. 29, 2016.

² Kevin McCoy, *Wells Fargo review finds 1.4M more potentially unauthorized accounts*, USA TODAY, August 31, 2017, available at <https://www.usatoday.com/story/money/2017/08/31/wells-fargo-review-finds-1-4-m-more-unauthorized-accounts/619794001>.

³ Laura J. Keller, *Wells Fargo Settles with U.S. Government over Loans to Veterans*, BLOOMBERG, August 4, 2017, available at <https://www.bloomberg.com/news/articles/2017-08-04/wells-fargo-settles-with-u-s-government-over-loans-to-veterans>.

⁴ Matt Egan, *Wells Fargo accused of ripping off mom-and-pop shops*, CNN MONEY, August 11, 2017, available at <http://money.cnn.com/2017/08/11/investing/wells-fargo-small-business-credit-card-fees/index.html>.

⁵ Gretchen Morgenson, *Wells Fargo Forced Unwanted Auto Insurance on Borrowers*, NEW YORK TIMES, July 27, 2017, available at <https://www.nytimes.com/2017/07/27/business/wells-fargo-unwanted-auto-insurance.html>.

repossessions. Among those affected are active duty military service members, who may lose security clearances as the result of vehicle repossession⁶ – posing risks to our military readiness.

The information on additional abuses that has become public since the earlier hearings makes a strong case for further investigation and additional hearings by your Committees. It also suggests that the bank may have misled your Committees in previous testimony and withheld relevant information in responses to members' questions for the record.

Wells Fargo claims that an internal report prepared by a consulting firm brought its fraudulent insurance practices to light. Franklin R. Codel, the bank's head of consumer lending, told the *New York Times* that the bank "self-identified the issue, and we made the right business decisions to end the placement of the product."⁷ According to its own timeline, Wells Fargo learned of these practices in July 2016 and ended the activity in late September that year, around the time it testified to your Committees about its fraudulent account scandal.⁸ Yet, CEO John Stumpf's testimony made no mention of this misconduct, even when asked directly whether fraudulent activity exists in other business lines. Below is an excerpt from the September 20 hearing before the Senate Banking Committee:

Senator David Vitter (R-Louisiana): Finally, what level of confidence, from zero percent to 100 percent, do you have that this type of fraudulent activity does not exist in other Wells business lines?

John Stumpf: Yeah, I – we've looked at other things, other businesses. They're – they're different and I – we believe that this is situated in our regional bank. Other areas have different levels of compliance and different volumes and different requirements. But we've looked across a number of things and I have confidence that we have this one now solved and we've made a lot of changes.

The response to this line of inquiry is not limited to Mr. Stumpf's testimony; Wells Fargo reiterated its denial that fraudulent activity exists in other business lines in its written response to questions for record posed by the Democratic members of the Senate Banking Committee. Below is an excerpt from the bank's response:

Question 7: As was asked at the hearing, are you confident that this type of fraudulent activity does not exist in other Wells business lines? Have you discovered other types of misconduct involving other products aside from credit cards or basic banking (such as misconduct related to applications for mortgages or personal or other loans, or lines of credit, insurance, or other investment areas)? If so, how did the company obtain this information? When was the first reported case, how many cases have been discovered, and what is the nature of these cases? Have you reported those cases to federal financial regulators?

⁶ 32 C.F.R. § 147.8.

⁷ *Id.*

⁸ *Id.*

Response: We believe that the activity at issue here was limited to certain team members within the Community Banking Division.

Fraudulent charges for unwanted auto insurance clearly fall within the scope of the question about fraudulent activity in other business lines, and an estimated 800,000 cases of misbehavior suggests this scheme was similarly endemic. Our organizations have previously argued that Wells Fargo has a long-running pattern and practice of forcing its customers into secret arbitration to hide its misconduct from public scrutiny.⁹ As recently as last week, the bank invoked a class action ban in its arbitration clause to block class recovery for customers charged illegal overdraft fees.¹⁰ Now that we know Wells Fargo was aware of its fraudulent insurance practices prior to its September 2016 testimony and subsequent responses for the record, it appears the bank's efforts to avoid accountability may have extended to these congressional hearings as well.

Wells Fargo had several opportunities to disclose its fraudulent insurance practices to Congress and chose not to – including in response to direct questions by Members on the two separate occasions recounted above. (The bank appears to have similarly withheld the information from its shareholders at its annual meeting on April 25, 2017.) Withholding relevant information from congressional inquiry is a serious offense, and the timeline and information from the articles cited above suggest that Wells Fargo may have purposely misled Members of Congress.

Under 18 U.S.C. section 1001, anyone who “knowingly and willfully – 1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; 2) makes any materially false, fictitious, or fraudulent statement or representation; or 3) makes or uses any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry,” with respect to “any investigation or review, conducted pursuant to the authority of any committee, subcommittee, commission or office of the Congress,” shall be fined or face up to five years in prison.¹¹

In light of new evidence of widespread fraud in additional lines of business at Wells Fargo, and of the possibility that Wells Fargo may have knowingly withheld information related to its fraudulent insurance sales practices, we strongly urge your Committees to hold further hearings on these matters. If you have any questions or concerns regarding this letter, please contact Amanda Werner, Americans for Financial Reform and Public Citizen, awerner@ourfinancialsecurity.org or (202) 973-8004.

Sincerely,

Americans for Financial Reform
Public Citizen

⁹ Robert Weissman & Lisa Donner, *Why Wells Fargo got away with it for so long*, THE HILL, September 20, 2016, available at <http://thehill.com/blogs/pundits-blog/finance/296706-why-wells-fargo-got-away-with-it-for-so-long>.

¹⁰ Kevin Wack, *Wells Fargo takes center stage in arbitration fight*, AMERICAN BANKER, August 25, 2017, available at <https://www.americanbanker.com/news/wells-fargo-takes-center-stage-in-arbitration-fight>.

¹¹ The House Financial Services Committee formally opened an investigation into Wells Fargo's widespread fraud on September 16, 2016.

215 People's Alliance
Action Center on Race and the Economy (ACRE)
Alliance of Californians for Community Empowerment
Allied Progress
American Association for Justice
Billings First Congregational Church UCC
California Reinvestment Coalition
Center for Popular Democracy
Committee for Better Banks
Communications Workers of America
Consumer Action
Consumers for Auto Reliability and Safety
CT Citizen Action Group (CCAG)
Demos
Global Exchange
In the Public Interest
Make the Road Connecticut
Make the Road New York
Make the Road Pennsylvania
Main Street Alliance
Montana Organizing Project
National Association of Consumer Advocates
National Consumer Law Center (on behalf of its low income clients)
New York Communities for Change
Partnership for Working Families
Progressive Congress Action Fund
Public Justice Center
Rootstrikers
Tennessee Citizen Action
The Woodstock Institute
Workplace Fairness