

THE UNITED STATES ATTORNEY'S OFFICE
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Department of Justice

U.S. Attorney's Office

Southern District of New York

FOR IMMEDIATE RELEASE

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Manhattan U.S. Attorney Announces \$72.6 Million Settlement Of Fraud Lawsuit Against Wells Fargo Bank For Overcharging Foreign Exchange Customers Over Seven Years

Wells Fargo Admits to Overcharging and Providing False Information to Customers, Pays Restitution and Civil Penalties, and Makes Asset Forfeiture Payment

Audrey Strauss, the United States Attorney for the Southern District of New York, and Michael J. Driscoll, the Assistant Director-in-Charge of the New York Field Office of the Federal Bureau of Investigation ("FBI"), announced today that the United States has simultaneously filed and settled a civil fraud lawsuit against Wells Fargo Bank, N.A. ("Wells Fargo" or the "Bank") alleging that it violated the Financial Institutions Reform Recovery and Enforcement Act ("FIRREA") by fraudulently overcharging hundreds of commercial customers, many of them small and medium-sized businesses and federally-insured financial institutions, who used the Bank's foreign exchange ("FX") service. Specifically, the United States alleged that, from 2010 through 2017, Wells Fargo FX sales specialists defrauded 771 customers by systematically charging them higher markups on FX transactions than they represented the Bank would charge, and concealing these overcharges through various misrepresentations and deceptive practices.

As part of the settlement, approved today by U.S. District Judge John G. Koeltl, Wells Fargo will pay a total of approximately \$72.6 million, with approximately \$35.3 million having been paid directly to the 771 customers collectively as restitution and approximately \$37.3 million to be paid to the United States as civil penalties under FIRREA and as asset forfeiture. Wells Fargo also made extensive admissions of certain conduct alleged in the Government's complaint, including that many FX sales specialists overcharged hundreds of commercial customers by applying larger sales margins or spreads than they represented they would, and that, in certain instances, when customers contacted the Bank to inquire about higher-than-agreed-upon pricing, FX sales specialists would give customers false explanations for the inflated prices.

U.S. Attorney Audrey Strauss said: "We all put trust in our banking institutions to deal with us honestly, fairly, and transparently when we are their customers. For the better part of a decade, Wells Fargo abused this trust, using tricks, false information, and other deceptive practices to fraudulently overcharge customers who used the Bank's foreign exchange service. This settlement, which requires Wells Fargo to make its customers whole for their losses and pay a substantial penalty, sends a strong message to the banking industry that financial institutions who take advantage of their customers will be held to account."

As alleged in the Government's complaint:

During 2010 through 2017 (the "Covered Period"), Wells Fargo offered FX services to commercial customers located throughout the United States, such as converting the customers' US dollars into foreign currency for outgoing wire transfers and converting incoming wire transfers of foreign currency into U.S. dollars. Wells Fargo profited from these transactions by marking up the prices on currency it was selling to and marking down the prices on currency it was buying from its customers. Wells Fargo employees referred internally to this currency mark-up as a "spread" or "sales margin." Wells Fargo FX sales specialists frequently entered into agreements with the Bank's customers pursuant to which they represented that the Bank would charge specific spreads or sales margins on their FX transactions. These agreements, referred to internally as "fixed-pricing agreements," were both written and oral in nature.

During the Covered Period, Wells Fargo defrauded 771 of its commercial customers with fixed-pricing agreements, many of them small or medium-sized companies and federally-insured financial institutions, by falsely representing to the customers that the Bank would charge specific fixed FX spreads on FX transactions, when, in fact, Wells Fargo was surreptitiously and systematically charging significantly higher spreads and pocketing tens of millions of dollars in ill-gotten FX revenue. By financially incentivizing its FX sales specialists to overcharge FX customers while failing to take steps to ensure that FX sales specialists honored pricing representations, Wells Fargo created an atmosphere in which employees openly joked about and celebrated taking advantage of the Bank's customers.

Wells Fargo FX sales specialists used a variety of misrepresentations and deceptive practices to defraud customers. For example, instead of applying agreed-upon fixed spreads to customers' outgoing wires, FX sales specialists would charge inflated spreads that were as large as the FX sales specialists thought they could get away with. Furthermore, rather than charging the agreed-upon fixed spread to the FX market rate at the time the outgoing wire was converted, FX sales specialists would select the best rate for the Bank and worst rate for the customer from the FX price fluctuations from the beginning of the trading day until the time of the transaction. This practice was referred to internally as "Range of Day" Pricing.

In addition, FX sales specialists sometimes would give customers fictitious underlying FX market rates and spread calculations to create the false impression that Wells Fargo was complying with pricing representations when that was not the case. Other times, FX sales specialists would make intentional "errors" to the exchange rate given to a customer to make the Bank's spread much larger. If caught, the FX sales specialist would falsely claim that digits in the price had been mistakenly transposed. This practice was known as the "Big Figure Trick."

FX sales specialists also at times would charge a customer different spreads depending on which customer representative initiated the transaction. Because Wells Fargo's online FX service tracked user identities, FX sales specialists would impose larger spreads on transactions initiated by those representatives thought to be less sophisticated or experienced in FX trading. This practice was known internally as "User-Based Pricing."

FX sales specialists frequently would apply an even more egregious form of Range of Day pricing to customers' incoming wire transfers, called "BSwift" wires. Because Wells Fargo generally did not notify customers when they received incoming wires of foreign currency or when those wires were converted, FX sales specialist could wait until the end of the day and select the best rate for the Bank and worst rate for the customer from price fluctuations throughout the entire trading day. One FX specialist called this practice the "BSwift Pinata."

As part of the settlement, Wells Fargo admitted and accepted responsibility for the following conduct:

- During the Covered Period, many FX sales specialists overcharged hundreds of commercial customers by applying larger sales margins or spreads to customer FX transactions than they

represented they would.

- Wells Fargo received millions of dollars from customers to which the Bank was not entitled.
- FX sales specialists internally discussed and even celebrated transactions resulting in larger FX spreads than agreed to with customers or transactions generating large FX revenue. For example, FX sales specialists on Wells Fargo's San Francisco FX desk would celebrate transactions with large spreads or sales margins by ringing a bell located on the trading floor. Other FX sales specialists would use expressions such as, "back the truck up," and "when in doubt, spread them out," to jokingly describe how Wells Fargo and its FX sales specialists were making money on transactions by charging large FX spreads, including larger FX spreads than agreed to with customers.
- Wells Fargo's own internal CMR database indicated that FX sales specialists were charging customers FX spreads that were higher than those the Bank had represented. Certain CMR notes reflected that while a customer thought it would receive the rate that the Bank had represented to the customer, the Bank in fact charged the customer undisclosed higher spreads. For example, an FX sales specialist stated in one CMR note concerning Customer A that there was an "agreement w/the customer" to charge "25 pips [points in percentage] on spot trades" but that the Bank would "take 30-35 . . . if possible."

False Information

- ◦ In certain instances, when customers contacted the Bank to inquire about higher-than-agreed-upon pricing, FX sales specialists would give false explanations for the prices such as "time fluctuations" or other supposed events in the market.
- In a few cases, FX sales specialists provided customers false transaction data. In one instance, an FX sales specialist represented to Customer E that it would charge a spread of 5 basis points on certain BSwift wire transactions. Contrary to this agreement, the Bank actually charged higher spreads on a series of FX transactions. Then, in email correspondence with representatives of Customer E, the FX sales specialist provided inaccurate market rate information to the customer to make the FX spread falsely appear consistent with the agreement terms.

The Big Figure Trick

- ◦ For some customers, FX sales specialists also used what they internally called the "big figure trick" or the "transposition error game" to increase the FX sales margin by switching digits in the price of the transactions in a way that would cost customers more money. For example, if the correct hypothetical price to purchase a Euro was 1.0123 dollars, an FX sales specialist would use the big figure trick to switch the price to 1.0213 dollars, thus taking more spread (in this example, an additional 89 basis points) from the customer.
- If caught by the customer, the FX sales specialist would claim that it was simply a mistake of adjusting the wrong digit in the price. One FX sales specialist explained, "You can play the transposition error game if you get called out." Another FX sales specialist noted to a colleague about a previous transaction that a customer "didn't flinch at the big fig the other day. Want to take a bit more?"

User-Based Pricing

- ◦ At times, Wells Fargo's FX sales specialists charged the same customers different spreads depending on which representative of the customer happened to be involved in executing the trade. Specifically, Wells Fargo's FX sales specialists would charge larger spreads on transactions requested by certain customer representatives thought to be less sophisticated or experienced in FX trading.

BSwift Piñata

- - As noted above, because Wells Fargo generally did not provide immediate notice to customers when they received incoming wires, known as BSwifts, Wells Fargo’s FX sales specialists took advantage of this time delay to charge higher spreads than the Bank had represented it would.
 - An FX sales specialist in a written instant message to another sales specialist referred to the Bank’s pricing of BSwift wire transfers as the “BSWIFT pinata.” An additional FX sales specialist noted in a recorded call that she preferred to book her own BSwifts to stretch the spread and could take more spread because she was doing the pricing herself. She observed that she could “dance around it” if the customer called with questions.
 - Another FX sales specialist observed in an internal email communication that customers would not notice higher spreads on BSwift wires. He wrote, after noting that he “bumped spreads up a pinch,” that “these clients who are in the mode of just processing wires will most likely not notice this slight change in pricing” and that it “could have a very quick positive impact on revenue without a lot of risk.”

Financial Incentives and Lack of Meaningful or Effective Oversight

- - Wells Fargo incentivized its FX sales specialists to generate FX sales revenue by tying their bonuses exclusively to the amount of sales revenue they generated for the Bank from FX transactions. Specifically, before 2017, Wells Fargo paid bonuses to FX sales specialists based upon the percentage of the FX sales revenue that each FX sales specialist and FX desk generated. Each year during the Covered Period, Wells Fargo paid hundreds of thousands of dollars in bonuses to various FX sales specialists based on FX revenue. Some FX sales specialists received bonus compensation exceeding \$1 million in a single year.
 - Prior to 2017, Wells Fargo failed to put meaningful or effective safeguards in place to ensure that FX sales specialists priced customer FX transactions in accordance with the terms represented in fixed-pricing agreements. For example, during the Covered Period, Wells Fargo: (i) had no meaningful or effective policies or procedures governing how fixed-pricing agreements should be negotiated, memorialized, recorded, or implemented; (ii) provided no training to FX sales specialists concerning fixed-pricing agreements; (iii) had no meaningful or effective process to systematically track the existence or terms of fixed-pricing agreements; (iv) had no systemic process in place to monitor whether FX sales specialists were pricing FX transactions in a manner that was consistent with fixed-pricing agreements; (v) did not implement any electronic safeguards that would have prevented FX sales specialists from pricing transactions in a manner that deviated from fixed-pricing agreements; and (vi) did not conduct any audits or reviews of FX transactions to determine whether FX pricing matched fixed-pricing agreements until 2017.

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In the settlement, Wells Fargo acknowledged that it took adverse employment actions against more than 20 Wells Fargo employees who were involved in the FX business, including various disciplinary actions and separation of employment, and affirmed that it has taken various steps in an effort to comply with industry FX best practices. This matter was initially brought to the Government’s attention by a whistleblower who filed a confidential declaration with the U.S. Department of Justice pursuant to the Financial Institutions Anti-Fraud Enforcement Act.

Ms. Strauss praised the investigative work of the FBI.

The case is being handled by the Office’s Civil Frauds Unit. Assistant U.S. Attorneys Lawrence H. Fogelman and Pierre G. Armand are in charge of the case, and Assistant U.S. Attorney Alex Wilson of the Money Laundering and Transnational Criminal Enterprises Unit is responsible for the forfeiture aspects of the case.

Attachment(s):

[Download wells_fargo_21cv8007_-_stipulation_2_signed.pdf](#)

[Download wells_fargo_21cv8007_-_stipulation_signed.pdf](#)

[Download wells_fargo_firrea_complaint.pdf](#)

Component(s):

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