UNITED STATES OF AMERICA
Before the
SECURITIES AND EXCHANGE COMMISSION

SECURITIES EXCHANGE ACT OF 1934
Release No. 98221 / August 25, 2023

INVESTMENT ADVISERS ACT OF 1940
Release No. 6387 / August 25, 2023

ADMINISTRATIVE PROCEEDING
File No. 3-21580

In the Matter of WELLS FARGO CLEARING SERVICES, LLC AND WELLS FARGO ADVISORS FINANCIAL NETWORK, LLC, Respondents.	ORDER INSTITUTING ADMINISTRATIVE AND CEASE-AND-DESIST PROCEEDINGS, PURSUANT TO SECTION 15(b) OF THE SECURITIES EXCHANGE ACT OF 1934 AND SECTIONS 203(e) AND 203(k) OF THE INVESTMENT ADVISERS ACT OF 1940, MAKING FINDINGS, AND IMPOSING REMEDIAL SANCTIONS AND A CEASE-AND-DESIST ORDER

I.

The Securities and Exchange Commission ("Commission") deems it appropriate and in the public interest that public administrative and cease-and-desist proceedings be, and hereby are, instituted pursuant to Section 15(b) of the Securities Exchange Act of 1934 ("Exchange Act") and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940 ("Advisers Act") against Wells Fargo Clearing Services, LLC and Wells Fargo Advisors Financial Network, LLC (collectively, "Wells Fargo" or "Respondents").

II.

In anticipation of the institution of these proceedings, Respondents have submitted Offers of Settlement (the "Offers") which the Commission has determined to accept. Solely for the

purpose of these proceedings and any other proceedings brought by or on behalf of the Commission, or to which the Commission is a party, and without admitting or denying the findings herein, except as to the Commission's jurisdiction over them and the subject matter of these proceedings, which are admitted, Respondents consent to the entry of this Order Instituting Administrative and Cease-and-Desist Proceedings, Pursuant to Section 15(b) of the Securities Exchange Act of 1934 and Sections 203(e) and 203(k) of the Investment Advisers Act of 1940, Making Findings, and Imposing Remedial Sanctions and a Cease-and-Desist Order ("Order"), as set forth below.

III.

On the basis of this Order and Respondents' Offers, the Commission finds that:

Summary

1. From at least 2002 through December 2022, Wells Fargo and its predecessor firms overcharged approximately 10,945 accounts of advisory clients for more than $26.8 million in advisory fees. Specifically, from at least 2002 through 2014, certain investment adviser representatives from Wells Fargo and its predecessor firms agreed to reduce the firms' standard, pre-set advisory fee rate for certain clients at the time these clients agreed to open accounts. The representatives made handwritten or typed changes on the clients' standard investment advisory agreements that reflected the reduced fee rate. However, in certain instances, the account processing employees at Wells Fargo and its predecessor firms failed to enter the agreed-upon reduced advisory fee rate into the firms' billing systems when setting up the clients' accounts. As a result, the advisory clients were overcharged for advisory fees. Wells Fargo and its predecessor firms failed to adopt and implement written compliance policies and procedures reasonably designed to prevent this overbilling. As a result of the above, Wells Fargo overcharged certain clients who opened accounts prior to 2014 for advisory fees for several years, through the end of December 2022. Based on this conduct, Wells Fargo willfully violated Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 thereunder.

Respondents

2. Wells Fargo Clearing Services, LLC, formerly known as Wells Fargo Advisors, LLC, is a Delaware limited liability company headquartered in St. Louis, Missouri. It is a subsidiary and non-bank affiliate of Wells Fargo & Company and is a dual registrant that has been registered with the Commission as a broker-dealer since April 3, 1987, and an investment adviser since October 5, 1990. It has been conducting business and operating under the trade name "Wells Fargo Advisors" along with Wells Fargo Advisors Financial Network, LLC.

3. Wells Fargo Advisors Financial Network, LLC is a Delaware limited liability company headquartered in St. Louis, Missouri. It is a dual registrant that has been registered with the Commission as a broker-dealer since January 28, 1983, and an investment adviser since April 3, 2000. It is an affiliate of Wells Fargo Clearing Services, LLC.

Background

4. In May 2007, AG Edwards and Wachovia Corporation ("Wachovia") announced a merger that subsequently closed on October 1, 2007, at which time AG Edwards became a wholly owned subsidiary of Wachovia. The combined asset management and brokerage firm became known as Wachovia Securities with approximately $1.1 trillion of assets under management.

5. Subsequently, in October 2008, Wells Fargo and Wachovia announced a merger, which closed on December 31, 2008. On May 1, 2009, Wachovia changed its name to Wells Fargo, and by early 2011, Wachovia was fully integrated into Wells Fargo. The combined entity had $1.3 trillion in assets under management. Through the integration, Wells Fargo acquired approximately 891,000 advisory accounts from Wachovia, which included the legacy accounts from AG Edwards.

Wells Fargo's Client Account Setup Procedures

6. Financial advisors ("FAs") at Wells Fargo predecessor firms AG Edwards and Wachovia used advisory agreements referred to as "shelf" agreements to open new advisory client accounts. These "shelf" agreements were hard copy versions of their standard advisory agreements. In these "shelf" agreements, the fee schedule section listed the firms' standard advisory rates. However, FAs at the predecessor firms sometimes negotiated lower advisory rates with clients and then handwrote or typed the lower negotiated rates on the "shelf" agreements. For certain clients, those lower negotiated rates were not entered into the predecessor firms' billing systems.

7. Beginning in at least 2009, Wells Fargo's FAs were responsible for completing investment advisory account documentation for new Wells Fargo advisory client accounts. The Wells Fargo FAs were likewise permitted to negotiate lower rates with the clients and to handwrite or type those lower rates on the "shelf" agreements.

8. The Wells Fargo FAs then submitted the completed account setup documents, including the "shelf" agreements, to a team of Wells Fargo Account Setup Processors ("ASPs") by fax.

9. The ASPs manually entered the information from the documents into an on-line account setup tool which did not automatically populate any preset advisory fee rates when accounts were opened through "shelf" agreements. Instead, the ASPs had to manually enter the standard advisory fee rate or the negotiated rate for each new account based on the information reflected in the client account advisory agreement.

10. After the account information was entered into the account setup tool, that information was transmitted to the fee billing system (ZMAN), which was a legacy Wachovia billing system adopted by Wells Fargo that continues to be in use today, to calculate the advisory fee billed to each client account.

11. At the end of the account setup process, after the ASPs transferred the client information from the client account setup documents, an automated notification was generated by the account setup tool and sent to the FAs responsible for the clients' accounts. The notification included the client's new account information, including advisory fee rates. The FAs could then review this account information and report any issues or discrepancies. However, Wells Fargo did not have policies and procedures requiring the FAs to acknowledge receipt of or to review these notifications or confirm the accuracy of the new account information.

12. It was not until the beginning of 2017 that Wells Fargo began to eliminate the use of "shelf" agreements across its advisory businesses. The firm stopped using "shelf" agreements in the ordinary course to open new accounts in August 2021 except in limited instances.

Wells Fargo's Quality Control Process

13. Wells Fargo did not conduct any review or periodic testing of client accounts opened by its predecessor firms to confirm that negotiated fee changes to the advisory agreements had been implemented and were accurately reflected in Wells Fargo's ZMAN billing system. At the time of the merger, Wells Fargo incorporated Wachovia's fee billing information, including any existing inaccuracies in the fee billing rates previously entered into the legacy firms' systems. Wells Fargo did not have written compliance policies and procedures reasonably designed to ensure that billing statements it sent to its advisory clients acquired through the merger accurately reflected its agreements with them.

14. From 2009 through 2014, Wells Fargo had a quality control ("QC") process in place related to the advisory account setup process for new Wells Fargo accounts whose opening value exceeded $250,000. Specifically, the QC process required Wells Fargo employees to perform a review of each account the day after the account was opened where the account value exceeded $250,000, including those opened with a "shelf" agreement. Pursuant to the QC process, a Wells Fargo Operations Associate within the Advisory Account Setup group was responsible for reviewing the account setup information (for accounts that met this criterion) against the corresponding client agreements to ensure that all information was accurately transferred from the client agreements into the account setup tool. Wells Fargo Operations Associates were supposed to escalate any discrepancies to their managers, who were also responsible for checking whether the QC process was properly performed. If the QC process revealed any issues, the Wells Fargo Fee Billing team was then responsible for correcting the information in ZMAN. New accounts with an opening value of less than $250,000 were not subject to the QC process prior to September 2014.

15. Beginning in September 2014, Wells Fargo changed its QC process to include a review of all new accounts opened using a "shelf" agreement, regardless of the account's value. After the QC process was revised, however, Wells Fargo still did not conduct any historic review or periodic testing of advisory accounts opened using a "shelf" agreement – either by its predecessor firms or by its FAs during the period 2009 to August 2014 for accounts with an opening value of $250,000 or less – to determine whether any negotiated fee changes were

accurately reflected in the billing system.

Wells Fargo Overcharged Advisory Fees to Legacy AG Edwards and Wachovia Advisory Accounts and Accounts Opened by Wells Fargo

16. Wells Fargo first learned about the fee billing issues that are the subject of this proceeding from an inquiry made by the Connecticut Department of Banking (the Connecticut Banking Dept.) in the fall of 2018. In an April 18, 2019 letter to Wells Fargo, the Connecticut Banking Dept. identified three accounts as potentially overcharged. In May 2019, Wells Fargo confirmed to the Connecticut Banking Dept. that those accounts had been overcharged and reimbursed those accounts. Upon further investigation of the overbilling issue during the manual review of over 57,000 Connecticut advisory agreements, Wells Fargo discovered that additional Connecticut accounts opened with "shelf" agreements contained reduced advisory fees that had not been entered correctly into the account setup tool, and as a result, Wells Fargo had overcharged those clients.

17. Eventually, over the course of Wells Fargo's review of over 57,000 advisory agreements relating to accounts opened in Connecticut, 145 advisory accounts were identified as having been overbilled because reduced advisory fees contained in "shelf" agreements had not been entered correctly into the account setup tool. Of those 145 accounts, 124 of those accounts were opened at either AG Edwards or Wachovia prior to the close of the merger between Wells Fargo and Wachovia and were acquired by Wells Fargo at the end of 2008.

18. Because Wells Fargo did not conduct any review or periodic testing of the legacy AG Edwards and Wachovia advisory agreements at the time of the merger and afterwards to determine whether account opening information, including the advisory fee rates, was accurate, Wells Fargo continued to overcharge these legacy Connecticut accounts until after it began in 2019 to identify the discrepancies between the "shelf" agreements and the information in Wells Fargo's billing system.

19. The remaining 21 Connecticut accounts were opened by Wells Fargo between January 2009 and September 2014. In those cases, the ASPs did not accurately enter into the account setup tool the reduced advisory fees on the shelf agreements during the account setup process. As a result, incorrect advisory fees were transmitted to ZMAN, and in turn, clients were overcharged until Wells Fargo discovered the billing issue. Most of these accounts did not meet the $250,000 threshold amount that would have triggered a review through the QC process. However, nine of the 21 accounts overbilled for advisory fees had account balances over $250,000 at the time of setup.

20. Because of deficiencies in Wells Fargo's QC process, and because it did not conduct any historic review or periodic testing of advisory accounts opened by its own FAs using a "shelf" agreement, Wells Fargo continued to overcharge these Connecticut accounts until after it began in 2019 to identify the discrepancies between the "shelf" agreements and the information in Wells Fargo's billing system.

21. After it discovered and identified the overbilling in the Connecticut accounts, for which it issued reimbursement payments totaling approximately $433,622, with interest totaling approximately $268,876, Wells Fargo began working to develop a process to identify the discrepancies between the "shelf" agreements and the information in Wells Fargo's billing system for all accounts. In 2022, Wells Fargo developed a process, including technological tools to identify where a "shelf" agreement was used and potentially contained handwritten or typed notations, for approximately 2.2 million accounts nationwide.

22. Through that process, Wells Fargo determined that, in addition to the 145 Connecticut accounts discussed above, an additional 10,800 accounts had also been overcharged for advisory fees nationwide as a result of the conduct described herein.

23. During 2022 and early 2023, Wells Fargo corrected the advisory fees to be charged to these additional accounts, and in June 2023, it issued payments totaling approximately $26.3 million in reimbursement for the overcharged advisory fees, plus approximately $13 million in interest, to the affected accountholders.

Violations

24. As a result of the conduct described above, Wells Fargo willfully violated Section 206(2) of the Advisers Act, which prohibits an investment adviser from engaging in any transaction, practice, or course of business which operates as a fraud or deceit upon any client or prospective client. A violation of Section 206(2) may rest on a finding of simple negligence; scienter is not required. *See SEC v. Capital Gains Research Bureau, Inc*., 375 U.S. 180, 195 (1963); *SEC v. Steadman*, 967 F.2d 636, 643 n.5 (D.C. Cir. 1992); *SEC v. Yorkville Advisors, LLC*, 12 Civ. 7728, 2013 WL 3989054, at *3 (S.D.N.Y. Aug. 2, 2013).

25. As a result of the conduct described above, Wells Fargo willfully violated Section 206(4) of the Advisers Act and Rule 206(4)-7 thereunder, which require, among other things, that a registered investment adviser adopt and implement written policies and procedures reasonably designed to prevent violations of the Advisers Act and the rules thereunder by the adviser and its supervised persons.

IV.

In view of the foregoing, the Commission deems it appropriate and in the public interest to impose the sanctions agreed to in Respondents' Offers.

Accordingly, pursuant to Section 15(b) of the Exchange Act and Sections 203(e) and 203(k) of the Advisers Act, it is hereby ORDERED that:

A. Respondents shall cease and desist from committing or causing any violations and any future violations of Sections 206(2) and 206(4) of the Advisers Act and Rule 206(4)-7 promulgated thereunder.

B. Respondents are censured.

C. Respondents shall, within 10 days of the entry of this Order, pay a civil money penalty in the amount of $35 million to the Securities and Exchange Commission for transfer to the general fund of the United States Treasury, subject to Exchange Act Section 21F(g)(3). If timely payment is not made, additional interest shall accrue pursuant to 31 U.S.C. §3717.

Payment must be made in one of the following ways:

(1) Respondents may transmit payment electronically to the Commission, which will provide detailed ACH transfer/Fedwire instructions upon request;

(2) Respondents may make direct payment from a bank account via Pay.gov through the SEC website at http://www.sec.gov/about/offices/ofm.htm; or

(3) Respondents may pay by certified check, bank cashier's check, or United States postal money order, made payable to the Securities and Exchange Commission and hand-delivered or mailed to:

Enterprise Services Center
Accounts Receivable Branch
HQ Bldg., Room 181, AMZ-341
6500 South MacArthur Boulevard
Oklahoma City, OK 73169

Payments by check or money order must be accompanied by a cover letter identifying Wells Fargo as Respondents in these proceedings, and the file number of these proceedings; a copy of the cover letter and check or money order must be sent to Steven L. Klawans, Division of Enforcement, Securities and Exchange Commission, 175 W. Jackson Blvd., Suite 1450, Chicago, IL 60604.

D. Amounts ordered to be paid as civil money penalties pursuant to this Order shall be treated as penalties paid to the government for all purposes, including all tax purposes. To preserve the deterrent effect of the civil penalty, Respondents agree that in any Related Investor Action, they shall not argue that they are entitled to, nor shall they benefit by, offset or reduction of any award of compensatory damages by the amount of any part of Respondents' payment of a civil penalty in this action ("Penalty Offset"). If the court in any Related Investor Action grants such a Penalty Offset, Respondents agree that they shall, within 30 days after entry of a final order granting the Penalty Offset, notify the Commission's counsel in this action and pay the amount of the Penalty Offset to the Securities and Exchange Commission. Such a payment shall not be deemed an additional civil penalty and shall not be deemed to change the amount of the civil penalty imposed in this proceeding. For purposes of this paragraph, a "Related Investor

Action" means a private damages action brought against Respondents by or on behalf of one or more investors based on substantially the same facts as alleged in the Order instituted by the Commission in this proceeding.

By the Commission.

Vanessa A. Countryman
Secretary