

This Week in Wall Street Reform | Dec. 19–Jan. 1, 2016

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CONSUMER FINANCE & THE CFPB

[Sued Over Old Debt, and Blocked From Suing Back](#)

Jessica Silver-Greenberg and Michael Corkery, NY Times, 12/22

Clifford Cain Jr., a retired electrician in Baltimore, was used to living on a tight budget, carefully apportioning his Social Security and pension benefits to cover his rent and medication for multiple sclerosis. So Mr. Cain was puzzled when he suddenly could not make ends meet. Months later, he discovered why: A debt collector had garnished his bank account after suing him for about \$4,500 the company said he owed on an old debt. Mr. Cain said he never knew the lawsuit had been brought against him until the money was gone. Neither did other Baltimore residents who were among the hundreds of people sued by the collector, Midland Funding, a unit of the Encore Capital Group, in Maryland State Court. Some of them said they did not even owe any money, or their debt had long expired and was not legally collectible, according to a review of court records.

In any case, the Encore subsidiary was not licensed to collect debt in Maryland. Yet when Mr. Cain brought a class action in 2013 against Midland Funding, the company successfully fought to have the lawsuit dismissed. If the plaintiffs wanted to try to recover their money, they would have to do so in private arbitration. And because class actions are banned in arbitration, Mr. Cain and the others would have to fight the unit of Encore — one of the largest debt buyers in the country with vast legal resources — one by one.

[Warren Buffett’s Company Wants to Sell you a Mobile Home \(Note to Minority Buyers: You Pay Extra\)](#)

Daniel Wagner and Mike Baker, Huffington Post, 12/26

After a few years living with her sister, Rose Mary Zunie, 59, was ready to move into a place of her own. So, on an arid Saturday morning this past summer, the sisters piled into a friend’s pickup truck and headed for a Clayton Homes sales lot here just outside the impoverished Navajo reservation. The women — one in a long, colorful tribal skirt, another wearing turquoise jewelry, a traditional talisman against evil — were steered to a mobile home sales agent who spoke Navajo, just like the voice on the store’s radio ads. He walked them through Clayton-built homes on the lot, then into the sales center, passing a banner and posters promoting one subprime lender: Vanderbilt Mortgage, a Clayton subsidiary. Inside, he handed them a Vanderbilt sales pamphlet.

“Vanderbilt is the only one that finances on the reservation,” he told the women. His claim, which the women caught on tape, was a lie. And it was illegal. It is just one in a pattern of deceptions that Clayton has used to help extract billions from poor customers around the country — particularly people of color, who make up a substantial and growing portion of its business. The company is controlled by Warren Buffett, one of world’s richest men, but its methods hardly match Buffett’s honest, folksy image: Clayton systematically pursues unwitting minority home buyers and baits them into costly subprime loans, many of which are doomed to fail, an investigation by BuzzFeed News and the Seattle Times has found.

[CFPB Eyeing Discrimination Claims Against Berkshire Unit](#)

Rachel Witkowski, American Banker, 12/29

An investigation into potential discriminatory lending practices of a company owned by Berkshire Hathaway is spurring attention by the Consumer Financial Protection Bureau. Vanderbilt Mortgage and Finance, a lending arm for the mobile

home builder Clayton Homes — which are both part of Warren Buffett's Berkshire Hathaway Company — has been accused of discriminating against minorities in a series of investigative stories by The Seattle Times, the Center for Public Integrity and BuzzFeed News.

The latest in the series, released Dec. 26 by the Seattle Times and BuzzFeed, alleges that minority borrowers were rushed into loans and then overcharged. Though the claims are being fiercely denied by the companies and even Buffett, the stories have drawn the eye of the CFPB. "The allegations of discrimination and predatory practices raised by the reporting are obviously very concerning to the Bureau," Sam Gilford, a spokesman for the CFPB, said in a statement Tuesday to American Banker.

[CFPB Charges Debt Collection Firm \\$3.1M for Robo-Lawsuits](#)

Rachel Witkowski, American Banker, 12/28

The Consumer Financial Protection Bureau is charging the law firm Frederick J. Hanna & Associates \$3.1 million over allegations that it illegally filed debt collection lawsuits against consumers.

The CFPB's proposed order, filed Monday in federal court, accuses the Georgia-based firm and three of its partners of using "deceptive court filings and faulty evidence" to churn out debt collection lawsuits against consumers. The consent order, if approved by federal court, requires the firm and the named partners to pay a \$3.1 million civil money penalty.

"The Hanna firm relied on deception and faulty evidence to coerce consumers into paying debts that often could not be verified or may not be owed," said CFPB Director Richard Cordray in a [press release](#). "Debt collectors that use the court system for purposes of intimidation should reconsider how their practices are harming consumers."

[California's attorney general urges federal regulators to tighten rules on payday lenders](#)

Mark Anderson, Sacramento Business Journal, 12/30

California Attorney General Kamala Harris on Tuesday sent a letter to federal regulators urging them to adopt strict regulations on payday lenders. The Consumer Financial Protection Bureau since spring of this year has studied payday and small-dollar lending practices, and it is close to proposing a nationwide regulatory rule for them. Payday loans are essentially a product that works like a paycheck advance for a fee. What often happens, however, is the customer who was short on one paycheck then falls short on the next paycheck, too.

"Together with California's existing lending laws, the bureau's proposals would bring needed protections to vulnerable California consumers who take out small-dollar loans, which too often are predatory and create a debt trap for fixed- and low-income borrowers," Harris said, in a [news release](#). Critics of payday loans say they create a cycle of debt for consumers, who end up paying the equivalent of very high interest rates in fees. The state's 2,000 payday lenders tend to be in counties and areas with high poverty rates, targeting populations most at risk of being caught in a cycle of debt, the attorney general said.

Moreover, many locations are in counties with high poverty rates and low education levels, effectively targeting communities most in need of emergency access to cash and most at risk of becoming trapped in crippling cycles of debt.

[Citizens Deliver 150K Petitions Demanding Postal Banking](#)

Dave Johnson, Huffington Post 12/18

We can continue to have a rigged system that enables and encourages predators to take advantage of the public, or we can offer public options that protect and provide services for the public. The Campaign for Postal Banking, Campaign for America's Future and dozens of other national consumer, labor, and civic organizations on Wednesday delivered petitions signed by more than 150,000 Americans, asking the U.S. Postmaster General to implement postal banking. Postal banking would provide low-cost financial services through the nation's 30,000 U.S. Post Offices...

While every other developed country has postal banking to serve their people, America's rigged, Wall Street-dominated system gives great banking services to people with money but squat to those who do not. As a result of this rigged system, nearly 28 percent of U.S. households are forced to turn to payday lenders, check-cashers and other financial predators. They end up having to spend an average of 10 percent of their income on fees and services. If this reminds people of the way the U.S. health care system only offers predatory insurance companies with no "public option,"

there's a reason. The U.S. Postal Service (USPS) could provide an affordable, high quality "public-option" alternative right now.

[Days of the payday loan could be numbered with new regulations on the horizon](#)

Cole Epley, Omaha World-Herald, 12/18

...There are about 60 such storefronts in metro Omaha where, in about 15 minutes, people like LaCroix can walk in with a photo ID, a pay stub and a postdated check, and walk out with an unsecured, short-term advance of as much as \$425. However, proposed federal rules expected to be made public in early 2016 mean such businesses' days could be numbered.

"The bureau is particularly concerned that lenders are offering these products without assessing the consumer's ability to repay, thereby forcing consumers to choose between reborrowing, defaulting or falling behind on other obligations," Kelly Cochran, assistant director of regulations for the Consumer Financial Protection Bureau, wrote in the organization's most recent agenda in late November.

[The Subprime Specter Returns: High Finance and the Growth of High-Risk Consumer Debt](#)

New Labor Forum, 12/28

With more than half of American consumers classified as having subprime credit scores, it is no surprise that subprime lending is once again on the rise. Making expensive loans to the underemployed and overextended may help fuel economic growth; however, it is neither just nor sustainable. Dependence on higher-risk subprime loans to boost spending seems to be a symptom of larger problems—low wages and income volatility...Even if the lenders themselves can charge high enough rates to make up for the delinquencies and defaults without failing, most families cannot avoid painful losses should they fall behind. Making subprime loans less predatory and more affordable (and thus less likely to cause defaults) is only one part of the solution.

Unlike the toxic home loans that led to the 2008 global financial crisis, the recent return of subprime is not in residential mortgages, but instead in auto, credit card, and personal loans. Approximately 40 percent of these types of loans that were made in 2014 were subprime. This time is not so different, however. The pressure to make loans regardless of a borrower's ability to pay is all too familiar. Given the attractive price that banks, private equity firms, and other financial institutions can pay for higher-yielding subprime loans, lenders who interact with consumers have incentives to engage in predatory, abusive, risky, and sometimes unlawful behavior to produce them. Of notable concern is the increasing investor appetite for bonds backed by pools of subprime auto loans.

[Wave of regulation looms in 2016](#)

Lydia Wheeler, The Hill, 12/29

The CFPB is planning a February rollout of its proposed rules to crack down on predatory payday lenders. The agency released a framework for the rules in March that considered forcing lenders to ensure a borrower's ability to repay a loan, limiting short-term credits to 45 days or less and establishing a 60-day "cooling-off" period for borrowers who take out three loans in a row. Payday lenders have already balked at the rules, calling them unnecessary and damaging for consumers who have nowhere else to turn for their short-term lending needs...

Regulatory experts are expecting the Consumer Financial Protection Bureau (CFPB) to propose new rules in 2016 to protect consumers' right to file or join a class-action lawsuit against a financial company. More and more companies are adding arbitration clauses to contracts that prevent consumers from resolving a dispute through the court system. Instead, the language, which can often be found in credit card and cellphone contracts, typically states that disputes about a product can only be resolved by privately appointed individuals or arbitrators. Dodd-Frank directed the CFPB to do a study of arbitration agreements and issue a report of its findings to Congress. After the agency completed the report in March, it announced plans to proceed with a rulemaking.

[Yes, Virginia, 'Die Hard' Is A Christmas Movie](#)

Jason Linkins, Huffington Post, 12/25

...Finally, you know what the best gift we received this year was? A government agency that's not been captured by outside interests. From **Americans for Financial Reform**, our pal Alexis Goldstein joins us to discuss the extent to which the Consumer Financial Protection Bureau has been a real mitzvah for ordinary Americans.

[CFPB responds to industry concerns about TRID rule liability](#)

Richard Andreano Jr., CFPB Monitor, 12/30

DERIVATIVES, COMMODITIES & THE CFTC

[CFTC chair slams budget deal](#)

Ben White, Politico, 12/21

So maybe the anti-regulatory crowd did score a big win the omnibus after all. Per statement to M.M. from CFTC Chair Timothy Massad on the budget deal: "The failure to provide the CFTC even a modest increase ... sends a clear message that meaningful oversight of the derivatives markets, and the very types of products that exacerbated the global financial crisis, is not a priority. The CFTC's appropriation simply doesn't match our vast responsibilities, especially as the markets we oversee have grown enormously in size, importance and technological complexity....

"The CFTC's hardworking staff has diligently implemented the directives of Congress to reign in excessive risk in the swaps market. ... But sensible regulation requires resources, and strong rules are meaningless unless they can be enforced properly. While passing the federal budget was an important step forward, and it's appropriate that the SEC received an increase, I am deeply disappointed that Congress and the Administration couldn't find even a small increase for the agency's critical work in a budget of \$1.1 trillion."

[Wall Street watchdog blasts omnibus deal](#)

Peter Schroeder, The Hill, 12/21

[Timothy Massad on What's Ahead in 2016](#)

Patrick Temple-West, Polirixopro (paywalled), 12/18

December was a tough month for Commodity Futures Trading Commission Chairman Timothy Massad.

Congress denied him the budget increase he requested for fiscal 2016. And Democrats, including a member of his own commission, are criticizing new rules the CFTC adopted this month to reduce risk in over-the-counter swaps trading.

Democratic Commissioner Sharon Bowen voted against the rules because she didn't think they were strong enough. Companies won't have to post collateral when trading the derivatives with members of their corporate family, or inter-affiliates.

In an interview this month with POLITICO in his ninth-floor CFTC office, Massad took stock of the blowback on the margin rules, which apply to companies like Cargill Inc., BP Energy Co. and a banks' affiliated brokerages. And he discussed what the agency will try to accomplish next year.

DODD-FRANK (AND CONTINUED ATTACKS)

[A big political battle over Dodd-Frank financial reforms is coming in 2016](#)

David Lazarus, LA Times, 12/27

Forgive and forget. Or just pretend that banks' greedy and reckless behavior never happened. That seems to be the sentiment behind what's certain to be one of the biggest political battles in 2016: whether we should roll back financial reforms put in place after the financial meltdown that nearly brought the global economy to its knees. At issue is what's known as Dodd-Frank, a.k.a. the Dodd-Frank Wall Street Reform and Consumer Protection Act, signed into law in 2010 as a response to financial firms' central role in jeopardizing — and in some cases devastating — the jobs, homes and livelihoods of millions of Americans.

The goal of the law was to rein in risky practices that exposed banks and other lenders to staggering losses, prompting the government to step in with billions of dollars in taxpayer-funded bailouts. To fail to do so, officials and economists said at the time, would have made a worldwide depression a near certainty. Yes, it was that bad. Now, however, Republican lawmakers have declared war on Dodd-Frank, saying the law was an overreaction to a situation that wasn't

as dire as people claimed. Rep. Jeb Hensarling (R-Texas), chairman of the House Financial Services Committee, said this month that the time has come to repeal "huge swaths of Dodd-Frank."

Tom Feltner, director of financial services for the Consumer Federation of America, said that's a recipe for trouble. "We wouldn't have gotten into the situation we got into seven years ago if the marketplace was sufficient to protect consumers," he told me. "The harms we saw at that time are clear evidence that system wasn't working."

ENFORCEMENT

[Barclays fined \\$13.75m by US regulator](#)

BBC, 12/29

Barclays investment bank is to pay more than \$13.75m (£9.3m) over accusations it let US customers make unsuitable mutual fund deals over five years.

The US Financial Industry Regulatory Authority (Finra) said Barclays Capital will pay more than \$10m in compensation to the customers affected. The bank will also pay a fine of \$3.75m. Barclays has not admitted wrongdoing in agreeing to the settlement, which includes a censure. The regulator said that between January 2010 and June 2015, Barclays failed to supervise adequately procedures that saw many customers swap one mutual fund for another. In many instances, the benefits of switching funds may have been undermined by the transaction costs, it added. More than 6,100 fund switches took place during the five-year period. A total of \$8.63m was lost by customers in this way during the five years and most customers were not warned by the bank of the cost of switching before doing so, the regulator said. Finra added that from March to August 2014, Barclays processed 1,723 fund transactions, or 39% of those it reviewed, that were inconsistent with its customers' investment aims, risk appetite or other investments.

EXECUTIVE PAY

[How to Justify a Breathtaking CEO Pay Ratio](#)

Theodore Kinni, Strategy + Business, 12/22

In August 2015, the U.S. Securities and Exchange commissioners voted 3-2 in favor of a new rule that requires public companies to report their CEO's total annual compensation as a ratio to their employees' median pay. The SEC didn't rush into this decision. Far from it. The vote came five years after the passage of the Dodd-Frank Act, which mandated the rule, and two years (and 280,000 public comments!) after the SEC announced that it would consider complying with that mandate. Moreover, the rule has plenty of loopholes. For instance, it doesn't apply to companies with annual revenues below US\$1 billion. And it doesn't take effect until 2017.

The delay and controversy were blamed on a number of plausible causes: that it was a ploy by unions to gain negotiating leverage; that it didn't measure anything of consequence; that it would cost too much to implement. But it's hard not to believe that the real reason corporate lobbyists and leaders weren't enthusiastic about a swift adoption of this rule was fear. As the Economic Policy Institute has shown, the ratio of CEO pay in major companies to the median pay of their employees is somewhere around 300:1. Formally reporting such ratios in stark terms would likely add fuel to the already roaring fire surrounding economic inequality. In 2014, according to a Pew Research Center survey, the people of Europe and the U.S. pegged economic inequality as "the greatest danger to the world."

FEDERAL RESERVE

[To Rein In Wall Street, Fix the Fed](#)

Sen. Bernie Sanders, NY Times, 12/23

WALL STREET is still out of control. Seven years ago, the Federal Reserve and the Treasury Department bailed out the largest financial institutions in this country because they were considered too big to fail. But almost every one is bigger today than it was before the bailout. If any were to fail again, taxpayers could be on the hook for another bailout, perhaps a larger one this time. To rein in Wall Street, we should begin by reforming the Federal Reserve, which oversees financial institutions and which uses monetary policy to maintain price stability and full employment. Unfortunately, an institution that was created to serve all Americans has been hijacked by the very bankers it regulates...

What went wrong at the Fed? The chief executives of some of the largest banks in America are allowed to serve on its boards. During the Wall Street crisis of 2007, Jamie Dimon, the chief executive and chairman of JPMorgan Chase, served on the New York Fed's board of directors while his bank received more than \$390 billion in financial assistance from the Fed. Next year, four of the 12 presidents at the regional Federal Reserve Banks will be former executives from one firm: Goldman Sachs. These are clear conflicts of interest, the kind that would not be allowed at other agencies. We would not tolerate the head of Exxon Mobil running the Environmental Protection Agency. We don't allow the Federal Communications Commission to be dominated by Verizon executives. And we should not allow big bank executives to serve on the boards of the main agency in charge of regulating financial institutions.

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

Hedge Funds Struggle with Steep Losses and High Expectations

Alexandra Stevenson and Matthew Goldstein, NY Times, 12/28

When David Einhorn, the founder of Greenlight Capital, plays host to his investors at the American Museum of Natural History in January, his guests will sip cocktails and dine under a 94-foot blue whale in the Milstein Hall. William A. Ackman will hold court one week later, at the New York Public Library at Bryant Park, where investors in his Pershing Square Capital Management will mingle in the historic halls of marble, wood and gold.

The lavish settings will be the same as in years past, but the circumstances will be strikingly different: Both billionaire hedge fund managers, and many of their peers, will be under pressure to explain to their investors how they lost so much money this year. As the final performance figures for the industry come in, one thing is clear: 2015 could not have ended soon enough for many managers and their investors. Hedge fund managers like Mr. Einhorn, Mr. Ackman and Larry Robbins have stunned investors with the depth of their losses — in the double digits for some of their investment portfolios through early December.

The Year the Hedge-Fund Model Stalled on Main Street

Sarah Krouse, Wall St. Journal, 12/31

It is getting a lot harder to sell hedge-fund-style investing to the masses. More “liquid alternative” mutual funds closed in 2015 than in any year on record, according to research firm Morningstar Inc., as inflows dwindled and performance weakened. The results show that enthusiasm is fading for what had emerged in recent years as one of the hottest products in asset management—funds that combine hedge-fund strategies like shorting stock with the daily liquidity of mutual funds. In all, 31 liquid-alternative funds have been closed this year, up from 22 a year earlier, according to Morningstar.

Wasted Opportunity: Hedge Funds Falter

Rob Copeland, Wall St. Journal, 1/1

Hedge funds start the New Year with something to prove—again. The money managers who charge some of the highest fees on Wall Street had a chance in 2015 to outperform a nearly flat stock market and end years of subpar performance. Instead, hedge funds lost more than 3%, on average, according to early estimates from hedge-fund-research firm HFR Inc., while the S&P 500 returned 1.4%, including dividends. Managers stumbled for myriad factors, including bad wagers on energy and currencies and an overreliance on certain stocks.

“Everything went wrong,” said Alexander Roepers, founder of \$1.5 billion hedge-fund firm Atlantic Investment Management. “There were very few places to hide.” But many hedge funds aren't backing away from new risks as they enter 2016. The use of leverage, or borrowed money, ticked up in the year's final weeks, according to a Dec. 28 private report from J.P. Morgan Chase & Co.'s prime brokerage. J.P. Morgan also tracked an 11% rise in so-called net exposure over the five weeks prior to the report, suggesting an increasing proportion of bullish bets on markets rising.

Inside the Billion-Dollar Battle for Puerto Rico's Future

Jonathan Mahler and Nicholas Confessore, NY Times, 12/19

There were plenty of reasons for the hedge funds to like the deal: They would be earning, in effect, a 20 percent return. And under the island's Constitution, Puerto Rico was required to pay back its debt before almost any other bills, whether

for retirees' health care or teachers' salaries.

But within months, Puerto Rico was saying it had run out of money, and the relationship between the impoverished United States territory and its unlikely saviors fell apart, setting up an extraordinary political and financial fight over Puerto Rico's future.

On the surface, it is a battle over whether Puerto Rico should be granted bankruptcy protections, putting at risk tens of billions of dollars from investors around the country. But it is also testing the power of an ascendant class of ultrarich Americans to steer the fate of a territory that is home to more than three million fellow citizens.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

[Fair Economy Illinois calls for Transaction Tax, holds protest](#)

Steve Hudomiet, Chicago Gazette, 1/1

Fair Economy Illinois, a statewide alliance that organizes people around issues that affect the common good, is demanding that State officials stop raising taxes on working people and generate revenue through a Financial Transaction Tax (FTT) on trades at the Chicago Mercantile Exchange, the Chicago Board of Options Exchange, and the Chicago Board of Trade.

To put the demands into action, 150 activists from the Moral Mondays coalition, organized by Fair Economy Illinois, held a protest downtown recently. After a rally at the Thompson Center, the demonstrators shut down LaSalle Street and proceeded to the Board of Trade, where they blocked the entrances to the building. Police officers responded by arresting 41 demonstrators. A bill proposing an FTT, also known as a "Robin Hood Tax" or "LaSalle Street Tax," came before the legislature in Springfield but has not garnered much support among elected officials in the city or the state.

According to Fair Economy Illinois, an FTT as small as .002% of the average trade at the exchanges could raise \$10 billion annually for Illinois. The FTT proposal comes at a time when Illinois has been without a budget since July, due to an impasse between Governor Bruce Rauner and the State Legislature. The clients of some State agencies, particularly those that provide social services, particularly feel the pinch from the budget cutbacks.

[You can't judge high frequency trading by the view from the stock pits, study finds](#)

Barbara Shecter, Financial Post, 12/28

INVESTOR PROTECTION AND THE SEC

[Why Investors Are Right to Be Distrustful](#)

NY Times Editorial Board, 12/23

The latest settlement between JPMorgan Chase and the Securities and Exchange Commission is a reminder of how easy it is to be fleeced and how little the S.E.C. does to protect investors.

Like some other banks and financial firms, JPMorgan steers its clients into pricey, in-house mutual funds and hedge funds, even in some cases where lower-cost comparable ones are available. It ran into trouble for failing to disclose the practice to clients, as required by S.E.C. rules. That is a low standard, but it was too high for JPMorgan, where "undisclosed conflicts were pervasive," according to the S.E.C. Under the settlement, the bank must pay regulators \$307 million and improve its disclosures.

The settlement also required JPMorgan to admit wrongdoing. Such admissions are supposed to expose and shame wrongdoers into changing their ways, as well as to alert customers to the violations. After the deal was done, the bank took little true responsibility for the misconduct; a spokesman described the problem as "disclosure weaknesses," adding that they were "not intentional and we regret them." But in fact, the violations were more like standard operating procedures than unintended lapses.

[A Kickback by Any Other Name, Stinks Just As Bad](#)

Teresa Tritch, NY Times, 12/29

When is a kickback not a kickback? When it's a *retrocession*. That term appears in [a recent settlement](#) between JPMorgan Chase and the Securities and Exchange Commission, in which the bank copped to improperly funneling money from its wealthy private-banking clients into outside hedge funds. In choosing outside funds to invest in, the bank almost invariably chose ones that were willing to pay "retrocessions" to JPMorgan, according to the S.E.C.

The Financial Times [lexicon defines retrocessions](#) as "kickbacks, trailer or finders fees." It also refers to them as a "fee sharing arrangement." According to the FT, "Critics suggest such a system encourages advisers to promote funds or products not because they are the most suitable for end-investors, but because they will receive a fee."

One way to toe a blurry line between kickbacks and legitimate payments would be to disclose any such payments to clients. After all, retrocessions come out of the fund that pays them and are thus an indirect cost to clients who invest in the fund.

[SEC can still work on a corporate political disclosure rule](#)

Lisa Gilbert, The Hill, 12/22

Last week's budget deal was mostly good. It lifted the unsustainable sequestration funding caps and kept the majority of poison-pill policy riders at bay. Despite the best efforts of many lawmakers and nearly 200 groups, though, some policy riders slipped in. These extraneous provisions, which have nothing to do with funding our government, lift the crude oil export ban, prevent Puerto Rico from filing for bankruptcy and attempt to block efforts to enhance disclosure of secret election spending. But a closer examination reveals that one of the riders doesn't really do what it purports to. And that is good news for everyone who cares about democracy.

The rider in question was designed to prevent the Securities and Exchange Commission (SEC) from forging ahead with a rule requiring public corporations to disclose political spending. But the rider won't really halt work on the rule. Here's why: The budget package's policy rider prohibits the SEC from using fiscal year 2016 funds to finalize the rule, but the SEC retains the authority to take important steps to prepare for a rule-making on this issue. In fact, the prohibition on finalizing the rule lasts only through the end of the fiscal year. September 2016 is a mere nine months away.

[Democrats to SEC: Don't give up on disclosure rule](#)

Tim Devaney, The Hill, 12/22

Democrats are pressing the Securities and Exchange Commission (SEC) to revive a rule that would require corporations to disclose their political spending. The government spending bill that Congress passed last week included a policy rider that blocks the SEC from issuing the controversial rule in the next fiscal year, but Democrats say there's nothing to stop the Wall Street regulator from developing the regulation in the meantime.

"Specifically, this provision does not bar the SEC from discussing, planning, investigating, or developing plans or possible proposals for a rule or regulation relating to the disclosure of political contributions," the Democrats wrote in a letter to SEC chairwoman Mary Jo White. The letter was signed by dozens of Democrats, including Sens. Chuck Schumer (N.Y.) and Elizabeth Warren (Mass.).

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Labor Department is right to require financial advisers to act in their clients' best interests.](#)

USA Today Editorial Board, 12/17

In 1975, Gerald Ford was president, inflation was unwhipped, and the Labor Department drafted new rules stemming from a landmark law known as the Employee Retirement Income Security Act, or ERISA for short. Since then, much has changed in the way people save for retirement. Employers have shifted much of the burden to employees. Defined benefit pension plans, which covered nearly 40% of workers in 1975, now cover just 18%. The 401(k) account, which did not exist then, has grown into a \$5 trillion industry. IRAs, which were in their infancy then, now account for roughly \$7 trillion. And yet the Labor Department's ERISA regulations have not changed. As a result, the investment advisory business has grown into a bewildering thicket of hidden fees and conflicts of interest.

STUDENT LOANS & FOR-PROFIT EDUCATION

[Rising Cost of College Is Pushing Black Students to Less Prestigious Schools with Poor Graduation Rates](#)

Manny Otiko, Atlanta Blackstar, 12/20

College has long been seen as a ticket into the middle class, but the rising cost of higher education is beginning to reflect some of the nation's economic and racial problems. According to a study by The Hechinger Report and The Huffington Post, many of the nation's large, publicly-funded colleges are admitting a much smaller number of Black students than the number that graduates from high school. And the numbers seem to be declining. A Huffington Post story stated that 22 percent of Virginia high school graduates are Black. But only 5 percent of students at the University of Virginia are Black. However, Virginia is not the only state with this problem. About 30 percent of high school graduates in Delaware are Black, but Blacks make up 5 percent of the student body. Thirty four percent percent of high school graduates in Georgia are Black, but they make up only 7 percent of college students in the state. So where are Black students going? According to HuffPost, many of them are opting to go to less expensive community colleges. Others are choosing to attend for-profit schools like ITT Tech or the University of Phoenix.

[How to Spot a “Deceptive” For-Profit College](#)

Darren Johnson, Campus News, 12/29

An excellent report on the scams perpetrated by for-profit colleges was recently on CBS's Sunday morning show “Full Measure with Sharyl Attkisson.” You can find the [full 23-minute feature on YouTube](#). Along with publishing Campus News, I was the full-time marketer and accreditation officer at a legitimate, public college up until recently, so this piece really caught my interest. The show took the tact that this is a taxpayer issue – “About 300,000 vets get up to \$21K a year in G.I. Bill money. In all, 1800 colleges – many of them for-profits – have received more than \$20 billion G.I. Bill tax dollars,” Attkisson narrates.

“It's a story told by thousands of vets who attended for-profit colleges where students are more likely to drop out, default on their loans, or graduate in dire debt without a useful degree. Of eight for-profits that get the most GI bill funds, seven have been targets of inquiries for possible violations including deceptive or misleading recruiting. Together, they received nearly a billion (\$939,086,610 million) tax dollars over two school years,” she continues. The seven worst violators are sponsored by: Career Education Corporation, Corinthian Colleges, Inc., DeVry University, EDMC, Apollo Education Group, Kaplan University and ITT Tech, according to a US Government Accountability Office Report on deceptive marketing that Attkisson cited.

[What was the recipe for Le Cordon Bleu's US school closings?](#)

Lisa Suhay, Christian Science Monitor, 12/18

A modern-day Julia Child's recipe for kitchen success might leave out the expensive culinary school education that could lead to the bad aftertaste of student debt. Student walk-outs and lawsuits alleging false claims of job prospects for graduates coupled with a recent shift by the federal government to demand job prospects match a high-priced education, may have led to Wednesday's announcement by Career Education Corporation that it intends to close all 16 Le Cordon Bleu culinary schools in the United States.

SYSTEMIC RISK

[U.S. Banking Regulators Step Up Rhetoric on Commercial Real-Estate Loans](#) – WRONG SECTION, GOES IN SYSTEMIC RISK

Ryan Tracy, Wall St. Journal, 12/18

U.S. regulators sent a strong signal to bankers that they are preparing to crack down on risky commercial real-estate lending, threatening to force banks to raise capital if necessary as they scrutinize the loans next year. The Federal Reserve, Federal Deposit Insurance Corp. and the Office of the Comptroller of the Currency issued a joint statement Friday that was the latest in a series of regulatory statements expressing concern about the booming sector.

“The agencies have observed substantial growth in many CRE asset and lending markets, increased competitive pressures, rising CRE concentrations in banks, and an easing of CRE underwriting standards,” said the three bank regulators, which collectively oversee more than 6,000 U.S. lenders. They vowed to “continue to pay special attention to

potential risks” in 2016, and said supervisors may ask for banks to raise more capital or take other actions to remedy risks that haven’t been addressed.

[Jeb Bush 'Open To The Idea' Of Reinstating Key Wall Street Regulation](#)

Daniel Marans, Huffington Post, 12/23

Republican presidential candidate Jeb Bush said he would consider reinstating a major Wall Street regulation, showing more willingness to police the financial sector than he has on the campaign trail to date. “I’m open to the idea” of reinstating the Glass-Steagall Act, the former Florida governor said Monday at Alton American Legion Post #72 in Alton, New Hampshire. But Bush said he preferred other ways to safeguard against risks to the entire economy.

“The simple, fastest way to deal with this is probably to raise capital requirements for larger banks,” he said. “That would be the best step going forward.” The Glass-Steagall Act, enacted during the Great Depression, created a strict separation between high-risk investment banks and deposit-based commercial banks. The theory behind it was that banks had gambled with ordinary consumers’ savings, plunging the entire economy into a depression when their bets did not pay off.

...Clinton’s financial reform plan would not reinstate Glass-Steagall’s separation between investment and commercial banking. Her Democratic competitors, Sen. Bernie Sanders (I-Vt.) and former Maryland Gov. Martin O’Malley, ardently back reviving the firewall regulation.

OTHER TOPICS

[What new presidents can \(and cannot\) do about regulation](#)

Stuart Shapiro, The Hill, 12/23

[Hospitality and Gambling Interests Delay Closing of Billion-Dollar Tax Loophole](#)

Eric Lipton and Liz Moyer, NY Times, 12/20

In the span of a mere 11 days this month, \$1 billion in future federal tax payments vanished. As congressional leaders were hastily braiding together a tax and spending bill of more than 2,000 pages, lobbyists swooped in to add 54 words that temporarily preserved a loophole sought by the hotel, restaurant and gambling industries, along with billionaire Wall Street investors, that allowed them to put real estate in trusts and avoid taxes.

They won support from the top Senate Democrat, Harry Reid of Nevada, who responded to appeals from executives of casino companies, politically powerful players and huge employers in his state. And the lobbyists even helped draft the crucial language. The small changes, and the enormous windfall they generated, show the power of connected corporate lobbyists to alter a huge bill that is being put together with little time for lawmakers to consider. Throughout the legislation, there were thousands of other add-ons and hard to decipher tax changes.