

United States Senate
WASHINGTON, DC 20510

July 29, 2020

Charles W. Scharf
Chief Executive Officer and President
Wells Fargo & Company
420 Montgomery Street
San Francisco, CA 94104

Dear Mr. Scharf:

We write to request more information about recent reports that Wells Fargo has been placing borrowers who are not delinquent on their loans in mortgage forbearance programs without their consent and putting consumers at risk of greater financial hardship amidst one of the worst economic downturns in our country's history. This includes reports of misrepresentations to bankruptcy courts about borrowers' requests for forbearance. These reports are highly disturbing given Wells Fargo's recent history of illegal behavior and inappropriate treatment of customers, including over a dozen scandals involving the creation of millions of fake customer accounts, illegal repossession of servicemembers' cars, wrongful foreclosure on hundreds of homes, illegal add-on charges to customers' accounts, and much, much more.¹

This scandal-ridden history reveals a broken culture at Wells Fargo, and a bank that appears to be incapable of self-governance. The new reports raise even more questions about the inability of Wells Fargo and its leadership team to comply with the law and the needs of its customers.

In response to the recession caused by the spread of coronavirus disease 2019 (COVID-19), Wells Fargo provided a forbearance option that allows borrowers experiencing financial hardship to delay payments on their mortgages for up to six months.² Depending on the borrower's circumstances and whether or not the mortgage is federally-backed, he or she may have the option to extend the forbearance period for up to a total of 12 months as part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act.³

But in recent weeks, a report revealed that bankruptcy attorneys have identified multiple cases "where Wells Fargo has wrongly claimed that borrowers asked to pause their mortgage payments in forbearance plans," and "that the bank put through secondary requests for forbearance on behalf of homeowners who had asked to participate in the program initially but who no longer

¹ Yahoo! Finance, "Every Wells Fargo consumer scandal since 2015: A timeline," Ethan Wolff-Mann, August 8, 2018, <https://finance.yahoo.com/news/every-wells-fargo-consumer-scandal-since-2015-timeline-194946222.html>.

² Wells Fargo, "Answers to frequently asked Mortgage and Home Equity questions," https://update.wf.com/coronavirus/home-lending/?_ga=2.139940467.1576605720.1595353706-997203864.1594742087.

³ *Id.*

wanted to.”⁴ Borrowers only learned of Wells Fargo’s actions from their lawyers rather than from the bank itself.⁵

These forbearance filings that were based on nonexistent requests from customers “in Chapter 13 bankruptcy cases can put borrowers’ homes at risk of foreclosure and represent a fraud against the bankruptcy court,” in addition to harming their credit.⁶ Moreover, because of the way loan servicers are compensated for forbearance, it is possible that Wells Fargo was able to profit on each forbearance filing.⁷

Another report found that the practice extended to a broader group of customers, and that borrowers in at least 14 states who were not delinquent on their loans had their mortgages wrongly put into forbearance without their knowledge or consent merely because they sought information on Wells Fargo’s programs to help consumers having trouble paying their bills because of COVID-19-related economic difficulties.⁸ These consumers were hurt in several ways by this practice: they did not receive credit for several months of payments, their credit reports may have been damaged, and they may have lost the opportunity to modify or refinance their mortgages while interest rates were at record lows.⁹ Wells Fargo admitted to these practices in a statement, claiming that “we may have misinterpreted customers’ intentions in a small number of cases.”¹⁰

To be clear, we support mortgage servicers taking actions to help distressed borrowers during this pandemic, including providing forbearance to those who are in delinquency, and if Wells Fargo’s actions are indeed isolated to a limited number of instances where there were errors, it is not our intent with this letter to discourage Wells Fargo from providing assistance to borrowers who need and request it. However, Wells Fargo’s history of taking actions without the consent of consumers is cause for serious concern that this is another systemic failure at the bank.

Indeed, if these reports are true, they represent one more addition to a long list of inexcusable actions by Wells Fargo at customers’ expense. The practices described in these reports are eerily similar to previous Wells Fargo scandals. The numerous instances of the bank’s swindling of consumers ultimately resulted in the Federal Reserve Board of Governors placing an

⁴ NBC News, “Troy Harlow has always made sure to pay his mortgage on time. Wells Fargo had other plans for him,” Gretchen Morgenson, July 16, 2020, <https://www.nbcnews.com/business/personal-finance/troy-harlow-has-always-made-sure-pay-his-mortgage-time-n1233635>.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ NBC News, “More Wells Fargo customers say the bank decided to pause their mortgage payments without asking,” Gretchen Morgenson, July 22, 2020, <https://www.nbcnews.com/business/personal-finance/more-wells-fargo-customers-say-bank-decided-pause-their-mortgage-n1234610>.

⁹ *Id.*

¹⁰ *Id.*

unprecedented asset cap on Wells Fargo¹¹ and multiple consent orders issued by the Consumer Financial Protection Bureau (CFPB) and Office of the Comptroller of the Currency (OCC).

- Between January 2012 and July 2016, “[m]ore than 800,000 people who took out car loans from Wells Fargo were charged for auto insurance they did not need ... push[ing] roughly 274,000 Wells Fargo customers into delinquency and result[ing] in almost 25,000 wrongful vehicle repossessions.” Active-duty service members were among those harmed.¹² Wells Fargo signed settlements with 50 states and Washington, D.C.,¹³ the OCC and the CFPB¹⁴ to resolve those claims.
- Even after they were caught, Wells Fargo failed to refund money owed to customers who had paid off their car loans early. “Tens of thousands of customers” may have been denied proper refunds.¹⁵ A spokesperson for the bank admitted that the failure stemmed from “a lack of oversight and controls.”¹⁶
- For years, Wells Fargo “charged monthly fees to customers for dozens of products they didn’t understand or know how to use.”¹⁷ These add-on charges were particularly egregious because the bank had entered into a consent order with the OCC about similar improper charges.¹⁸
- In 2015, the OCC found deficiencies in Wells Fargo’s internal controls related to the Bank Secrecy Act (BSA) and Anti-Money Laundering (AML) rules in the Wholesale Banking Group. The consent order noted that “the Bank has failed to make acceptable substantial progress toward correcting previously identified BSA/AML problems that were previously brought to its attention.”¹⁹
- Between January 2008 and July 2015, Wells Fargo repossessed vehicles belonging to 450 members of the military in violation of the Servicemembers Civil Relief Act

¹¹ *In the matter of Wells Fargo & Company*, Docket No. 18-007-B-HC, “Order to Cease and Desist Issued Upon Consent Pursuant to the Federal Deposit Insurance Act, as Amended,”

<https://www.federalreserve.gov/newsevents/pressreleases/files/enf20180202a1.pdf>.

¹² New York Times, “Wells Fargo Forced Unwanted Auto Insurance on Borrowers,” Gretchen Morgenson, July 27, 2017, <https://www.nytimes.com/2017/07/27/business/wells-fargo-unwanted-auto-insurance.html>.

¹³ American Banker, “Wells Fargo to pay state regulators \$575M over phony accounts, other scandals,” Rachel Witkowski, December 28, 2018, <https://www.americanbanker.com/news/wells-fargo-to-pay-state-regulators-575m-over-phony-accounts-other-scandals>.

¹⁴ CNN Business, “Wells Fargo fined \$1 billion for insurance and mortgage abuses,” Donna Borak, April 20, 2018, <https://money.cnn.com/2018/04/20/news/companies/wells-fargo-regulators-auto-lending-fine/index.html>.

¹⁵ New York Times, “Wells Fargo, Awash in Scandal, Faces Violations Over Car Insurance Refunds,” Gretchen Morgenson, August 7, 2017, <https://www.nytimes.com/2017/08/07/business/wells-fargo-insurance.html>.

¹⁶ *Id.*

¹⁷ Wall Street Journal, “Wells Fargo’s Latest Challenge: Refunds for Pet Insurance, Legal Services,” Emily Glazer, July 19, 2018, <https://www.wsj.com/articles/wells-fargos-latest-challenge-refunds-for-pet-insurance-legal-services-1532009933>.

¹⁸ Comptroller of the Currency, *In the Matter of Wells Fargo Bank, National Association*, Sioux Falls, South Dakota, AA-EC-2015-79, <https://www.occ.gov/static/enforcement-actions/ea2015-125.pdf>.

¹⁹ *Id.*

(SCRA).²⁰ And a second set of different SCRA violations came to light in a September 2016 settlement with the Department of Justice (DOJ) that brought the total number of servicemembers eligible for relief to 860.²¹

- Between April 2010 and October 2015, Wells Fargo made “calculation error[s]” that denied loan modifications to hundreds of eligible homeowners, leading to approximately 400 wrongful foreclosures.²²
- Between March 2013 and August 2017, Wells Fargo failed to properly compensate certain lower-level employees for legally required break periods. A federal judge ordered the bank to pay more than \$97 million in damages.²³
- Wells Fargo disclosed in March 2018 that federal agencies were looking into the bank’s wealth management business.²⁴ The federal agencies were examining “whether there have been inappropriate referrals or recommendations, including with respect to rollovers for 401(k) plan participants, certain alternative investments, or referrals of brokerage customers to the company’s investment and fiduciary services business.”²⁵
- Wells Fargo employees in the bank’s Wholesale Banking Group reportedly changed information on business customers’ documents without authorization,²⁶ and the DOJ is investigating whether “there is a pattern of unethical and potentially fraudulent employee behavior tied to management pressure.”²⁷
- Wells Fargo has struggled to effectively remediate customers who were harmed by the company’s misdeeds. It sent out 38,000 “erroneous communications to customers

²⁰ Department of Justice, “Justice Department Obtains \$5.4 Million in Additional Relief to Compensate Servicemembers for Unlawful Repossessions by Wells Fargo Dealer Services,” press release, November 14, 2017, <https://www.justice.gov/opa/pr/justice-department-obtains-54-million-additional-relief-compensate-servicemembers-unlawful>.

²¹ *Id.*

²² Securities and Exchange Commission, Form 10-Q, Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the quarterly period ended June 30, 2018, Wells Fargo & Company, <https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/sec-filings/2018/second-quarter-10q.pdf>.

²³ CNN Business, “Wells Fargo owes \$97 million to California workers,” Matt Egan, May 10, 2018, <https://money.cnn.com/2018/05/10/news/companies/wells-fargo-worker-lawsuit-97-million/index.html>.

²⁴ Securities and Exchange Commission, Form 10-Q, Quarterly Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the quarterly period ended May 31, 2018, Wells Fargo & Company, <https://www08.wellsfargomedia.com/assets/pdf/about/investor-relations/sec-filings/2018/first-quarter-10q.pdf>.

²⁵ *Id.*

²⁶ Wall Street Journal, “Wells Fargo Employees Altered Information on Business Customers’ Documents,” Emily Glazer, May 17, 2018, <https://www.wsj.com/articles/wells-fargo-employees-altered-information-on-business-customers-documents-1526564170>.

²⁷ Wall Street Journal, “Justice Department Probing Wells Fargo’s Wholesale Banking Unit,” Emily Glazer, September 6, 2018, <https://www.wsj.com/articles/justice-department-probing-wells-fargos-wholesale-banking-unit-1536244490>.

that it forced to buy unneeded auto insurance.”²⁸ It “sent refunds to people who weren’t the bank’s customers; notified those who were harmed of incorrect amounts to be paid; and told people of coming refunds even though they had never gotten the insurance.”²⁹ It did not promptly provide refunds to “as many as 110,000 customers who were charged improper fees to extend interest-rate commitments they received from Wells Fargo on their mortgages.”³⁰ And it planned to create a refund request process that required customers “to agree to a refund through the mail before sending them money,” despite its own estimates that “half or fewer” of affected customers would take the necessary steps to secure a refund.³¹ In September 2018, the OCC rejected Wells Fargo’s plan for remediating customers pushed into unneeded auto insurance, finding that the bank was not doing enough “to ensure it has found and compensated every affected driver.”³²

- In a February 2018 report, the CFPB found that Wells Fargo charged students three times more than its competitors for financial products marketed to them through agreements with their colleges.³³ The CFPB analysis examined bank fees at 573 colleges and found that the students at the 30 colleges with Wells Fargo products paid more in total bank fees than the students at the other 543 schools served by other banks combined.³⁴
- A February 2019 report revealed that employees in the Wholesale Banking division of Wells Fargo “routinely falsified clients’ signatures and otherwise doctored paperwork” in order to comply with a legal settlement with the OCC related to violations of anti-money laundering laws.³⁵
- In August 2019, reports identified multiple instances of Wells Fargo closing their customers’ accounts without authorization and subsequently charging overdraft fees.³⁶

²⁸ Wall Street Journal, “Wells Fargo Fumbles Efforts to Repay Aggrieved Customers,” Gretchen Morgenson and Emily Glazer, February 10, 2018, <https://www.wsj.com/articles/wells-fargo-struggles-to-repay-aggrieved-customers-1518295023>.

²⁹ *Id.*

³⁰ *Id.*

³¹ *Id.*

³² 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>.

³³ Letter from Consumer Financial Protection Bureau to the Department of Education regarding Bureau’s Office for Students and Young Consumers college-sponsored deposit and prepaid accounts analysis, February 5, 2018, https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/bcfp_foia_letter-to-department-education_record_2018-02.pdf.

³⁴ *Id.*

³⁵ The Capitol Forum, “Wells Fargo: Employees Doctored Signatures, Raising Possibility of Federal Penalties,” February 14, 2019, <https://thecapitolforum.com/wp-content/uploads/2019/02/Wells-Fargo-2019.02.14.pdf>.

³⁶ New York Times, “Wells Fargo Closed Their Accounts, but the Fees Continued to Mount,” Emily Flitter, August 16, 2019, <https://www.nytimes.com/2019/08/16/business/wells-fargo-overdraft-fees.html>.

You were appointed nearly ten months ago after your two predecessors were dismissed for their incompetence and inability to institute meaningful reforms at the bank.³⁷ We had hoped that you would bring the needed change to Wells Fargo’s culture following years of false promises and continued scandals, and we were initially encouraged by press reports that indicate that you were undergoing an “intense review” of the bank’s operations and meeting with executives, “grilling them about the ways they do business.”³⁸ But this recent reporting highlights the broken culture at the bank, and the need for Wells Fargo to remain under intense regulatory scrutiny until it is clear that the necessary changes have been made to ensure that the bank is truly committed to its consumers.³⁹

Given our ongoing concerns about the bank’s ability to comply with the law and treat its customers fairly, we ask that you provide the following information no later than August 12, 2020.

1. Please provide a description and written copies of Wells Fargo’s policies with respect to:
 - a. The use of court documents to determine whether to file for forbearance on behalf of a customer during COVID-19;
 - b. Any other circumstances under which Wells Fargo would enter a consumer who is not delinquent on their loan into forbearance without a customer’s explicit request;
 - c. The steps Wells Fargo takes to notify consumers that their loan has been placed into forbearance, including the text of any letter that goes out with the notification of forbearance as well as the time that elapses between a consumer being placed into forbearance and the consumer receiving that letter;
 - d. The communications with bankruptcy trustees after Wells Fargo places a loan in forbearance;
 - e. What information Wells Fargo furnishes to credit bureaus for consumers who have been placed into forbearance, including all special comment codes;
 - f. How Wells Fargo manages requests from customers who initially indicated they wanted to participate in forbearance programs, but after receiving information about the program, no longer want it.

2. For how many mortgage borrowers has Wells Fargo provided forbearance since March 18, 2020? Of that number, how many of those borrowers were current on their loan and did not explicitly request and provide appropriate consent for their loans to be placed in forbearance? Of that number, how many of those loans were government-backed?
 - a. What actions has the bank taken to identify these cases and remunerate borrowers for any damage caused by Wells Fargo’s actions?

³⁷ Wells Fargo, “Wells Fargo Names Charles W. Scharf Chief Executive Officer and President,” press release, September 27, 2019, <https://newsroom.wf.com/press-release/corporate-and-financial/wells-fargo-names-charles-w-scharf-chief-executive-officer>.

³⁸ Bloomberg, “Wells Fargo’s Poker-Faced CEO Sows Unease While Considering Change,” Hannah Levitt, December 27, 2019, <https://www.bloomberg.com/news/articles/2019-12-27/wells-fargo-s-poker-faced-scharf-sows-angst-while-mulling-change>.

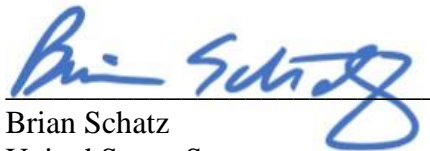
³⁹ *Id.*

3. Has Wells Fargo identified circumstances under which the bank has filed official court documents that indicate a borrower has requested forbearance when they have not explicitly requested it and provided appropriate consent?
 - a. If so, how many instances has this occurred and what remediation efforts are underway?
4. Has Wells Fargo been compensated for forbearance filings not requested by the borrower? If so, how much has Wells Fargo been compensated?
5. How does Wells Fargo handle funds received from borrowers who continue making full or partial payments while their loan is in forbearance, including any loan that was current but has been placed in forbearance without a request from the borrower?
6. For current borrowers whose loans Wells Fargo has placed into forbearance without the borrower's request, what special comment codes has Wells Fargo furnished to credit reporting agencies, such as a disaster code, or any other special comment code, even if the loan is reported as current? If so, has the bank taken any steps to correct the information with the credit reporting agencies?

Sincerely,



Elizabeth Warren
United States Senator



Brian Schatz
United States Senator