
Banking and Finance Law Daily Wrap Up

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By J. Preston Carter, J.D., LL.M.

The senator wrote to the Fed Chair, urging him to evaluate the new information regarding the bank’s behavior before lifting its growth cap.

Senate Banking Committee member Elizabeth Warren (D-Mass) has released documents on Wells Fargo’s alleged practice of entering borrowers into forbearance without their consent. She released the information in a letter to Federal Reserve Board Chair Jerome Powell, urging him to evaluate this behavior by the bank before the Fed begins to consider lifting the bank’s growth cap. In February 2018, the Federal Reserve placed Wells Fargo under a growth restriction as a result of corporate governance failures "until it sufficiently improves its governance and controls." According to Warren, new and previously unreleased information reveals that Wells Fargo placed non-delinquent mortgage borrowers into forbearance without their consent, potentially putting them at risk of greater financial hardship during the coronavirus pandemic.

The documents consist of responses from Wells Fargo to Warren’s requests for information, including a July 29 letter co-signed by Warren and Sen. Brian Schatz (D-Hawaii) (see Banking and Finance Law Daily, July 31, 2020). According to Warren’s letter, Well Fargo’s documents provide an admission to entering certain customers into forbearance without their consent, identifying four categories of customers who received such forbearances. Warren writes that "Wells Fargo was unable or unwilling to tell me how many total consumers were placed into forbearance without their consent." The senator said, "They did inform my office that by August 12, 2020, they had ‘received and reviewed approximately 1,600 complaints from customers telling [the bank] that they did not request a forbearance.’"

In her letter, Warren writes that it is crucial that homeowners facing economic hardship during the COVID-19 pandemic are able to easily take advantage of the forbearance protections included in the CARES Act. In some cases, she added, such as when borrowers are already delinquent, putting homeowners into a forbearance rather than proceeding with steps toward foreclosure is the appropriate step. However, Warren cautioned, the systemic practice of indiscriminately entering borrowers into forbearance without their consent and without regard for the individual financial needs of the borrower can have the opposite effect and further harm their finances.

Companies: Wells Fargo

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