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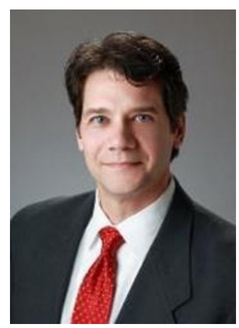
WWM Client Newsletter

The Wells Fargo Debacle: 5 Lessons of a Sales Culture

Wells Fargo's high-pressure sales tactics resulted in thousands of Wells Fargo bankers illegally and unethically opening millions of secret client accounts to meet quotas or obtain bonuses. If you don't think conflicts of interest can lead to harmful behavior, 2 million unauthorized accounts and 5,300 fired bankers seem to tell a different tale.

Here are five things to remember when working with a financial institution that sells its own products.



By Kurt Winiecki

Before we can appreciate the damage conflicts of interest can cause, we must review the fun facts of Wells Fargo. On September 8, Wells Fargo settled with regulators for $185 million because its bankers used customer information to illegally open millions of bank and credit card accounts. Since 2011, bending to heavy corporate pressure to sell or to achieve bonuses, Wells Fargo bankers took confidential customer information and opened bogus bank accounts, credit cards and debit cards in its customers' names without their consent. The numbers are astounding:

- **1.5 million** bank accounts opened without consent
- **565,000** credit cards opened without consent
- **5,300** Wells Fargo bankers terminated since 2011
- **0** news stories of upper management being terminated or disciplined

Bank employees falsified passwords, accessed private information and moved client money without permission. According to E. Scott Reckard, the LA Times journalist who reported on the original law suit filed against the bank, tellers had quotas to refer customers to bankers, and bankers had quotas sell bank products. The bank's actions "severely financially damaged" some customers whose credit scores were damaged or who were referred to bill collection services as a result of bankers moving customers' money. *LA Lawsuit Alleges Wells Fargo Engaged in Fraudulent Conduct." www.npr.org. May 8, 2015, http://www.npr.org/2015/05/08/405125463/la-lawsuit-alleges-wells-fargo-engaged-in-fraudulent-conduct.*

Wells Fargo's extensive incentive system exerted from managers huge "sales pressure that came down on employees[.]" Tellers were given quotas to refer customers to bankers, and bankers were given quotas to sell products. Regional managers would sometimes call branch managers up to four times daily to pressure the bankers and tellers. Some employees got physically ill from the stress. One bank employee opened 17 accounts for her grandmother to meet her quotas. *Id.*

The systemic breach of trust and ethics cannot be overstated. In a National Public Radio interview, Mike Feuer (a Los Angeles city attorney who sued Wells Fargo) stated: "It is outrageous for a bank to use customer private information without permission open unwanted accounts. It's outrageous for a bank to transfer funds without consent to fund the unauthorized accounts. And it's outrageous for a customer to incur unexpected fees from such conduct." *Wells Fargo Fires 5,000 Over Fake Accounts, September 9, 2016,* *http://www.npr.org/2016/09/09/493228759/wells-fargo-fires-5-000-employees-over-fake-accounts*.

Despite customer complaints for years, the program persisted. Instead of focusing on protecting customers, Wells Fargo waited until they were caught (a law suit was filed in 2015), paid a fine and terminated thousands of wrongdoers. What should we take away from this debacle?

1. Incentives drive behavior

Incentives to receive bonuses (or to avoid termination) can be strong enough to entice illegal behavior. Institutions who make more money by selling you more product are heavily incentivized to leverage that trust and your personal information to sell you whether you need something or not.

Many banks have turned their branches into sales floors. Investors and banking customers must be aware of institutional conflicts of interest that incentivize people to sell over providing the best solution for a customer.

2. New fiduciary rules will not help

The Department of Labor's new 1,000-page fiduciary rule goes into effect in April 2016. The rule requires all financial advisors to act as fiduciaries (which carries a legal duty to act in a client's best interest) when the advisor provides advice on retirement accounts (such as 401(k) plans, IRAs and similar accounts).

Great news, but the new rule does not extend to bank products sold by bankers or advisors advising on non-retirement accounts. Bankers will remain incentivized to sell bank products without having to act as a fiduciary. Importantly, advisors in many companies will wave the fiduciary flag while continuing to refer clients to the bank's sales floor. In short, the new fiduciary rule will not affect most conflicts that exist today and may even increase pressure to sell proprietary products.

3. Incentivizing cross-selling is widespread

While maybe the king of cross-selling, Wells Fargo is not alone - it is now a part of the business model of many institutions. Since being bought by Bank of America, Merrill Lynch advisors have been referring investor clients to B of A bankers for cross selling. To keep more profits in house, Morgan Stanley added retail banking products like checking accounts, savings accounts and certificates of deposit to its arsenal of products. Some institutions talk internally about client "stickiness." The more "points of stickiness" (an account, credit card, debit card, mortgage, auto loan, line of credit, etc.), the less likely a client will leave. Even the desire to increase "stickiness" can incentivize sales of products customers don't need.

4. You Agree to be Cross-Sold

In all likelihood, buried somewhere in your bank or investment contract (or an update you received in the mail) is a provision that allows your institution to share your confidential, private information with many other institution divisions, employees and affiliates. Privacy policies are rendered toothless as the bank disseminates your personal information to sales agents with quotas to sell products of all types.

Many institutions are “independent” of companies that sell bank or investment products. Firms that shop around for the best institutional offerings (rather than selling you theirs) may be a better fit.

5. These people are still out there

We know little about the Wells Fargo employees who opened bogus accounts and their managers. Are any still working for Wells? Are their actions recorded or reported anywhere? If one of the terminated Wells Fargo bankers became a financial advisor, would his or her record reflect opening unauthorized accounts? What about the managers who put these incentives in place, applied heavy pressure on bankers and failed to stop the program after its cracks were apparent? It remains to be seen how investors or bank clients can learn of these wrongdoers pasts.

The Wells Fargo debacle is a great example how an aggressive sales culture and cross-selling products can harm consumers. Reputable companies are not immune to sales pressures that lead to bad behavior. An independent financial institution that does not sell its own products can reduce potentially harmful conflicts of interest.