Banking and Finance Law Daily Wrap Up, OVERSIGHT AND INVESTIGATION—Senators urge OCC and CFPB to fire Wells Fargo CEO, (Mar. 25, 2019)

Banking and Finance Law Daily Wrap Up

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By Nicole D. Prysby, J.D.

Senators Warren and Brown want the OCC and CFPB to oust Wells Fargo's President and CEO Tim Sloan from office, contending that the bank cannot correct its problems with misconduct unless he is removed.

Senators Elizabeth Warren (D-Mass) and Sherrod Brown (D-Ohio), announced that they sent a letter to the Office of the Comptroller of the Currency and Consumer Financial Protection Bureau urging the agencies to use their powers under an April 2018 consent order to remove Tim Sloan as Wells Fargo's President and CEO. The senators' action follows recent revelations about the bank's failure to comply with the consent order, under which the bank agreed to a $1 billion settlement over its "forced-placed" auto insurance policies and rate-lock mortgages. The senators also sent a separate letter to Federal Reserve Board Chairman Jerome Powell highlighting scandals at Wells Fargo and urging him to refrain from lifting Wells Fargo's growth restriction until Tim Sloan is replaced.

In their letter to the OCC and CFPB, the senators state that the 2018 consent order required Wells Fargo to provide restitution to consumers harmed by its auto-lending and mortgage practices, However, recent reporting suggests that Wells Fargo has made limited progress in refunding those consumers. The bank forced hundreds of thousands of consumers to purchase collateral protection car insurance that they did not need, resulting in the payment of improper premiums, interest, and fees, and the improper repossession of vehicles who defaulted on loans due to the policies. In addition to the $1 billion penalty, the OCC and CFPB ordered Wells Fargo to pay restitution to the injured consumers, and reserved the right to take further action against the bank, should it fail to comply. According to a recent report in *Capitol Forum*, Wells Fargo has made only limited efforts at restitution. In September 2018, the OCC rejected Wells Fargo's restitution plan, finding that it did not have sufficient assurances that all injured consumers would be compensated. The senators asked the OCC and CFPB to provide information on what developments have occurred since September 2018, including whether Wells Fargo has submitted a new remediation plan, whether OCC has required Wells Fargo to engage an independent third party to ensure adequate remediation, and whether the OCC and CFPB have considered imposing business restrictions or additional penalties on Wells Fargo.

The senators' letter to the Fed states that due to two recent reports of wrongdoing at Wells Fargo, the Fed should not lift restrictions on the company's growth until Tim Sloan is removed. In February 2018, the Fed announced that it would restrict Wells Fargo's growth until the bank sufficiently improves its governance and controls. In October 2018, and again in February 2019, Warren urged the Fed to maintain the growth restrictions until the bank replaces Tim Sloan with an executive not implicated in the bank's pattern of misconduct (see *Banking and Finance Law Daily*, Feb. 26, 2019).

The senators' letter argues that the two recent reports demonstrate that Wells Fargo cannot move forward under Sloan's leadership. The first report of wrongdoing relates to Wells Fargo's failed efforts to compensate the consumers injured when it forced them to purchase unnecessary auto insurance. The senators reiterated arguments made in their letter to the OCC and CFPB, and noted that the OCC rejected Wells Fargo's initial remediation plan in September 2018. The second report cited in the letter involves 2014-2015 violations of the Investment Advisors Act—failures to disclose conflicts of interest in the selling of mutual funds. The Securities And Exchange Commission recently fined the bank $17.4 million for the violations, which occurred when Tim

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Sloan was a senior-level bank executive. The senators argue that these recent reports demonstrate that Wells Fargo is "fundamentally broken" and there is "no evidence whatsoever that Mr. Sloan will fix these problems."

Companies: Wells Fargo & Company

LegislativeActivity: CrimesOffenses EnforcementActions FederalReserveSystem OversightInvestigations UDAAP

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