Wells Fargo moves closer to recouping some losses tied to scandal

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A federal judge has given preliminary approval to the proposed $240 million settlement of a lawsuit in which Wells Fargo stands to recover for financial losses the bank incurred as a result of its phony-accounts scandal.

In February, unnamed insurance companies agreed to pay the San Francisco company to settle allegations that top bank officials knew about or consciously disregarded widespread misconduct by lower-level employees.

The proposed settlement would resolve various cases known as shareholder derivative lawsuits. They are filed by shareholders who are seeking to recover money not for themselves, but for the company in which they are part owners. The suits can be filed when a company has a valid claim against corporate insiders, but has refused to pursue it.

In an order Tuesday, U.S. District Judge Jon Tigar concluded that $2.5 billion to $3.5 billion is a reasonable estimate of the damage incurred by the shareholder plaintiffs.

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That range includes $1.1 billion in fines, penalties and other out-of-pocket costs borne by Wells Fargo as a result of the scandal. It also includes an estimated $1.4 billion to $2.4 billion in lost income due to factors such as reputational harm and the impact of the asset cap that the Federal Reserve imposed on the $1.9 trillion-asset bank last year.

The proposed settlement represents only between 6.9% and 12.8% of the bank's estimated liability, depending on how the calculation is made, the judge found.

But the risk, expense, complexity and likely duration of more litigation weighed in favor of preliminary approval, the judge wrote.

"This represents another step in our work to finalize the settlement and put the matter behind Wells Fargo," company spokesman Peter Gilchrist said in an email.

The proposed settlement is believed to be the largest ever in shareholder derivative litigation. The settlement agreement states that the plaintiffs were a significant factor in bringing about corporate governance reforms and clawbacks at Wells Fargo, which were worth more than $80 million to the bank, bringing the total value of the settlement to $320 million.

“While the size of the settlement is record-setting, it makes sense given how the reputational value losses reduced income and swelled costs,” Nir Kossovsky, CEO of Steel City Re, a company that insures reputation risk, said in an email.

In the lawsuit, certain Wells Fargo shareholders sued 20 current and former officers and directors. The list of named defendants includes board Chair Elizabeth “Betsy” Duke, Chief Financial Officer John Shrewsberry, former CEO Tim Sloan, former CEO John Stumpf, former board Chair Stephen Sanger and former retail banking head Carrie Tolstedt.

If the settlement gets final approval, the $240 million payment will be made by insurance companies that issued liability coverage to the defendants.

Wells has agreed to pay attorneys’ fees for the plaintiffs, and not to oppose their request for up to $68 million, which will reduce the amount that the bank ultimately collects in the case.

The judge has scheduled an Aug. 1 hearing to make a final determination on whether the settlement is reasonable.

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