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## AMERICANS FOR FINANCIAL REFORM

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### THIS WEEK IN WALL STREET REFORM SEPTEMBER 6–12, 2014

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#### [Regulators Promise to Be Tough on Big Banks](#)

**Haley Sweetland Edwards, Time, 9/9/14**

A top Federal Reserve official said Tuesday that regulators would spend the next year holding the biggest banks’ proverbial feet to the fire, while working to exempt small, community banks from regulatory requirements designed for the goliaths of Wall Street.

At a Senate Banking Committee hearing, Fed Governor Daniel Tarullo said regulators will require the nation’s biggest, riskiest financial institutions—those deemed Too Big To Fail—to maintain generous “crash pads” to protect against potential losses in the case of the next financial crisis.

Meanwhile, he said, small, community banks would not be subject to those same requirements and, in fact, should also be exempt of other, paperwork-heavy regulations under the Dodd-Frank financial reform law, like the so-called Volcker Rule... The biggest banks’ crash pads, known as “capital surcharges,” will exceed the minimal standards required by international regulators and may be as high as 3.5%, Tarullo said.

#### [Banks to Pay Price for Choice to Be Big, Fed’s Tarullo Says](#)

**Cheyenne Hopkins and Jesse Hamilton, Bloomberg, 9/9/14**

The biggest U.S. banks must decide whether to voluntarily reduce their size and complexity or face capital charges that are some of the toughest in the world, the Federal Reserve’s top financial-regulation official said today.

Fed Governor Daniel Tarullo outlined the central bank’s plans for capital surcharges surpassing those of international regulators at a Senate hearing on progress in implementing rules to prevent a repeat of the 2008 credit crisis. The Fed’s formula for surcharges will also hit hardest against those that lean most on short-term wholesale funding, he said.

### CONSUMER FINANCE AND CFPB

#### [Online Payday Loan Borrowers Charge Sky-High Rates](#)

**Jeff Stoecker, NBC, 9/10/14**

When Dwight Graham found himself in a financial pinch back in 2012, he hoped a quick loan for a few hundred dollars would fill the gap. The 60-year-old Navy veteran from Groton applied for a payday-type loan online from a company called Cash Call. “They said they were small interest

rates, and I said that's fine," said Graham. "Until I got onto a computer, my friend looked it up, and told me you're paying well over 100 percent interest."

The loan was set up to take payments directly from Graham's bank account. When he looked at his statements, Graham realized he was paying far more than he ever expected.

The Connecticut Department of Banking has been investigating these types of loan companies, which charge sky-high interest rates well over the legal limit of 12 percent.

### **[Disrupting Consumer Financial Services](#)**

**Jo Ann Barefoot, Forbes, 9/10/14**

Banks increasingly find that profit margins in their consumer business lines are not worth the regulatory costs and risks they carry. The financial industry overall is hiring thousands of new compliance personnel and paying billions of dollars in redress for past actions – exemplified by this month's record \$16.65 billion Bank of America mortgage settlement — but still losing ground in containing risks. Rising regulatory ambiguity, including subjective, high-penalty mandates to assure consumer "fairness," are making it impossible for providers to assess and limit legal exposure.

One need not sympathize with these industries to worry about them curtailing consumer services. Many are quietly doing so, especially (ironically) in vulnerable lower-end markets where regulatory uncertainties are highest. Some will fully exit consumer businesses where risks seem unmanageable. What, if anything, will fill the void?

### **[Waters Discusses Proposal to Reform Consumer Reporting and Credit Scoring Practices](#)**

**Financial Services Committee, Press Release, 9/10/14**

Sadly, the burden is too often placed on the consumers to prove information on their reports is false, rather than on the consumer reporting agencies and furnishers.

Errors on credit reports are very difficult for consumers to dispute – and it's even harder to have these inaccuracies actually removed from reports, causing heartache and pain for millions across the country. It's time change that paradigm – and ensure that a bad credit score will no longer haunt a consumer for years on end.

### **[How Do Credit Report Errors Happen?](#)**

**Gerri Dettweiler, Credit.com, 9/4/14**

### **[Credit Card Offers Are Not Always What They Seem](#)**

**Ann Carrns, New York Times, 9/5/14**

### **[Rumor Mill or Deterrent? Debate Rages Over Consumer Database](#)**

**Megan R. Wilson, The Hill, 9/7/14**

The Financial Services Roundtable, which represents some of the largest banks in the world, has been vocal in its opposition to an expansion of the complaint system. In an email to members obtained by The Hill, the Roundtable said it might consider a legal offensive to stop regulators from moving forward.

### **[Bank Clients of Middle Eastern Descent Want Answers on Closed Bank Accounts](#)**

**Paresh Dave, LA Times, 9/7/14**

### [Most Americans Not Interested in Financial Advice](#)

Megan Leonhardt, Advisor Intelligence, 9/10/14

## **DERIVATIVES, COMMODITIES & THE CFTC**

### [Treasury Monitoring Swaps Loopholes at U.S. Banks](#)

Andrew Ackerman & Victoria McGrane, Wall St. Journal, 9/11/14

The Treasury Department is monitoring U.S. banks that are shifting some trading operations overseas to avoid tough U.S. swaps rules, according to a department official. Banks, including Citigroup, Goldman Sachs, and J.P. Morgan Chase have revoked their policy of guaranteeing some swaps issued by foreign affiliates, primarily in London, eliminating ties to their U.S. parent.

Treasury is monitoring the practices to determine if they pose potential risks to parent companies in the U.S... Treasury Secretary Jacob Lew heads the Financial Stability Oversight Council, which has authority to address activities that pose a systemic risk to financial markets...

Timothy Massad, the new chairman of the Commodity Futures Trading Commission, told The Wall Street Journal last week his agency is scrutinizing the trading shifts and will share its work with banking regulators and other federal policy makers. Mr. Massad said there is a concern that a U.S. bank's foreign losses ultimately would find their way to U.S. shores, infecting the parent company in possibly destabilizing ways. At the same time, there are limits to the CFTC's authority in regulating the swaps market, he said.

### [Swaps Rule Requires \\$644 Billion in Collateral, Regulator Says](#)

Silla Brush and Jesse Hamilton, Bloomberg, 9/5/14

### [CFTC Weighing Broader Commodities Hedge Exemptions Pushed by BP](#)

Silla Brush, Bloomberg, 9/6/14

### [Clearinghouses Get CFTC Scrutiny So Solution Isn't Problem](#)

Silla Brush and Robert Schmidt, Bloomberg, 9/8/14

## **ENFORCEMENT**

### [Finally, Wall Street Gets Put on Trial: We Can Still Hold the 0.1% Responsible for Tanking the Economy](#)

Thomas Frank, Salon, 9/7/14

"Benjamin Wagner, a U.S. Attorney who is actively prosecuting mortgage fraud cases in Sacramento, Calif., points out that banks lose money when a loan turns out to be fraudulent," reported a now-famous 2010 story in the Huffington Post. "But convincing a jury that executives intended to make fraudulent loans, and thus should be held criminally responsible, may be too difficult of a hurdle for prosecutors. 'It doesn't make any sense to me that they would be deliberately defrauding themselves,' Wagner said."

So forget those thousands of hours of Congressional investigation and those thousands of pages of journalism on the crisis. It doesn't make any sense to the man in charge. No jury would be convinced. Case closed.

As it happens, a trial just ended in Sacramento in which a jury was convinced that “executives intended to make fraudulent loans.” Here’s the thing, though: It wasn’t the government that made the case against the financiers; it was the *defendants*.

### [Punishments for Insider Trading are Growing Stiffer](#)

**Peter J. Henning, New York Times, 9/9/14**

### [Did the Summer Shine Any Light on Dodd-Frank Whistleblower Land?](#)

**Catherine Foti, Forbes, 9/11/14**

While the SEC was busy finalizing the first-ever award to an employee working in the area of compliance, the courts were intent on taking a break from dealing with attempts by whistleblowing employees, and their SEC amici, to achieve clarity on the issue of whether reporting internally, but not to the SEC, is sufficient to fall within the protections of the Dodd-Frank Act’s anti-retaliation provision.

## **EXECUTIVE COMPENSATION**

### [Most Hedge Fund Managers Are Overpaid, Big Investor Says](#)

**Klaus Wille, Bloomberg, 9/11/14**

Nine out of 10 hedge-fund managers are overpaid as management fees don’t reflect [declining](#) interest rates and fund returns, according to Unigestion Holding SA, which invests \$2 billion in hedge funds.

The fees, which still make up as much as 2 percent of a fund’s assets, represent a disproportionately high share of the total remuneration unrelated to performance, said Nicolas Rousselet, head of hedge funds at Unigestion. To align managers’ pay more with performance, the fund industry should either abandon the management fee or combine it with a hurdle rate that one must achieve before collecting incentive fees, he said.

### [5 Reasons the SEC's Executive-Pay Rules Matter – and 5 Ways to Use Them](#)

**Richard Eskow, Huffington Post, 9/11/14**

## **FEDERAL RESERVE**

### [Fed Seeks to Calm Congressional Demand for More Oversight](#)

**Cheyenne Hopkins and Craig Torres, Bloomberg, 9/8/14**

### [Fed Endorses Giving Smaller Banks Reprieve](#)

**Victoria McGrane, Wall Street Journal, 9/9/14**

## **INVESTOR PROTECTION & THE SEC**

### [7 fatal flaws in America's 401\(k\) plans](#)

**Paul A. Merriman, Marketwatch, 9/10/14**

## **MORTGAGES, FORECLOSURES & HOUSING**

### **FHA is Urged to Reform Loan Sale Program**

**Tim Logan, LA Times, 9/10/14**

A program designed to help prop up the Federal Housing Administration is short-changing borrowers and neighborhoods hard-hit by foreclosures, community groups said as they took to the streets to push for changes.

Demonstrators in downtown Los Angeles and 10 other cities Tuesday urged federal regulators to reform an arcane 2-year-old program that bundles government-insured loans near foreclosure and auctions them off to the highest bidder.

### **Federal Sale of Troubled Mortgages Draws Criticism From Community Groups**

**Matthew Goldstein, New York Times, 9/5/14**

The Center for American Progress, [in a report issued Friday](#), says the Housing and Urban Development Department needs to give nonprofit organizations a better chance of competing with investment firms in the bidding to buy the delinquent loans. The nonpartisan research group said greater participation of nonprofits might mean a higher percentage of troubled mortgages could be reworked in a way that permits delinquent borrowers to start making payments again and remain in their homes.

### **Hedge Funds Reap Gains on FHA Loans, Sidelining Nonprofits**

**John Gittelsohn, Heather Perlberg, and Clea Benson, Bloomberg, 9/8/14**

Firms such as Bayview Asset Management, a portfolio company of Blackstone Group LP (BX), and billionaire John Grayken's Lone Star Funds have won auctions for almost half of the \$15.8 billion in nonperforming loans sold since 2010 by the FHA, according to an Aug. 28 report by the U.S. Department of Housing and Urban Development. Not-for-profit groups that want to buy the pools of mortgages say the current system favors financial buyers over those whose primary mission is aiding borrowers and communities.

"Large pools allow the Lone Stars and Bayviews to marginalize small, neighborhood-focused bidders," said Sharon Pratt, a former mayor of Washington D.C. and chief executive officer of Home Preservation Exchange, a nonprofit focused on neighborhood stabilization. "The present-day auction system makes it very difficult for small enterprises to compete and every bit as important -- have an impact on targeted neighborhoods."

### **FHA to Ban Lenders from Charging Extra Interest Payments on Mortgages**

**Kenneth R. Harney, LA Times, 9/7/14**

### **Regulators Hope to Finalize Mortgage Rule by Year-End**

**Alan Zibel, Wall Street Journal, 9/9/14**

### **Homeowners Steamrolled as Florida Courts Clear Foreclosure Backlog**

**Alison Fitzgerald, Center for Public Integrity, 9/10/14**

### **CFPB Chief: Prepare for New Mortgage Regulations**

**Ben Goad, The Hill, 9/10/14**

## **REVOLVING DOOR & POLITICAL POWER OF WALL STREET**

### **[Scott O'Malia's Lobbying Lulu of a Claim](#)**

**Kevin Dugan, New York Post, 9/10/14**

An ex-top financial regulator swears he won't lobby his old colleagues — but that doesn't mean he can't work around them. Scott O'Malia, the new chief executive officer of the International Swaps and Derivatives Association lobbying group, plans to pitch financial regulators around the world to push for an easing of cross-border trading rules that his former boss opposed.

ISDA, as the lobbying group is known, is one of the industry groups that's suing O'Malia's former agency, the Commodity Futures Trading Commission, over the trading rules.

"I envision spending a considerable amount of my time and effort working with international regulators and talking about standards, talking about the lessons learned from the CFTC with the rules, the impacts they're having on the market today," O'Malia said in response to a question from The Post during a press meeting at an industry conference.

## **STUDENT LOANS AND FOR-PROFIT SCHOOLS**

### **[A Fairer Shot for Student Debtors](#)**

**Editorial Board, New York Times, 9/7/14**

More should be done to improve competition and transparency. The [Department of Education] should allow borrowers who are treated poorly to quit one servicer and jump to another. It should set significant penalties for poor practices and create a portal where borrowers can get information about their accounts and report abuses to the Education Department instead of to the servicers. The government should also open up competition to newcomers instead of keeping the same old companies.

### **[Video: John Oliver Takes on Student Debt](#)**

**Last Week Tonight, 9/7/14**

### **[For Profit Colleges: Maintaining a Permanent Underclass](#)**

**Julia Meszaros, Huffington Post, 9/9/14**

### **[APSCU, Chamber Sought to Stack Rulemaking Panel With Execs From Troubled For-Profit Colleges](#)**

**David Halperin, RepublicReport, 9/10/14**

## **SYSTEMIC RISK**

### **[Bank Lawyers Predict Rocky Road for Volcker Rule](#)**

**Bloomberg BNA, 9/12/14**

In general, covered banks and affiliates have until July 15, 2015, to establish compliance programs for the rule, which establishes broad prohibitions on investment and proprietary trading activities. Lawyers gathered in Chicago for a meeting of the American Bar Association's Business Law Section Sept. 11 predicted that getting five different regulators on the same page will be a challenge, adding that even seemingly innocuous transactions may be considered subject to the rule.

"I sense this implementation process over the next few years is going to be extremely difficult," said Kathryn Dick, formerly a senior official with the Office of the Comptroller of the Currency and now a managing director for Promontory Financial Group in Washington.

[Central Bankers Find Bubbles, but are Cautious on Deflating Them](#)

Jesse Eisenger, New York Times, 9/10/14

[Too Big to Fail](#)

Cheyenne Hopkins, Bloomberg, 9/10/14

## **OTHER TOPICS**

[U.S. Banks Have Positive Image for First Time Since 2007](#)

Rebecca Riffkin, Gallup, 9/5/14

[Wall Street Gets Out Shears for Red Tape](#)

Ben Goad, The Hill, 9/9/14