



## **This Week in Wall Street Reform | June 11 - 17, 2016**

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### **CONSUMER FINANCE & THE CFPB**

#### **[Wall Street is making big bucks from overdraft fees – again](#) | Washington Post**

The country's largest banks have increased the amount they collect from customers in overdraft fees, according to new government data, just as regulators are considering whether to issue rules that would rein in their use. Wells Fargo saw the biggest increase, 16 percent, in the amount collected in overdraft fees during the first quarter compared to the same period a year earlier, while the levies grew 6 percent for Bank of America and JPMorgan Chase, the country's largest bank. The amount collected by the more than 600 banks included in the Federal Deposit Insurance Corporation data jumped 6 percent to \$2.7 billion overall.

[B]anking industry officials note that the increase may just be a blip or simply reflect that they have more customers. But the rise comes as the Consumer Financial Protection Bureau is researching how banks levy overdraft fees on customers who bounce checks or withdraw more than they have in their accounts using debit cards or automated teller machines.

#### **[Regulators need to strike right balance on payday lending](#) | Washington Post**

By its nature, small-dollar lending is always going to be a high-risk, low-reward business for both borrowers and lenders. Yet it's probably better to have such an industry in a legal form that's maximally protective to consumers than to drive it underground. Keeping those realities in mind, the CFPB's rulemakers should avoid making the perfect the enemy of the good.

#### **[Payday loan mogul Scott Tucker can't pay for his own defense attorneys](#) | Kansas City Star**

#### **[It's time to shut the back door for payday lender](#) | The Villager**

#### **[Don't open the door to payday loans in Pa](#) | The Express Times**

#### **[NAACP Embraces Federal Crackdown on Payday Lenders](#) | PJ Media**

#### **[With Payday Loans Burying Borrowers, Community Tries Alternatives](#) | NPR**

#### **[Google Exec Mentions Payday Loans, Porn, Guns in Same Breath](#) | American Banker**

#### **[Congress should support federal consumer agency rules](#) | Houston Chronicle**

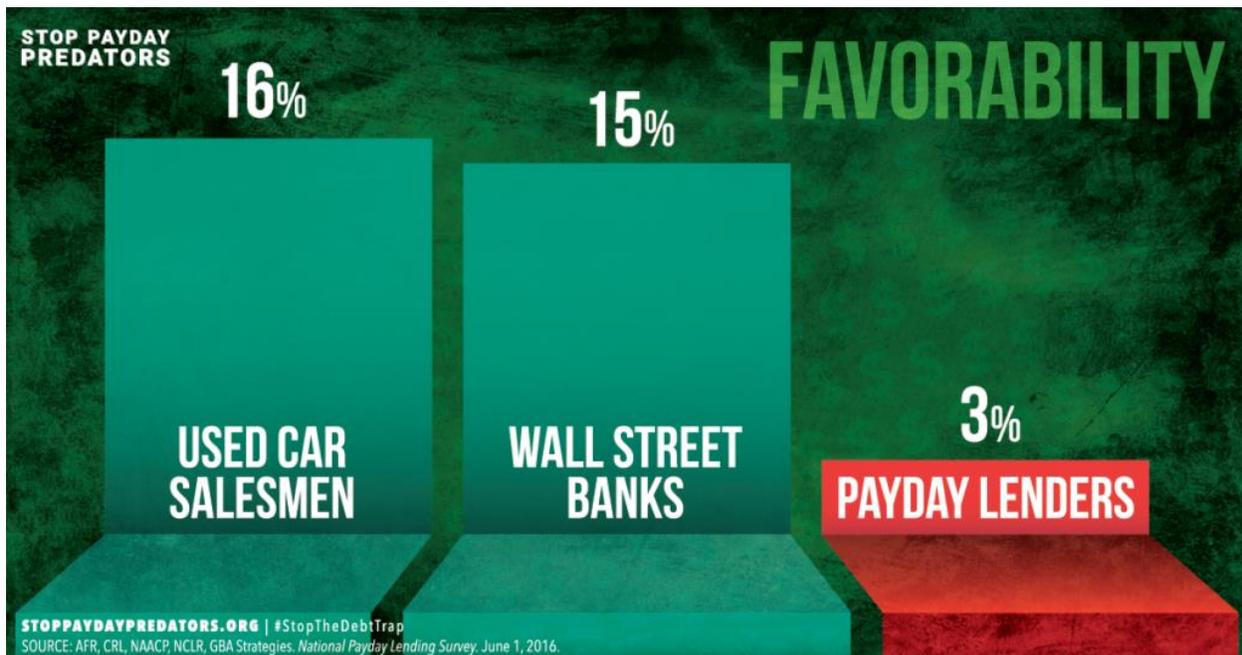
#### **[10 Million Want Payday Loans This Year, The CFPB Doesn't Want Them To](#) | Forbes**

[States Mull Regulation of Online Commercial Lenders](#) | Bloomberg

[How the war on debt collectors has begun to mirror the war on drugs](#) | The Guardian

[Consumer Groups Pressure CFPB to Tighten Payday Plan](#) | American Banker

[Payday Rules Exempt PALs](#) | Credit Union Times



See findings of a new poll by AFR and its allies on payday lending at [stopthedebttrap.org](http://stopthedebttrap.org)

[Dem study: Lenders finding ways to skirt state payday laws](#) | The Hill

[Who's Behind the Campaign Attacking CFPB Chief Cordray?](#) | American Banker

Richard Cordray, the director of the Consumer Financial Protection Bureau, is the target of a new TV ad campaign that alleges he is courting potential donors for a run as governor of Ohio by enacting a plan that would benefit trial lawyers.

The ads appear to be the work of Lincoln Strategy Group, a political strategy firm based in Phoenix, which has been tied to allegations of voter fraud and accused of sending its operatives to public events featuring Cordray.

[Hillary Clinton's VP pick should be Rich Cordray](#) | The Star-Tribune

[Consumer-Finance Agency, Under Fire, Accelerates Ad Spending](#) | Wall Street Journal

[Republicans cook up plan to cripple consumer agency](#) | LA Times

"He'd gut Dodd-Frank and gut the Consumer Financial Protection Bureau," said Deepak Gupta, a Washington lawyer who previously worked as senior counsel for the watchdog agency. "Jeb Hensarling is a wholly owned subsidiary of the financial services industry."

Too harsh? Not when you consider that, according to the Center for Responsive Politics, Hensarling has received more than \$5.5 million from financial firms and industry groups since being elected to the House in 2002. The top two contributors to his political endeavors are [JPMorgan Chase](#) (\$105,000) and the American Bankers Assn. (\$85,000)...

"This plan doesn't get tough on banks," the advocacy group **Americans for Financial Reform** said in a statement. "It gets tough on the regulators policing them."

Liz Ryan Murray, policy director of the People's Action Institute, which represents grass-roots organizations, said the millions in contributions showered on Hensarling "bought a really good friend in Congress."

[Sizing Up the CFPB's Favorite Enforcement Targets](#) | American Banker

[Financial inclusion in the United States](#) | Council of Economic Advisors

[Screen Scraping vs. APIs Is a Sideshow. Here's the Real Battle](#) | American Banker

## **DODD-FRANK (AND CONTINUED ATTACKS)**

[How Rep. Hensarling's plan will strip Wall Street oversight](#) | Dallas Morning News

Rep. Jeb Hensarling is a powerful figure in the world of Wall Street regulation, or the lack thereof. As chairman of the House Financial Services Committee, the Dallas Republican wants his constituents to believe he wields his powers on their behalf. That claim, however, is hard to square with a long record of service to banks, hedge funds and predatory lenders.

Last week, Chairman Hensarling unveiled a plan to repeal and replace the Dodd-Frank reforms enacted after the financial disaster of 2008. [Most Americans](#), Republicans as well as Democrats, supported those reforms and would like to see financial regulation made tougher still. But [Rep. Hensarling says](#) he "will not rest – and my Republican colleagues on the House Financial Services Committee will not rest – until we toss Dodd-Frank onto the trash heap of history."

[How we can hold Wall Street accountable](#) | Dallas Morning News

[A flawed Dodd-Frank fix](#) | Washington Post

[Regional banks continue fight over Dodd-Frank, despite Fed relief](#) | Politico

[Republican Lawmaker's Plan Details Curbs on Bank Regulators](#) | Wall Street Journal

See [AFR statement](#) on Hensarling proposal.

## **THE ELECTION AND WALL STREET**

[Clinton's Progressive Beacon Is a Former Goldman Sachs Banker](#) | Bloomberg

Over tea at Hillary Clinton's Washington home in late 2014, Elizabeth Warren warned her host that when it comes to Wall Street, what mattered most was the people Clinton surrounded herself with. Months later, as Clinton launched her presidential campaign, Gary Gensler, who had been a Goldman Sachs banker before he became a senior policy aide and Bob Rubin protégé during the deregulatory years of Bill Clinton's Treasury Department, came on board, in part to serve as a

driving force behind her economic-policy shop. Remarkably, Warren would be one of his strongest supporters.

The deeper explanation is that Gensler is a financial-policy unicorn—a deregulator turned reformer. As head of the Commodity Futures Trading Commission, Gensler became known as one of President Barack Obama's toughest regulators, willing to buck his friends and former colleagues to tighten rules on the \$400 trillion swaps market following the 2008 crisis. His name became an expletive to many on Wall Street, to the delight of Warren and her allies.

## ENFORCEMENT

### [Bank of New York Mellon to Pay \\$30M for Overcharging on Currency Trades](#) | Forbes

According to the SEC, from at least 2000 to 2011, the BNY misled and overcharged some clients in its "Standing Instructions" program. Under the program, the bank offered to "automatically process and execute the clients' FX trades without supervision" or direct involvement from clients. The bank explicitly promised to execute these trades according to the "best execution" standards and at the 'best rates' to maximize the proceeds on the foreign exchange trades.

Instead, the SEC says, BNY used the program as an opportunity to earn more on each transaction by executing the trades at the highest reported interbank rate for the day if the client was buying the foreign currency, and at the lowest if the client was selling currency. The bank would then send the summary of transactions to clients including the date of each transaction and the rate assigned by the bank, while leaving out the transaction timestamp and the how the specific rate was assigned, the documents say.

## HEDGE FUNDS AND PRIVATE EQUITY FUNDS

### [Hedge Fund Managers Work to Stanch Loss of Investors](#) | NY Times

Hedge fund titans once ran their firms like elite private clubs, picking who made it past the velvet rope and how much they would pay for access to supercharged performance. Years of poor performance have now led a number of funds to consider something more like general admission.

Some big-name investors — MetLife, American International Group and the New York City pension plan, among them — have recently begun to withdraw their money from hedge funds in larger numbers. And the investors who stay are getting a chance to sit at the negotiating table and dictate lower fees and better terms for sharing in the returns that managers make.

It's an unusual position for many hedge fund managers, who as a group are not known for sharing well with others.

### [The best-paid hedge fund managers made \\$13 billion last year](#) | Medium

Of the top 25 hedge fund managers, no one was paid more than the founder of the hedge fund Citadel, Ken Griffin, who pocketed \$1.7 billion last year. \$1.7 billion is 46,101 times the pay of the average U.S. worker.

[According to the AFL-CIO](#), in 2015 the average non-supervisory American worker made \$36,875. That means it would take the average American worker 46,101 years to make as much as hedge fund manager Ken Griffin made in 2015...

At the minimum wage, you could work a lifetime without earning as much as Ken Griffin made between breakfast and lunch on an average day last year.

[The hedge fund fee structure consumes 80% of alpha](#) | Financial Times

[Bypassing Private Equity to Get a Slice of the Big Deal](#) | NY Times

[“Get Out of Madoff and Other Frauds for Free” Bill Passes Committee](#) | Naked Capitalism

Dodd Frank stipulated that private equity and hedge funds beyond a modest size be regulated as investment advisers. That subjected them to SEC examinations. The initial round exposed widespread misconduct in private equity, including what would normally be called embezzlement. Yet the agency has fined remarkably few sanctions, and the fines have been light relative to the extent of the misconduct alleged by the SEC and unearthed by the press.

To make a bad situation worse, [the SEC retreated from its tough enforcement talk within months](#), and more recently, [has been trying to fool the chump public into believing that its weak enforcement actions are having an impact](#) when private equity form ADV filings with the SEC reveal the reverse, that many firms are continuing to engage in precisely the same conduct that the SEC has deemed to be a securities law violation.

But even this cronyistic enforcement charade is an offense to these Masters of the Universe. HR 5424 would gut Dodd Frank oversight. I’ve attached a letter from **Americans for Financial Reform** at the end of the post, which sets forth how this bill makes a mockery of the idea of investor protection.

[Upstart IEX Poised for Approval as New Stock Exchange](#) | Wall Street Journal

[Eighth Circuit Deals Blow to SOX And Dodd-Frank Whistleblowers](#) | National Law Review

## HIGH-FREQUENCY TRADING AND TRANSACTION TAX

[Ten EU States Vow to Push Ahead on Financial-Transaction Tax](#) | Bloomberg

## INVESTOR PROTECTION AND THE SEC

[House Panel Passes 8 Bills Including Adviser Act Reform, Crowdfunding](#) | ThinkAdvisor  
**Americans for Financial Reform**... argued that [one bill] would impose crippling new procedural obligations” on the SEC “and grant Wall Street firms new legal powers to overturn SEC rules, in a transparent move to make forceful agency action impossible.”

The Private Placement Improvement Act “makes a single notice of sales sufficient for exemption” from compliance with Regulation D, Garrett said, arguing that the bill helps the JOBS Act “reach its full potential by maintaining a clear and common-sense approach to regulations for private offerings.”

**Americans for Financial Reform** argued, however that these “major new exemptions” under the Act include not requiring that funds have an annual independent audit of their client funds and securities holdings – “a precaution that could be crucial in preventing a fund from claiming to own securities when it actually does not, as Bernie Madoff did.”

See [AFR statement](#).

[Democrats brawl with SEC chief](#) | The Hill

[Finra Names Robert Cook Its Chief Executive](#) | NY Times

[Bank of New York Mellon To Pay \\$30M For Overcharging Customers On Trades](#) | Forbes

[Silicon Valley's Audacious Plan to Create a New Stock Exchange](#) | Bloomberg

[US appeals court skeptical of House claims in stock case](#) | Washington Post

## **MORTGAGES AND HOUSING**

[First rated subprime mortgage deal looms since crisis](#) | Financial Times

Credit Suisse will this week market the first rating agency-graded subprime mortgage-backed bond since the financial crisis in a landmark deal that issuers hope will reinvigorate the almost dormant market.

Subprime mortgage-backed securities, where a batch of low-quality mortgage loans are bundled up into a bond and sold to investors, were a driving force of the global financial crisis.

[Dodd-Frank Redlined America's Poorest Neighborhoods](#) | Huffington Post

## **POLITICAL INFLUENCE OF WALL STREET AND REVOLVING DOOR**

[Corporate Capture of the Rulemaking Process](#) | Regblog

[How Government Can Root Out Regulatory Capture](#) | Regblog

[U.S. Chamber Out of Step With Its Board, Report Finds](#) | NY Times

## **REGULATION IN GENERAL**

[House GOP Attacks on Regulation Serve Big Business](#) | Sensible Safeguards

[House GOP wants to take back power from executive branch](#) | Politico

[Speaker Ryan to call for major regulatory reforms](#) | The Hill

See [AFR statement](#) on Ryan plan.

[House to vote next week on bill to curb agency power](#) | The Hill

[For regulators, it's not easy looking back](#) | The Hill

[Get Started: Money, Regulation Are Small Business Challenges](#) | NY Times

[Report: Corporate finance chiefs stifled by regulation](#) | The Hill

## RETIREMENT SECURITY & FIDUCIARY DUTY RULE

### [Retirement savings mistakes courtesy of John Oliver](#) | CNBC

"The entire retirement plan industry is a potential minefield," he said in the segment. "You need to pay attention."

Those are issues Oliver's team encountered personally. In setting up a 401(k) for show employees, he said, they realized their John Hancock-sponsored plan charged asset management fees of 1.69 percent, on top of a \$24 per-person annual fee and other fund fees. An unnamed intermediary broker (who told Oliver's team he was not a fiduciary, i.e. required to work in their best interest) would receive 1 percent the first year and 0.50 percent thereafter.

Oliver said the show is covering the fees for its employees, and is also leaving both John Hancock and the broker.

### [Retirement Plans](#) | Last Week Tonight with John Oliver

#### [Isn't Honesty the Best Policy?](#) | NY Times

A retired mechanic and a fourth-grade teacher from my home state, Russell and Christine Kazda, are having a tough time getting by. While Mrs. Kazda still teaches, Mr. Kazda suffered an injury last year and retired early after a 30-year career. Over the years, the Kazdas did what they were supposed to do and saved for retirement. They made it clear to their retirement advisers that they wanted to invest conservatively — then they had to dip into their savings earlier than expected.

The Kazdas are struggling not because they didn't save enough but because, in their own words, they "naturally assumed" that the financial professionals advising them "were acting in our best interests" when urging them to transfer \$172,000 of their retirement savings into investment products falsely peddled (according to a legal claim they have filed) as low-risk.

The Kazdas didn't know their advisers were pocketing almost 10 percent in commissions by aggressively selling them inappropriate investment products. After a few years, their life savings had fallen by \$125,000.

According to the White House Council of Economic Advisers, Americans lose an estimated \$17 billion in retirement savings each year because of misleading advice of the type that the Kazdas received. And now, the Chamber of Commerce and others that benefit under the current system are fighting to make sure people keep losing that money.

### [Vanguard Chief: DOL Rule Will Prevail Despite Lawsuits](#) | Financial Advisor IQ

Speaking at a [Morningstar](#) conference this week, William McNabb, chairman and chief executive officer of Vanguard, said the lawsuits will "play out and take time" but that Vanguard is proceeding on the assumption that the rule will be implemented "as written," Financial Advisor magazine writes.

He said the company plans to do a "few tweaks" to its relationships with its 401(k) clients, according to the publication. McNabb added that the firm will need to "adjust" documentation on IRA rollovers to meet compliance obligations but expects to be ready by the time the DOL's fiduciary standard is a requirement, Financial Advisor magazine writes. The rule goes into effect April 10 next year, [according to the DOL](#).

[Why You Still Can't Trust Your Financial Advisor](#) | Nerdwallet

[Fiduciary Rule Lawsuit is the Best Chance to Fight Back Against Obama Executive Overreach](#) | Morning Consult

[Is the U.S. fight over fiduciary rule really about the little guy?](#) | Reuters

[How Bad Financial Advice Can Literally Make You Sick](#) | The Street

## STUDENT LOANS & FOR-PROFIT EDUCATION

[Administration May be Deliver Billions in Debt Relief for Students](#) | New York Magazine

Despite ripping off students and taxpayers for decades, the for-profit-college industry has proved remarkably resilient. Take the University of Phoenix, which paid millions of dollars in fines to the Feds for such unscrupulous practices as recruiting homeless people years ago. A serial offender, the 40-year-old college is now under investigation by the Federal Trade Commission and several state attorneys general for deceptive advertising and recruitment abuses of veterans, among other vulnerable groups.

Shares of its parent company have fallen 80 percent over the past five years, and enrollment has halved, but the University of Phoenix still received about \$1.7 billion in government student loans last year, making up 80 percent of its revenues. And recently it struck a \$1.1 billion deal to sell itself to private-equity giant Apollo Investment Group.

Apollo might want to wait before signing the final deal documents, though. That's because, in the waning days of the Obama administration, the government may take its boldest step yet to hold schools like the University of Phoenix accountable for their questionable business practices — and questionable business model. Indeed, Obama's Department of Education plans to issue a rule that would forgive billions of dollars in loans granted to hundreds of thousands of students at for-profit schools that have defrauded or misled them. The government is also planning ways to make the schools pay for the debt relief. Critics hope the rule will ultimately persuade the government to quit funding loans for troubled colleges.

[Obama administration issues rules to overhaul student debt forgiveness](#) | Washington Post

Students will have a clearer path to loan forgiveness if they are defrauded or misled by their colleges, according to rules issued Monday by the Obama administration, which also create a financial backstop to ensure that schools, not taxpayers, are responsible for the debt.

"The Obama administration won't sit idly by while dodgy schools leave students with piles of debt and taxpayers holding the bag," Education Secretary John B. King Jr. said on a call with reporters Monday. "Students who are defrauded deserve an efficient, transparent and fair process to get the loan relief to which they are legally entitled. And schools that harm their students should be on the hook for the damage."

"We're disappointed that the department is replacing the current state law standard with a federal standard that won't be as comprehensive for borrowers that live in states with strong consumer protection laws," said Alexis Goldstein, senior policy analyst at the progressive **Americans for Financial Reform**.

[Feds Propose Decertifying Accreditor of For-Profit Colleges](#) | Wall Street Journal

[U.S. Proposes Path to Debt Relief for Defrauded Students](#) | Chronicle of Higher Education

[Obama Plan Eyes Debt Relief for Defrauded Students](#) | PBS

[Feds propose rules that would make it easier for students to sue their schools](#) | Marketwatch

[Feds propose rules to help student loan borrowers](#) | The Hill

[The truth about for-profit colleges and Trump University](#) | SF Chronicle

[New Rules Will Help Students Sue Colleges](#) | Time

[Education Department's Loan Servicing Criticized by GAO](#) | Inside Higher Ed

See [AFR statement](#).

## **SYSTEMIC RISK**

[U.S. Government Says It Met Requirements for MetLife Oversight](#) | Wall Street Journal

## **"TAKE ON WALL STREET" CAMPAIGN**

[Etats-Unis: pourquoi Sanders ne jette-il pas l'éponge?](#) | FranceTV

Après avoir critiqué les liens flous qui unissent Hillary Clinton aux grands financiers, le sénateur du Vermont pourra en partie compter sur l'initiative **Take on Wall Street**, résurgence du mouvement Occupy Wall Street de 2008, destiné à lutter contre «l'influence corruptrice de la campagne de Wall Street et du lobbying du dollar».

[Some on Wall Street should be in handcuffs](#) | People's World