

SECRETARY OF LABOR
WASHINGTON, D.C. 20210

SEP 26 2016

The Honorable Elizabeth Warren
United States Senate
Washington, DC 20510

Dear Senator Warren:

Thank you for the letter from you and your colleagues dated September 22, asking that the Department of Labor (“the Department”) open an investigation into whether Wells Fargo has violated the Fair Labor Standards Act (FLSA) with respect to its account executives, bank tellers, branch managers, and customer service representatives. We take the concerns raised in your letter very seriously.

The Wage and Hour Division (WHD) initiates investigations in two ways. First, individuals may file complaints directly with WHD. Second, WHD uses data and evidence to strategically identify certain types of businesses or industries for investigation. These targeted investigations enable WHD to improve compliance with the laws in various business, industries, or localities. WHD, for instance, targets low wage industries and industries with high rates of violations or egregious violations. Regardless of what initiated an investigation, all investigations are conducted in accordance with the same established policies and procedures. Please note that WHD does not reveal the reason for initiating an investigation in order to protect the identity of complainants.

We appreciate you raising concerns about the complaints against Wells Fargo in the FLSA context going back to 1999. WHD is currently carefully reviewing the issues raised in your letter, including, but not limited to its history of compliance actions with Wells Fargo, to determine the best course of action in this matter. We will keep you and your staff informed in accordance with established protocols.

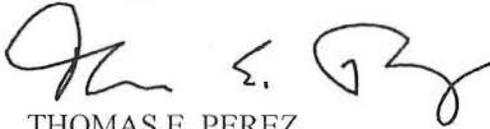
Given the serious nature of the allegations, the recent actions of our Federal partners, and recent media reports, I have directed enforcement agencies within the Department to conduct a top-to-bottom review of cases, complaints, or violations concerning Wells Fargo over the last several years. To ensure a thorough and expedient review, the Department has established a working group that includes WHD, the Employee Benefits Security Administration, the Occupational Safety and Health Administration (OSHA), the Office of Federal Contract Compliance Programs, and the Office of the Solicitor.

In addition to our top-to-bottom review, the Department has taken other measures to ensure that all current and former Wells Fargo employees are aware of the worker protection laws under the Department’s jurisdiction. This includes creation of a dedicated landing page at www.dol.gov/wellsfargo, and specific monitoring of our toll-free hotline (1-866-4USADOL) and email address (TalktoDOL@dol.gov).

Of note, OSHA enforces 22 separate whistleblower laws, including those under the Consumer Financial Protection Act (CFPA) and the Sarbanes-Oxley Act (SOX). The OSHA Whistleblower Protection Program received a number of complaints from Wells Fargo employees over the past five years under both the CFPA and SOX. The majority of the whistleblower cases that OSHA investigated against Wells Fargo in the last five years have been concluded, through settlement or other actions. In some cases, OSHA determined that the complaints had no merit under whistleblower laws that OSHA enforces. OSHA continues to investigate at least a handful of complaints from former or current Wells Fargo employees. I have asked OSHA to review the entire docket of both closed and open Wells Fargo cases since 2010 to examine the handling and disposition of those cases, including the extent of our coordination with our Federal partners. Given statutory timeframes and the potential age of closed cases, it may not be possible to provide recourse under the whistleblower laws that OSHA enforces. Nonetheless, we want to determine what the facts are, what we can do about them, and how we can learn from this situation. This will include working with our Federal partners to identify any appropriate recourse that individuals might potentially have.

Thank you again for your letter. If you have any questions or concerns, please do not hesitate to contact me directly or Adri Jayaratne, Acting Assistant Secretary for Congressional and Intergovernmental Affairs, at 202-693-4600.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tom E. Perez', written in a cursive style.

THOMAS E. PEREZ