

## [Securities Regulation Daily Wrap Up, FINANCIAL INTERMEDIARIES— Senators urge Wells Fargo to end forced arbitration clauses, \(Sept. 26, 2016\)](#)

Securities Regulation Daily Wrap Up

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By [J. Preston Carter, J.D., LL.M.](#)

Senators Sherrod Brown (D-Ohio), ranking member of the Senate Banking, Housing, and Urban Affairs Committee, and Patrick Leahy (D-Vt), ranking member of the Senate Judiciary Committee, sent a letter to Wells Fargo CEO John Stumpf, calling on the company to end its use of forced arbitration clauses. The [letter](#) also asked that he provide answers to a number of questions. The bank agreed earlier this month to pay \$185 million to [settle](#) investigations into illegal "cross selling" practices.

"The ability to force customers into secret arbitration proceedings allowed Wells Fargo to continue its outrageous practices with impunity for far too long," the senators said. According to the senators' press release, arbitration clauses force consumers to waive their rights to bring a claim in court or to band together in a class action, before any dispute has arisen. Brown and Leahy argue that customers' suits against Wells Fargo over sham accounts were "forced behind the closed doors of arbitration and it took years before the public learned the truth of the allegations." If the lawsuits had proceeded in court, the senators contend, "countless Wells Fargo customers might have been saved from being charged their hard-earned dollars for unauthorized accounts."

**Answers sought.** The senators' letter posed a number of questions that they asked Stumpf to answer "so that we can better understand the situation at Wells Fargo and how we can prevent similar fraudulent practices in the future." The senators want copies of customer agreements in place since 2011. They want to know how many customer complaints about fake accounts were forced into arbitration proceedings and who determined the legal response to customer suits over fraudulent accounts. Also, the senators want to know whether Wells Fargo disclosed to its investors allegations concerning the unauthorized creation of accounts.

**Stumpf leaves Federal Advisory Council.** Senators Jeff Merkley (D-Ore) and Ron Wyden (D-Ore) released a [statement](#) welcoming the news that Stumpf had stepped down from the Federal Reserve's Federal Advisory Council. Along with other colleagues, they had sent a letter to the Federal Reserve Bank of San Francisco's chairman of the board calling on the FRBank not to reappoint the Wells Fargo CEO to another term on the Council. The Council is responsible for consulting with, and offering direct insight to, the Board of Governors of the Federal Reserve System on a broad range of issues related to the banking system.

Their letter states, "It would be ironic if the Federal Reserve, a key federal banking regulator tasked in part with ensuring the fair and equitable treatment of consumers in financial transactions, continued to receive special insights and recommendations from senior management of a financial institution that just paid a record-breaking fine to the Consumer Financial Protection Bureau for 'unfair' and 'abusive' practices that placed consumers at financial risk."

**Shareholder demands clawback.** CtW Investment Group, a Wells Fargo shareholder, sent a [letter](#) to the bank's board, asking it to clawback at least part of the compensation earned by the executive who oversaw the employees who opened unauthorized customer accounts. CtW also called on Wells Fargo to add two new directors committed to "effective human capital management practices," and commission a comprehensive review of Wells Fargo's human capital management practices by an appropriate external organization. CtW states that it works with pension funds sponsored by unions affiliated with Change to Win, a federation of unions representing nearly 5.5 million members, to enhance long-term shareholder returns through active ownership.

Companies: CtW Investment Group; Wells Fargo

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LegislativeActivity: DirectorsOfficers Enforcement ExecutiveCompensation FinancialIntermediaries