

United States Senate

WASHINGTON, DC 20510

June 14, 2018

The Honorable Joseph Otting
Comptroller of the Currency
Office of the Comptroller of the Currency
400 Seventh Street SW
Washington, D.C. 20219

Dear Comptroller Otting:

It has come to our attention that the Office of the Comptroller of the Currency (OCC) has concluded its horizontal review of sales practices at large and mid-size banks under the agency's supervision and does not plan to make key details of the review public.¹ We appreciate the broad overview the OCC provided to the Committee on June 11, 2018, which confirms press reports of the review's findings. However, we are concerned that the decision to keep the specific findings of the review private leaves consumers exposed to past and future predatory behavior and impedes our ability as lawmakers to effectively conduct oversight over the banking industry, which is under our jurisdiction.

On September 8, 2016, the OCC together with the Consumer Financial Protection Bureau and the Los Angeles City Attorney announced enforcement actions against Wells Fargo for sales practices tied to the unauthorized opening of deposit and credit card accounts, which ultimately totaled 3.5 million unauthorized accounts.²

Due to concerns that Wells Fargo was not the only bank engaged in such practices, in 2016 former Comptroller Thomas J. Curry directed a horizontal review of sales practices at banks supervised by the OCC,³ and we appreciate your decision to continue this review. The 2016 sales practice inquiry, which covered more than 40 national banks and federal savings associations, has recently concluded and resulted in 252 Matters Requiring Attention (MRA), including five industrywide MRAs.⁴ Moreover, most banks included in the review received at least one MRA. The quantity and scale of the MRAs indicate that abusive sales practices were

¹ Kevin Wack, *Wells Fargo not alone: OCC finds sales abuses at other banks*, AMERICAN BANKER (2018), <https://www.americanbanker.com/news/not-just-wells-fargo-occ-finds-sales-practice-abuses-at-other-banks?brief=00000158-07c7-d3f4-a9f9-37df9bc10000> (last visited Jun 7, 2018).

² Emily Glazer, *Wells Fargo's Sales-Scandal Tally Grows to Around 3.5 Million Accounts*, WALL STREET JOURNAL (2017), <https://www.wsj.com/articles/wells-fargos-sales-scandal-tally-grows-to-around-3-5-million-accounts-1504184598> (last visited Jun 11, 2018).

³ *An Examination of Wells Fargo's Unauthorized Accounts and the Regulatory Response: Hearing Before the S. Comm. on Banking, Housing, and Urban Affairs*, 114th Cong. 64 (2016) (response of Thomas J. Curry, Comptroller of the Currency to U.S. Senator Robert Menendez) (available at: <https://www.gpo.gov/fdsys/pkg/CHRG-114shrg23001/pdf/CHRG-114shrg23001.pdf>).

⁴ Kevin Wack, *Wells Fargo not alone: OCC finds sales abuses at other banks*, AMERICAN BANKER (2018), <https://www.americanbanker.com/news/not-just-wells-fargo-occ-finds-sales-practice-abuses-at-other-banks?brief=00000158-07c7-d3f4-a9f9-37df9bc10000> (last visited Jun 7, 2018).

and continue to be far more prevalent than originally thought.

Consumers deserve to know whether the institutions with which they choose to bank engage in predatory sales practices. Keeping key details of the review private leaves consumers vulnerable and unaware of any potential abuses their financial institutions perpetrated against them as well as any similar practices by other banks. Ultimately, failure to disclose detailed results of the review leaves the American public and bank investors blind to the possibility that Wells Fargo's misconduct was an industrywide problem.

We asked you about the horizontal review in a January 17, 2018 letter, and in your response you said, "[t]he horizontal review did not identify systemic issues with bank employees opening accounts without customers' consent. Where isolated instances occurred, banks had already corrected the issue or are in the process of doing so."⁵ We understand that in January, the report had not been completed and perhaps all relevant information was not available when you responded. However, the number and scope of MRAs issued as a result of your completed review suggest that the sales abuses perpetrated by Wells Fargo might be a broader industrywide problem.

Now that the review is complete, we respectfully request that you provide a comprehensive and detailed summary of your findings, including the volume and types of misconduct uncovered; whether, if any, MRIAs (Matters Requiring Immediate Attention) were issued, a description of when such misconduct occurred; the number of consumers impacted, disaggregated by state; a description of any incentive compensation plans that may have encouraged the sales practice misconduct; a general summary of the Action Plans that the OCC required banks to create and the expected timeline of adoption of such Action Plans; a progress report outlining banks' adoption of OCC's recommended inventory of practices to improve banks' management of sales practice risk; the amount of remediation payments required and the timeline for the completion of such remediation; and whether the banks that engaged in misconduct used, and/or seek to enforce, forced arbitration clauses in contracts used to create unauthorized accounts.

Our staff will work with your office to ensure the confidentiality of any applicable supervisory information. In the past, the OCC has been diligent in providing helpful public reports on unsafe and unsound banking practices of interest to the public without compromising the confidentiality of supervisory information. For example, during the Independent Foreclosure Review, the OCC issued a detailed public report with charts demonstrating the volume and types of deficient mortgage servicing and foreclosure processing at 15 mortgage servicers. This information allowed the public to understand different servicers' performance records and progress in remediating borrowers.⁶ A similarly-organized report related to abusive sales practice violations and progress in remediating impacted customers would be useful to the public.

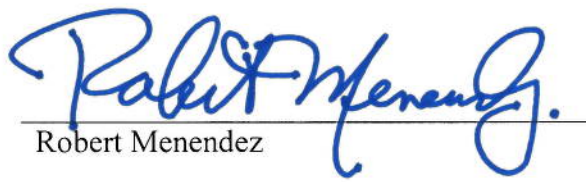
⁵ Letter from Comptroller Otting to Senator Menendez (January 25, 2018).

⁶ Office of the Comptroller of the Currency. "Foreclosure-Related Consent Orders Report: Observations, Payments, and Foreclosure Prevention Assistance." April 2014. Available at: <https://www.occ.gov/news-issuances/news-releases/2014/nr-occ-2014-65a.pdf>

As members of the Senate Banking Committee, it is vital that we have all the relevant information to assess practices impacting consumers in the banking industry. Therefore, we respectfully request a full and comprehensive summary of your findings.

We look forward to your response, and your testimony today in front of the Senate Banking Committee.

Sincerely,

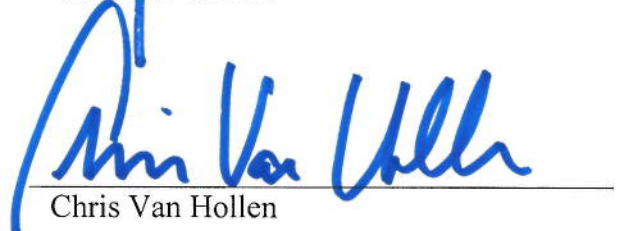

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