ELIZABETH WARREN
MASSACHUSETTS

COMMITTEES:
BANKING, HOUSING, AND URBAN AFFAIRS
HEALTH, EDUCATION, LABOR, AND PENSIONS
ARMED SERVICES
SPECIAL COMMITTEE ON AGING

United States Senate

UNITED STATES SENATE
WASHINGTON, DC 20510–2105
P: 202–224–4543

2400 JFK FEDERAL BUILDING
15 NEW SUDBURY STREET
BOSTON, MA 02203
P: 617–565–3170

1550 MAIN STREET
SUITE 406
SPRINGFIELD, MA 01103
P: 413–788–2690

www.warren.senate.gov

August 16, 2017

The Honorable Janet Yellen
Chair
Federal Reserve Board of Governors
20th Street and Constitution Avenue NW
Washington, D.C. 20551

Dear Chair Yellen:

I write to follow up on our correspondence on the Federal Reserve Board of Governors (the "Federal Reserve") exercising its legal authority to remove the twelve members of the Wells Fargo Board of Directors who served on the Board between May 2011 and July 2015.

The case for removing these directors had gotten even stronger in the two weeks since my last letter to you. On August 7th, the *New York Times* reported that Wells Fargo had failed to refund money owed to customers who had paid off their car loans early.[1] "[T]ens of thousands of customers" may have been denied proper refunds.[2] A spokesperson for the bank admitted that the failure stemmed from "a lack of oversight and controls"[3] – the very thing the Wells Fargo Board of Directors is supposed to provide as part of its risk-management obligations.

That's not all. Allegations surfaced on August 11th that, "[f]or several years, Wells Fargo's merchant services division overcharged small businesses for processing credit card transactions."[4] And the following day, evidence emerged that, "[b]eginning in at least 2009, Wells Fargo teamed up with a home warranty firm to foist a product on unsuspecting mortgage customers."[5]

Between 2011 and 2015, Wells Fargo seems to have had an almost limitless capacity to cheat its customers and shirk its regulatory responsibilities. Yet a dozen Board members from that period continue to serve today.

But instead of taking steps to remove the responsible Wells Fargo Board members, the Federal Reserve has actually sought to reduce their obligations and the obligations of other directors at the country's biggest banks. On August 3rd, the Federal Reserve announced that it would be revising its supervisory expectations so that, "when an existing supervisory expectation ascribes

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[1] Gretchen Morgenson, *Wells Fargo, Awash in Scandal, Faces Violations Over Car Insurance Refunds*, N.Y. Times (Aug. 7, 2017), at https://www.nytimes.com/2017/08/07/business/wells-fargo-insurance.html.
[2] Id.
[3] Id.
[4] Matt Egan, *Wells Fargo accused of ripping off mom-and-pop shops*, CNN.com (Aug. 11, 2017), at http://money.cnn.com/2017/08/11/investing/wells-fargo-small-business-credit-card-fees/index.html.
[5] David Dayen & Ryan Grim, *There's a New Wells Fargo Scandal: This Time It's the TruCoat*, The Intercept (Aug. 12, 2017), at https://theintercept.com/2017/08/12/theres-a-new-wells-fargo-scandal-this-time-its-the-trucoat/.

the same roles and responsibilities to both the 'board and senior management,' the [Federal Reserve] would, in most cases, revise that expectation to refer only to senior management."[6] The Federal Reserve also proposed to stop sending bank boards most supervisory findings – that is, findings of potential misconduct at the bank – which means only senior management would receive such findings in the first instance.[7]

I am deeply concerned about these proposed changes. According to "current and former bank regulators," the proposed guidance "is very likely to reduce crucial interactions between bank examiners and bank boards."[8] As Sheila Bair, the former Chair of the Federal Deposit Insurance Corporation, observed: "If the board is accountable for management remediation of supervisory findings, the board needs to know what those findings are."[9]

These changes are particularly troubling in light of what transpired at Wells Fargo. The Federal Reserve's proposed guidance relies on senior management to convey critical supervisory findings to the board so that the board can carry out its oversight responsibilities. Yet according to the investigative report released by the Independent Directors of the Board of Wells Fargo this April, senior management at the bank "resisted and impeded outside scrutiny or oversight and, when forced to report [to the Board], minimized the scale and nature of the problem."[10] If bank boards lack independent access to key supervisory findings, they can more easily be misled by senior management – and more easily plead ignorance when asked to account for their actions.

In light of these new developments, I respectfully request that you respond to following questions by September 8, 2017:

1. In your July 11, 2017 response to me about Wells Fargo, you stated that "we [the Federal Reserve] continue our review of these actions."[11] Can you please provide an update on the progress of your review?

2. It has been nearly a year since Wells Fargo's September 2016 settlement with regulators, which provided many details about the scope and impact of the bank's fake-accounts scandal. It has been more than four months since the Independent Directors of the Board of Wells Fargo released a 113-page investigative report documenting the actions of the Board, and concluding that "[c]orporate control functions were constrained by the decentralized organizational structure and a culture of substantial deference to the

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[6] Federal Reserve System, Proposed Supervisory Guidance (Docket No. OP-1570) (Aug. 3, 2017), at 9, at https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20170803a1.pdf.
[7] Id. at 14-15.
[8] Gretchen Morgenson, *The Fed Wants to Make Life Easier for Big-Bank Directors*, N.Y. Times (Aug. 11, 2017), at https://nytimes.com/2017/08/11/business/the-fed-wants-to-make-life-easier-for-big-bank-directors.html.
[9] Id.
[10] Sales Practices Investigation Report, Wells Fargo (April 10, 2017) (online at https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/presentations/2017/board-report.pdf) (Overview of the Report).
[11] Letter from Janet Yellen to Senator Elizabeth Warren (July 11, 2017), at https://www.warren.senate.gov/files/documents/Warren_Wells_Response.pdf.

business units."[12] Can you please provide an estimate of when the Federal Reserve will complete its review and ensure, as you have written, "that the root causes of the firm's compliance and controls breakdowns are understood and addressed"?[13]

3. Do you believe that the Federal Reserve's August 3rd proposed guidance on the responsibilities of bank directors will make it more likely that the Wells Fargo Board – and other big-bank boards of directors – will root out and stop misconduct at their banks?

    a. If so, please explain how the changes would have helped prevent the problems at Wells Fargo, and would help stop similar misconduct at other big banks.

    b. If not, please explain why the Federal Reserve has proposed guidance that would make Wells Fargo-like scandals more likely, to the detriment of consumers and the safety and soundness of the financial system.

Sincerely,

Elizabeth Warren

Elizabeth Warren
Ranking Member
Senate Subcommittee on Financial Institutions
and Consumer Protection

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[12] Sales Practices Investigation Report, Wells Fargo (April 10, 2017) (online at https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/presentations/2017/board-report.pdf) (Overview of the Report).

[13] Letter from Janet Yellen to Senator Elizabeth Warren (July 11, 2017), at https://www.warren.senate.gov/files/documents/Warren_Wells_Response.pdf.