This Week in Wall Street Reform | October 6 - 12

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THE TRUMP ADMINISTRATION, CONGRESS & WALL STREET

Poll: A majority of Democratic and Republican voters want tougher Wall Street regulations | Vox

Democratic primary voters in the four crucial early states of Iowa, New Hampshire, Nevada, and South Carolina overwhelmingly want the federal government to be tougher on Wall Street, according to a new poll.

They aren't alone. A strong majority of Republicans and independents — 65 and 72 percent, respectively — also think Wall Street needs more government regulation beyond the steps taken after the 2008 financial crisis, according to a poll conducted by Lake Research Partners and Chesapeake Beach Consulting and commissioned by nonpartisan groups Americans for Financial Reform and Center for Responsible Lending. The poll was shown exclusively to Vox.

CONSUMER FINANCE AND THE CFPB

Column: Newsom signs bill blocking debt collectors from emptying your bank account | LA Times

Gov. Gavin Newsom signed into law Monday a bill that will prevent debt collectors from emptying Californians' bank accounts.

The bill — SB 616 — doesn't block collectors from draining funds from the account of a person with IOUs. But it puts a halt to the practice once an individual's combined account balances are down to $1,724.

Ruling cuts short debt collectors' victory lap over CFPB proposal | American Banker

Debt collectors notched a victory when the Consumer Financial Protection Bureau proposed allowing more use of electronic communication. But industry lawyers are worried a recent court decision could thwart that plan.

Under the CFPB's May proposal, debt collectors could have unlimited contact with debtors through email and text messages, though consumers could opt out of such communications. Additionally, collectors could satisfy disclosure requirements with a hyperlink embedded in an email that takes consumers to a description about how they can dispute a debt.

Virginia's Payday and Title Lending Markets Among the Nation's Riskiest | Pew

Americans from all walks of life use payday and vehicle title loans, and they do so typically to cover recurring expenses such as rent, mortgage payments, groceries, and utilities, rather than for unexpected expenses.1 Only a checking account and verifiable income are needed to get a payday loan;2 a clear title to a vehicle is usually required to get a title loan.

Lenders issue these loans to hundreds of thousands of Virginians each year. And this high-cost credit carries some of the most lax borrower protections in the country because lenders operating in the state can make loans according to any of four statutes, two of which allow unlimited interest rates.

Questions Congress Should Ask CFPB Director Next Week | U.S. PIRG

CFPB Director Kathy Kraninger will deliver the statutory "Semi-Annual Report of the CFPB" to the House Financial Services (10/16) and Senate Banking (10/17) Committees next week.

On the House FSC website the hearing is labeled "Who Is Standing Up for Consumers?"

It's a good question. Since Director Kraninger took the reins from interim director Mick Mulvaney late last year, many of her actions have served industry, not consumer, interests.

While she has reached out to consumer advocates, including me, her actions speak louder than words.

DERIVATIVES AND THE CFTC

CFTC Says Enforcing Risk-Management Rules Is a Priority | Wall Street Journal

The Commodity Futures Trading Commission for the first time charged a bank with violating risk-management rules adopted after the financial crisis, a signal to the industry to bolster internal controls in their swaps businesses.

The CFTC late Tuesday said it charged a U.S. subsidiary of London-based HSBC Holdings PLC with violating rules that require financial institutions to establish a governing body and internal policies to oversee data reporting for swaps dealers. HSBC agreed to pay $650,000 to settle the case, which also included allegations of reporting failures.

INVESTOR PROTECTION, SEC, CAPITAL MARKETS

SEC's Concept Release Comment Period Closes. So What Say You on Regulatory Harmonization & Access to Capital? | Crowd Fund Insider

The Securities and Exchange Commission (SEC) officially closed comments on its concept release regarding regulatory harmonization of securities offerings exemptions on September 24, 2019. But as in past cases, comments have continued to trickle in and we would not be surprised if more follow. That being said, Crowdfund Insider expects that the bulk of the comments are in and, as of today, public comments number over 140 submissions.

The concept release was launched in recognition of the byzantine and convoluted ecosystem that has evolved over time for raising private capital. Exemptions such as the ones that impact online capital formation (Reg D 506c, Reg A+ and Reg CF), plus issues such as the definition of an accredited investor and the possible need for venture exchanges are hot topics addressed in the concept release.

PRIVATE FUNDS

Job, wage losses follow private equity takeovers, study shows | Politico Pro

An academic study of private equity buyouts found significant evidence of job losses at once-publicly traded companies after takeovers, though not at privately held firms, a discovery that could complicate efforts to rein in the industry.

The study of thousands of deals from 1980 to 2013 by researchers from the University of Chicago, Harvard Business School and other institutions found that employment fell 13 percent in buyouts of publicly listed companies after two years and by 16 percent when just part of a company was sold. But when it comes to takeovers of firms previously under private ownership, they found that employment actually rose by 13 percent.

“Private equity destroys jobs, and in response, the industry is decrying so-called 'one size fits all solutions,'" Americans for Financial Reform spokesperson Carter Dougherty said. "The big set of solutions to the abuses of private equity — the Stop Wall Street Looting Act — is nothing of the sort. It addresses specific abuses that cost jobs and harm workers, like reliance on excessive debt the looting of potentially viable businesses.”

New Study Shows Adverse Economic Effects of Private Equity Buyouts | Forbes

In thousands of private equity buyouts, job losses and lower wages resulted two years after the transactions were completed. After examining 9,800 U.S. private equity (PE) buyouts from 1980 to 2013, during a period that had significant swings in credit market tightness and GDP growth, professors and researchers Steven J. Davis, John Haltiwanger, Kyle Handley, Ben Lipsius, Josh Lerner, and Javier Miranda, found that “Employment at target firms shrinks 13% over two years in buyouts of publicly listed firms.”

However, they found that employment “expands 13% in buyouts of privately held firms, both relative to contemporaneous outcomes at control firms.” The evidence in the recently published report shows “striking, systematic differences in the real-side effects of PE buyouts, depending on buyout type and external conditions.”

Comment on Davis, Haltiwanger, Handley, Lipsius, Lerner. and Miranda, "The Economic Effects of Private Equity Buyouts" | CEPR

The research team that brought you a study that compared employment dynamics in companies taken over by private equity with similar companies not acquired by PE (“Private Equity, Jobs, and Productivity,” American Economic Review 2004) is out with a new paper. The news for workers, already troubling in their earlier report, is even worse this time around.

In the earlier study of employment effects of private equity buyouts (Davis, Haltiwanger, Handley, Jarmin, Lerner and Miranda 2004), the researchers looked at what happened to employment following the private equity buyout in establishments owned by the target company at the time the buyout occurred as well as what happened to employment in the target firm. The new study examines only what happens to employment in the target firm.

Stephen Schwarzman on the key 'flaw' in the private equity job loss study | Pitchbook

The face of private equity, Blackstone chairman and CEO Stephen Schwarzman, is pushing back against the methodology behind a recent study that found leveraged buyouts resulted in substantial job losses.

The study, authored by economists including Josh Lerner from Harvard Business School and Steven Davis from the University of Chicago, evaluated about 9,800 US private equity takeovers from 1980 to 2013. The analysis focused on the two years immediately following a buyout, and on average, the researchers found an overall net job loss of 4.4% in that time period.

PE Firms are Funding Tools for Genocide | Take on Wall Street

Surveillance cameras are mounted all around Tiananmen Square in Beijing, China. Using those and the other 200 million cameras surreptitiously placed throughout the country, the Chinese government is privy to essentially all comings and goings of its citizens. The 200 million number does not include the glasses worn by Chinese police, equipped with state-of-the-art facial recognition technology.

Government surveillance in public areas is no longer particularly eyebrow-raising in itself. What is cause for alarm though, is that China is using surveillance technology to specifically target Muslims in the Western province of Xi Njiang, effectively making it a police state. This technology is funded in part by American private equity firms and banks.

Federal government investigating bankrupt Wyoming coal mine operator for fraud | Casper Star Tribune

The unprecedented bankruptcy case involving coal operator Blackjewel showed signs of resolution last week when a federal judge approved the sale of two Wyoming coal mines to a new company called Eagle Specialty Materials. But a court document filed Saturday revealed the federal government has been investigating Blackjewel for potential fraud since before the company filed for bankruptcy, adding another possible wrinkle to a case that has rattled Wyoming's coal country for over three months.

"The United States was investigating potential violations of the False Claims Act by Debtor, Blackjewel, LLC, and had issued a subpoena to Blackjewel in connection with that investigation," Fred Westfall, assistant U.S. attorney, stated in court documents.

U.S. private equity fundraising swells as mega funds get bigger | Reuters

U.S. private equity firms raised $191 billion in the first nine months of 2019, nearly as much as in all of 2018, as investors flocked to well-known managers raising large capital pools, according to a report by research firm Pitchbook.

Some of the private equity industry's biggest players completed their fundraising in the third quarter of this year, including Blackstone Group Inc with a $26 billion buyout fund, and Vista Equity Partners Management LLC with a $16 billion fund.

Private Equity Vultures Killed Splinter. Your Company Could Be Next | Vice

This week, executives at G/O Media, formerly known as Gizmodo Media Group (GMG), formerly known as Gawker Media, announced that they would be shutting down the left-leaning news and politics website, Splinter. According to an internal memo, the company is ceasing the two-year-old site's publication because it hadn't built up a large enough audience, but this is not really true in any meaningful sense. Actually, the company is closing Splinter because the workplace under capitalism is a dictatorship, and the dictatorship of private equity is an especially arbitrary one.

The memo from editorial director Paul Maidment stated that the shuttered website's staff would be redistributed to other G/O Media sites like Jezebel and Deadspin, but multiple Splinter writers and editors—as well as freelance contractors—reported having been laid off.In a statement, the GMG Union said that it would be negotiating with Great Hill Partners, which owns G/O Media, over severance and "next steps."

Prison industry deal drags L.A. billionaire into Elizabeth Warren's campaign | LA Times

Los Angeles billionaire Tom Gores has been the target of activists since his private equity firm bought a prison telephone company accused of ripping off inmates and their families. The controversy was enough to lose him a prospective $100-million pension fund investment — and now he's found himself dragged into the Democratic presidential campaign.

Sen. Elizabeth Warren is requesting that five private equity firms with portfolio companies that provide telecom, healthcare and other services to jails and prisons provide detailed disclosures about such holdings, including profits, the identities of other private equity co-investors and any legal or regulatory issues.

MORTGAGES AND HOUSING

Freddie Mac Using Shady AI Company for Mortgage Loans | American Prospect

The Wall Street Journal reported recently that Freddie Mac, the government-sponsored mortgage giant, is testing underwriting software from fintech firm ZestFinance. A creation of ex-Google executive Douglas Merrill, ZestFinance claims to use machine learning and artificial intelligence to spot trends in a borrower's record that traditional lending models miss. This supposedly allows more credit to flow to borrowers who need and can afford it, allowing Freddie to issue more mortgages.

Here's what the Journal didn't report: ZestFinance is currently entangled in a class action lawsuit for dodging state-imposed limits on exorbitant payday lending interest rates. This is at least its second time in court over these issues. The Journal also neglected to note how one of the company's venture capital backers has direct ties to President Donald Trump's American AI Initiative, which could allow taxpayer dollars to flow through ZestFinance back into his pocket.

STUDENT LOANS AND FOR-PROFIT SCHOOLS

[CFPB Investigating Loan Program at College Chain](#) | Inside Higher Ed

The Consumer Financial Protection Bureau is looking into loans and other financing offered to students by the Center for Excellence in Higher Education, which operates the College America and the Stevens-Henager College chains.

The agency notified CEHE in April that it was seeking information about whether it had misrepresented the loans to students or enrolled students in loan programs without their consent. The college chain objected in May to a civil investigative demand from CFPB -- essentially an information-gathering tool used by law enforcement agencies -- and asked that it be narrowed or set aside. CFPB director Kathleen Kraninger rejected that request in August.

Judge Threatens Betsy DeVos With Jail In Student Loan Case | Forbes

A federal judge has tacitly threatened Secretary of Education Betsy DeVos with jail for her ongoing failure (or refusal) to comply with court orders in a student loan case.

By way of background, in 2016 the Obama administration finalized rules for the Borrower Defense to Repayment program. This program was created to allow federal student loan borrowers to request loan forgiveness on the basis that their school engaged in unfair, deceptive, or illegal practices. When DeVos took over the U.S. Department of Education in 2017, she stopped processing Borrower Defense applications, and ordered the department to rewrite the rules governing the program, effectively gutting it.
Also appeared in Salon, Los Angeles Times Via Bloomberg, Newsweek

No, Betsy DeVos is not going to jail | USA Today

Education Secretary Betsy DeVos is unlikely to go to jail, but the internet might have you think otherwise.

The furor online stems from a case involving the now-defunct Corinthian College, a for-profit college that closed in 2015. The U.S. Department of Education had been ordered to stop collecting on the federal loans of students who attended the school. But the department disclosed it had continued to garnish wages and seize tax returns of hundreds of borrowers. Others had erroneously paid money toward the loans when they didn't have to.

She's Not Going To Jail, But DeVos Needs To Act On Predatory College Collapses | Republic Report

While a federal judge pondered throwing the book at Betsy DeVos for abusing ex-students of a shuttered predatory for-profit college chain, DeVos's Department of Education seemed to finally take a small step to protect students and taxpayers from the possible collapse of another of these institutions.

Monday morning in federal court in San Francisco, U.S. Magistrate Judge Sallie Kim said she was “astounded” and “really disturbed” by the Department’s continued unlawful efforts to collect loan payments, and seize wages and tax refunds, from former students of schools run by the awful, now-collapsed predatory chain Corinthian Colleges. “At best, it is gross negligence. At worst, it’s intentional flouting of my order,” said Kim, who had previously directed the DeVos Department to stop trying to collect on these loans. She told Justice Department lawyers representing DeVos, “I’m not sure if this is contempt or sanctions” and added, “I’m not sending anyone to jail yet, but it’s good to know I have that ability.” (Kim’s subsequent written order, directing the Justice Department and the students’ lawyers from the Harvard Project on Predatory Student Lending to submit arguments about what sanctions are appropriate, didn’t mention jail time.)

Owner of San Diego’s Ashford University explores sale to another higher education institution | San Diego Union-Tribune

Zovio, the parent company of San Diego-based Ashford University, said Monday that it is exploring the possible sale of the 38,000-student online college to another university.

The move comes after the U.S. Department of Education required Zovio to post $103 million in financial guarantees as part of its planned spin-off of Ashford University into an independent California public benefit corporation.

Some colleges seek radical solutions to survive | Hechinger Report

When Steve Thorsett crunched the numbers, things looked grim. Business was flagging. His flow of customers had fallen to a 10-year low, down more than 20 percent since 2015. By 2016, annual expenses had begun outpacing operating revenues by $14 million.

In an increasingly unforgiving market, Thorsett needed to do more than chip away at the margins of this problem. He could make cuts, but that was complicated in his industry, and would likely only speed the downward spiral. To differentiate himself from his competitors, this chief executive determined that his operation needed to grow bigger, not smaller.

The Next Purdue-Kaplan Deal? | Inside Higher Ed

Ashford University is in limbo. The predominantly online institution announced its intention to convert from for-profit to nonprofit in March 2018. Now, more than a year later, the transition is still unfinished.

The Internal Revenue Service and Ashford’s accreditor, the Western Association of Schools and Colleges Senior College and University Commission, gave the university the green light to become nonprofit earlier this year. But a review by the U.S. Department of Education has been ongoing for several months. This week, the results of the review came in.

Could a better monitoring system prevent sudden college closures? | Education Dive

The financial responsibility standards are a "little-known provision of the law that has a lot of potential power," said Yan Cao, a fellow at The Century Foundation and a co-author of the report, in an interview with Education Dive.

"There's pretty broad alignment now in noticing that the financial composite score isn't accurately equipping the department with a diagnosis of schools that are about to financially collapse," she said.

A poll of likely voters shows their concern regarding rising student debt problems | North Dallas Gazette

When likely voters across the country were recently asked their opinions about student loan borrowing, 82% agreed that the still-growing $1.5 trillion debt is a national crisis. Even when partisan affiliations were included, the solid concern for this unsustainable financial burden held strong: 74% of Republicans, 80% of independents, and 90% of Democrats.

When asked further about the Consumer Financial Protection Bureau (CFPB)'s reduced efforts to protect students from abusive student loans and student loan services, those most concerned were Blacks, Latinx (73%), consumers earning less than $50,000 per year (72%). Additionally, voters in early Democratic Primary States agreed at 77%, as did both women and military or veterans' households that polled 70% each.

SYSTEMIC RISK

Too big to lend? JPMorgan cash hit Fed limits, roiling U.S. repos | Reuters

JPMorgan Chase & Co (JPM.N) has become so big that some rival banks and analysts say changes to its $2.7 trillion balance sheet were a factor in a spike last month in the U.S. "repo" market, which is crucial to many borrowers.

Rates in the $2.2 trillion market for repurchase agreements rose as high as 10% on September 17 as demand for overnight cash from companies, banks and other borrowers exceeded supply.

While not seen as a sign of distress as it was during the collapse of Bear Stearns and Lehman Brothers in 2008, the spike did prompt the U.S. Federal Reserve to promise to lend at least $75 billion each day until Oct. 10 to relieve the pressure.

The Bailout Was 11 Years Ago. We're Still Tracking Every Penny. | ProPublica

Eleven years ago, with the stock market in free fall, Congress passed a $700 billion bailout of the financial system.

ProPublica was still in its infancy, our website only a few months old. Like everyone else, we were just trying to get a handle on what was happening.

It wasn't easy. After starting out as the Troubled Asset Relief Program, a plan to buy up troubled mortgages, the TARP soon morphed into a bailout of the giant insurer AIG, the nation's banks, and then the auto industry. It was hard to keep up. So we decided to try.

Fed to Finalize Rules for Large Regionals | Politico Pro

Our Victoria Guida: "The Federal Reserve will meet Oct. 10 to finalize an overhaul of the rulebook for large U.S. regional banks, in line with last year's bank deregulation law, as well as one for foreign banks that would keep their requirements roughly on par with their domestic counterparts.

"It will also finalize its plan to give large banks more time to update their contingency plans for how to break themselves up in the event of bankruptcy. Under that proposal, U.S. global systemically important banks would have to submit updated living wills every two years, alternating between a full plan and a 'targeted plan' that would only include core elements, as well as material changes since the last filing."

Refining supervision is as vital as tweaking post-crisis rules | American Banker

Over a decade after the financial crisis, how regulatory agencies adjust their supervisory approach may prove just as important as changes to post-crisis rules, the Federal Reserve's top regulatory official said Friday.

"It may be that when I look back on my tenure in doing this, everyone thought that I was sort of supposed to come in with a flamethrower and set fire to [the] Dodd-Frank [Act], but the most important thing that the Fed does during this period is to think intentionally then about what are we doing through supervision and what can we do through supervision, and how do we make that effective but also fair," said Fed Vice Chair of Supervision Randal Quarles at an event hosted by Georgetown University's law school.

JPMorgan Gets Back Into the Electricity Business | The American Prospect

Mega-bank JPMorgan Chase, years after being fined over $400 million for manipulating energy markets, is effectively purchasing an electric utility in El Paso, Texas, laundered through an allegedly independent investment fund. The "owners" of the fund appear to not be owners at all, but members of its board of directors, all of whom have ties to JPMorgan. And 48 executives of the investment fund are actually paid employees of JPMorgan, which is lending out their services.

The fund, known as the Infrastructure Investments Fund, or IIF, contends that it is merely "advised" by JPMorgan. "It's no secret that there's a relationship there," says Tyson Slocum of Public Citizen, who has tracked the sale. "But I've been looking at electric utility mergers for 20 years, and I have never seen anything as convoluted as this.

Fed eases post-crisis rules for domestic, foreign banks | Reuters

The U.S. Federal Reserve on Thursday unveiled a final package of rules easing capital and liquidity requirements for domestic U.S. and foreign banks that were originally introduced following the 2007-2009 global financial crisis.

The changes, which should reduce the compliance burden and free up funds for U.S. Bancorp (USB.N), Capital One (COF.N) and PNC Financial (PNC.N), among others, mark another win for the industry after the Fed also relaxed rules on derivatives trades and banks' annual health checks.

ELECTIONS, MONEY, AND POLITICS

Why Populist Democrats Have Gained the Upper Hand in the 2020 Race | NYT

With a crucial debate looming next week in the Democratic presidential primary, the party's populist wing appears increasingly in control of the race — rising in the polls, stocked with cash and with only a wounded leading candidate, Joseph R. Biden Jr., standing in its way.

Several slow-building trends have converged to upend the race over the last few weeks: Senator Elizabeth Warren's steady ascent in the polls has accelerated. Both she and Senator Bernie Sanders, a fellow progressive, have raised immense sums of money from small donors online, dominating the Democratic field and each collecting about $10 million more than Mr. Biden in the last quarter. And Mr. Biden's numbers have gradually slipped in a way that has alarmed his supporters.

OTHER TOPICS

The Twilight of the Tech Idols | New York Times

The banking industry, which has consistently been one of the wealthiest industries for the last few centuries, has very few leaders one would call "heroes" or "idols." Most of them are part of a group of men who fought and finessed their way to the top by being good at corporate politics and managing other bankers.

Silicon Valley, in stark contrast, was built on the myth of the visionary heroic geek. A succession of Tech Heroes — from Steve Jobs at Apple and Bill Gates at Microsoft through Larry Page and Sergey Brin at Google to Mark Zuckerberg at Facebook — embodied the American dream. They were regular guys and middle-class youngsters (several of them from immigrant families), whose new technology changed the world and made them extremely wealthy.