This Week in Wall Street Reform | Sep 29 - Oct 5

Please share this weekly compilation with friends and colleagues.
To subscribe, email info@ourfinancialsecurity.org, with "This Week" in the subject line.

TABLE OF CONTENTS

- Consumer Finance and the CFPB
- Executive Compensation
- Investor Protection, SEC, Capital Markets
- Private Funds
- Student Loans and For-Profit Schools
- Systemic Risk
- Elections, Money and Politics
- Other Topics

CONSUMER FINANCE AND THE CFPB

Twitter video thread: House Financial Services Committee hearing entitled "Examining Legislation to #ProtectConsumers and Small Businesses from Abusive Debt Collection Practices." | AFR

Colo. Co. Says 'Valid-When-Made' Doesn't Belong In Case | Law 360

The Denver party equipment company behind a bankruptcy appeal that's attracted national attention over its potential implications for the "valid-when-made" doctrine pressed a Colorado federal judge on Tuesday to reject a business lender's nearly $700,000 claim, arguing the case is about the validity of a lien, not a loan.

Rent-Rite Superkegs Ltd. told U.S. District Judge Robert Blackburn that the issues of federal preemption and valid-when-made are red herrings and were injected by the bankruptcy judge who relied on them when he refused in May to disallow the New Jersey-based World Business Lenders LLC's proof of claim.

Payday Lender Wants High Court Review Of CFPB Challenge | Reuters

A Mississippi check cashing and payday loan company that's fighting the Consumer Financial Protection Bureau at the Fifth Circuit has asked to skip straight to the U.S. Supreme Court with its case, arguing that it's a better vehicle for fully tackling questions surrounding the agency's constitutionality than another case the justices could soon decide to hear.

In a petition filed on Monday, All American Check Cashing Inc. urged the justices to grant certiorari before the Fifth Circuit renders a judgment in its appeal, which argues that it is unconstitutional for the CFPB to be set up with a single leader who can only be removed for Cause.

Twitter Thread on EPIC Analysis of CFPB Proposal | AFR

@EPICprivacy has written a brilliant, if frightening analysis of what happens if @CFPB allows debt collectors to harass consumers with UNLIMITED texts and emails. This will not #ProtectConsumers, which is after all the job of @CFPBDirector

The problem is a simple matter of incentives that @CFPB is ignoring: text messaging and emails are "virtually free" for debt collectors to send, and this industry has "demonstrated a persistent failure to self-regulate," per @EPICprivacy

Read this blistering takedown of a rule that would let debt collectors blast you with text messages | Fast Company

The agency charged with protecting Americans from the wrath of scuzzy financial institutions—the Consumer Financial Protection Bureau—provoked blips of outrage earlier this year when it published something that may sound, let's be honest, deeply, astoundingly boring to you at first. Unfortunately, dear friends, that's sort of the point.

Only, the dreary thing the CFPB published—a proposal to change the Fair Debt Collection Practices Act—is actually pretty horrifying. If you have a mobile phone and if you are in debt, or if you know anybody who is (you do!!), then you should be angry. Like viciously angry.

The Seven-Year Auto Loan: America's Middle Class Can't Afford Their Cars | The Wall Street Journal

Walk into an auto dealership these days and you might walk out with a seven-year car loan.

That means monthly payments that last well past when the brake pads give out and potentially beyond when the car gets traded in for a new one. About a third of auto loans for new vehicles taken in the first half of 2019 had terms of longer than six years, according to credit-reporting firm Experian PLC. A decade ago, that number was less than 10%.

Car loans that are increasingly stretched out are a pronounced sign that some American middle class buyers can't afford a middle-class lifestyle.

ATM fees set a record, approaching $5 | Axios

It now costs an average of $4.72 to take money out of an ATM that isn't owned by your bank — the highest amount since Bankrate.com started tracking the data in 1998 (when it was $1.97).

Why it matters: ATM fees disproportionately fall on low-income people in neighborhoods that banks tend to avoid. At the same time, saving money in the bank is harder than before, as banks lower the interest rates they pay to depositors.

By the numbers: There are 2 parts to what customers pay to use an "out-of-network" ATM: A surcharge from the machine's owner and a fee that a majority of banks charge for using someone else's machine.

EXECUTIVE COMPENSATION

Bankrupt Philly refinery's request to pay secret executive bonuses raises objections | Philadelphia Inquirer

Philadelphia Energy Solutions, which paid $4.6 million in bonuses to executives following a devastating June fire that led to its closure and bankruptcy, wants to pay out a new round of retention awards. But this time it wants to keep the recipients and the bonuses a secret.

PES Holdings LLC asked U.S. Bankruptcy Judge Kevin Gross in Delaware to approve a key employee retention plan, though it wants to keep details of the awards confidential to reduce the “negative impact on employee morale” and also the chances that competitors could use the information to recruit and poach personnel.

INVESTOR PROTECTION, SEC, CAPITAL MARKETS

Letters to Regulators: AFR / AFL-CIO Letter to the SEC Regarding Private Market Exemptions | AFR

The Americans for Financial Reform Education Fund (AFR Education Fund) and the AFL-CIO appreciate the opportunity to comment on the above referenced Concept Release (the “Release”) by the Securities and Exchange Commission (the “SEC” or “Commission”) concerning securities offering exemptions. AFR Education Fund is a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.[1] The AFL-CIO is the umbrella federation of U.S. labor unions, including 55 unions representing 12.5 million members. Union-sponsored and Taft-Hartley pension and employee benefit plans hold more than $667 billion in assets. Union members also participate directly in the capital markets as individual members and as participants in pension plans sponsored by corporate and public-sector employers. Altogether, US workers’ pension plans hold over $7 trillion.

CFA Urges SEC to Halt Damaging Expansion of Private Securities Markets | CFA

We are writing on behalf of the Consumer Federation of America (CFA)1 to discuss our grave concerns regarding the recently published Concept Release on Harmonization of Securities Offering Exemptions.2 While few could object to the stated purpose of the Release -- to conduct a “comprehensive review of the design and scope of our framework for offerings that are exempt from registration” -- many of the concepts discussed are clearly designed to expand, rather than “harmonize,” the existing private offering exemptions. The Commission proposes these concepts for consideration without apparently having conducted any serious analysis of the impact that the proliferation and expansion of private offering exemptions has had on the health and vitality of our public markets. Similarly, the Concept Release fails to assess the impact of that decades-long expansion of private markets, and the associated contraction of the number of public companies, on investor protection, market integrity, or capital formation. Decisions about whether or how to adjust the private offering exemption framework, particularly those that would further expand private markets, cannot reasonably be divorced from these critical considerations.

Other groups filing comments included Healthy Markets, Better Markets, and the North American Securities Administrators Association

PRIVATE FUNDS

Private Equity Wields More Power than Ever as Warren Picks Fight | Bloomberg

It was “Barbarians at the Gate,” Washington-style.

As Republicans set out to overhaul the federal tax code in 2017, the private equity world leveraged its influence. The mission: protect the wildly lucrative tax break that’s helped mint more billionaires than almost any other industry.

The original Barbarian -- KKR & Co. -- had none other than a former head of the Republican National Committee rounding up lawmakers on Capitol Hill to fight for private equity’s cause.

Is Private Equity Ready for Warren? | JD Supra

Massachusetts Senator and presidential hopeful Elizabeth Warren released perhaps the most ambitious plan the country has ever seen with respect to regulation of the private equity and investment fund industry. She released her plan, dubbed the “Stop Wall Street Looting Act of 2019,” this summer. It takes aim at what Warren sees as private equity “vampires” in an effort to protect the millions of American workers who are employed by private equity-owned companies. In a lead-up to the release of the proposed regulations, Warren pointed to several prominent examples of now-defunct companies that were purchased by private equity firms and overleveraged before subsequently imploding, leaving their workforces unemployed and their suppliers and pensioners unpaid. These examples

include former American mainstays like Toys R Us, Radio Shack, Payless Shoes, Sears, and Shopko.

Warren's plan includes some proposals that have been frequently discussed in all corners of the political spectrum. Most prominently, Warren has included a provision that closes the much maligned carried-interest loophole. Her suggestion would be to force carried interest gains to be treated as ordinary income instead of capital gains. Additionally, her legislation proposes to reinstate a former Dodd-Frank Act requirement that required funds to arrange debt obligations to retain a certain amount of risk in investments.

Private Equity Executives Should Not Profit From The Misery Of Prisoners And Their Families | Forbes

BlueMountain Capital Management, H.I.G. Capital, American Securities, Apax Partners, and Platinum Equity received a letter from Senator Elizabeth Warren (D-MA) and Representatives Mark Pocan (D-WI), and Alexandria Ocasio-Cortez (D-NY) asking them to provide disclosure documents and information required in Sections 501 and 503 of the Stop Wall Street Looting Act. Additionally, the legislators asked the private equity firms to explain their role in the consolidation and deterioration of the prison services industry. Their response is due by October 14, 2019.

I salute these legislators' efforts. In July, I wrote that Private Equity Should Stop Profiting From Immigration Detention Centers And Private Prisons. Unfortunately the letter sent out today did not include private equity firm DC Capital Partners, led by Thomas Campbell, which owns an investment in military and youth detention center conglomerate, Caliburn International Corporation.

Private Equity Chases Ambulances | The American Prospect

On July 2, 2018, a Boston woman fell into the gap between a subway car and the platform. Passengers rocked the train back and forth, eventually extricating her. Her leg was cut down to the bone. Still, she begged her rescuers not to call an ambulance. "Do you know how much an ambulance costs?" she sobbed. Because there was no choice but to call an ambulance, though, one eventually arrived.

Ambulance services used to be covered by local taxpayers, volunteers, or nonprofit hospitals, part of a suite of services akin to firefighting, which many people took for granted. This remained the status quo for emergency medical services for decades. Then, following the 2008 recession, private equity firms began to buy up ambulance companies. Quality has declined, and prices have shot up. Within ten years, from the recession to the Boston woman falling on the platform, the transformation of ambulance services from community service to luxury good was complete. Under the new paradigm of private equity, poorly maintained ambulance services siphon profit from vulnerable patients.

Everything Is Private Equity Now | Bloomberg

Private equity managers won the financial crisis. A decade since the world economy almost came apart, big banks are more heavily regulated and scrutinized. Hedge funds, which live on the volatility central banks have worked so hard to quash, have mostly lost their flair. But the firms once known as leveraged buyout shops are thriving. Almost everything that's happened since 2008 has tilted in their favor.
Low interest rates to finance deals? Check. A friendly political climate? Check. A long line of clients? Check.

The PE industry, which runs funds that can invest outside public markets, has trillions of dollars in assets under management. In a world where bonds are paying next to nothing—and some have negative yields—many big investors are desperate for the higher returns PE managers seem to be able to squeeze from the markets.

Infrastructure fundraising spiked in 2018—where will the capital go? | Pitchbook

Almost three political centuries ago, expectations were high for a bipartisan and highly funded infrastructure bill. While a lot of developments have occurred since January 2017, the promised infrastructure package was not one of them.

Recall, though, the fervent efforts among PE investors to piggyback off of those plans. Blackstone made the most headlines with its push to raise $40 billion in a single infrastructure fund, announced in May 2017. All told, a little over $77 billion has been raised across the industry for US infrastructure since January of that year—around half of which closed last year. A large sum to be sure, but still puny compared to the $500 billion bill promised during the 2016 campaign.

The 'Sports Illustrated' Layoffs Are What Happen When We're Ruled by Vampires | The Nation

Growing up, every Thursday was my own private holiday. That was when the new issue of Sports Illustrated showed up at my door. I would lie on my blue comforter and all the pain of early adolescence would wash away as I read the exploits of my sports heroes, brought to life by epic photography that felt three-dimensional in its vibrant radiance. I found myself gravitating to my favorite writers first, no matter the article's subject—people like Frank Deford, Ralph Wiley, and E.M. Swift.

As one sports journalist of my generation messaged me, "We all grew up—all of us—wanting to write for Sports Illustrated." A decade ago, I briefly wrote a column for their website—just 10 pieces in all. Seeing my name and face at si.com brought me a unique kind of professional joy; the feeling that, if nothing else, that placement among my heroes could never be taken away from me.

Despite backlash over layoffs, new SI operator stands by strategy | Pitchbook

As with much of the media industry, it's been a tumultuous couple of years for Sports Illustrated.

In 2017, Meredith acquired the magazine as part of a larger $1.8 billion deal for a series of brands under the ownership of Time Inc. Then in May, Authentic Brands Group, a PE-backed marketing and brand-development company that recently received $875 million from BlackRock, purchased SI for a reported $110 million.

STUDENT LOANS AND FOR-PROFIT SCHOOLS

National Consumer Law Center Advocate Statement Opposing Sen. Alexander's Legislation to Reform Higher Education Act | NCLC

"Students and borrowers need real, wholesale reform of the Higher Education Act to make it easier for borrowers to succeed in student loan repayment and ensure that falling behind does not threaten families' financial security. We also need to hold institutions accountable for misconduct as well as to provide relief to harmed students and empower students and borrowers to vindicate their rights. Senator Alexander's piece-meal approach ignores this urgent need for reform and attempts to hold hostage funding that is expiring for historically black colleges and universities and other minority serving institutions that should be addressed separately. We hope that Congress will reject this bill and work towards a real solution for struggling students and borrowers."

Trump's Justice Department Probably Just Made College More Expensive | Forbes

Trump's Department of Justice apparently believes that increased competition by colleges, for students will reduce the costs of college. That's not the case. But because they think that, they may actually make going to college more expensive.

The Department has persuaded the National Association for College Admission Counseling (NACAC), the governing body of college admissions officers, to revise its ethics rules and open up more students to ongoing college recruitment offers. By "persuaded," of course, everyone means something far less civilized. The Chronicle of Higher Education, described the NACAC decision as "under pressure from the Justice Department" and something done, "because they saw no other.

CFPB Probes, Rebukes Controversial College Operator CEHE | Republic Report

The Consumer Financial Protection Bureau (CFPB) is investigating student loan practices at the college chain operator Center for Excellence in Higher Education (CEHE), which already has been facing law enforcement actions by the U.S. Justice Department and the Colorado attorney general. Filings posted on the CFPB website show that the controversial college operator this spring petitioned CFPB's director to drop a Civil Investigative Demand, seeking

in-person testimony, with CEHE claiming that CFPB was improperly collaborating with the Colorado AG to target the schools. But CFPB, by its Trump-appointed director, Kathleen Kraninger, sharply rejected that claim last month.

The CFPB's rebuke of CEHE is particularly striking because Betsy DeVos's top higher education official, Diane Auer Jones, was previously retained by CEHE as an expert witness in the Colorado case, and the Department of Education last December made a still-secret deal with CEHE to end a critical lawsuit brought by the company against the Department during the Obama administration.

AG James Sues Student Loan Servicer For Mismanaging Loan Forgiveness Program | Letitia James

New York Attorney General Letitia James today sued the Pennsylvania Higher Education Assistance Agency (PHEAA) — one of the nation's largest student loan servicers — for failing to properly administer the Public Service Loan Forgiveness (PSLF) program. The PSLF program is a federal program that forgives the student loans of borrowers who have made qualifying loan payments while working in public service for 10 years. PHEAA's deceptive, unfair, and abusive practices in administering the federal program have contributed greatly to the large number of rejected PSLF applications, despite the fact that tens of thousands of New Yorkers are eligible for the program.

"Despite a decade of honorable public service to our state and this nation, hard-working New Yorkers have been left with nothing but the runaround and broken promises," said Attorney General Letitia James. "PHEAA's abuses have not only denied these dedicated public servants the benefits they have earned, but have undermined the goals of the loan forgiveness program. My office will never tire in our efforts to hold companies accountable for their lies and deception, and will never stop fighting to advocate on behalf of our state's public servants."

U.S. Senators Introduce Congressional Effort to Overturn Department of Education Secretary Betsy DeVos' Rewritten Borrower Defense Rule | Sierra Sun Times

U.S. Senators Kamala D. Harris (D-CA) and Dianne Feinstein (D-CA) last Thursday joined Senator Dick Durbin (D-IL) and 32 of their colleagues in introducing the Congressional Review Act (CRA) resolution of disapproval on Department of Education Secretary Betsy DeVos' rewritten borrower defense rule that gutted essential protections for student borrowers and taxpayers. CRA resolutions of disapproval allow Congress to overturn regulatory actions of federal agencies with a simple majority vote in both chambers. A time for consideration of the resolutions on the floor of each chamber will be coordinated with House and Senate leadership.

"Students shouldn't have to face crushing student loan debt, especially from predatory for-profit colleges," said Senator Harris. "By cutting loan relief funding and shifting the burden

of evidence for relief to students, Secretary DeVos has once again demonstrated she does not have the best interests of students at heart. Congress has the power to overturn this unfair policy and we have to act now."

ELECTIONS, MONEY, AND POLITICS

Silicon Valley billionaires' strange new respect for Elizabeth Warren | Recode

Facebook CEO Mark Zuckerberg thinks an Elizabeth Warren presidency would "suck." And you might assume that his peers agree with him.

But a quite surprising thing has happened in Silicon Valley over the last six months: Tech has warmed up to Elizabeth Warren.

The candidate who wants to break up Zuckerberg's company and other tech giants is emerging as a frontrunner in Silicon Valley's elite circles — even as she spurns those very elites' efforts to get to know her better.

No, No, No. Elizabeth Warren is Not a Socialist | Bloomberg

A press release from Elizabeth Warren landed in my inbox last Friday morning. It came not from her presidential campaign but from her Senate office, and it concerned a subject that doesn't often claim the attention of U.S. senators, much less leading contenders in a presidential race.

The subject was bond ratings.

"Senator Warren to SEC," read the headline. "Do Your Job. Crack Down on Dangerous Inflated Bond Ratings." The press release was sparked by recent "troubling reports of inflated bond ratings and the perverse incentives within the bond rating industry." It pointed out that poorly-rated mortgage-backed securities caused "millions of Americans to lose their jobs, homes and savings" during the financial crisis — yet a decade later "ratings agencies are continuing to rubber stamp risky products."

Trump-linked billionaires ride to Collins' rescue with new PAC | Maine Beacon

The 1820 PAC is a conservative political action committee that has launched a massive TV advertising campaign backing Senator Susan Collins for re-election. Named after the year Maine became the 23rd state, the PAC's website lauds Collins for "bipartisanship" and "independence." Those who are funding the group, however, are anything but — in fact they include some of President Donald Trump's closest allies and biggest financiers.

According to the group's latest filing with the Federal Election Commission, which was highlighted by the Portland Press Herald last month, it is backed by just seven donors who

contributed a total of $776,000 between January 1 and June 30, 2019. At that point, the group had already spent $276,780 on “media placement” in support of Collins.

The PAC’s largest donor, New York billionaire Stephen Schwarzman, CEO of international investment firm The Blackstone Group, gave a total of $500,000. According to the Center for Responsive Politics, Schwarzman and his wife Christine are the fourth biggest individual contributors to Republicans and conservative outside groups, having handed out $12.9 million during the 2018 election cycle.

OTHER TOPICS

Workers must be at the heart of company priorities: A judge’s manifesto for fairer and more sustainable capitalism | Financial Times

The US corporate governance system has lost sight of its purpose. Companies have become more responsive to the immediate desires of the stock market but are failing to move quickly toward sustainable business practices, adequately invest in human capital and, most importantly, fairly share gains from corporate profits with the workers who create them.

The disjunction comes at a time when many American workers have become forced capitalists. Tax rules demand that employees saving for retirement or education put their money into equity and bond mutual funds in 401(k) and 529 plans.