This Week in Wall Street Reform | August 19-25, 2017

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TRUMP ADMINISTRATION AND WALL STREET

Yellen Warns Against Erasing Regulations Made After the Financial Crisis | NY Times
“The events of the crisis demanded action, needed reforms were implemented and these reforms have made the system safer,” Ms. Yellen said in remarks prepared for delivery Friday morning at an annual monetary policy conference here.

The speech amounted to a warning to the Trump administration, which is pressing regulators to loosen or remove some of those regulatory changes.

“Already, for some, memories of this experience may be fading — memories of just how costly the financial crisis was and why certain steps were taken in response,” Ms. Yellen said.

Big U.S. Banks Could See Profit Jump 20% With Deregulation | Bloomberg
The deregulation winds blowing through Washington could add $27 billion of gross profit at the six largest U.S. banks, lifting their annual pretax income by about 20 percent.

JPMorgan Chase & Co. and Morgan Stanley would benefit most from changes to post-crisis banking rules proposed by Donald Trump’s administration, with pretax profit jumping 22 percent, according to estimates by Bloomberg based on discussions with analysts and the banks’ own disclosures...

Of the changes proposed in June by Treasury Secretary Steven Mnuchin, the one that would probably have biggest impact on profit is allowing banks to buy U.S. government bonds entirely with borrowed money. Three others could also boost income: counting municipal bonds as liquid, or easy-to-sell, assets; requiring less debt that won’t have to be paid back if a bank fails; and making it easier to comply with post-crisis rules.

Dodd-Frank is still here but banks have reasons to cheer Trump | Financial Times
Many of the recommendations from Mr Mnuchin — a Goldman Sachs alumnus — were exactly what Wall Street was looking for. Concessions on stress tests, living wills, liquidity and long-term debt requirements, Volcker: it was all in there, spread over 148 pages.

Americans for Financial Reform, a left-leaning interest group, noted that the report followed recommendations from The Clearing House, a powerful trade association, in 31 out of 40 specific cases. In some instances, the language of the government and the language of the lobbyists was hard to tell apart…
“We’ve reached a point in this administration when big banks and private-equity funds have placed so many people in the top jobs, they hardly need to worry about lobbyists and trade associations any more,” says Jim Lardner, a senior fellow at Americans for Financial Reform.

**What happened to the Trump campaign promise to close a big tax loophole for Wall Street billionaires?** | AFR Blog (Luisa Galvao)

Appearing in Louisville, KY this week at a forum with Senate Majority Leader Mitch McConnell and a group of business leaders, Treasury Secretary Steven Mnuchin vaporized that promise. Yes, he said, the Administration wants to close the carried interest loophole for hedge fund managers, but not for “other types of funds that create jobs” like private equity and real estate fund managers. The problem with that: private equity – which might more accurately be described as destroying jobs than creating them – is in fact the primary beneficiary of the loophole....

Real tax reform must include steps to make the financial services industry pay its fair share – that is the message of the Take On Wall Street campaign, a group of over 50 community groups, unions, consumer advocates and others, including Americans for Financial Reform, Communications Workers of America, Public Citizen, Institute for Policy Studies, the AFL-CIO and Americans for Tax Fairness.

**Icahn cuts official ties with Trump administration** | PoliticoPro

**Carl Icahn’s Failed Raid on Washington** | New Yorker

**Bankers fear White House turmoil means delay in filling key regulatory posts** | PoliticoPro

**Mnuchin, facing calls for resignation, defends Trump** | PoliticoPro

**CFPB AND CONSUMER FINANCE**

**Forced arbitration hurts you and protects corporations** | Sacramento Bee (Nancy Peverini)

In our own backyard, Wells Fargo demonstrated how bad a big bank can be. With the moral turpitude of Russian hackers, the bank targeted customers including low-income immigrants, the elderly and college students, to create at least 2 million fraudulent accounts.

The cover-up was as bad as the crime. With disputes relegated to closed-door arbitration instead of public courts, Wells Fargo’s scheme metastasized years longer than it might have otherwise. Now Trump and Congress are doing all they can to shield such bad-actor banks from accountability.

We deserve better. Consumer Attorneys of California has joined Treasurer John Chiang and the Consumer Federation of California to back Senate Bill 33 by Sen. Bill Dodd, D-Napa. This bill ensures customers don’t give up their day in court when a bank steals their identity to create fraudulent accounts. It is a crucial step needed to guarantee that Californians remain protected.

**Let Consumers Sue Companies** | NY Times (Richard Cordray)

When a data breach at Home Depot in 2014 led to losses for banks nationwide, a group of banks filed a class-action lawsuit seeking compensation. Companies have the choice of taking legal action
together. Yet consumers are frequently blocked from exercising the same legal right when they believe that companies have wronged them…

[O]pponents claim that plaintiffs are better served by acting individually than by joining a group lawsuit. This claim is not supported by facts or common sense. Our study contained revealing data on the results of group lawsuits and individual actions. We found that group lawsuits get more money back to more people. In five years of group lawsuits, we tallied an average of $220 million paid to 6.8 million consumers per year. Yet in the arbitration cases we studied, on average, 16 people per year recovered less than $100,000 total.

It is true that the average payouts are higher in individual suits. But that is because very few people go through arbitration, and they generally do so only when thousands of dollars are at stake, whereas the typical group lawsuit seeks to recover small amounts for many people. Almost nobody spends time or money fighting a small fee on their own. As one judge noted, “only a lunatic or a fanatic sues for $30.”

**Why Arbitration Is a Rigged System | NY Times (letter from John G. Jacobs)**

Arbitration and class action waiver clauses effectively immunize companies from illegal and fraudulent conduct. Virtually every sizable company has such clauses. There are several reasons that companies have these provisions: 1) arbitrations are almost impossible for customers to pursue because they are too expensive (class actions allow costs to be shared over thousands of wronged individuals); 2) arbitrations do not allow discovery of the institution’s internal records (as lawsuits do); 3) arbitrations are often required to be held in a city far from the wronged party; and 4) the arbitrators tend to favor the institutions, which can offer them repeat business. This is a perfect example of what many have called a system rigged against the average person.

**More Banking Follies | Common Dreams**

Keith Noreika, the acting Comptroller of the Currency, has said he has no plans to try to block the rule even though he thinks it is a bad rule. Indeed, in addressing the effects of the rule were it to go into effect he said: “Ultimately, the rule may have unintended consequences for banking customers in the form of decreased availability of products and services, increased related costs, fewer options to remedy consumer concerns and delayed resolution of consumer issues.” What he is, of course suggesting, is that if the rule were to go into effect, banks, confronted with the possibility of law suits and the need to defend their practices in front of juries instead of boards of arbitration, might decide to no longer issue credit cards or otherwise deal with consumers.

**Chamber and trial lawyers wage holy war over arbitration | PoliticoPro**

Now, with the Senate weighing a vote as early as next month to nullify the rule, banks and credit card companies aren't simply defending their business practices or touting the merits of arbitration. Instead, the Chamber and its coalition are on the attack, issuing dire warnings about trial lawyers suing companies out of existence to line their own pockets.

"This is a continuing battle in the long-standing conflict between the business community and the trial bar," said Matt Webb, senior vice president at the Chamber's Institute for Legal Reform. "The more the camel's head gets under the tent as far as limitations on arbitration, the harder it is for the tent to keep standing."

House Financial Services Chairman Jeb Hensarling (R-Texas) put it bluntly, calling the CFPB "the Trial Lawyer Enrichment Bureau" and labeling its arbitration rule the "Trial Attorneys Relief Act."
See statements by Americans for Financial Reform and Center for Responsible Lending.

**California arbitration bill heads to General Assembly | Northern California Record**
Democratic legislators in California are seeking to enact a new rule to allow consumers of financial products to litigate all contractual disputes, even in cases involving valid contracts that hold arbitration provisions both parties have previously given their consent. Similar to the Consumer Financial Protection Bureau (CFPB) rule, Senate Bill 33, which has already passed the Senate and moved on to the General Assembly, will allow consumers to litigate their cases in an open court of law. The action is largely seen as a way of countering the Trump administration’s effort to chip away at many of the environmental policies and financial regulation initiatives instituted during the two terms of President Barack Obama.

**CFPB ruling met with opposition from many sides | Palmetto Business Daily**

**How the CFPB’s arbitration rule hurts consumers and helps lawyers | Washington Examiner (Beau Brunson)**

**Don’t defang the watchdogs that protect US consumers | Alaska Dispatch News (letter to the editor)**
[Arbitration is such a bad deal that not one Alaskan has filed an arbitration suit against Wells Fargo since 2009. If Sens. Murkowski and Sullivan are serious about protecting Alaskans from financial scams, they need to vote to save the CFPB's arbitration rule. Congress needs to stop repealing and start legislating.](http://www.adn.com/opinion/2018/07/09/dont-defang-the-watchdogs-that-protect-us-consumers/)

**GOP governors question whether consumer chief violated Hatch Act | The Hill**
The Republican Governors Association (RGA) wants to know what Consumer Financial Protection Bureau (CFPB) Director Richard Cordray has been up to the past two months. The group is pushing Cordray to release his official schedule for June and July, which it believes contains key dates and events in which he has reportedly discussed his intentions to run for Ohio governor.

**Federal Reserve Questions Administration, Congressional Rollbacks of Wall Street Reform That Threaten CFPB | US PIRG (Ed Mierzwinski)**

**Wells Fargo troubles shift from phony bank accounts to real ones | Reuters**
After paying customers millions of dollars for opening phony accounts they did not want, Wells Fargo & Co (WFC.N) has said it is now grappling with the possibility it harmed customers by closing real accounts they needed, leaving them without access to funds.

Wells, the third-largest U.S. bank, disclosed in a regulatory filing on Aug. 4 that the Consumer Financial Protection Bureau (CFPB) is looking into the matter, one of many regulatory probes the bank faces over its treatment of depositors and borrowers.

A Reuters review of the regulator's complaints database found several instances of customers reporting financial hardship in recent years after Wells Fargo unexpectedly froze or closed their accounts.
**Wells Fargo Borrower Got Unneeded Insurance, and Ruined Credit** | NY Times (Gretchen Morgenson)

More than a year after he started battling with Wells Fargo, Mr. Dunlap said, he is still awaiting confirmation that his credit report has been corrected.

“I never missed a payment and I always had insurance,” Mr. Dunlap said in a phone interview. “But they forced additional coverage on my vehicle and it showed up on my credit report that I was 60 to 90 days late on my payments.” Repeated calls to Wells Fargo to get them to fix the error were unsuccessful, he said.

**Who Will Chamber Side With in Wells Fargo vs. Mom & Pop Shops?** | Daily Kos

**Wells Fargo customer believes bank owes him money, so he tries to steal chair from branch lobby** | Penn Live

See AFR statement, *"Wells Fargo’s Latest Attempt to Get Away with Fraud"*

**AmEx Pays $96 Million to Cardholders to Settle Discrimination Claim** | The Street

American Express Co. is resolving a government watchdog’s discrimination review by paying at least $96 million to customers in Puerto Rico and other U.S. territories who were charged higher fees and interest rates than cardholders in the rest of the country.

The New York-based lender must also develop a plan to ensure it provides comparable terms on loans and collections of past-due accounts to customers in its Atlantic and Pacific territories going forward, the Consumer Financial Protection Bureau said in a statement on Wednesday, Aug. 23. "Consumer financial protections are not confined within the 50 states," said Richard Cordray, the director of the agency established after the 2008 financial crisis to safeguard consumers against exploitation by lenders.

**UMB Bank charged for fraud protection/credit monitoring people didn’t receive** | Office of Comptroller of the Currency (press release)

UMB Bank in Kansas City, Missouri has entered into a cease and desist order with the OCC that resulted from the bank charging some customers for a fraud protection product even though they didn’t receive it. The order says the violation resulted from poor vendor management. The bank also received a $1.5 million civil money penalty.

**Waters wants open FDIC hearing on SoFi state charter** | PoliticoPro

SoFi, a six-year-old startup that provides financial services primarily to individuals it believes have high-earning potential, applied for an industrial loan charter from the state of Utah to enable it to take deposits and further diversify its business. Though Utah's state bank regulator assesses the application, the FDIC must also approve of SoFi's charter because it would require deposit insurance.

Community bankers and consumer activist groups called on the FDIC to reject SoFi's application last month, which Waters cites in her letter.

**OCC files motion to dismiss NYDFS fintech charter suit** | PoliticoPro
Keep CRA for fintech, but lose its geographic boundaries | American Banker (Kenneth H. Thomas)

Minnesota AG Latest To Sue Pension Advance Firms | Office of the Minnesota Attorney General (press release)

Report: Unsecured credit cards could hurt subprime cardholders | PoliticoPro

ENFORCEMENT

SEC to Drop Charges Against Ex-J.P. Morgan ‘London Whale’ Traders | Wall St. Journal
Federal regulators said they would drop civil charges against two former J.P. Morgan Chase traders at the center of the 2012 “London Whale” saga, ending the last U.S. case against traders involved in a debacle that cost the New York bank more than $6 billion. The decision by the Securities and Exchange Commission, disclosed in a court filing Friday, follows a similar move in July by U.S. prosecutors to drop criminal charges against the same ex-employees, Javier Martin-Artajo and Julien Grout. The former traders were accused of hiding the losses as they mounted inside a London outpost of J.P. Morgan. The government cases relied on a key witness, Bruno Iksil, who worked alongside Messrs. Martin-Artajo and Grout. Mr. Iksil, nicknamed the “London Whale” for his outsized bets, agreed in 2013 to testify against his former co-workers for their then-alleged roles in hiding the losses.

Noreika praises Justice for 'Choke Point' move | PoliticoPro

EXECUTIVE COMPENSATION

How Much is That CEO in the Window? | Bloomberg (Chris Hughes)

FEDERAL RESERVE

Fed board announces Sept. 1 vote on final derivatives rule | PoliticoPro

Fed names new payments strategy director | PoliticoPro

INVESTOR PROTECTION AND THE SEC

A Test for Trump's SEC Chief | Bloomberg
President Donald Trump’s new head of the Securities and Exchange Commission, Jay Clayton, will soon face a choice about how much transparency to require of companies that issue shares to the public. We hope he’ll come down on the side of sunshine…

[M]ore than 100 countries have recently adopted or promised to adopt a new requirement: When outside auditors report on companies’ accounting, they must provide details of any significant issues that required back and forth with the company to resolve. If, for example, they make management alter a valuation or take a special interest in the possibility of corruption, they must say so. The idea is both to provide useful insight and to encourage auditors to press management on questionable choices.
The U.S. was once at the vanguard of the reform: In 1978 and 2008, two separate commissions -- consisting of investors, accountants and corporate executives -- recommended the same changes that the rest of the world is putting into practice. But nothing happened.

**Shareholders Deserve Right to Choose Mandatory Arbitration | CLS Blue Sky Blog**

**What Dodd-Frank repeal would mean for brokerages | Financial Planning**

**Hedge fund fined over 'political intelligence' as SEC insider trading enforcement rebounds | Compliance Complete**

**SEC to further consider controversial stock market closing program | PoliticoPro**

## MORTGAGES AND HOUSING

**Travelers facing discrimination lawsuit | Insurance Business**

A federal judge has ruled that the National Fair Housing Alliance (NFHA) has standing to bring a discrimination claim against Travelers Insurance under the Fair Housing Act.

NFHA filed its suit in Washington, alleging that the insurer had committed racial, sexual and source-of-income discrimination by refusing to provide insurance to apartment owners renting to Section 8 tenants under the federal Housing Choice Voucher (HCV) program. The alliance said Travelers' policy affects black people and women the hardest, alleging violations of the Fair Housing Act and the District of Columbia Human Rights Act.

**Taking Out A Reverse Mortgage To Delay Social Security Might Not Be The Best Idea | The Consumerist**

According to the CFPB’s report, while increasing your benefits later in life might seem like a good idea, doing so by taking out a reverse mortgage likely isn’t the best option.

For instance, the agency found that the average reverse mortgage costs can exceed the lifetime benefit of waiting to claim Social Security.

The average length of a reverse mortgage for borrowers at the age of 62 is seven years. By the age of 69, the average borrow will pay approximately 60% in costs, when considering interest, insurance, and fees.

See [CFPB report on reverse mortgages](#) as an “expensive way to maximize Social Security benefits.”

**Loan sharks were meant to be eradicated. Now they’re back | Inequality.org (Chuck Collins)**

In Chicago’s Pullman neighborhood, Adrian Hamilton thought he was buying a house from Vision Property in South Carolina. Instead he signed a “contract for deed” that gave him all of the responsibilities and headaches of a homeowner, including repairs and paying property taxes and insurance, without actually owning anything.
He won’t see the title or any equity until he makes his final payment on a 15-year contract. Hamilton spent $12,000 to bring his house up to code, funds he may lose if he misses a payment on his contract.

Consumer advocates are alarmed at the resurgence of these “contract for deed” transactions that fleeced previous generations of aspiring homebuyers and that housing officials believed was snuffed out. Federal agencies, such as the Consumer Financial Protection Bureau, along with city and state officials, are scrambling to understand the scale of the trend and take action to protect residents.

**REGULATION IN GENERAL**

**Regulatory activity dips to new lows in Trump administration** | Bloomberg Government
The Office of Information and Regulatory Affairs, which reviews all significant federal regulations, processed 67 regulatory actions in the first six months of this administration, including notices, proposals, and final rules, compared with 216 actions by the same point in the Obama administration, according to government data.

**Stacking the Deck: The Regulatory Accountability Act’s Threat to Civil Rights** | American Prospect

**How Trump is doing at cutting regs** | The Hill
Trump has issued a series of executive orders both directing agencies to find their own rules to repeal and hand-picking which regulations must go, including former President Obama’s Clean Power Plan. Earlier this week, Trump signed an executive order to streamline and cut certain federal permitting regulations to speed up transportation, water and other infrastructure projects. Here’s a look at how successful Trump has been so far in cutting down regulations.

**The Regulatory Accountability Act and the Obsolescence of Formal Rulemaking** | Reg Review

**Would Rob Portman cost-benefit bill gut regulations, or keep them fair?** | Columbus Dispatch
Opponents are calling a measure authored by Ohio Sen. Rob Portman the most important bill you haven’t heard of. Portman’s office said the Regulatory Accountability Act is simply a bipartisan codification of requirements that already apply to many federal agencies that must demonstrate new regulations are subjected to a reliable cost-benefit analysis. But groups of scientists and consumer advocates say that’s already happening. The real intent, they say, is to allow regulated industries and the administration of President Donald Trump to stop new rules in their tracks. [I]t would influence the creation of rules on banks and insurers intended to avoid a collapse of the financial markets similar to the one that happened in 2008.

**Green group launches ad against regs reform** | The Hill
RETIREMENT INVESTMENT AND DOL FIDUCIARY RULE

Mr. Trump Sides With Wall Street: You Lose. | NY Times (editorial)
The fiduciary rule, properly enforced, would prevent banks, brokerage firms and insurance companies from steering customers into overly expensive products and strategies when comparable lower-cost option are available; such steering annually drains tens of billions of dollars in excessive fees from Americans' retirement savings.

Still the Trump administration persists in its efforts to derail the fiduciary rule. Why? Several financial firms that have already made strides in adapting to the rules may pine for a return to the old days, but that can't be the whole story. Another plausible explanation is fear on Wall Street that consumers and regulators might someday demand similar, customer-first standards for all financial advisers, not just those handling retirement accounts.

DOJ Hints at DOL Retreat on Class-Action Part of Fiduciary Rule | Wall St. Journal
The Justice Department submitted a letter Wednesday to the judge presiding over a lawsuit brought by Thrivent Financial for Lutherans against the Labor Department's fiduciary rule. The suit, one of several that have challenged the agency’s authority and scope in regulating how brokers handle retirement savings, is focused on part of the rule that allows investors to band together and bring class-action suits against advisers they say violated their fiduciary responsibility.

“The letter states that the mandatory arbitration waiver under the best interest contract exemption is likely to be mooted,” said Josh Lichtenstein, a tax and benefits attorney at Ropes & Gray. While Mr. Lichtenstein said this isn’t surprising given that the re-evaluation of the regulation ordered by President Donald Trump is focused in part on whether the fiduciary rule would cause an increase in litigation, “we have not had any clear indications until now of the potential outcome of this process.”

DOL fiduciary rule driving fundamental shift in variable annuity market | InvestmentNews

DOJ opposes fiduciary rule injunction | PoliticoPro

The DOL Rule - It Was The Best Of Times, It Was The Worst Of Times | Forbes


How Much Will the DOL Rule Cost Advisors? | Financial Advisor

FolioDynamix and Apex Clearing Partner to Deliver Next Generation of Automated Investment Advice | Business Wire

STUDENT LOANS AND FOR-PROFIT SCHOOLS

DeVos throws lifeline to 800 college programs Obama found questionable | Marketwatch
If the Department of Education decides career-training programs don’t adequately prepare their students for employment, those programs can now dispute the agency’s findings with their own data with no baseline requirements as to the size of the sample — as long as DeVos deems them to be reliable metrics. The announcement is the latest step taken by the Trump administration that slows
implementation of the gainful employment rule, which aims to measure whether job training programs are delivering on promises to prepare students adequately for a career.

“We really needed this rule to be able to say, 'At least there's something ensuring our taxpayer dollars are being spent at programs that actually help students,'” said Jennifer Wang, the director of the D.C. office for the Institute of College Access and Success, a nonprofit that promotes college access. “We can’t be wasting taxpayer dollars on overpriced ineffective programs that don’t prepare students for employment if that's the purpose of the program,” Wang added.

**U.S. Continues to Delay, Soften Gainful-Employment Rules | Inside Higher Ed**
The latest change, one of several the Trump administration has instituted to either delay or soften the so-called gainful-employment rules while it undertakes a wholesale rewrite of the regulations, postpones until next February the deadline by which programs subject to gainful employment must submit appeals of earnings data for their graduates. This is the second delay in that deadline.


**Critics Again Accuse DeVos of Aiding For-profit Schools at Students’ Expense | Diverse Issues in Higher Education**

**CFPB urges appeals court to reverse order freezing Education Department student debt collection | PoliticoPro**

**Why students need better protection from loan fraud | Los Angeles Times (Richard Fossey)**

**Thousands of former Corinthian Colleges students win debt relief | Mercury News**

**'Law Mart' | Inside Higher Ed**

**Massachusetts sues large Education Department loan servicer | PoliticoPro**

**Students Who Took Private Loans Through Corinthian Colleges Eligible for Relief | Wall Street Journal**


**SYSTEMIC RISK**

**With alumni in the White House, Goldman sees an opening | Financial Times**
The new team in Washington could not have come at a more important time for Goldman. The bank that received a $10bn bailout from US taxpayers in 2008 is looking to the Trump administration for another helping hand, this time from what Goldman sees as overbearing regulation exacerbating its current trading funk.

For years the main engine of the Goldman money machine has been trading securities, the division where Mr Blankfein and Mr Cohn won their spurs. It remains one of its biggest revenue streams, but is misfiring. Part of the blame lies with traders who made bad calls this year. But its predicament goes
deeper. Post-crisis regulation has curtailed the operation. In 2007 the bank's net trading revenue from bonds, currencies and commodities peaked at $16.2bn. Last year, notwithstanding some reorganisation, the rough equivalent was $7.6bn. Goldman's trading business is a shadow of its former self, albeit still highly profitable.

The main culprit in Goldman's eyes is the Volcker rule, a ban on banks placing market bets with their own money.

Regulators set to simplify some capital rules for smaller, less complex banks | PoliticoPro

Volcker repeal would reopen conflicts between advising clients and prop trading, study says | Compliance Complete

Record Inflows Boost Global ETF Assets To $4.3 Trillion, With BlackRock Leading The Way | Forbes

FSB launches recruitment for Secretary General position | Financial Stability Board

TAXES

Ryan leaves door open for mortgage interest deduction changes | PoliticoPro

OTHER TOPICS

FDIC: Quarterly bank profits hit record high | PoliticoPro

FDIC chief says record profits show banks not held back by regulations | PoliticoPro
Banks and the Trump administration argue that the sweeping 2010 Dodd-Frank Act has restricted lending, and the FDIC report did show that loans haven't been growing as fast as a clip in the last year. But [FDIC Chairman Martin] Gruenberg said the slowdown in loan growth is largely due to cyclical economic factors, adding that the numbers might also be "indicative of the fact that the industry is actually paying attention to credit quality."

"The issue seems to be more related to the question of demand for loans rather than the industry's ability to provide credit," he added.

Luxury labels turn their backs on Steve Mnuchin’s wife | NY Post

GAO report: Gold mined from Congo proves difficult to track | PoliticoPro

U.S. Treasury raises anti-laundering pressure on real estate industry, renews orders | Reuters

Identity Thieves Hijack Cellphone Accounts to Go After Virtual Currency | NY Times
JPMorgan pledges up to $2 million to fight racism, support human rights | Reuters