

WASHINGTON

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Committee on Financial Services  
Ranking Democratic Member  
Subcommittee on Housing  
& Insurance

Committee on Transportation &  
Infrastructure

Committee on Ethics



Congress of the United States  
House of Representatives

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October 27, 2016

Hon. Loretta Lynch, Attorney General  
U.S. Department of Justice  
950 Pennsylvania Avenue, NW  
Washington, DC 20530

Dear Attorney General Lynch:

Last week, the California Attorney General launched a criminal investigation into Wells Fargo over allegations that it opened more than two million credit card and deposit accounts without consumer knowledge or consent. While I am pleased to see that individual states are taking steps to protect their constituents, I hope it is not an indication that the U.S. Department of Justice (DOJ) is leaving it to states and localities to hold this institution accountable.

As you are well aware, Wells Fargo is not a newcomer to customer abuse on a grand scale. Just six months ago, the bank entered into a \$1.2 billion settlement with your agency for engaging in mortgage fraud against the Federal Housing Administration. In the past few years, the bank has settled charges for a variety of mortgage fraud abuses, illegal marketing practices, kickback schemes, insider trading, racial discrimination, and student loan abuses totaling more than \$10 billion in fines. In July 2011, in a case strikingly similar to the current scam, Wells Fargo agreed to put an end to the exact same sales performance and incentive compensation programs that led to rampant fraud in its home loan division. And a mere three weeks ago, the DOJ settled charges of mistreatment of military service members by Wells Fargo. The sheer breadth of problems within this organization puts to rest any claim that this recent scandal is an aberration from Wells Fargo's wholesome culture or that it was the solitary work of a few thousand rogue employees.

Despite the company-wide nature of Wells Fargo's offenses, neither the institution itself nor any of its leaders have ever been called to account or been held criminally responsible for their actions. It is beyond time that this soft approach came to an end. The Department of Justice should treat large financial institutions that engage in criminal wrongdoing with the same zeal that it prosecutes the individual bank robber – an apology and a small fine are no deterrent and do not further the principle of equal treatment under the law.

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While it may be your practice not to confirm or deny the existence of a case, I hope the DOJ has opened its own criminal investigation into this matter and stands ready to support the efforts of State Attorneys General and local District Prosecutors who have initiated their own inquiries. The constant barrage of illegal activity year after year from Wells Fargo for which the bank enters into a settlement agreement, its shareholders pay a fine, and the executives continue with business as usual is taking a toll on the integrity of our financial markets and the confidence that Americans have in the fairness of our justice system.

In the past, the DOJ has declined to prosecute large financial institutions out of concern that a guilty plea or criminal conviction could lose a bank its charter and all the rights and privileges that go along with that designation. It is unfortunate that these concerns do not dissuade the wrongdoers from breaking the law in the first place. On the contrary, the lack of vigorous enforcement against institutional wrongdoing appears to serve as encouragement to merely repeat the cycle. This time, and every time moving forward, I would urge you to investigate the merits of these cases with an openness to using *all* the tools at your disposal, including, if warranted, criminal prosecution, whatever consequences such a finding may have for a bank's charter.

Sincerely,



Michael E. Capuano  
MEMBER OF CONGRESS