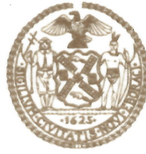

THE CITY OF NEW YORK
OFFICE OF THE COMPTROLLER
SCOTT M. STRINGER

September 22, 2016

Lloyd H. Dean
Chair, Human Resources Committee
Board of Directors
Wells Fargo & Company
P.O. Box 63750
San Francisco, CA 94163

Dear Mr. Dean:

The refusal of Chairman and CEO John Stumpf to shed light at Tuesday's U.S. Senate hearing on whether the Wells Fargo Board of Directors intends to hold accountable the senior executives ultimately responsible for rampant customer fraud in the bank's retail banking business has further eroded investor and customer confidence in the bank and its leadership. I write, therefore, to call on the Board's Human Resource Committee (HRC) to move quickly to claw back substantial incentive pay from the senior executives ultimately responsible for the fraud that led to the bank's recent $185 million settlement with federal and local authorities, and to disclose promptly the details of its clawback decisions together with the findings of any internal investigations on which those decisions are based.

The bank's payment of $185 million in fines and penalties is only one of the many results of the systemic breakdown of legal and regulatory compliance in the retail banking business detailed in the Consumer Protection Bureau's September 8, 2016 Consent Order with Wells Fargo. While the bank's long-term shareowners now face mounting costs from these compliance failures, the senior executives who are ultimately responsible— and who benefitted financially—appear to be walking away unscathed.

These are precisely the circumstances the New York City Pension Funds ("NYC Funds") sought to avoid when successfully negotiating in 2013 to expand the bank's recoupment policy to empower the HRC and Board to claw back pay from senior executives responsible for egregious conduct that causes financial or reputational harm, a provision known as the Discretionary Adjustment Provision. A key aspect of the expanded policy is that not only the individuals who committed the misconduct, but also those who managed or monitored them, can be made to give back all or some of their pay. It also explicitly requires the HRC to determine whether and to what extent public disclosure of information regarding any clawback enforcement is appropriate.

As Comptroller of the City of New York, I am the investment advisor to, and custodian and a trustee of, the NYC Funds. The NYC Funds have $163 billion in assets and are substantial long-term Wells Fargo shareowners, with 10.5 million shares of common stock valued at approximately $485 million. My office has a record of productive engagement with the bank, including successfully negotiating agreements to expand the Board's clawback authority in 2013 and to enact a proxy access bylaw in 2015.

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As you are aware, the September 8, 2016 settlement has already prompted a more than 7% decline in Wells Fargo's share price, erasing roughly $16 billion in shareowner value; caused extensive reputational harm; and exposed the bank to private action and additional government scrutiny. In addition to the U.S. House and Senate each launching investigations, customers have already filed a class action lawsuit, and customers unaffected by the misconduct are reportedly closing their Wells Fargo accounts.

I understand that Wells Fargo terminated some 5,300 employees who committed the illegal sales practices over the past five years, practices which included secretly opening hundreds of thousands unauthorized deposit accounts and tens of thousands credit card accounts. While holding accountable employees who commit misconduct is necessary, it is not sufficient.

To set the proper "tone at the top" for ethical conduct and robust compliance, the Board must also prevent more senior executives from keeping incentive pay based on performance achieved through the misconduct of subordinates. By exercising its clawback authority, the HRC sends the message that executives must either provide effective oversight of employees or face monetary consequences.

Given the Board's clawback policy, as strengthened in 2013, the HRC has both the responsibility and the authority to determine whether to claw back eligible incentive compensation from those ultimately responsible for the systemic misconduct in Wells Fargo's retail banking operations, up to and including former Senior Vice President Carrie Tolstedt and current Chairman and CEO John Stumpf.

Ms. Tolstedt, who led the Community Banking division throughout the five years of rampant misconduct described in the settlement agreement, received five-year total compensation valued at more than $44 million, much of which was incentive pay tied to various performance targets, including high "cross-selling ratios" in her division. She retired as Senior Vice President effective July 31, 2016 with a retirement package reportedly valued at $124.6 million, including equity-based compensation that had not yet vested. Ms. Tolstedt's retirement two months before the bank's $185 million settlement is troubling given that she remains an employee of the company through December 31, 2016 and, according to Fortune Magazine (9/12/16), would have forfeited at least $45 million had she been fired rather than permitted to retire.

Mr. Stumpf has received total compensation valued at about $103 million over the past five years, mainly in in the form of incentive compensation, making him the highest paid bank CEO in the U.S. over that period. The HRC granted him this lavish pay despite the fact that Wells Fargo has the most customer complaints issued since 2012 (per billion gross assets), according to MSCI. At yesterday's Senate hearing, Mr. Stumpf assumed "full responsibility for all of the unethical sales practices" at the bank and the onus is now on the HRC to take actions to hold him financially accountable.

It is our understanding, based on both our 2013 correspondence with management and our recent review of the bank's award agreements, that the Discretionary Adjustment Provision was first included in the terms of the 2013 long-term equity compensation grants to executives approved by the HRC at its February 2013 meeting and any equity awards granted in lieu of a portion of 2012 annual incentives to executive officers.

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Accordingly, we've identified 369,375 Performance Shares and 47,379 Restricted Share Rights (RSRs) granted to Ms. Tolstedt for the 2012 to 2015 performance period, that we believe are subject to the Discretionary Adjustment Provision. Similarly, we've identified 839,489 Performance Shares and 83,857 RSRs granted to Mr. Stumpf that appear subject to the discretionary clawback. Therefore, using grant date fair values as disclosed in the company's 2013 to 2016 proxy statements, we estimate that approximately $19 million in total incentive compensation paid to Ms. Tolstedt and approximately $41 million in total incentive compensation paid to Mr. Stumpf is subject to the Discretionary Adjustment Provision, for which the HRC has the authority to exercise discretion and the responsibility to enforce.

By holding financially accountable the senior executives ultimately responsible for Wells Fargo's costly compliance breakdowns, including but not limited to Mr. Stumpf and Ms. Tolstedt, the HRC can take an important step toward establishing a strong tone at the top for ethical conduct and responsible business practices. And by promptly disclosing the details of its clawback determinations in a Form 8-K filed with the Securities and Exchange Commission, the HRC and Board can take an essential step toward restoring investor and customer confidence in the bank and its Board. Specifically, the HRC and Board should disclose:

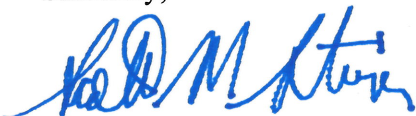
- The details of any compensation clawed back from a senior executive, including the executive's maximum compensation that was eligible for recoupment.
- The general circumstances of any compensation clawed back from lower level employees, including the number of employees and aggregate compensation clawed back by individual business unit or location.
- The reports from all internal Board or company investigations on which the HRC relied to inform its clawback determinations.

Given that the underlying misconduct is already in the public domain, and detailed in the Consent Order, I do not believe the HRC has any credible basis on which to withhold such disclosure.

I would welcome a response by September 30, 2016 to confirm whether the HRC or Board intends to invoke its clawback authority and, if so, providing a date by which it will disclose the results of its determinations to shareowners.

Thank you for your consideration.

Sincerely,



Scott M. Stringer
New York City Comptroller

cc: John G. Stumpf, Chairman and CEO
Stephen W. Sanger, Lead Director

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