



**To:** Members, San Francisco Board of Supervisors  
**CC:** Mayor Edwin Lee, Controller Ben Rosenfield  
**From:** Treasurer José Cisneros  
**Date:** August 31, 2017  
**Re:** Status Report as per Resolution No. 530-16 (Wells Fargo)

On December 13, 2016, the Board of Supervisors of the City and County of San Francisco adopted, Resolution No. 530-16 setting policy to sanction Wells Fargo consistent with recommendations from the Controller, urging City Departments to require Wells Fargo to provide a redress plan for San Francisco customers before engaging in future business with Wells Fargo, urging the City Attorney and District Attorney to investigate the practices of Wells Fargo and the other big banks, urging the Treasurer to provide advice on establishing a responsible banking ordinance, and urging the United States Office of the Comptroller of the Currency (OCC) to explore if Wells Fargo's national banking charter should be revoked. Furthermore, Resolution No. 530-16 calls for the Treasurer to submit a report to the Board of Supervisors by July 1, 2017, detailing the specific remedial actions taken by Wells Fargo as of that date.

#### **BACKGROUND**

On September 8, 2016, the OCC, Consumer Financial Protection Bureau (CFPB) and the Los Angeles City Attorney announced settlements and a consent order against Wells Fargo, resulting in a \$185 million fine based on "widespread illegal practices" around account openings, sales targets and compensation incentives. The City and County of San Francisco responded swiftly to the announcement and began to put together resources to assist San Franciscans affected by Wells Fargo's actions. Beginning on September 9th, the Treasurer repeatedly requested information from Wells Fargo about how many San Francisco residents were affected by the unauthorized account openings, and what remediation they would receive.

- 9.9.16 Treasurer Cisneros releases statement that he will "do everything in my power to make sure the actions of these Wells Fargo employees don't undermine our trust with low-income unbanked and underbanked San Franciscans."
- 9.20.16 Treasurer Cisneros meets with Greg Morgan, Wells Fargo EVP & Region President and asks for the following information:
  - How many San Franciscans were affected
  - Have they been notified
  - What restitution will they receive
- 9.23.16 Treasurer Cisneros announces resources for San Francisco consumers affected by the Wells Fargo Consent Decree and suspends Wells Fargo as a partner in its Bank On San Francisco program, citing predatory and potentially criminal actions against consumers

- 10.17.16 Treasurer stands with members of the Board of Supervisors announcing a resolution directing the City to cut business ties with Wells Fargo Bank
- 12.7.2016 Controller Ben Rosenfield and Public Finance Director Nadia Sesay issue an advisory memo to the Board of Supervisors with a review of the City's existing and potential business relationships with Wells Fargo Bank ("Wells Fargo"), and recommending an appropriate course of action for the City given the recent revelations about fraudulent and unethical consumer banking practices.
- 12.7.2016 Board of Supervisors Budget and Finance Committee hearing on a resolution setting policy to sanction Wells Fargo consistent with recommendations from the Controller
- 12.13.2016 Treasurer sends letter to Wells reiterating requests for:
  - How many San Franciscans were affected
  - Have they been notified
  - What restitution will they receive

Resolution No. 530-16 was passed unanimously by the Board of Supervisors on December 13<sup>th</sup>. The resolution set policy to sanction Wells Fargo consistent with recommendations from the Controller, including:

- 1) suspend for two years Wells Fargo's provision of broker/dealer, commercial banking, and commercial paper dealer services to the City;
- 2) remove Wells Fargo from consideration for two years for the provision of securities investments and counterparty/repurchasing agreements;
- 3) monitor the numerous ongoing investigations as well as remediation efforts by Wells Fargo, and make additional recommendations as necessary; and
- 4) work with the Treasurer and other City departments to more broadly explore and incorporate elements of the Treasurer's social responsibility requirements into other financial service procurement processes.

The Resolution further resolved "if Wells Fargo seeks to engage in business with any City department, the Board of Supervisors urges that department to require Wells Fargo to do all of the following:

- (1) identify the specific "Improper Sales Practices" (CFPB Consent Order§ III, 3 f (1)- 21 (5)) that took place in San Francisco and on accounts held by San Francisco residents ("San 22 Francisco Affected Customers");
- (2) identify all San Francisco Affected Customers who incurred fees or others charges as a result of Improper Sales Practices (Consent Order§ VIII, 48);
- (3) provide the Redress Plan for San Francisco Affected Customers, and evidence that all San Francisco Affected Customers have been repaid consistent with the Consent Order (Consent Order§ VIII et seq. & §VIII, 51 (a)-(f));
- (4) provide the Independent Consultant's Report and Compliance Plan, and evidence that it has been implemented as to San Francisco and San Francisco Affected Customers pursuant to terms of the Consent Order (Consent Order§ VI et seq.); and

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(5) provide any other requested evidence to verify its remedial actions, so the City department may determine whether Wells Fargo has or has not taken necessary steps sufficient remedy its past wrongs.

Following the passage of the resolution, on December 29, 2016 Controller Ben Rosenfield and Public Finance Director Nadia Sesay issued a memo to Wells Fargo, outlining the need for the Bank to provide the following information to avoid future sanctions:

1. A detailed accounting of the improper sales practices identified in the Consent Order that specifically affected San Francisco-based customers (“San Francisco Affected Customers”), including but not limited to:
  - a. The number of San Francisco Affected Customers
  - b. The dollar amount of fraudulent activity caused by improper fees or charges or other costs to those customers as a result of Improper Sales Practices;
2. A redress plan for San Francisco Affected Customers and evidence of repayment consistent with the Consent Order;
3. The Independent Consultant’s Report and Compliance Plan, and evidence of implementation of that plan with respect to San Francisco Affected Customers pursuant to the Consent Order;
4. Other evidence of remedial actions taken by Wells Fargo with respect to the illegal and unethical practices at issue in the Consent Order.

#### **REPORT ON PROGRESS**

Wells Fargo has consistently and actively engaged with the Treasurer and other City officials to respond to the City’s requests outlined above. There have been several in person and telephone conversations to clarify the information requests in addition to letters between the parties detailing the progress and outstanding questions:

- 1.20.17 Wells Fargo sends letter to Treasurer
- 1.25.17 Treasurer meets with Jim Foley, Executive Vice President and president, Pacific North region, and Alfredo Pedroza, Senior Vice President, Government Relations and Public Policy from Wells Fargo
- 2.22.17 Treasurer and J. Foley Phone Call
- 2.24.17 Treasurer and J. Foley Phone Call
- 3.1.17 Email from/to Treasurer and J. Foley
- 3.9.17 Email from J. Foley to Treasurer
- 3.13.17 Treasurer and J. Foley Phone Call
- 3.28.17 Wells Fargo sends CRA downgrade press release
- 4.3.17 Wells Fargo sends a copy of Progress Report
- 4.28.17 Mayor and Treasurer issue joint press statement re: Wells Fargo targeting immigrants
- 5.5.17 Controller sends letter to Wells Fargo

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- 6.20.17 Controller and Treasurer meet with Wells Fargo
- 6.29.17 Wells Fargo sends letter to City
- 7.11.17 Treasurer and Controller respond to Wells Fargo
- 7.14.17 Email from J. Foley to Controller and Treasurer
- 7.26.17 Wells Fargo sends letter to Treasurer and Controller

As of the date of this letter, Wells Fargo has been substantively responsive to many of the requests for information, with two key exceptions: the number of San Francisco customers affected and a redress plan for San Francisco Affected Customers and evidence of repayment.

The June 29<sup>th</sup> letter from Jim Foley, Executive Vice President contains the most complete response to date from Wells Fargo. I've outlined the responses and deficiencies in the attached table. Please let me know if you need any further information.

Information Requested by the City and County of San Francisco	Wells Fargo's Response	Compliant? Y/N
1. A detailed accounting of the improper sales practices identified in Consumer Financial Protection Bureau Consent Order § III, 3 f (1)-(5) that specifically affected San Francisco-based customers ("San Francisco Affected Customers")	Wells Fargo acknowledges that each of the improper sales practices stipulated in the CFPB Consent Order appear to apply similarly to some Community Banking customers in San Francisco.	Yes
a. The number of San Francisco Affected Customers	Wells Fargo provided that statewide 897,972 accounts were unauthorized or experienced simulated funding from May 2011- mid-2015, and 53,337 of the accounts incurred fees. In the City of San Francisco, Wells Fargo provided a total of \$36,596 in refunds for the 1,374 accounts that experienced simulated funding from 2011 to 2015, but did not disclose the total number of San Francisco customers with unauthorized accounts.	No
b. Identify all San Francisco Affected Customers who incurred fees or others charges 24 as a result of Improper Sales Practices	Multiple provisions of existing law—ranging from specific federal banking regulations to broad guarantees for privacy rights like those expressly enshrined in California's Constitution—prohibit Wells Fargo from publicly revealing the identity of individuals who appear to have been subject to the Community Bank's improper practices.	Yes
a. The dollar amount of fraudulent activity caused by improper fees or charges or other costs to those customers as a result of Improper Sales Practices	Wells Fargo reports that San Francisco customers received \$36,596 in refunds for 1,374 accounts that experienced simulated funding from 2011 to 2015.	Yes
2. A redress plan for San Francisco Affected Customers and evidence of repayment	Only national level information was provided. No information given about any specific outreach or plans for remediation for San Francisco customers affected.	No

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Information Requested by the City and County of San Francisco	Wells Fargo's Response	Compliant? Y/N
3. The Independent Consultant's Report and Compliance Plan, and evidence of implementation of that plan with respect to San Francisco Affected Customers pursuant to Consent Order § VI ( <i>et seq.</i> );	Wells Fargo indicates they will seek permission from regulators to release this information once finalized. Unclear why this request couldn't have been issued prior to July 1, 2017 deadline.	Pending
4. Other evidence of remedial actions taken by Wells Fargo with respect to the illegal and unethical practices at issue in the Consent Order.	<ul style="list-style-type: none"> <li>• Over \$3.26 million refunded to customers nationwide</li> <li>• Expanded customer complaint servicing and resolution process</li> <li>• Automatic notifications to customers after a personal or small business checking account, savings account, or credit card has been opened.</li> <li>• Established a dedicated hotline for customers with concerns about their accounts, or any aspect of their relationship with Wells Fargo.</li> <li>• Launched the Office of Ethics, Oversight and Integrity to centralize the handling of internal investigations, complaints oversight, and sales practices oversight.</li> <li>• On April 10, 2017, the Board of Directors of Wells Fargo Bank released the findings of its independent investigation into the company's retail banking sales practices.<sup>9</sup></li> <li>• Terminated four current or former senior managers in the Community Bank for cause due to sales practices; none received a 2016 bonus and each forfeited all outstanding equity awards and stock options.</li> <li>• Eliminated 2016 bonuses and reducing by up to 50 percent the amount that otherwise would have been payable under 2014 Performance Shares for the eight members of Wells Fargo's Operating Committee (the most senior executives in the Company)</li> </ul>	Yes

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