

This Week in Wall Street Reform | Jan. 9–Jan. 15, 2016

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CONSUMER FINANCE & THE CFPB

[Consumer Financial Protection Bureau Roughly Doubled Caseload in 2015](#)

Yuka Hayashi, Wall St. Journal, 1/11

The Consumer Financial Protection Bureau roughly doubled the number of enforcement cases it brought last year as the federal watchdog stepped up its scrutiny of industries including credit cards, auto lending and debt collection. CFPB officials said that in 2015, the bureau handled 59 cases in which companies settled allegations of wrongdoing and 11 cases that led to lawsuits. That compares with 23 settlements and 11 lawsuits for 2014, and 21 settlements and seven lawsuits for 2013.

The sharp increase reflects the growth in the number of investigators, examiners and administrative staff, as well as maturing of the bureau’s practices and policies four years after it was established under the Dodd-Frank financial overhaul law, said Tony Alexis, the CFPB’s director of enforcement...Last year’s cases resulted in \$6 billion in relief for consumers as the compensation for damages, and \$1 billion in restitution as unlawfully obtained gains were forfeited and returned to consumers. “We have muscle memory now built into our programs,” Mr. Alexis said.

[CFPB cracks down on illegal debt collections](#)

Charlene Crowell, New Pittsburgh Courier, 1/14

As holiday revelers toasted the season, a key federal regulator took two steps to ensure that 2016 would bring an important change for consumers harassed by illegal debt collector actions.

On Dec. 16 and its third action against a large national payday lender, the Consumer Financial Protection Bureau ordered EZCorp, Inc. to refund \$7.5 million to 93,000 consumers and pay an additional \$3 million in penalties for illegal debt on high-cost payday and installment loans.

CFPB found that EZCORP collected debts with a litany of illegal actions that included visits to homes and/or workplaces. Even worse, by requiring payments via electronic fund transfers, consumers often wound up with multiple charges. The required electronic withdrawals from consumer accounts frequently triggered additional overdraft fees charged by banks. CFPB’s investigation that began in July determined multiple violations of the Electronic Fund Transfer Act and the Dodd-Frank Wall Street Reform Act’s ban on unfair or deceptive acts or practices.

[Postal Banking Worked—Let’s Bring It Back](#)

Mehrsa Baradaran, The Nation, 1/7

Almost every time I read a report about the problems with payday lending, it trails off into a vague proposal that credit unions and community banks provide these services. Indeed, every legislative effort to remedy this problem for the last three decades has tried to use carrots and sticks to make small banks offer services to the poor. But small banks are in bad shape, and they have to compete with the big banks for big profits if they are going to survive. Yes, there is still a big role for community banks here, and we should all loudly lament the loss of community banks, but in many ways the genie has left the bottle. Large and national banking was the decisive winner.

So it’s time to consider a large and national solution to the problem of the unbanked. Almost every other developed country in the world has found the answer in their post office. What very few people seem to remember is that the

United States did it too. In fact, our postal banking system, first proposed in 1871, began in 1910 and banked millions of Americans until 1966, when it was phased out, because this was the heyday of community banking and there was no need for the postal banks.

[Debbie Wasserman Schultz's Challenger Has a Chance](#)

David Dayen, New Republic, 1/13

In two separate petitions, more than 94,000 people have demanded that Wasserman Schultz resign as DNC chair. But back in her district, in Hollywood, Florida, Timothy Canova has another idea: vote her out of office. Last Thursday, Canova, a former aide to the late Sen. Paul Tsongas and a professor at Nova Southeastern University's Shepard Broad College of Law, jumped into the Democratic primary in Florida's 23rd congressional district...

"This is the most liberal county in all of Florida," Canova said in an interview, referring to Broward County, where most of Wasserman Schultz's district resides (a small portion is in northern Miami-Dade County). But she more closely associates with her significant support from corporate donors, Canova argued. He listed several of Wasserman Schultz's votes, such as blocking the SEC and IRS from disclosing corporate political spending (which was part of last month's omnibus spending bill), opposing a medical marijuana ballot measure that got 58 percent of the vote in Florida, preventing the Consumer Financial Protection Bureau from regulating discrimination in auto lending and opposing their rules cracking down on payday lending, and supporting "fast track" authority for trade deals like the Trans-Pacific Partnership.

[CFPB seems set to throw the baby out with the bath water](#)

Ryan Donovan, The Hill, 1/15

Credit unions did not cause the financial crisis. They did not engage in the abuses that led to the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act. And they were not the reason that Congress created the Consumer Financial Protection Bureau. These are widely accepted assertions that CFPB Director Richard Cordray fairly frequently acknowledges himself.

As recently as the last Credit Union Advisory Council meeting, Director Cordray stated: "The Consumer Bureau is well aware that credit unions were not one of the causes of the financial crisis. You were not underwriting the bad loans that brought down the housing market. Instead, you were sounding the alarm bells well before the sinking of the economy." We could not agree more. Unfortunately, instead of zeroing in on those in the marketplace who caused the financial crisis, the CFPB has insisted on lumping credit unions in with those bad actors and continues to sweep them into rulemakings that should be aimed at unscrupulous participants in the financial marketplace.

[Silicon Valley: We Don't Trust FICO Scores](#)

Peter Rudegeair, Wall St. Journal, 1/11

A new generation of lenders is challenging the usefulness of one of the bedrocks of the modern financial system: the FICO score. Social Finance Inc., a San Francisco company that offers student-loan refinancing, mortgages for high-priced homes and personal loans, has decided to do away with FICO scores in its credit decisions, making it one of the highest-profile lenders to do so. "We just don't think the score itself is a real driver to credit performance," says Mike Cagney, chief executive of SoFi, as the company is known.

A variety of smaller Silicon Valley-backed companies also have looked to move beyond the traditional FICO credit score, calculated since the late 1980s by Fair Isaac Corp. Some of the most significant include Affirm Inc., which finances the purchase of consumer goods at the point of sale; subprime lender Avant Inc.; and Earnest Inc., which makes student and personal loans. In moving away from FICO, most of these online lenders are betting that their new scoring models aimed at expanding credit will hold up in a tougher business environment. Max Levchin, the former PayPal executive who runs Affirm, said the company's internal models cast a wider net for customers, something that can be attractive to millennials and other "underbanked" customers overlooked by major lenders.

[CFPB using Google ads to solicit consumer complaints](#)

Barbara Mishkin, CFPB Monitor, 1/13

[Should agencies process consumer complaints?](#)

Brian Wolfman, Public Citizen, 1/12

Looking in particular at the Consumer Financial Protection Bureau's complaint process, that's the issue addressed by law prof Angela Littwin in *Why Process Complaints? Then and Now*. Here's the abstract:

“The creation of the Consumer Financial Protection Bureau (CFPB) established the first comprehensive federal forum for processing consumer complaints about financial products and services. The CFPB not only handles consumers’ complaints; it also publishes a database that includes most complaints and their initial resolutions. For a symposium honoring the scholarship of Professor William C. Whitford, I analyze the CFPB’s complaint system and database using a framework he developed to explore the reasons why government agencies process consumer complaints and whether these reasons justify the resources that complaint processing entails. Whitford and his co-author proposed three “obvious” reasons to process consumer complaints: to settle consumer disputes; to inform the agency’s regulatory activities; and to generate good will for the agency among constituencies such as consumers, government actors, and the companies the CFPB regulates.”

[Elevate seeks as much as \\$80 million while admitting it may not be completely legal](#)

Caitlin Huston, MarketWatch, 1/15

As the payday loan industry faces a crackdown in the United States, an online service that also offers small loans with high interest rates to people with poor credit is preparing to take Wall Street's biggest stage, even though it admits that its practices could lead to its own doom.

Elevate Credit Inc. is set to be the first venture-backed initial public offering of 2016, with plans to sell shares this month in a deal that could bring in almost \$80 million. The online lender uses its own proprietary technology to offer "approval in seconds" to consumers for two installment loan products and one line of credit.

But those automated approvals and the high interest rates that follow come with a slew of regulatory issues and questionable tactics.

[Consumer Financial Protection Bureau Releases Guide to Help Consumers Navigate Pension Payouts](#)

eNews Park Forest, 1/12

[Delinquency Rates Rose in 3Q for Auto Loans, Mortgages](#)

Andy Peters, American Banker, 1/12

DERIVATIVES, COMMODITIES AND THE CFTC

[Credit Swaps Panel Adopts Rules to Mitigate Conflict of Interest](#)

Sridhar Natarajan, Bloomberg Business, 1/11

The [International Swaps & Derivatives Association](#) will begin requiring its so-called determinations committees to have written policies or procedures concerning the identity of decision makers, identification and management of potential conflicts of interest and record keeping as of next month, according to a statement.

THE ELECTION CAMPAIGN AND WALL STREET

[Hillary Clinton Going After 'Romney Loophole' And Other Tax Shelters](#)

Jonathon Cohn, Huffington Post, 1/12

Hillary Clinton has said she would raise taxes on the wealthiest Americans, and on Tuesday she will propose two new ways of doing so. An aide to the front-runner for the Democratic presidential nomination tells The Huffington Post that Clinton will close what the campaign is calling the “Bermuda reinsurance loophole.” That’s a reference to a complex scheme in which investors set up insurance companies in low-tax countries such as Bermuda, then channel investment money through those companies to avoid paying higher taxes in the U.S.

In addition, the aide said, Clinton will propose finding ways of taxing income that ultra-wealthy Americans now shelter in retirement accounts. Her campaign is referring to that proposal as closing the “Romney loophole” -- a reference to the revelation, during the 2012 presidential campaign, that Romney had managed to accumulate as much as \$101.6 million in his tax-preferred retirement accounts.

[Ted Cruz's Buffett Rule For Hedge Fund Billionaires Falls Flat](#)

Ryan Ellis, Forbes, 1/14

As reported above by Jonathan Martin of the New York Times, Cruz essentially endorsed the rationale behind a “Buffett rule,” an ill-defined policy goal in which middle class taxpayers pay a lower “tax rate” (a term whose definition changes in mid-sentence when it comes to these things) than the rate paid by top 1 percenters... Cruz is talking about the differential in tax rate between a “secretary” and a “hedge fund billionaire.” Under his tax plan, the hedge fund billionaire will still pay a lower tax rate than the secretary, by any definition you want to use. Why?

The business tax in the Cruz plan is a subtraction method VAT. One of the rules of this tax system is that wages are not deductible as a business expense. Essentially, there’s a 16% wage tax withheld at the employer level under the Cruz plan. Then, the same wage is taxed again at a 10% rate on the individual side under the Cruz plan. Do the math, and that’s a cascaded double tax on wages of 24.4%. You can make an argument that the same 24.4% rate applies to capital gains, which are also not VAT-deductible, but this is more complicated.

How about on interest, dividends, and other portfolio income? Since those are deductible in a VAT system, they face only one layer of taxation—10% at the individual level. What about business income like S-corporation and partnership profits, rental income, and other non-wage ventures? Those would face the 16% VAT rate alone—no cascading. So for the secretary, she faces a 24.4% flat tax on her wages. Her “billionaire hedge fund” boss faces a 10% tax rate on his portfolio income (aside arguably from capital gains), and a 16% tax rate on his business profits.

How exactly does the Cruz tax plan implement a Buffett rule again?

[Which Candidate Is Best for Your Portfolio?](#)

Ian Salisbury, Time, 1/14

Bernie Sanders, to Clinton’s left, has spoken about raising the capital gains tax rate along with dividend taxes. He also wants a “financial transaction tax,” equivalent to a sales tax on stock and bond trades. Republicans, on the other hand, seek to boost investment by cutting taxes. Donald Trump and Jeb Bush would eliminate the surtax. Going one step further, Ted Cruz calls for slashing cap gains and dividend taxes to 10%, while Marco Rubio proposes eliminating them altogether.

[Financial Crisis Still Divides GOP, Democrats](#)

Nick Timiraos, Wall St. Journal, 1/11

The 2016 presidential campaign is offering ample evidence for why Washington, eight years after the financial crisis, remains so divided on how to regulate Wall Street: Republicans and Democrats still have wildly different interpretations about what caused the bust. GOP candidates fault government policies and low interest rates for fueling the housing bubble that preceded the crisis. They strongly support easing financial regulations passed in the aftermath, singling out the 2010 Dodd-Frank rules signed into law by President Barack Obama as too onerous.

Democrats say the crisis was fueled by private-sector and regulatory failures, not government policy. But they are divided over the need to break up big banks and the role of a 1999 law signed by President Bill Clinton that repealed parts of the Glass-Steagall Act, a New Deal-era statute that separated commercial and investment banking. The fight has put front-runner Hillary Clinton on the defensive by highlighting broader concerns over her willingness to stand up to the financial lobby... In a November debate, businesswoman Carly Fiorina said the law provided a “great example of how socialism starts,” because the government, having created a problem by overpromoting homeownership, then stepped in to solve it. She cited the Consumer Financial Protection Bureau as an example of such overreach.

[Ted Cruz Didn't Report Goldman Sachs Loan in a Senate Race](#)

Mike McIntire, NY Times, 1/13

The couple's decision to pump more than \$1 million into Mr. Cruz's successful Tea Party-darling Senate bid in Texas was made easier by a large loan from Goldman Sachs, where Mrs. Cruz works. That loan was not disclosed in campaign finance reports. Those reports show that in the critical weeks before the May 2012 Republican primary, Mr. Cruz — currently a leading contender for his party's presidential nomination — put "personal funds" totaling \$960,000 into his Senate campaign. Two months later, shortly before a scheduled runoff election, he added more, bringing the total to \$1.2 million — "which is all we had saved," as Mr. Cruz described it in an interview with The New York Times several years ago.

A review of personal financial disclosures that Mr. Cruz filed later with the Senate does not find a liquidation of assets that would have accounted for all the money he spent on his campaign. What it does show, however, is that in the first half of 2012, Ted and Heidi Cruz obtained the low-interest loan from Goldman Sachs, as well as another one from Citibank. The loans totaled as much as \$750,000 and eventually increased to a maximum of \$1 million before being paid down later that year. There is no explanation of their purpose.

[Plans to revise or repeal Dodd Frank](#)

Jonathon Taylor, The Examiner, 1/10

EXECUTIVE PAY

[Inslee asks state agency to reduce income inequality](#)

Walker Orenstein, Associated Press, 1/13

Gov. Jay Inslee says Washington must reduce the gap between the pay of an average employee and the salaries of corporate executives, and he has called on the State Investment Board to help accomplish that goal. One of the main responsibilities of the board, a state agency not often a point of contention between lawmakers, is to invest and manage the retirement money of public employers and employees such as teachers, police officers and judges. The board manages \$103.4 billion in assets right now, according to its website.

As a shareholder in companies, the board can vote against the salary of an executive if it's out of line with how well the company performs financially, said State Treasurer Jim McIntire, a Democrat and one of 10 voting members of the board. But Inslee, in his State of the State speech Tuesday, asked the board to go further and use its voting power to "reduce the widening pay gap between CEOs and their workers."

[The CEO of a top investment bank says Wall Street pay is out of whack](#)

Portia Crowe, Business Insider, 1/13

Credit Suisse CEO Tidjane Thiam says today's pay model for investment bankers "does not work... The business is structurally quite profitable provided the pay can go up and down. It's the 'and down' that they don't accept," Thiam reportedly said of investment bankers. He said today's model of having high levels of fixed pay didn't make sense because investment banks had cyclical revenue streams.

He is not the only Wall Street CEO to make a dig at Wall Street's compensation culture. In October, Deutsche Bank CEO John Cryan pointed to the "significant challenges" of his firm's "inflexible compensation culture." Also in October, Barclays chairman John McFarlane spoke at the annual conference of the British Bankers' Association in October and argued that bankers earned too much. Wall Street banks begin reporting fourth-quarter earnings on Thursday, and they are expected to announce bonuses in the coming days.

FEDERAL RESERVE

[Fed Eyes Margin Rules to Bolster Oversight](#)

Ryan Tracy, Wall St. Journal, 1/10

The Federal Reserve is dusting off a legal power it has largely ignored for four decades, a move that could significantly expand the Fed's influence over financial markets. Margin requirements—rules limiting what portion of stocks or bonds

can be purchased through borrowing—are moving up the Fed’s to-do list as officials fret about whether they have adequate tools to suppress dangerous asset bubbles that could lead to another financial crisis. They also allow the Fed to exert influence on all financial firms, not just banks.

A little-noticed global agreement recently paved the way for the central bank to move forward with plans to alter margin requirements. Under the accord announced Nov. 12, regulators representing 25 economies agreed to adopt rules similar to ones the Fed is developing, a united front intended to prevent financial firms from moving transactions offshore in response to tighter Fed rules.

[Wall Street Frets Fed Proposal Will Become \\$550 Billion Headache](#)

Cordell Eddings and Fion Li, Bloomberg, 1/12

A Federal Reserve proposal to make the banking system safer may end up forcing the biggest U.S. banks, including JPMorgan Chase & Co. and Citigroup Inc. to raise as much as \$550 billion more in the bond market by 2019, analysts and Wall Street lobbyists warn.

That estimate from research firm CreditSights Inc. would be equal to more than four times the amount of bonds the Fed forecasted in October that the financial companies would have to sell to meet the requirements.

The issue is shaping up to be the latest showdown between Wall Street and regulators looking to prevent a repeat of the 2008 financial crisis. Banks have had success in convincing rulemakers to loosen other proposals intended to boost bank debt relative to equity, for example.

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

[Wall Street alarm as 2016 contenders attack tax break](#)

Barney Jopson, Financial Times, 1/14

US private equity and hedge fund managers are growing concerned at an unprecedented two-pronged assault from the Republican and Democratic presidential frontrunners, who both threaten to scrap a tax break worth billions of dollars to Wall Street. The unusual consensus between Donald Trump and Hillary Clinton has hardened as the populist tone of the 2016 election campaign leaves American business fretting that its interests are being ignored by candidates. The bashing of investment partnerships using the tax break on “carried interest” profits highlights a desire to woo voters struggling in an economy that some feel is rigged in favour of the wealthy.

Less than three weeks before voting begins with the Iowa caucuses, Mrs Clinton this week reaffirmed her determination to scrap the preferential tax treatment that critics call a loophole. A few days earlier Mr Trump said: “Wall Street has caused tremendous problems for us. We’re going to tax Wall Street.” Jeb Bush, once the favourite of Republican business people, and Bernie Sanders, who is mounting a leftwing challenge to Mrs Clinton, also want to scrap the tax break.

The treatment of carried interest lets managers of private equity, venture capital and hedge funds pay less tax than most people because the cut they take on some investment gains — a key part of their remuneration — is taxed at a lower rate than a regular salary. While the top rate of income tax stands at 39.6 per cent, money managers’ portion of profits on assets held for at least a year is taxed at 20 per cent as a “long-term capital gain”.

[Hedge Fund Challenges Peru on Land Bonds](#)

Matt Wirz, Wall St. Journal, 1/15

A Connecticut hedge fund is waging a campaign to make Peru pay off land bonds it defaulted on two decades ago, echoing financial firms’ tactics in recent years in Argentina, Greece and Iceland. About a decade ago, Gramercy Funds Management LLC began buying agrarian bonds held mostly by Peruvians who received them when their family farms were expropriated by the government in the 1960s. Gramercy bought about 20% of the bonds at a fraction of their face value and now says it is owed more than \$1 billion, according to people familiar with the matter.

The government disputes that figure, and successive administrations have ignored Peruvian court orders to pay up. At issue is how to adjust bondholder claims for decades of inflation and missed interest payments, with bondholders saying

they are owed about \$5 billion and the government calculating a far lower sum. Peru stopped paying on the bonds by 1992 in the aftermath of the Latin American debt crisis.

[Hedge Funds Are Pressuring Puerto Rico With Their Own Debt-Cutting Plan](#)

Laura Keller and Michelle Kaske, Bloomberg, 1/14

Monarch Alternative Capital and WhiteboxAdvisors are among the investors that are putting pressure on Puerto Rico by crafting their own restructuring proposal as the island delays talks to restructure \$70 billion of debt, according to people with knowledge of the matter. The investors, along with other hedge-fund firms such as Davidson Kempner Capital Management and Stone Lion Capital Partners, are in preliminary conversations with other creditors of the U.S. territory on a debt-exchange plan that would seek to make Puerto Rico's debt load sustainable, said the people, who asked not to be named because the information isn't public. The funds have also begun reaching out for feedback on the plan from investors such as Brigade Capital Management, Fir Tree Partners, Franklin Advisers Inc., and Oppenheimer & Co., the people said.

[Community organizations call on Lone Star Funds to stop predatory payday lending](#)

PE Closer Look, 1/12

Yesterday, 31 consumer advocacy and fair lending organizations sent a letter to Lone Star Funds calling on the manager to end predatory payday lending. The letter calls for fair lending practices at Lone Star Funds' DFC Global, a major payday lender. The full letter can be found below or at www.LoanSharkFunds.org. Lone Star Funds purchased payday lender DFC Global through its Lone Star Fund VIII vehicle in June 2014. Through DFC's Money Mart and Check Cashing Store brands, Lone Star Funds and its limited partners profit from abusive lending practices that trap borrowers in a cycle of debt. DFC Global has advertised loans with APRs of over 300% in some states.

In their letter, advocates call on Lone Star Funds to require DFC Global to abide by the Federal Deposit Insurance Corporation's Small-Dollar Loan Guidelines, which suggest common-sense standards for these types of consumer loans. "Today, we're calling on Lone Star Funds to stop trapping borrowers in a cycle of debt," said Gynnie Robnett, campaign director at **Americans for Financial Reform**. "Lone Star and its investors should not be profiting from abusive practices."

[32 Community Organizations Call on Lone Star Funds to Stop Predatory Payday Lending](#)

Joint Press Release, 1/12

Today, UNITE HERE announced that 32 consumer advocacy and fair lending organizations are calling on Lone Star Funds to end predatory payday lending. The organizations published an open letter calling for fair lending practices at Lone Star Funds' DFC Global, a major payday lender.

The full letter can be found at www.LoanSharkFunds.org.

Lone Star Funds purchased payday lender DFC Global through its Lone Star Fund VIII vehicle in June 2014. Through DFC's Money Mart and Check Cashing Store brands, Lone Star Funds and its limited partners profit from abusive lending practices that trap borrowers in a cycle of debt. DFC Global has advertised loans with APRs of over 300% in some states.

INVESTOR PROTECTION AND THE SEC

[Ratings Agencies Still Coming Up Short, Years After Crisis](#)

Gretchen Morgenson, NYTimes, 1/8

The mistakes that led to the 2008 mortgage crisis can't happen again, right? Not so fast, particularly if you're talking about credit ratings agencies like Moody's Investors Service and Standard & Poor's. Eight years after these companies were found to have put profits ahead of principle when they assigned high grades to low-quality debt securities, some of the same dubious practices continue to infect their operations. That's the message in the most recent regulatory [report](#) on the companies from the Securities and Exchange Commission.

The credit ratings agencies played an enormous role in generating billions of dollars in losses during the debacle. Internal emails that emerged in congressional investigations were especially revealing of the problems at these companies. "We rate every deal," one Standard & Poor's employee famously [wrote](#). "It could be structured by cows and we would rate it."

[The Hidden—and Outrageously High—Fees Investors Pay for Bonds](#)

Micah Hauptman, Wall St. Journal, 1/13

If you are a retail investor who purchases or sells corporate or municipal bonds, do you know the costs you are paying to transact in those securities? Chances are you don't. Because of a regulatory loophole, broker-dealers are currently allowed to withhold essential pricing information from retail investors in fixed-income transactions. When a retail investor purchases stocks, the broker-dealer is required to disclose the transaction costs the investor paid in the form of a commission on the customer's confirmation statement. However, when a retail investor purchases bonds, the broker-dealer is not required to provide comparable disclosures of the transaction costs the investor paid in the form of a markup or markdown.

Because broker-dealers are not required to provide transaction cost information to retail customers in fixed-income transactions, and because retail investors don't see any transaction costs on their confirmation statements, retail investors may mistakenly believe that they aren't paying any trading costs at all. This opacity allows broker-dealers to charge higher transaction costs than they otherwise would if they were required to disclose. As a result, retail investors pay substantially more to trade in corporate and municipal bonds than they pay to trade in stocks, where disclosure is required.

[SEC settles with hedge fund billionaire Steven Cohen](#)

Renaë Merle, Washington Post, 1/8

Billionaire Steven A. Cohen has been in the crosshairs of federal prosecutors for nearly a decade. His hedge fund, SAC Capital, was once one of the most powerful on Wall Street, managing more than \$15 billion for investors and producing stellar returns for years. But prosecutors suspected that SAC's success was too good to be true.

U.S. Attorney Preet Bharara in Manhattan once called Cohen's hedge fund as a "veritable magnet for market cheaters." When, in 2013, SAC agreed to pay \$1.2 billion to settle charges that it tolerated rampant insider trading it was one of the highest-profile successes in the government's aggressive push against insider trading. Still, connecting Cohen, one of the richest people on the world, directly to those misdeeds has remained elusive. And on Friday, the Securities and Exchange Commission essentially conceded. The Wall Street watchdog settled its nearly three-year old civil case against Cohen, who was accused of failing to properly supervise employees, with no financial penalty.

[ETFs, variable annuities to get SEC exam scrutiny in 2016](#)

Patrick Temple-West, Politico, 1/11

Two popular retail investment products - exchange-traded funds and variable annuities - are among the new focus areas for SEC oversight in 2016, the agency said [today](#). In an annual statement of what's new for the SEC's "eyes and ears" division, the agency also said it will be scrutinizing firms' liquidity risk management and compliance with "Reg SCI," which went into effect in November.

For ETFs and variable annuities, the SEC said its focus will range from sales and trading practices, particularly in niche the market for leveraged and inverse ETFs. Fees charged by advisers working for private equity firms were a top concern for the Office of Compliance Inspections and Examinations in 2015. Separately, the SEC [said](#) Julie Riewe, the co-chief of the enforcement division's asset-management unit, is planning to leave the agency in February.

[US SEC reviews high-yield funds following Third Ave blowup](#)

Sarah Lynch, Reuters, 1/13

Jan 13 U.S. securities regulators launched a review of potential liquidity risks posed by high-yield bond fund managers in the aftermath of the collapse of Third Avenue's junk bond fund in December, according to a document seen by Reuters and people familiar with the matter.

The Dec. 9 collapse of Third Avenue's Focused Credit Fund marked the biggest mutual fund failure since the 2007-2009 financial crisis. It was sparked after heavy losses in the junk bond sector left the fund unable to meet a wave of demands by investors to withdraw their money.

[Consumer Action Urges the SEC to Rescind Proposed E-Delivery Rule for Shareholder Reports](#)

Printing Impressions, 1/14

See [AFR letter](#) on open-end fund liquidity risk management programs

MORTGAGES & HOUSING

[Goldman in \\$5.1B Settlement Over Mortgage Backed Securities Probe](#)

Dunstan Prial, Fox Business, 1/14

Goldman Sachs on Thursday announced a \$5.1 billion settlement with government investigators to resolve probes into the banking giant's handling of mortgage backed securities in the run up to the 2008 financial crisis. Goldman is the most recent of the big banks to face massive settlement charges for allegedly misleading investors over the quality of mortgage backed securities the bank packaged and sold as the U.S. was careening toward the financial crisis in the mid-2000s.

Citigroup, Bank of America and JPMorgan have agreed to pay tens of billions of dollars in total to settle similar charges in recent years. In a statement, Goldman said the settlement was an agreement "in principle" that will resolve civil claims by the U.S. Department of Justice, the New York and Illinois Attorneys General, the National Credit Union Administration (as conservator for several failed credit unions) and the Federal Home Loan Banks of Chicago and Seattle, relating to Goldman's securitization, underwriting and sale of residential mortgage-backed securities from 2005 to 2007.

[Democrats Call For Federal Investigation of Warren Buffett's Manufactured Housing Conglomerate](#)

ValueWalk, 1/13

The most recent report asserts that Clayton Homes and its subsidiaries discriminate against low and moderate-income minority borrowers and misleads them into high-cost loans that leave borrowers unable to pay exorbitant monthly loan payments. In the letter requesting the investigation, Congresswoman Waters and other senior House Democrats asked the agencies to use their investigative and enforcement authority under the Dodd-Frank Act, the Equal Credit Opportunity Act, and the Fair Housing Act to determine whether Clayton and its subsidiaries are violating federal law by engaging in unfair business practices that target minority communities.

"I was appalled by some of the findings in the recent articles," said Waters. "There is no place for these kinds of sleazy and deceptive practices. I was further taken aback by Warren Buffett's defense of Clayton's lending practices given the concerns that were raised by the articles earlier last year." The top Democrat further noted her fierce opposition to H.R. 650, the "Preserving Access to Manufactured Housing Act," in 2015 due to concerns raised by the articles, which specifically point to consumer abuses and harmful lending practices in connection with Clayton and its financing subsidiaries.

[Agency sets new rules for federal home loans](#)

Slyvan Lane, The Hill, 1/12

The Federal Housing Finance Agency (FHFA) released a new rule Tuesday limiting who can join a network of government-sponsored home loan banks. The rule excludes so-called captive insurers from membership in the Federal Home Loan Bank, which gives financial institutions access to cheaper capital to finance home loans. These insurers, which largely exist to cover risks of their parent companies, will be phased out of the network over 12 months.

The new rule eases restrictions from a September 2014 proposal, which would have immediately banned captive insurers from the bank. Since mid-2012, 27 new captive insurers were admitted as members, 25 of which are owned by parent entities themselves ineligible for membership, according to the FHFA.

[FHFA's Proposed Duty to Serve Rule – New Opportunities for Community Builders](#)

Barry Zigas, Rooflines, 1/8

Community housing and community development advocates could see new opportunities for financing from Fannie Mae and Freddie Mac in 2016 and beyond under a new draft rule proposed December 15, 2015. The Federal Housing Finance Agency (FHFA), the regulator and conservator for Fannie Mae and Freddie Mac, issued the proposed rule to carry out the "duty to serve" (DTS) requirements established for the companies in the Housing and Economic Recovery Act of 2008. This proposal replaces one issued in 2010 in draft form but never finalized; it is open for comment until March 17, 2016.

The law directs Fannie and Freddie to provide leadership and expanded financing opportunities in three specific areas: manufactured housing, affordable housing preservation and rural areas. The proposed rule also provides “extra credit” for activities in these three areas, with some exceptions, that contribute to increasing residential economic diversity. DTS activities in each area must serve very low, low or moderate income residents.

MUNICIPAL FINANCE

[The Watchdogs: Chicago paid record borrowing-related fees in 2015](#)

Chris Fusco and Mick Dumke, Chicago Sun-Times, 1/10

The cash-strapped city of Chicago paid \$74.7 million in fees last year to banks, law firms and other businesses that helped it borrow money — a record tab that will rise as more fees get tallied and one that comes as the city pays higher costs to dig itself out of its deep financial hole. Altogether, City Hall borrowed \$4.6 billion through the municipal bond market in 2015, with firms that worked on those deals netting \$28.3 million in fees, a Chicago Sun-Times examination of city records found. On top of that, City Hall paid \$46.4 million in other borrowing-related fees through the first three quarters of the year; fees for the fourth quarter have yet to be disclosed.

Most of the firms that help the city with borrowing and other financial transactions have long done business at City Hall. Some also have been political supporters of Mayor Rahm Emanuel, whose plan to fix the city’s finances relies in part on ending costly and risky financial deals from the past. But, to do that, the city keeps borrowing. And many of the fees associated with borrowing have gone up, a consequence of the city’s credit rating dropping to “junk” status in May. The downgrade also is resulting in the city paying higher interest rates on long-term borrowing deals — costs that can add up over decades.

[Mayor Rahm Emanuel blinks — again — on city borrowing](#)

Fran Spielman, Chicago Sun-Times, 1/13

For the second time this week, Mayor Rahm Emanuel on Wednesday did something he seldom, if ever, does: make a concession to the City Council on a major issue pivotal to city finances. At the request of the anti-Emanuel Progressive Caucus, Emanuel shrunk his massive borrowing plan — by another \$200 million — to ease concerns about lucrative swap termination fees paid to major banks.

Chicago has already paid \$250 million in similar penalties over the last five years. The \$200 million in water revenue bonds, dropped for the time being, were billed as the last “variable-rate conversion” involved in terminating those complex deals dating back to the tenure of former Mayor Richard M. Daley. It would have paid the banks at least \$100 million more.

[Emanuel Team Says It’s Just Looking For Better Bond Deals, Unions and Prog Caucus Say City Should Be Pushing Banks Harder Instead](#)

Mike Fourcher, Aldertrack, 1/12

While Mayor Rahm Emanuel got most of his new bond authorizations through Finance Committee yesterday, the Progressive Caucus and the Chicago Teachers Union say the city has not done enough to push back on banks over hundreds of millions of dollars of termination fees and other payments for swap deals. Meanwhile, taking an unusual step, Chicago’s Chief Financial Officer Carole Brown made herself available yesterday for a conference call with reporters to rebut those accusations.

CTU and the Progressive Caucus charge the city’s move to unwind its previous swap agreements for bonds is premature, and the \$100 million in termination fees the city plans to pay for ending variable rate bond deals so they can move them to fixed rate deals is too much. “The Mayor is voluntarily choosing to pay the termination fees,” says CTU spokesperson Matt Luskin. Instead, the city should be using political leverage and legal means to push banks into better deals.

[City could save money with public bank, study finds](#)

Bruce Krasnow, The Santa Fe New Mexican, 1/14

A feasibility study released Wednesday concluded that the city of Santa Fe could save money by establishing a public bank. Currently, when the city needs money to build roads, recreation centers, sewer lines, libraries or senior centers, it has to make its case to big investment firms and mutual funds that buy municipal bonds. A debt package is compiled,

analyzed, rated and then advertised — and whichever financial institution offers the lowest interest rate gets to loan the city money. The proceeds are deposited electronically, and the debt is paid off in small amounts over decades by water ratepayers, shoppers who pay taxes on goods and services, or perhaps those who play a round of golf.

But even during a time of historically low interest rates, borrowing funds has a cost to the government of 2 percent to 5 percent. That can be significant when amortized over decades. Santa Fe estimates it could have saved \$10 million since 2009 on its \$80 million of current debt had the government been able to borrow from its own community instead of Wall Street. The City Council in 2014 authorized the feasibility study on whether Santa Fe could pull its cash out of financial institutions and use the funds to establish a public bank. The analysis concluded that such a bank could sustain itself and make a profit for taxpayers, but the concept should move ahead slowly, with transparency, and start small with the city paying for its own borrowing before offering loans to other governments or businesses.

POLITICAL INFLUENCE OF WALL STREET

[Funding Bills Drive Lobbyists' Election-Year Agenda](#)

Kate Ackley, Roll Call, 1/12

K Street won't cede the year's policy battles to election-year politics just yet. Lobbyists particularly are eyeing opportunities in the budget and appropriations process, as lawmakers pledge a move to regular order. Even if Congress ultimately gives up on bringing the 12 individual appropriations bills to the floor, the private sector sees lots of opportunity to push clients' agendas, including regulatory matters, through the funding debate.

"That's something that opens up opportunities to do a lot more legislating," said lobbyist Andy Rosenberg of Thorn Run Partners. "It leaves a lot of room for monkey business and playing both offense and defense in the appropriations process." Business lobbyists say they also are pressing for mega priorities such as the Trans-Pacific Partnership trade, a Federal Aviation Administration reauthorization bill and a long-shot tax overhaul. Even if a tax bill or other measures don't see passage this year, lobbyists say they are working to influence these agenda items that could gain traction early in 2017 with a new president and a fresh Congress.

[Wall Street's Straight Man in Washington](#)

Joshua Green, Bloomberg, 1/14

Scott Garrett's committee is vital to Wall Street. "The rules of the road for handling money and anything with the SEC go through this committee," says Marcus Stanley, policy director of the nonprofit **Americans for Financial Reform**. "There's a ton of money at stake." In Washington, the committee is known as the ATM, because banks and hedge funds shower the chairman with contributions. After the Dodd-Frank financial law forced hedge funds to register with the Securities and Exchange Commission, Garrett, already the recipient of more Wall Street money than almost any other member of the House, got millions more. The banks pay to have a voice, ensure they're at the table when new rules are discussed, and insinuate themselves into the chairman's good graces.

Much of the money Garrett collects from Wall Street is supposed to be passed along in the form of party dues to the GOP's campaign arm, where it's used to help other candidates get elected. So the committee is also important to Republicans because it binds the party with the business community in a mutually profitable arrangement. But back in July, Garrett threw a wrench into this smoothly humming machine...

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Obama Emphasizes Need to Protect Workers' Retirement Savings](#)

Yuka Hayashi, Wall St. Journal, 1/12

President Barack Obama said in his State of the Union address Tuesday that protecting workers' retirement savings is a priority for the administration. The emphasis on secure nest eggs comes as lawmakers from both parties push to derail a proposed regulation that would rein in financial advisers who give retirement advice.

In his address, Mr. Obama reminded lawmakers—and the broader television audience—of the shift from company pensions to workers' responsibility for their own retirement savings. He underscore the importance of putting in place "benefits and protections that provide a basic measure of security" for workers. Mr. Obama has made it a priority to

update the decades-old rule on retirement advice. The Labor Department's so-called fiduciary rule is among the few pending policies that the administration hopes to complete before Mr. Obama leaves office, along with a trade pact with Asia and changes to the criminal justice system.

The financial industry has fought the proposal, fearing that the complex rule would add to their costs and make some of their products and services unprofitable.

[Don't read too much into Obama ignoring DOL fiduciary in State of the Union address](#)

Mark Schoeff Jr., InvestmentNews, 1/13

President Barack Obama told the nation on Tuesday night that he wants American workers to carry their retirement savings with them wherever their career path leads. But he didn't mention what should happen if they take their savings to a financial adviser. Like many people working in or writing about the investment advice business, I was anticipating that Mr. Obama would use his last State of the Union message to highlight a Labor Department rule that would raise advice standards for retirement accounts.

Even though Mr. Obama ignored the DOL fiduciary rule, that doesn't mean it's in trouble. The address was designed to be a legacy-building exercise for the president. For the most part, he kept it at the 35,000-foot level, rather than getting entangled in the weeds of regulations and legislation. One of his few explicit mentions of regulation was bipartisan-applause-worthy about cutting outdated regulations.

[Lawsuit Against DOL Fiduciary Rule 'A Possibility,' Chamber CEO Says](#)

Ted Knutson, Financial Advisor, 1/14

U.S. Chamber of Commerce President and CEO Tom Donohue said Thursday a chamber legal challenge is "a possibility" when the Department of Labor's proposed fiduciary rule for retirement plan advisors is finalized. Donohue attacked the rule as flawed during his annual State of American Business address, claiming it could limit small businesses' access to retirement services or lock them out of the retirement market altogether. However, he acknowledged he hasn't read the proposal.

Looking ahead to the new year, Donohue said the chamber will be aggressive in working for entitlement reform, labeling it as an absolute priority. Without fixes, he said, Social Security and Medicare won't be able to pay full benefits in 20 years. "If we make common-sense changes soon, we can ensure the nation's safety net remains intact for future generations," said Donohue.

[SEC's Best Interest Standard in Name Only Is No Model for DOL](#)

Barbara Roper, Huffington Post, 1/13

One of the perplexing mysteries in the debate over the Department of Labor's fiduciary rule is why securities industry representatives who profess to support a best interest standard under the securities laws are so adamantly opposed to the DOL rulemaking based on the exact same principles.

Industry's message is that there is something fundamentally wrong with the DOL rule proposal - that it is, as they like to say, "unworkable." In fact, however, industry's preference for Securities and Exchange Commission rulemaking tells us far more about inadequacies in the SEC's regulatory approach than it does about any imagined flaws in the DOL rule proposal. For an illustration of the shortcomings in the SEC's enforcement of the fiduciary standard, one need look no further than last month's settlement between the Commission and J.P. Morgan Chase & Co. for failing to provide adequate disclosures to customers regarding conflicts of interest in its advisory business...

[Framing the Fiduciary Debate: Contrasting Views on the DOL Rule](#)

Duane Thompson and Barbara Roper, IMCA, 1/7

STUDENT LOANS & FOR-PROFIT EDUCATION

[Apollo Global Management in Talks to Buy Apollo Education](#)

Matt Jarzemsky, Dana Cimilluca, and Austin Hufford, Wall St. Journal, 1/11

Private-equity firm Apollo Global Management LLC is in advanced talks to buy struggling education company Apollo Education Group Inc., according to people familiar with the matter. A deal between Phoenix-based Apollo Education and Apollo Global Management, a New York private-equity firm, could be worth about \$1 billion, some of the people said, with one of them adding an agreement could be reached in the next few weeks. Apollo Education had been in discussions with a number of private-equity firms since late last year, but Apollo Global Management is the only one still in the running now, this person said.

It is possible, as always, in such situations that there will be no deal, and another buyout firm could re-emerge. Apollo Education, which is unaffiliated with the buyout firm, said Monday that its board is in talks that "could potentially lead to a change of control of the company." It didn't name a possible buyer or give other details of the sales process.

[CEO of Troubled For-Profit ITT Tech Not Quitting After All](#)

David Halperin, Huffington Post, 1/12

With Donald Graham yielding to his son-in-law the CEO spot at his company, which owns for-profit Kaplan University, and with and the University of Phoenix this week putting itself up for sale, perhaps to private equity investors closely tied to President Obama, where is the stability in the leadership of America's large predatory for-profit colleges?

On that score, there's news. You can decide whether the news is good. On New Year's Eve, as you were preparing to celebrate with loved ones -- and not looking at news -- lawyers for for-profit ITT Tech were filing papers with the Securities and Exchange Commission disclosing, as the law requires disclosure of such things, that the company's CEO, Kevin Modany, who had announced in 2014 that he would resign in 2015, had that day "informed the Company of the rescission of his notice to resign." ITT's board of directors, in turn, decided to keep Modany in charge "on an at-will basis," which was the same basis on which Modany was running the company before he announced his plan to leave.

[Rohit Chopra Joins Department of Education](#)

David Halperin, Huffington Post, 1/13

Rohit Chopra, whose principled and determined leadership helped make the Consumer Financial Protection Bureau a strong force in addressing the abuses of predatory for-profit colleges, has joined the U.S. Department of Education as a senior adviser. Chopra is working directly for Under Secretary Ted Mitchell, focusing on protections for students, analysis of financial capacity and integrity of schools, education benefits for military service members, and openness of Department data, according to Department staff.

[The Obama Administration Just Hired One of Its Biggest Critics](#)

Shahien Nasiripour, Huffington Post, 1/13

[Borrower Defense Neg Reg Kicks off With Discussion on Role of Consumer Protection](#)

Allie Bidwell, Karen McCarthy, and Brittany Hackett, NASFAA, 1/13

[Can colleges compensate recruiters based on graduation rates?](#)

Aaron Lacey, Thompson Coburn LLP, 1/12

SYSTEMIC RISK

[The State of The Union Is A Union Against Donald Trump](#)

Jason Linkins and Christine Conetta, Huffington Post Podcast, 1/15

Finally, here's a phrase you may have heard if you've been tuning in to the Democratic debates: "Reinstall Glass-Steagall." Is this, like, some home repair tip, where you take out your plastic Steagall and put in a glass one? Probably! But to be 100 percent sure, we'll check in with Alexis Goldstein from **Americans for Financial Reform**.

[Not Too Big to Fail. Too Expensive to Exist](#)

Ryan Tracy, Christina Rexrode, and Emily Glazer, Wall St. Journal, 1/13

Forget too-big-to-fail. The operative question for the country's largest financial firms is increasingly whether the government has made it too expensive to be big. On Tuesday, insurer MetLife Inc. became the second major firm in the past 10 months to decide that the demands of being "systemically important" in the eyes of regulators may outweigh the benefits of continuing to operate at its current size. General Electric Co. made the same choice in April for its giant finance arm, GE Capital.

The moves show that while the U.S. government hasn't heeded populist calls to "break up" the nation's largest financial firms, those demands are at times being answered through indirect pressure from regulators. Next up could be MetLife rivals Prudential Financial Inc. and American International Group Inc., analysts say. The latter is facing a challenge from investors, including Carl Icahn, who argue in part that the firm is "too big to succeed" given the regulatory requirements it now must meet that restrain profits.

[MetLife's Planned Divestiture Is Latest Fallout From Stricter Regulation](#)

Ryan Tracy, Wall St. Journal, 1/12

MetLife, Inc.'s decision to divest a large piece of its U.S. life insurance unit is the latest fallout from stricter rules imposed on large financial firms following the 2008 financial crisis. While MetLife isn't the first firm to reshape itself after being labeled "systemically important," its decision is the most surprising to date. MetLife had been fighting to avoid having to make these sorts of changes, including pursuing a legal appeal that is set for a hearing before a federal judge in less than a month.

MetLife's decision also came before its new regulator, the Federal Reserve, published a draft of the rules MetLife and other companies designated as "systemically important financial institutions" will have to follow. The company appears to have concluded that even though the rules aren't clear yet, they are likely to penalize certain operations within MetLife to the point where it makes more sense to divest them.

[Breaking Up America's Big Banks is Key to Averting Future Financial Crises](#)

Scott Harris, Between the Lines, 1/13

Radio interview with Marcus Stanley, policy director with the group **Americans for Financial Reform**, conducted by Scott Harris.

[Heed the fears of the financial markets](#)

Lawrence Summers, Financial Times, 1/10