
AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM MAY 30 – JUNE 6, 2014

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CONSUMER FINANCE AND CFPB

[Visa Is Preparing a Standard for Prepaid Debit Cards](#)

Ann Carrns, New York Times, 6/3/14

“Before the end of the year, Visa plans to offer a special designation — it hasn’t decided yet what to call it — for its cards that meet the standards... To qualify, cards must cover all basic activities with a flat monthly fee, although that fee will vary by card. Monthly fees currently range from \$2 to \$15, according to Pew. (Visa, one of the major card-payment processing networks, doesn’t issue the cards; that’s done by banks and other finance companies. The payment networks determine the fees that merchants pay the cardholder’s bank.)

“Qualifying cards also cannot charge fees for declined transactions, for contacting customer service or for using an in-network A.T.M. to withdraw money or check your balance. The cards also can’t charge fees for making purchases using your PIN or a signature, or for getting cash back when you make a purchase.”

[Visa to Label Prepaid Cards that Have Lower Fees](#)

Associated Press, 6/3/14

“... Companies that issue Visa prepaid cards will have to apply for the new label, and the program is voluntary. It could take up to a year before the seal of approval starts showing up on packaging... But critics have said some cards aren’t clear about what they charge, even attracting attention from the Consumer Financial Protection Bureau. The federal agency is currently testing fee disclosures that it may propose on prepaid card packaging.”

[Payday Lenders Sue Regulators Over Operation Choke Point](#)

Andrew Zajac and Carter Dougherty, Bloomberg, 6/6/14

“The [Community Financial Services Association of America](#), the main payday lending trade group, sued U.S. banking regulators, accusing them of applying ‘back room pressure’ on banks to stop serving the group’s members. A federal anti-fraud initiative known as Operation Choke Point unfairly targets online and storefront lenders by

claiming they pose a reputational risk to the banks serving them, according to the complaint filed yesterday in federal court in [Washington](#).”

Lawmakers Readying Legislation to Rein In Operation Choke Point

Victoria Finkle, American Banker, 6/2/14

“Lawmakers are ramping up pressure on the Department of Justice and banking regulators to curtail their efforts under Operation Choke Point, including prepping legislation that would grant institutions a safe harbor in certain circumstances.”

Five Takeaways from Internal DOJ Documents on Operation Choke Point

Kevin Wack, American Banker, 5/30/14

“Previously unreleased documents from the Justice Department on Operation Choke Point shed new light on the law enforcement effort, including how it came to identify certain banks and whether it was concerned about the impact it could have on law-abiding companies.

“The more than 850 pages of [documents](#) were released as part of the House Oversight Committee's [scathing new report](#) on the program, providing critical details on its origin and execution.”

Customer-Focused? Prove It

Christine Nelson, American Banker, 6/2/14

“[I]n over 20 years of consulting, I've never seen a business model that drives customers away work to anyone's advantage. Yet banks continue to conduct analysis with six-month-old data, make changes that have a big effect on customers, and then send out form letters after the change, inviting customers to call with any questions.

“Retaining this model blatantly ignores the realities of an increasingly diverse and skeptical customer base, not to mention the competitors that are always ready to swoop in on frustrated patrons. [Credit unions](#) and companies like [Google and Amazon](#) pose an increasingly viable threat to traditional banking services. Banks that alienate or ignore customers in the short term will be haunted by the consequences of their actions in the future.”

Retailers to Ask U.S. Supreme Court to Hear 'Swipe Fee' Case

Emily Stephenson, Reuters, 6/2/14

“A group of [retail](#) merchants will ask the U.S. Supreme Court to take up a case involving Federal Reserve rules that allow [banks](#) to charge debit card ‘swipe fees’ that retailers view as too high, an attorney for the merchants said on Monday.

“‘Given how extensive these fees are and how they affect virtually every transaction that takes place in the United States... it's a serious case that the Supreme Court ought to hear,’ said Doug Kantor, an attorney with Steptoe & Johnson in Washington who represents the retailers...”

The Consequences Of The Durbin Amendment For American Consumers

Todd Zywicki, Washington Post, 6/4/14

“Most large retailers have seen significant cost reductions as a result of the Durbin Amendment, yet to date there is no evidence that those cost savings have been passed-through to consumers. Interchange fees have increased for merchants that make small-

ticket transactions, as networks have eliminated discounts that they previously received, and smaller merchants have not seen any reduction in their merchant discount rates. Thus, while consumers have seen large and immediate increases in the cost of bank accounts, to date there is no evidence of reduced prices at the pump or checkout. We estimate that as a result of the Durbin Amendment, there will be a transfer of \$1 billion to \$3 billion annually from low-income households to large retailers and their shareholders, which have been the primary beneficiaries of the Durbin Amendment to date.”

DERIVATIVES, COMMODITIES & THE CFTC

Risk of Banks Dodging Rules Leads to U.S. FDIC Scrutiny

Jesse Hamilton and Silla Brush, Bloomberg, 6/6/14

“The U.S. regulator responsible for making sure banks aren’t too-big-to-fail is examining whether the biggest firms are shifting trades overseas in a way that may undermine rules designed to prevent a repeat of the 2008 financial crisis... The FDIC has joined the Commodity Futures Trading Commission in ‘actively monitoring developments’ in the banks’ overseas affiliates and watching for any impacts...”

“As the FDIC and CFTC look at the banks’ restructuring of how they trade derivatives overseas, pressure is mounting for the other bank regulators - the Federal Reserve and Office of the Comptroller of the Currency - to make their view of the practices clear.”

Massad Heads to U.S. Swaps Agency as Wall Street Seeks Rollback

Silla Brush, Bloomberg, 6/3/14

“For almost five years, the head of a once obscure U.S. agency fought Wall Street to impose curbs on derivatives that helped ignite the 2008 financial crisis. His successor, Timothy Massad, must now decide how to finish the job...”

“Massad has given few clues to how he intends to run the agency he will inherit, which has new powers but also major challenges. Wall Street is pressing for rollbacks of rules approved under Gensler, saying some are unworkable. Budget constraints threaten the CFTC’s ability to oversee markets and have led to a restive staff taking steps to join a labor union.”

Massad Is Confirmed as Chairman of Futures Commission

Alexandra Stevenson, New York Times, 6/3/14

“The Senate confirmed the nomination of Timothy G. Massad as chairman of the Commodity Futures Commission on Tuesday, as well as two other commissioners to lead the agency, Sharon Y. Bowen and J. Christopher Giancarlo. The commissioners and chairman take over the reins at the C.F.T.C. at a critical time. Over the past five years, the C.F.T.C. has grown from a toothless agency to one of Wall Street’s toughest watchdogs, one that President Obama has called ‘small but mighty’...”

“During a Senate Agriculture Committee hearing in April, Ms. Bowen’s nomination was thrown into question after two senators raised objections. A former securities lawyer at Latham & Watkins, Ms. Bowen has come under criticism from both the left and the right. Consumer advocates voiced concern about her experience representing big Wall Street firms, while others raised concerns about whether she had enough experience.”

[The Agency that Fought Wall Street the Hardest Looks Doomed](#)

Alexis Goldie, Because Finance Is Boring, 6/6/14

“The CFTC is the most important agency you’ve never heard of. It’s the financial regulator that oversees a \$400 trillion dollar market that almost tanked the economy in 2008. And until last year, it was run by Gary Gensler, a Goldman Sachs alum who surprised *everyone* by using what he knew to aggressively fight back against Wall Street. (Wall Street hated Gensler so much that the SEC’s Republican Commissioner Dan Gallagher said that to the financial industry, Gensler’s name “is like a curse word. I’ve never seen anything like it.”) Now, progressives fear that the legacy left by Gensler is about to be undone.”

[Senate Votes to Fill Out Derivatives Regulator](#)

Peter Schroeder and Ramsey Cox, The Hill, 6/3/14

[Trading to Influence Gold Price Fix Was ‘Routine’](#)

Xan Rice, Financial Times, 6/3/14

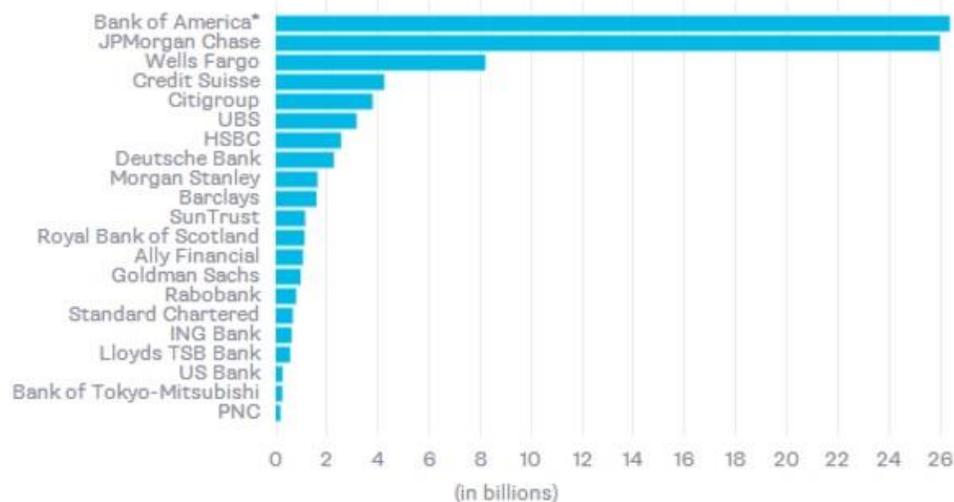
“When the UK’s financial regulator slapped a £26m fine on Barclays for lax controls related to the gold fix, it offered more ammunition to critics of the near-century-old benchmark. But it also gave precious metal traders in the City of London plenty to think about.

“While the Financial Conduct Authority says the case appears to be a one off – the work of a single trader – some market professionals have a different view. They claim the practice of nudging a tradeable benchmark in order to protect a ‘digital’ derivatives contract – as a Barclays employee did – was routine in the industry.”

ENFORCEMENT

Money In, Money Out

Money paid by banks to U.S. authorities since Jan. 2009



Source: The Financial Times

*Does not include latest agreement

[Putting Fines Paid by Banks in Context](#)

Barry Ritholtz, Bloomberg View, 6/6/14

“The total from the chart above is \$87.53 billion. That seems like a lot of money until you compare it with the amount spent during the government’s Troubled Asset Relief Program (TARP). TARP had outflows of \$611 billion and inflows of \$642 billion according to [ProPublica](#).”

[BNP Executive Firings Are Sought by Lawsky Amid Probe](#)

Greg Farrell and Fabio Benedetti-Valentini, Bloomberg, 6/5/14

“[New York](#)’s top banking regulator [Benjamin Lawsky](#) is pressing BNP Paribas to dismiss one of its top executives as part of settlement negotiations with the U.S. over alleged sanctions violations, according to a person familiar with the matter...”

“Lawsky wants the bank to remove Chief Operating Officer Georges Chodron de Courcel... Lawsky is also seeking the departure of another senior executive and about 12 other bank employees... U.S. authorities are said to be seeking as much as \$10 billion -- a record criminal penalty -- over BNP’s dealings in sanctioned countries including Sudan and Iran...”

[BofA in Talks to Pay at Least \\$12 Billion to Settle Probes](#)

Devlin Barrett, Dan Fitzpatrick and Christina Rexrode, Wall Street Journal, 6/5/14

“[Bank of America](#) Corp. is in talks to pay at least \$12 billion to settle civil probes by the Justice Department and a number of states into the bank's alleged handling of shoddy mortgages, an amount that could raise the government tab for the bank's precrisis conduct to more than \$18 billion, according to people familiar with the negotiations.

“At least \$5 billion of that amount is expected to go toward consumer relief—consisting of help for homeowners in reducing principal amounts, reducing monthly payments and paying for blight removal in struggling neighborhoods...”

[French Officials Twist U.S. Arms in Bank Inquiry](#)

Ben Protess and Jessica Silver-Greenberg, New York Times, 6/2/14

“Facing the prospect of a guilty plea in the United States, the giant French bank [BNP Paribas](#) has enlisted the support of a powerful ally: its own government, including top regulators and even the French president...”

“The French campaign has focused largely on the concern that BNP, unlike other big banks accused of doing business with Sudan and Iran, might be forced to suspend a core business operation in New York as a result of the guilty plea. French officials have complained that such a penalty, proposed by New York State's top financial regulator, Benjamin M. Lawsky, could erode some of the bank's bottom line.”

[Obama Deflects French Appeal In Massive Bank Fine](#)

Lori Hinnant, Associated Press, 6/5/14

[In BNP Case and Beyond, Regulators Search for Penalties to Fit the Crimes](#)

Peter Eavis, New York Times, 6/3/14

[BNP Fine Shows Risks for Banks Ensnared in Litigation](#)

Mark Bentley, Bloomberg, 6/3/14

[Dimon's Raise Haunts BNP Paribas as U.S. Weighs \\$10 Billion Fine](#)

Greg Farrell and Tiffany Kary, 6/5/14

“When [JPMorgan Chase & Co. \(JPM\)](#)'s [Jamie Dimon](#) got a 74 percent raise in January, U.S. Attorney Preet Bharara fumed. He had forced the bank just weeks before to pay \$1.7 billion for enabling [Bernard Madoff](#)'s Ponzi scheme. And yet Dimon was being rewarded.

“Now, five months later, Bharara's frustration is directed at another bank. In the next few weeks, [BNP Paribas SA \(BNP\)](#) could face criminal charges and a fine of up to \$10 billion for doing business in sanctioned countries such as Iran and Sudan. That penalty would far exceed the fines incurred by six other banks that escaped criminal charges for similar offenses since President [Barack Obama](#) took office in 2009 -- and would be the largest-ever criminal penalty in the U.S.”

[BNP Paribas Faces Capital Hit, but Not a Dire One](#)

Peter Eavis, New York Times, 6/4/14

“BNP Paribas may yet take significant steps to protect its capital that investors would not like. The bank could, for instance, decide to cut its dividend or pay out some of the dividend in an equivalent amount of stock, which doesn’t erode capital.

“But one thing is clear: The United States penalties are not going to leave the French bank with a gaping wound that it will struggle to recover from.”

[BNP Paribas Executive May Leave in Deal With Regulator](#)

Jessica Silver-Greenberg and Ben Protess, New York Times 6/5/14

“Under pressure from the United States authorities, the giant French bank [BNP Paribas](#) is considering cutting ties to one of its most senior executives, a rare concession that points to the severity of [an investigation into the bank’s dealings with Sudan and Iran](#).”

[Carl Icahn Loses \\$420 Million in a Day After Reports of Insider-Trading Investigation](#)

Dan Alexander, Forbes, 6/3/14

“There have been no charges and no fines, but [Carl Icahn](#) is already paying big after reports of a federal investigation into insider trading involving the billionaire investor, sports gambler Billy Walters and golfer [Phil Mickelson](#). Icahn lost an estimated \$420 million Monday as stock in his Icahn Enterprises dropped 4%.

“The [Wall Street Journal](#) first reported the investigation late Friday afternoon, giving investors a full weekend to decide whether or not they wanted to pull their money from Icahn’s holding company. Many of them got out as fast as they could Monday morning, and shares fell 3.1% in the first half hour of trading.”

[Carl Icahn Responds to Reports of Insider-Trading Investigation](#)

Sheelah Kolhatkar, Bloomberg, 6/2/14

[Finra Levies \\$1 Million Fines on Barclay's, Goldman, BofA](#)

Erin McCarthy and Anna Prior, Wall Street Journal, 6/4/14

[Goldman Sachs, Barclays, BofA Fined over Trading Data](#)

David McLaughlin, Bloomberg, 6/4/14

“[Goldman Sachs Group Inc. \(GS\)](#), Barclays Plc and [Bank of America Corp.](#)’s Merrill Lynch unit were fined \$1 million each for submitting inaccurate information about securities trading to regulators. The banks failed to provide ‘complete and accurate information’ about trading, known as blue sheet data, that regulators use to investigate potential [insider trading](#) and market manipulation, the Financial Industry Regulatory Authority said in a statement today.”

[Appeals Court Ruling in S.E.C. Case Will Curb Judicial Power Over Settlements](#)

Peter J. Henning, New York Times, 6/4/14

“In the [tug of war between a few federal district judges and regulators](#), score one for the [Securities and Exchange Commission](#). On Wednesday, the United States Court of Appeals for the Second Circuit came down squarely in favor of the power of a government agency to resolve cases in the manner it sees fit. The appeals court ruling stems from a 2011 decision in which the outspoken Judge [Jed S. Rakoff](#) of the United

States District Court in Manhattan refused to approve a \$285 million settlement between [Citigroup](#) and the S.E.C.

“The appeals court ruling means that judicial second-guessing has been rejected in favor of letting the government determine what’s best when it comes to settling with companies or individuals accused of wrongdoing. The appeals court, in effect, told judges reviewing settlements by the S.E.C. to stand down from reviewing the terms of the agreement, writing: ‘Trials are primarily about the truth. Consent decrees are primarily about pragmatism.’”

[SEC Doesn't Need Facts to Settle Cases](#)

Matt Levin, Bloomberg, 6/4/14

[British Bank Regulators Pine to Win a Big Case](#)

Jenny Anderson, New York, Times, 6/4/14

“When [Credit Suisse](#) agreed on May 19 to plead guilty and pay \$2.6 billion for conspiring to help Americans avoid taxes, it was yet another day of dreary headlines for bankers around the world.

“Global regulators, on the other hand, were elated.

“‘It is good for everybody, isn’t it, to demonstrate that banks are not above the law and can be prosecuted?’ said David Green, director of the Serious Fraud Office in Britain, which investigates and prosecutes fraud and corruption. ‘No one is too big to jail,’ he said, echoing the term used by [Eric H. Holder Jr.](#), the attorney general of the United States. And yet Mr. Green’s agency is struggling to confirm that notion.”

EXECUTIVE COMPENSATION

[SEC Agenda Suggests the Latter Half of 2014 May be Busy for Executive Compensation Matters](#)

Steve Seelig and Bill Kalten, Towers Watson, 6/3/14

“Although Securities and Exchange Commission (SEC) regulatory agendas should be taken with a grain of salt, the coming months may be a busy time for those who develop executive pay policies and craft proxy disclosures for public companies. That’s because the most recent [SEC regulatory agenda](#), which by law must be published twice a year, indicates that this October is the SEC’s target date for action [on a number of] rulemaking efforts required by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010.”

[The US Chamber of Commerce Is Full of Shit for Claiming that High CEO-to-Worker Pay Ratios Don't Matter](#)

David Holmes, Pando Daily, 6/2/14

“The trouble is, despite [record corporate profits](#) and the [lowest effective tax rates in decades](#), fewer and fewer of those earnings are being passed on to non-executive employees – in fact, employer-paid compensation is at its lowest rate since 1948. This inequality is perhaps best symbolized in the minds of the public by America’s out-of-control CEO-to-median-employee pay ratios. In 2012, CEOs made a whopping [273](#)

[times more](#) on average than their workers. Compare that to the 1960s when CEOs only made about 20 times more.

“On paper, these high-paid CEOs may ‘earn their keep,’ but if those profits are applied disproportionately to the highest earners, it hurts the purchasing power of the average consumer, “contributing to the slowest [economic] recovery on record” [according to former US Secretary of Labor Robert Reich](#). Furthermore, many experts [question](#) the efficacy of incentive-based CEO compensation packages, while business school professors [overwhelmingly agree](#) that performance suffers the more a CEO is paid.”

See [Taking Stock: Why Executive Pay Results in an Unstable and Inequitable Economy](#) (Roosevelt Institute, June 2014)

FEDERAL RESERVE

[Obama's Next Fed Fight](#)

David Dayen, New Republic, 6/2/14

“... Federal Reserve board members vote on monetary policy measures, like the federal funds rate and whether to continue with or curtail quantitative easing. But they also will have a say on a host of lingering financial reform questions, with Chair Janet Yellen [committed](#) to involving top-level principals more in those decisions. One of the two vacant seats is earmarked for a community banker (assuming the administration’s nominees to two additional seats are confirmed), though the Administration’s preferred choice, [Diana Preston](#), is actually a former lobbyist for the American Bankers Association. The other seat effectively replaces Sarah Bloom Raskin, who left to take the number-two spot at the Treasury Department.

“Reformers viewed Raskin, the former chief banking regulator of Maryland, as having a keen understanding of the relationship between financial markets and ordinary people. They [want her replacement](#) to be just as tough on financial institutions, a protector of the public interest. They have floated some possible candidates, including the former chief economist to Joe Biden, Jared Bernstein, and chief counsel on the Senate Permanent Subcommittee on Investigations, Elise Bean. Senators Jeff Merkley and Elizabeth Warren [sent a letter](#) to the White House last week, urging that any nominees for the final two seats possess ‘a strong commitment to financial reform.’ A similar letter, from outside groups in the [Americans for Financial Reform coalition](#), is being readied...”

FINANCIAL TRANSACTION TAX & HIGH-FREQUENCY TRADING

[High-Speed Traders Face Scrutiny by Levin's Senate Investigators](#)

Silla Brush and Cheyenne Hopkins, Bloomberg, 6/5/14

“High-frequency trading is in the sights of a Senate panel that conducted some of the sharpest scrutiny of Wall Street firms over wrongdoing tied to the 2008 credit crisis. Senator [Carl Levin](#), chairman of the [Permanent Subcommittee](#) on Investigations, asked regulators to provide information on risks posed by high-speed traders in advance of a hearing this month, according to three people with knowledge of the matter.

“Levin, a Michigan Democrat, sought responses from the Securities and Exchange Commission and Commodity Futures Trading Commission to 13 questions on the effects, trends, concerns and regulatory reaction related to high-frequency trading, according to a copy of the letter obtained by [Bloomberg News](#) and confirmed by one of the people.”

[High-Speed Trading Rules Coming From SEC, White Says](#)

Dave Michaels, Bloomberg, 6/6/14

“Proprietary traders who use computers to buy and sell stocks in milliseconds would have to register with the SEC under [recommendations](#) made public yesterday by White in [New York](#).

“Operators of dark pools, broker-owned venues that compete with exchanges and don’t publish bids and offers, would have to provide the regulator with their rules for matching buyers and sellers, White said.”

[S.E.C. Chief Offers Rules to Govern Fast Trading](#)

William Alden, New York Times, 6/5/14

“... The S.E.C. chairwoman, [Mary Jo White](#), unveiled on Thursday a [sweeping package of recommendations for new rules and other changes](#) aimed at strengthening the structure of the market and improving disclosures for investors. The proposed changes would touch virtually every corner of the market, including exchanges, private trading venues, brokerage firms and high-frequency traders.

“The proposals, outlined in a speech to a financial industry audience in New York, provide an answer to critics who have accused the S.E.C. of failing to do enough to curb market collapses and rein in lightning-fast traders. To many investors accustomed to only incremental changes in regulations, the proposals outlined in the speech were surprisingly detailed and comprehensive.”

[World’s Biggest Wealth Fund Escapes Flash Boys in IEX Dark Pool](#)

Saleha Mohsin, Bloomberg, 6/4/14

“Norway’s \$880 billion sovereign wealth fund, the world’s largest, is throwing its support behind Brad Katsuyama’s new exchange. Katsuyama’s IEX Group Inc., made famous in Michael Lewis’s best-selling book ‘Flash Boys,’ could shield investors from the predatory habits of high-frequency traders, said the fund, which holds \$521.2 billion in stocks globally and is [Europe](#)’s biggest equity investor...”

“EX, which the oil fund uses for both direct and indirect trades, doesn’t pay firms to buy or sell shares, shunning a practice that many markets use to lure business from high-speed traders. It mandates a 350-microsecond delay between requests to trade and executions to prevent traders from pre-empting their moves through high-frequency maneuvers.”

[Speed Traders Should Search Souls Amid Probe, N.Y. Watchdog Says](#)

Sam Mamudi, Bloomberg, 6/5/14

“High-frequency traders and dark-pool operators should do ‘some soul-searching’ and develop new ideas to improve their industry amid a probe, according to a top official in the [New York](#) attorney general’s office.

“Chad Johnson, head of the state’s Investor Protection Bureau, told a conference yesterday that while Attorney General Eric Schneiderman examines trading practices, [Wall Street](#) should help by suggesting ways to change for the better. It would be a mistake to think concerns about stock-market fairness are just bad publicity or extreme language used by critics, he said...

“Johnson said questions include whether dark pools operate consistently with how they market themselves and observe their obligations to look after investor interests. Another concern is whether broker-dealers are directing trades to their own dark pools in ways that suggest conflicts of interests, he said.”

[Don't Blame High-Frequency Traders For The Mistakes Of Dumb Traders](#)

Dan Fischer, Forbes 6/5/14

“For the little guy, high frequency has been unambiguously good,’ said the author of the piece, [Maureen O’Hara](#), a professor at Cornell’s [Samuel Curtis Johnson Graduate School of Management](#) and non-executive chairman of [ITG](#), an independent broker and electronic trading firm. (Securities and Exchange Commission Chair [Mary Jo White](#), in [laying out proposed new regulations for high frequency traders today](#), also said ‘current market structure is not fundamentally broken, let alone rigged.’)

“HFT’s main victims have been big, low-frequency traders, who need to realize that computers are now watching the markets like hawks circling over a freshly mowed field, ready to swoop in on any sign a human trader is trying to move into or out of a big position... Much of the damage is done by computers that have been loaded with dumb algorithms that are easily identified by HF programs designed to identify predictable patterns in the market...”

[High-Speed Trading Faces New Regulation from SEC, White Says](#)

Sam Mamundi, Bloomberg, 6/6/14

INVESTOR PROTECTION AND THE SEC

[SEC to Pressure Proxy Advisers on Disclosures](#)

Andrew Ackerman, Wall Street Journal, 6/3/14

“The Securities and Exchange Commission is preparing to crack down on firms that advise shareholders on how to vote on public-company proxies, pressuring such companies to disclose more about potential conflicts of interest...”

“Proxy advisory firms grew out of an expectation that financial advisers, such as mutual funds, must vote the shares of their clients with care. But with many advisers monitoring portfolios of hundreds or thousands of companies, doing so is a daunting task.

“Instead, they turn much of the job over to firms such as ISS and its closest rival Glass, Lewis & Co., which analyze the proxies, make voting recommendations and offer software that lets advisers cast their votes efficiently. A ‘no’ recommendation from one of the proxy advisers can turn the tide on a vote on executive compensation or director elections.”

MORTGAGES, FORECLOSURES & HOUSING

Cracking Down on Illegal Mortgage Referrals

Lisa Prevost, New York Times, 6/5/14

“The [Consumer Financial Protection Bureau](#) took over enforcement of the [Real Estate Settlement and Practices Act](#) — known as Respa — from the Department of Housing and Urban Development in July 2011. Since then, the bureau has racked up 11 Respa settlements and lawsuits, according to a spokesman.

“HUD did not put much emphasis on Respa enforcement, but ‘the C.F.P.B. has taken it to a whole different level,’ said Gary Lacefield, who worked as a Respa officer under HUD and now consults on Respa and fair housing compliance.

“Last month, the bureau ordered RealtySouth, a major real estate company in Alabama, to [pay a \\$500,000 penalty](#) for failing to inform home buyers that they were under no obligation to use a title and closing service affiliate. RealtySouth consented to the terms of the order without admitting or denying the bureau’s findings.”

Freddie Mac: Fixed Mortgage Rates Edge Higher; 30-Year Averaging 4.14%

E. Scott Reckard, Los Angeles Times, 6/5/14

Western Asset to Team With Lenders in Mortgage Push

Alexis Leondis, Bloomberg, 6/3/14

“... Demand for the private mortgages, known as non-agency, is growing after the Consumer Financial Protection Bureau’s regulations on qualified mortgages took effect this year, and government-controlled mortgage-finance companies [Fannie Mae](#) and Freddie Mac limited themselves to buying loans conforming to those rules. The regulations require lenders to ensure borrowers can repay their loans and also expose lenders to potential legal liability on mortgages with a debt-to-income ratio above 43 percent.”

Massachusetts Sues Fannie and Freddie over Foreclosure Law

Shaila Dewan, New York Times, 6/2/14

“Martha Coakley, the attorney general of Massachusetts, filed suit on Monday against [Fannie Mae](#) and [Freddie Mac](#) in an effort to force the federally owned mortgage finance giants to comply with a state anti-foreclosure law passed in 2012.

“The law seeks to ease the way for so-called buyback programs, which are aimed at reducing the debt of the homeowner while saving the lender the cost of [foreclosure](#) and eviction. Fannie and Freddie have refused to allow homes with mortgages they back to enter buyback programs, the suit contends, even though it costs them money not to... The lawsuit is one of numerous aggressive efforts by Ms. Coakley, a Democratic candidate for governor, to police [banks’ treatment of homeowners](#) and their securitization of mortgages. She has won settlements from Goldman Sachs, Morgan Stanley, RBS and several subprime lenders.”

Mayors from 16 Cities Endorse Schneiderman Bill to Address Zombie Properties Across New York State

Press Release, Long Island News, 6/4/14

“A coalition of 16 mayors from across the state [today endorsed](#) Attorney General Eric T. Schneiderman’s Abandoned Property Neighborhood Relief Act and called on legislative leaders – Senate Co-Leaders Senators Dean Skelos and Jeff Klein, and Assembly Speaker Sheldon Silver – to bring the bill to the floor for a vote. The legislation would provide critical support to communities that have been plagued by vacant and abandoned properties. Among other measures, the bill would make lenders and banks responsible for delinquent properties soon after they are abandoned – not at the end of a lengthy foreclosure – and require lenders to pay for their upkeep. In their letter, the mayors detailed the scope of the problem and its effect on communities, property values, and public safety.”

REVOLVING DOOR & POLITICAL POWER OF WALL STREET

Why Wall St. Cares About the Mississippi Senate Primary

MJ Lee and Kate Davidson, Politico, 6/3/14

“Wall Street banks may not be rooting for Mississippi Republican Thad Cochran to lose his Senate primary contest on Tuesday, but there would be an upside for the industry if he did. If tea party challenger Chris McDaniel defeats Cochran and Republicans gain control of the chamber next Congress, big banks are likely to get their preferred Senate Banking Committee chairman: Mike Crapo of Idaho.

“In the event that Cochran defends his seat, the Senate Banking panel could be chaired by Richard Shelby, an Alabama Republican with a populist streak who has clashed with big banks in the past and would be less likely to lend a sympathetic ear to the industry’s arguments.”

STUDENT LOANS AND FOR-PROFIT SCHOOLS

What Americans Don’t Know About Student Loans: A Lot

Karen Weise, Bloomberg, 6/5/14

“The New York Fed has been keeping an increasingly close eye on students loans, trying to understand how the more than \$1 trillion in debt is affecting the wide swath of Americans who are borrowers. It recently added questions about student loans to its [broad survey](#) on consumer expectations, and a new analysis found that people [don’t fully comprehend](#) the ramifications of taking on student debt.

“The survey [covered](#) 1,029 people, including those with and without debt. Only 28 percent of respondents knew that if student loans aren’t repaid, the U.S. government can garnish wages, withhold Social Security payments and tax refunds, and report the debt to credit bureaus. Even more people—35 percent—incorrectly thought the government couldn’t do any of those things or said they didn’t know what the government could do. Only 37 percent of those surveyed knew that students loans are [extremely hard to shed](#) in bankruptcy, a reality that differentiates student loans from other debts, such as mortgages and credit cards.”

[Growing Student Debt Focus of Senate Hearings Today](#)

Janet Lorin, Bloomberg, 6/4/14

“The impact of \$1.2 trillion in [student loans](#) on the economy and the relationship between loan servicers and borrowers is coming under scrutiny at two U.S. Senate hearings today.

“Education debt is increasing as students and parents depend on loans to fund college and graduate school amid escalating costs. Rising default rates show they are also struggling to repay.

“The issue is no longer confined to consumer advocates, as leaders in industries including housing and autos voice concern that debt erodes consumers’ ability to spend, according to advance testimony by Rohit Chopra, student loan ombudsman for the Consumer Financial Protection Bureau.”

[Student Loans Set Up to Fail? Panel to Decide.](#)

Kevin Cirilli, The Hill, 6/3/14

“The Senate Budget Committee will hold hearings Wednesday to decide whether the student loan industry is “set up to make borrowers fail.”

“‘I’m concerned that student loan servicers see that they can maximize their profits by cutting corners, rather than giving proper customer service,’ Chairman Sherrod Brown (D-Ohio) will say, according to an advanced copy of his opening remarks. Among the questions to consider: Have servicers created an intentionally opaque repayment process, set up to make borrowers fail?’

“Brown and others on the Banking Committee, including Sen. Elizabeth Warren (D-Mass.), have criticized Sallie Mae and other financial institutions for overcharging borrowers with high interest rates.”

See AFR statement: [The Senate Looks at Student Loan Debt](#)

[Let's Blame the Market](#)

James Freeman, Wall Street Journal, 6/4/14

“Thanks to a series of laws and regulations supported by first Sen. [Barack Obama](#) and then President Obama (including 2010 legislation that was enacted along with ObamaCare), student debt outstanding has nearly doubled since 2007, taxpayers are more exposed than ever, and private companies have been marginalized. [According to the Journal](#), the seven largest private education lenders issued about \$6.9 billion in loans last year, a big increase from the previous year and the most since 2009. But the private firms are market midgets compared to the Department of Education, which now issues more than \$100 billion in loans every year. And even though [default rates on federal loans are more than triple those in the private market](#), the audience at today's hearing can expect to hear from Mr. Chopra about all sorts of problems at the private companies.”

SYSTEMIC RISK

[JPMorgan Sees Record \\$100 Billion in Loan Funds](#)

Kristen Haunss, Bloomberg, 6/4/14

“The business of bundling junk-rated corporate loans into top-rated securities is booming like never before after the implementation of regulation aimed at making the financial system safer. More than \$46 billion of collateralized loan obligations have been raised this year in the U.S. through the end of May, after \$82 billion were sold in all of 2013, according to [Royal Bank of Scotland Group Plc](#). JPMorgan Chase & Co. boosted its annual forecast to as much as \$100 billion, which means 2014 may end up as the biggest year on record, while Onex Corp. said yesterday it will expand its CLO business.

“Issuance of CLOs, which helped finance some of the biggest leveraged buyouts in history during the last credit boom, has picked up following an early 2014 slump brought on by the publication of the Volcker Rule designed to limit risk-taking by banks -- major buyers of the funds. CLOs are investors in speculative-grade [loans](#), an asset class in which U.S. banking regulators have said underwriting standards have become too lax.”

OTHER TOPICS

[The Price of Wall Street's Power](#)

Gautam Mukunda, Harvard Business Review, June 2014

“Executives often explain their deference to Wall Street by saying they have a “fiduciary duty” to maximize shareholder returns. That’s been an article of faith since 1970, when Milton Friedman wrote in the New York Times that executives’ only responsibility was maximizing profits. The problem, however, is that it’s not true. Whatever your beliefs about the moral responsibilities of executives, a fiduciary duty is a specific legal obligation, and law professor Lynn Stout has shown that as a matter of law American executives simply do not face any such requirement.

“So why do managers make choices they know are wrong? Why do so many believe (or act as if they believe) something that simply isn’t right? I’m a political scientist. That means that, just as an economist thinks about money or a soldier about armies, I think about power. There are lots of situations in which people—and countries—act against their own interests. One of the most important—and most dangerous—is when a single sector or group is so powerful that it dominates how an entire society thinks about itself. Once you view research from a variety of fields through that lens, it becomes clear that we must do something to curb the enormous and disproportionate power of Wall Street.”

[The Capitalist's Dilemma](#)

Clayton Christensen, Harvard Business Review, June 2014

“In our view the crux of the problem is that investments in different types of innovation affect economies (and companies) in very different ways—but are evaluated using the same (flawed) metrics. Specifically, financial markets—and companies themselves—use assessment metrics that make innovations that eliminate jobs more attractive than those that create jobs...”

Why Financialization Has Run Amok

Steve Denning, Forbes, 6/3/14

“My article last Friday, “Why IBM Is In Decline,” described how a cabal of senior IBM executives and the managers of some big investment firms got together and devised a five-year scheme—IBM’s Roadmap 2015—for increasing IBM’s earnings per share—and their own compensation—through measures that are not only increasing earnings per share but also steadily crippling IBM’s ability to innovate and compete in a rapidly changing marketplace. As revenues decline, while earnings per share increase through relentless cost-cutting and clever ‘financial engineering,’ the rot within IBM continues...

“IBM’s Roadmap 2015 is an example of distributive economic activity: it moves cash being generated from within IBM into the hands of shareholders and IBM’s top management. Rather than recognizing this as a capitulation to Wall Street and a sacrifice of the very values which he himself declared were needed to make IBM great, he presents it as a ‘success.’ Rather than fight the idea of ‘making money out of money,’ he has embraced it, as his estimated \$225 million compensation at IBM indicates.

“Note too that issues raised by IBM’s Roadmap 2015 aren’t those of ‘short-termism,’ as defenders of the shareholder-value doctrine sometimes contend. IBM’s Roadmap 2015, following Roadmap 2010, involve relentless cost-cutting and share buybacks over a ten year period, and a public commitment to big investors to keep on doing so, making the impact all that more inflexible and devastating...

“‘So why do managers make choices they know are wrong?’ asks Mukunda. His answer comes in two words: ‘unbalanced power.’ Finance is ‘so powerful that it dominates how an entire society thinks about itself.’ In effect, the managers no longer know what’s wrong.”

U.S. Bank Regulators Plan Sweeping Look at Regulations

Alan Zibel, Wall Street Journal, 6/4/14

“U.S. bank regulators plan to take a comprehensive look at existing regulations to determine which may be outdated or overly burdensome to the financial sector. The study, required every decade under a 1996 law, was announced Wednesday by the Federal Reserve and other bank regulators...

“Banks have argued strenuously since the passage of the 2010 Dodd-Frank financial overhaul law, which ushered in a slate of new rules, that they are being overburdened by regulation. The industry and some lawmakers have pressed regulators to do a more thorough cost-benefit analysis of rules they plan to implement... The process doesn’t involve rules overseen by the Consumer Financial Protection Bureau and the Treasury Department’s Financial Crimes Enforcement Network.”

Banking Regulators Launch Broad Review of Financial Rules

Jim Puzzanghera, Los Angeles Times, 6/4/14

Bank of America Says Mistake Inflated Reported Size of Dark Pool

Sam Mamudi, Bloomberg, 6/3/14

“Bank of America Corp. (BAC) said it sent incorrect data to a U.S. regulator that made its private stock trading platform look bigger than it actually is. The Financial Industry Regulatory Authority, one of the organizations that polices U.S. stock trading, yesterday for the first time published data on the size of alternative trading systems. Bank of

America's Instinct X was the biggest dark pool in the report for the week of May 12-18, just ahead of markets run by Credit Suisse Group AG (CSGN) and Barclays Plc. (BARC)

“Bank of America made an error calculating the volume it sent to the regulator, according to Zia Ahmed, a spokesman for the Charlotte, North Carolina-based bank. The company sent a correction to Finra and expects the adjustment to cut its volume roughly in half, the spokesman said. George Smaragdis, a Finra spokesman, declined to comment.”