This Week in Wall Street Reform | Dec 29- Jan11

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CONSUMER FINANCE AND THE CFPB

CFPB names longtime agency critic to chair consumer task force | American Banker

The Consumer Financial Protection Bureau has appointed Todd Zywicki, a law professor at George Mason University's Antonin Scalia Law School, to chair a task force that will identify potential conflicts and inconsistencies in consumer finance law.

Zywicki has previously been a sharp critic of the agency, calling it "the most powerful and unaccountable bureaucracy that I've ever been aware of."

New CFPB Task Force Runs Counter to Agency Mission | Americans for Financial Reform Education Fund

The CFPB today announced a new “Taskforce on Federal Consumer Financial Law.” Here is our statement

“The CFPB is dropping the ball on enforcing and drafting federal rules to actually protect the public from rip offs and discrimination in lending,” said Linda Jun, senior policy counsel at

Americans for Financial Reform Education Fund. “Creating and hiring a new task force stacked with industry representatives and ideological opponents of regulation is one more move that runs directly counter to the CFPB’s basic mission.”

A Koch Shill Leading New Consumer Financial 'Taskforce' is Harmful to us All | UnKoch My Campus

Todd Zywicki, executive director of the Law & Economics Center at George Mason University, was named Chairman of the Consumer Financial Protection Bureau's (CFPB) newly formed “Taskforce on Federal Consumer Financial Law” yesterday. Zywicki's appointment to this position poses a real danger to consumers.

“The Bureau's decision to trust the leadership of a Koch shill is yet another example of the agency ignoring its mission to protect consumers like you and me,” said Jasmine Banks, Executive Director of UnKoch My Campus. “With the Bureau's new task force being charged with examining regulatory frameworks and laws that are supposed to protect workers' hard-earned incomes and keep families in their homes, Zywicki's track-record makes him clearly unqualified for the position.”

Column: Trump slashed consumer protections. So California is stepping up | LA Times

After years of the Trump administration steadily rolling back federal consumer financial protections, California has decided enough is enough. Gov. Gavin Newsom will unveil a California Consumer Financial Protection Law as part of his proposed 2020-21 state budget, to be introduced Friday. “As the Trump administration undermines and weakens the rules that protect consumers from predatory businesses, California is filling the void and stepping up to protect families and consumers,” he told me via email. Details at this point are scant. But it appears that California is trying to do is create a state version of the Consumer Financial Protection Bureau. That’s the federal agency created by the Dodd-Frank Wall Street Reform and Consumer Protection Act signed into law by President Obama in 2010.

New York Is Proposing the Creation of a ‘Public Venmo’ | Vice

For millions of people in the US, exclusion from the banking system is simply a fact of life. An estimated 14 million US adults don’t have bank accounts, forcing them to rely on exploitative check-cashing and payday loan services that charge high interest rates—and thus, eat away at funds needed for food, rent, and medical expenses.

Lawmakers in New York are trying to correct this with a new bill that would create a “public Venmo” system designed to include more people in the formal economy and stimulate local economic growth. In November, New York State Assemblymember Ron Kim, Senator Julia Salazar, and Cornell law professor Robert Hockett announced their Inclusive Value Ledger (IVL) proposal. If passed, it would create the country’s first publicly owned electronic banking platform, as well as a digital currency that can be exchanged for goods and services within the state.

The assault on consumer protection | The Hill

The past year was not a great one for consumers or the Consumer Finance Protection Bureau, the agency mandated to regulate predatory lenders and abusive debt collectors. The Trump administration and its allies among special interests have worked to weaken the bureau's rules and enforcement — they're even challenging the legality of the bureau itself. Americans are left to fend for themselves in an increasingly complex arena of financial services. The result: mounting debt that prevents people from meeting their most basic needs.

'We Need to Be a Technology Company.' Wells Fargo Struggles With Aging Systems. | The Wall Street Journal

At 5 a.m. one day last February, construction work tripped a sophisticated fire-extinguisher system in a Minnesota data center used by Wells Fargo WFC -0.44% & Co., knocking out power to servers housed in the building.

Customers soon noticed: the bank's online and mobile banking systems were out for hours. The outage brought into public view the technology failures that have been occurring behind the scenes at Wells Fargo for years. Antiquated systems have made it difficult for the bank to meet the demands of regulators, who are closely scrutinizing the firm after its 2016 fake-account scandal, according to more than a dozen current and former employees. The firm has struggled with tasks like monitoring employee pay and building a new platform for financial advisers, hampering key businesses.

Joint Letter: Coalition Letter to CFPB on PACE Loans | Americans for Financial Reform Education Fund

The undersigned consumer organizations write to urge the Consumer Financial Protection Bureau to ensure that the upcoming proposed rule to implement Section 307 in the Economic Growth, Regulatory Relief, and Consumer Protection Act (Public Law 115-174) regarding Property Assessed Clean Energy (PACE) loans adheres to the content and purpose of Congress's directive and respects the limits on the Bureau's authority under the Truth in Lending Act (TILA) and other federal statutes. We also write to urge the Bureau to delay issuing a proposed rule until it has collected and analyzed PACE data, shared its findings with stakeholders and the public, and issued an updated ANPR that takes into account its findings.

Once banned, credit card surcharges gain momentum | American Banker

U.S. merchants have long chafed at the high cost of accepting credit cards. They've also seen little choice but to pay the growing fees, since the alternative would alienate many plastic-welding customers.

But over the last seven years, a new option has gradually emerged, particularly for merchants that sell their wares to other businesses: imposing surcharges to recover the hefty interchange fees that they would otherwise pay to card networks and banks.

ENFORCEMENT

Former Wells Fargo execs may face criminal charges in coming weeks | American Banker

Multiple former high-level Wells Fargo executives are under criminal investigation in connection with the bank's fake-accounts scandal and could be indicted as soon as this month.

Federal prosecutors have been eyeing potential charges against individuals who were once in the San Francisco bank's upper management ranks, according to sources familiar with the situation. Until this point, the scandal's repercussions have fallen most heavily on lower-level employees, thousands of whom were fired, though some high-level executives have also lost their jobs and had compensation clawed back.

PRIVATE FUNDS

What is private equity, and why is it killing everything you love? | Vox

In July 2010, Doug Lowenstein, CEO of lobbying group the Private Equity Council, wrote a letter to PBS NewsHour after a segment it had aired on the private equity industry. He noted some "concerns" the group had with the show's piece, including that it had ignored "hundreds of examples of PE success stories." His chosen example: Toys R Us, which had been bought out by a trio of firms in 2005.

"[Y]ou don't report that Toys 'R Us was saved from likely bankruptcy by PE owners, that it has more employees working for it than it did before it was acquired, and that it is on the verge of returning to the public equity market," he wrote.

Toys R Us never went public; it went bankrupt seven years later, in 2017. And all those employees? They lost their jobs.

The Price Ain't Right: A Private Equity Quiz | Capital and Main

Test your knowledge about Wall Street's favorite alternative investment class.

Blackstone-KKR Hidden Hand in Ad Blitz Unleashes Washington Fury | Bloomberg

Confronted with the rare prospect of defeat on Capitol Hill, private equity titans Blackstone Group Inc. and KKR & Co. unleashed a national advertising blitz last year against legislation that threatened their investments in health-care companies valued at $16 billion.

The $53.8 million campaign sought to derail a crackdown on surprise medical billing, in which patients are unexpectedly hit with exorbitant charges, often following visits to emergency rooms. Television ads depicted patients in trauma being denied care and urged viewers to contact lawmakers, dozens of whom were identified by name.

The Moral Hazard of Dealing With China | The Atlantic

Dozens of Sino-foreign institutes and hundreds of joint educational programs exist in China. Among them, the Schwarzman Scholars program is particularly vulnerable to pressure from the CCP. That's because, unlike other U.S.-China education initiatives, it has no American academic institution as a partner. Its primary institutional tie to the United States is the private education foundation of Stephen Schwarzman, a billionaire with extensive business dealings in China. In 2007, a year before his private-equity firm, Blackstone, opened an office in Beijing, Schwarzman's firm announced that China Investment Corporation, China's state-investment vehicle, would acquire a $3 billion stake in the company. (China sold the stake in 2018.)

How private equity can write the paycheck of a public-company CEO and not have to disclose it | Business Insider

Gannett CEO Mike Reed has been tasked with drawing up as much as $300 million in cost cuts to America's largest newspaper publisher after a merger last year brought the USA Today publisher and a large local-newspaper chain under the same roof.

His assignment, which will inevitably lead to people losing their jobs, may not be the most enviable role in the news industry today.

But thanks to an arrangement with a private-equity firm, Reed's compensation will stay shielded from the public — and his own employees — as he takes an ax to the business. And that's despite Gannett being a public company.

The Biggest Haul Yet for Private Equity — And Who Got It | Institutional Investor

A total of 202 U.S. private equity funds closed with a combined $301.3 billion in commitments, according to data firm PitchBook. This eclipses the previous post-recession record of $241.7 billion in 2017.

In that year, PitchBook recorded 257 fund closes — meaning the average U.S. fund closed with about $940 million. In 2019, that figure jumped to nearly $1.5 billion, thanks in part to several mega funds which wrapped up during the 12-month period.

Blackstone's eighth buyout fund secured a record-breaking $26 billion.

Private-Equity Deal Making Could Slow Up as Election Day Nears | The Wall Street Journal

Private-equity firms tapped the brakes on deal making in 2019, but industry experts say some investors are likely to hit the gas again in early 2020 as they try to get deals done before the fall presidential election.
"Some are saying, 'We won't want to sell in the second or third quarter,'" said Uri Herzberg, a partner and a member of both the mergers-and-acquisitions and private-equity teams at law firm Debevoise & Plimpton LLP. "Many are starting now so the election overhang isn't in everyone's mind."

Opening the Door to Unicorns Invites Risk for Average Investors | The New York Times

Regulators are considering easing regular people's access to the private market where promising start-ups get their funding.

Many investors may have fantasized about those "if only" investments. If only I had invested in Peloton. Or Uber. Or Lyft.

For most people, though, that's not possible — and not just because they don't have a million dollars to drop on a billion-dollar idea. Under current law, only individuals with at least

$200,000 in annual income or $1 million in assets (outside of their home) are “accredited investors,” or those qualified to invest in private securities.

Now, the nation’s top securities regulator is contemplating how to let ordinary people get in on companies before they go public.

Jay Clayton, chairman of the Securities and Exchange Commission, has argued that smaller investors shouldn’t be shut out from these “potentially attractive” investments.

Buttigieg blames private equity firms for surprise billing, one of his bundlers, a Blackstone exec, is linked to the problem | The Intercept

South Bend Mayor Pete Buttigieg’s health care plan takes on the predatory practice of surprise medical billing, which occurs when patients receive astronomical medical bills for health care they received at an in-network facility without knowing that the service or provider was out of network. In his Medicare for All Who Want It plan, the Democratic presidential candidate pledges to ban the practice, also known as balance billing, which he astutely describes as “a deliberate business strategy fueled by profit-driven firms in private equity.”

Private Equity Ran Amok in the 2010s | Bloomberg

Twenty years ago, writing in Fortune magazine, I dubbed the 1990s “the Nasdaq Decade.” And why not? Practically from the moment the browser company Netscape went public, the tech stocks that dominated the Nasdaq stock exchange only went up. Cisco Systems Inc. rose 125,000% in the 1990s. Dell Technologies Inc. was up 72,000%. Shares of EToys quadrupled on their first day of trading in 1999. The Nasdaq itself rose 685%.

But a few months after the decade ended, the internet bubble burst, and by 2002 the Nasdaq had declined 78%. The tech highfliers that had soared in the 1990s either went bankrupt or their valuations crashed back to earth.

Investors Urge Private-Equity Industry to Improve Transparency | The Wall Street Journal

Allianz SE, one of the world’s largest investors, wants private-equity firms to standardize how they report performance and fees, throwing its weight behind efforts to improve transparency and reduce the risk of fraud in the fast-growing $4.1 trillion industry.

The German insurance company’s Allianz Capital Partners unit, which manages more than €32 billion ($35.8 billion) in private-equity investments, has joined a new coalition that is pushing to create common standards for reporting.

Private equity managers scoop bigger pay and bonus awards | Financial Times

Salary and bonus payments are a jealously guarded secret within private equity, where the rapid profusion of fund launches is fuelling demand for experienced staff, particularly senior executives.

A rare insight into the envy-inducing rewards paid by private equity companies was provided by Heidrick & Struggles, a Chicago-based executive search company.

Performance-based payments, known as carry in the industry jargon, of between $112.5m and $120m were collected by 10 managing partners at firms running assets between $2bn and $10bn. Managing partners are often co-founders of private equity companies and can earn large carry payments even at smaller firms.

Eighteen managing partners at firms with between $1bn and $2bn in assets pocketed an average of $53.4m in carry. Even the smallest firms, those with assets of less than $500m, paid an average of $20.8m to seven managing partners.

MORTGAGES AND HOUSING

Americans Are Taking Cash Out of Their Homes—And It Is Costing Them | The Wall Street Journal

Many U.S. homeowners who need cash are taking it out of their properties. The trade-off: higher interest rates. Over the past two years, a big chunk of homeowners took on higher interest rates when they refinanced to tap their home equity. These cash-out refinancings, as they are known, free up money homeowners can use to pay down credit-card debt, renovate or invest in a new property. Nearly 60% of cash-out refinancings in 2018 came with higher interest rates, the biggest share since before the financial crisis, according to Black Knight Inc., BKI -0.38% mortgage-data and technology firm. This year, that number fell to around 44% of cash-out deals, but it remains at more than three times its average between 2009 and 2017. This corner of the mortgage market illuminates the crosscurrents in the U.S. economy: After roughly a decade of rising home prices, homeowners are flush with record amounts of home equity they can tap. But many Americans remain short on cash and are increasingly relying on debt to fund their lives.

Waters Statement on Trump Administration Proposal to Roll Back Fair Housing Protections | Rep. Maxine Waters

This proposed Affirmatively Furthering Fair Housing (AFFH) rule is yet another attack on fair housing protections that will be detrimental to all people, including minorities, women, families with children, and persons with disabilities. The Fair Housing Act requires that federal agencies and recipients of federal housing funds take proactive steps to affirmatively further fair housing in order to help remedy years of government-supported segregation and inequality. However, this reckless Administration has decided against meaningfully enforcing the law by issuing a rule that would focus on encouraging deregulation of local housing markets rather than focusing on reducing barriers to fair and equal housing opportunity."

News Release: AFR Ed Fund Criticizes HUD Proposal for Thwarting Fair Housing Goals | Americans for Financial Reform Education Fund

Yesterday, the Department of Housing and Urban Development (HUD) released its proposed Affirmatively Furthering Fair Housing (AFFH) rule.

The AFFH requirement in the Fair Housing Act requires all recipients of HUD funding to take affirmative steps to expand housing opportunities in their communities, and to alleviate historical patterns of discrimination and exclusion in housing.

“Fifty years after the enactment of the Fair Housing Act, we are disappointed that HUD has chosen to propose a rule that thwarts the very purpose of affirmatively furthering fair housing by undermining a critical tool for dismantling segregation.” said Linda Jun, senior policy counsel at Americans for Financial Reform Education Fund. “By making AFFH ineffective, HUD’s proposal allows families of color and other excluded communities to be denied access to housing opportunities.”

NCRC CEO Jesse Van Tol Statement On Affirmatively Furthering Fair Housing Notice Of Proposed Rulemaking | NCRC

Today, the U.S. Department of Housing and Urban Development released a notice of proposed rulemaking (NPRM) for changes to the Affirmatively Furthering Fair Housing (AFFH) rule. While the National Community Reinvestment Coalition (NCRC) is currently analyzing the NPRM, preliminary assessments are concerning.

NFHA Opposes HUD Proposal to Dismantle Fair Housing Act, Weaken Enforcement **| National Fair Housing Alliance**

Washington – The National Fair Housing Alliance (NFHA) today warns of an alarming new Department of Housing and Urban Development (HUD) proposal that would permanently weaken enforcement of fair housing laws and allow communities to perpetuate housing discrimination and segregation. This latest move by HUD reflects what has become a sustained campaign by the Trump Administration to dismantle civil rights protections under the Fair Housing Act.

HUD’s proposal comes as the number of housing discrimination complaints reached a record high last year, as noted in NFHA’s 2019 Fair Housing Trends Report, and a comprehensive undercover *Newsday* investigation revealed rampant discrimination by local real estate agents. In response, NFHA published solutions to help stop real estate sales discrimination, but this new proposal from HUD would obstruct those and other efforts to advance fair housing.

Housing Department Proposal Would Hamstring the Fair Housing Act | The Leadership Conference on Civil and Human Rights

Washington – Vanita Gupta, president and CEO of The Leadership Conference on Civil and Human Rights, issued the following statement on the Department of Housing and Urban Development’s proposed rule on Affirmatively Furthering Fair Housing regulation:

“This proposed rule flies in the face of our federal fair housing laws. Secretary Carson is seeking to take away the very tools that help combat the lasting impact of housing discrimination and government-backed segregation. This proposal would leave people of color, women, and other protected communities already harmed by unfair and unequal housing policies at a further disadvantage — and with no real improvement to the affordable housing crisis. We urge Secretary Carson to scrap this proposed rule.”

STUDENT LOANS AND FOR-PROFIT SCHOOLS

GOP Senator Offers Lame Counter to Bipartisan Bill Protecting Vets from Predatory Colleges | Republic Report

Currently, for-profit colleges are not allowed to receive more than 90% of their revenue from federally funded student aid. We should make sure that all institutions of higher education are fairly held to this requirement and providing quality education.

Ashford University to Split From Parent Company | Inside Higher ED

Educational technology services company Zovio has stated its intention to spin off Ashford University, the for-profit institution it has been trying to convert to a nonprofit for more than a year.

In a statement on Monday, Zovio said it had entered into a nonbinding agreement to transfer ownership of the university to an independent nonprofit entity created specifically for the purpose of the conversion transaction. The nonprofit entity is creatively named the "Ashford University non-profit entity (AU NFP)."

This course of action would “cause Ashford to separate from the company through a series of conversion and merger transactions,” the statement said.

Caldwell University to pay $4.8M for part in defrauding federal veterans education program | NorthJersey.com

Caldwell University has agreed to pay the U.S. $4.8 million to resolve allegations that it participated in a scheme to defraud a federal veterans education program, according to the U.S. Attorney's New Jersey District Office On Friday.

U.S. Attorney Craig Carpenito estimated the government paid over $24 million in tuition benefits to the university to provide online classes to "thousands" of veterans under the Post 9/11 Veterans Education Assistance Act. Those classes were in fact developed, taught and administrated by a subcontractor, Ed4Mil correspondence school in Pennsylvania, which was not approved to received education benefits.

Defunct Globe University, Minnesota School of Business pushed to liquidate assets and repay students | St. Paul Pioneer Press

Minnesota Attorney General Keith Ellison wants a now-defunct chain of for-profit colleges to liquidate its remaining assets to repay the students it defrauded. Ellison’s office filed a motion in U.S. bankruptcy court Jan. 3 seeking to either dismiss a Chapter 11 bankruptcy filing by Globe University and the Minnesota School of Business or to convert the case to a Chapter 7 asset liquidation. The court documents also provide new details about how school leaders moved nearly $18 million in proceeds from real estate sales to owner Terry Myhre and his family days after a judge found the schools committed fraud. The change Ellison is requesting would mean the schools’ remaining real estate assets would be sold off to fund payments to creditors. He says the Chapter 11 filing currently in federal court violates the spirit of U.S. bankruptcy laws.

[Bennet-Gardner Deadline Passes For Answer On Extra Debt Relief For Art Institute Of Colorado Students]| Colorado Public Radio

Colorado Sens. Michael Bennet and Cory Gardner have requested that the U.S. Department of Education wipe out even more debt for students who attended the now-defunct Art Institute of Colorado. Their Dec.13 letter, which asked for a response by Jan. 3, has so far gone unanswered.

The Education Department acknowledged to CPR News Monday that it's received the letter and is reviewing it.

SYSTEMIC RISK

Quarles draws bipartisan fire as Fed winds down deregulation drive | Politico

The Federal Reserve's top regulator, Randal Quarles, is facing heat from both sides of the aisle as his two-year campaign to pare down the massive, post-crisis rulebook for the nation's banks draws to a close.

Democrats say Quarles, an appointee of President Donald Trump, has gone too far in rolling back important regulations designed to prevent a repeat of the 2008 financial meltdown; Republicans argue that he hasn't done enough to clear away cumbersome provisions that they say are stifling growth.

Governments in Europe Find Workarounds to Bail Out Ailing Banks | The Wall Street Journal

A cluster of recent bailouts of ailing European lenders shows how governments are getting around post-financial crisis rules meant to make sure investors and shareholders take losses as a condition of receiving taxpayer funds.

It is a continuation, critics say, of Europe's old habit of injecting public money into the financial system as a first resort, many times keeping zombie banks alive and prolonging the painful cleanup of the sector.

TAXES

How Big Companies Won New Tax Breaks From the Trump Administration | The New York Times

Corporate executives, major investors and the wealthiest Americans hailed the tax cuts as a once-in-a-generation boon not only to their own fortunes but also to the United States economy.

But big companies wanted more — and, not long after the bill became law in December 2017, the Trump administration began transforming the tax package into a greater windfall for the world's largest corporations and their shareholders. The tax bills of many big companies have ended up even smaller than what was anticipated when the president signed the bill.

ELECTIONS, MONEY, AND POLITICS

What an Elizabeth Warren Presidency Would Look Like | In These Times

If Elizabeth Warren wins the Democratic presidential nomination, she will have prevailed against daunting odds. She will have overcome a potentially career-ending scandal (the DNA test debacle) and defeated not only the runner-up in the 2016 Democratic presidential contest, but a popular two-term former vice president. If she defeats President Donald Trump, it would mean an economic populist defeated a corrupt plutocrat, that the most leftwing Democratic presidential nominee in history defeated a racist reactionary, that a woman defeated America's most famous misogynist. It would be an extraordinarily powerful moment. Her ambitions for the presidency are not small. Warren proposes to rewrite the rules of the economy by reining in capital, empowering labor and significantly expanding the welfare state. To understand how Warren would create big structural changes as president, it's helpful to look at how she has made change in the past.

OTHER TOPICS

Want to Do Something About Climate Change? Follow the Money | The New York Times

If you asked us why a dozen people sat on the floor next to the A.T.M. in a Chase Bank branch on Friday, waiting for the police to arrest us for this small act of civil disobedience, we would come up with the same answer as the famous robber Willie Sutton: "Because that's where the money is."

We don't want to empty the vaults. Instead, we want people to understand that the money inside the vaults of banks like Chase is driving the climate crisis. Cutting off that flow of cash may be the single quickest step we can take to rein in the fossil fuel industry and slow the rapid warming of the earth.
JPMorgan Chase isn't the only offender, but it is among the worst.

The Struggle to Avoid Becoming The 'Dumb Utility' | American Banker

As the speed of technological change increases, banks' biggest advantage over competitors lies in one of their principal complaints — their high level of regulation. That barrier has made it difficult for the Amazons and Facebooks of the world to break through. It has also led some tech firms, including Google, to partner with banks, rather than try to displace them entirely. But even these types of arrangements may not necessarily be advantageous to banks.

Citigroup is "very conscious around not being the dumb utility," Citigroup's chief executive, Michael Corbat, said at an industry event late last year, speaking of its new partnership with Google on consumer checking accounts. He said the company is intent on "not giving away unconsciously the client-customer ownership that's there."

Corbat's comment aptly sums up the risk as banks move forward. In trying to adapt and survive in an increasingly tech-dominated world, they may unintentionally give up their most valuable commodity — their relationship with the consumer, and the data that comes with it.

Everyone Wants to Be a Bank | The New Republic

Before the 1980s, banking was a sleepy, hierarchical business that played a minor role in the economy. Banks arranged financing for individuals and businesses; they took deposits and handed out loans. They were intermediaries, servants to economic life. Their profits came from interest income: the difference between how much they paid depositors in interest and how much they charged borrowers. But after the 1980s, regulatory changes legalized new sources of revenue, and banking became one of the most profitable sectors of the economy. Soon, banking was running the show.