THIS WEEK IN WALL STREET REFORM

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CFPB and Consumer Issues

Richard Cordray Appointment

Obama Has Recess Appointment Power, Justice Department Says
Seth Stern (Bloomberg)
January 12, 2012

"President Barack Obama had the power to make recess appointments last week when Congress was taking a brief break, the U.S. Justice Department said in a memo released after Republican complaints of a 'power grab.' The Constitution and precedent support the conclusion that the appointments can be made when lawmakers hold pro forma sessions in which no business is conducted, according to the 23- page memo written by Assistant Attorney General Virginia Seitz and released today." Click here for more.

Senate Republicans eyeing suit on Obama appointees
Alexandra Alper and Thomas Ferraro (Reuters)
January 10, 2012

"Top Senate Republicans are weighing whether to file a lawsuit to challenge President Barack Obama's controversial use of recess appointments, but such a suit looks legally shaky and could ultimately backfire with voters." Click here for more.

House GOP to target Obama recess appointments?
Greg Sargent (Washington Post's 'The Plum Line')
January 11, 2012

"It looks like House conservatives are spoiling for a fight over Obama's decision to make recess appointments to the Consumer Financial Protection Bureau and to the National Labor Relations Board. This is a battle Dems relish, because it would give them an opportunity to cast Repulicans as hostile to Obama's efforts to protect consumers from financial companies. House conservatives, meanwhile, would also like this fight because it will energize their base and allow them to push the narrative that Obama is pushing his agenda through via a tyrannical abuse of power." Click here for more.

Chamber backs off attack on consumer protection panel
Kevin G. Hall (McClatchy Newspapers)
January 12, 2012

"After doggedly opposing the creation of the Consumer Financial Protection Bureau in 2010, then fighting all last year to change its composition, the U.S. Chamber of Commerce softened its stance Thursday. President Barack Obama then used a controversial recess appointment Jan. 4 to install Richard Cordray as its director and to put three new commissioners on the National Labor Relations Board. There'd been intense speculation that the Chamber of Commerce would challenge the legality of those appointments. It raised the question of legality in a harsh statement last week. On Thursday, however, Thomas Donohue, the CEO of the powerful organization, told reporters that "we are not going to sue today." In toned-down rhetoric, the often-cantankerous Donohue repeated reservations that the new consumer agency has insufficient congressional oversight since it's funded by the Federal Reserve and not appropriations-controlled by lawmakers, but he pledged a wait-and-see approach. Shortly after Donohue spoke Thursday, across town Cordray held his first news conference and also struck a conciliatory tone, noting that he'd already met with Donohue twice. 'I am a member of my local Chamber of Commerce in Grove City, Ohio; have been for 20 years,' said Cordray, a former Ohio attorney general and state treasurer, adding that he established a business advisory council in Ohio and is sensitive to the challenges that business owners face. 'I know it's not easy to run a business and be successful.' The U.S. Chamber of Commerce's members benefit from effective policing of lending and a better-educated consumer, Cordray said, adding that the new consumer agency will put great emphasis on promoting financial literacy. The agency on Wednesday announced new rules for examining non-bank lending, which hadn't been regulated federally before the finance overhaul passed." Click here for more.

Cordray, the Chamber, and the CFPB
Joseph Williams (Politico)
January 12, 2012

"Despite continuing threats by business groups to try to block his appointment, Richard Cordray, the new head of a federal consumer watchdog agency, seems to have reached something of a truce with the U.S. Chamber of Commerce, the nation's most powerful business lobby. At a news conference Thursday — his first since getting a recess appointment to the job last week — Cordray told reporters he's talked with Tom Donohue, the president and CEO of the Chamber and met with other members of the organization to deliver a simple message: we're here to protect honest businesses, too." Click here for more.

WSJ Editorial - Contempt for the Constitution
WSJ editorial
January 13, 2012

"Where's John Yoo when President Obama needs him? The famous Bush Administration legal official was much maligned for issuing opinions supporting Presidential power, and he surely would have come up with something better than the junk law issued by the Justice Department's Office of Legal Counsel yesterday. The 23-page memorandum (dated January 6) by Assistant Attorney General Virginia Seitz is meant to justify Mr. Obama's recess appointments last week of Richard Cordray at the Consumer Financial Protection Bureau and three new members of the National Labor Relations Board—even though the Senate was not in recess but was holding pro forma sessions. The House also did not consent to the Senate's adjournment, as required by the Constitution's Article I, section 5, clause 4." Click here for more.

Linda Hilton op-ed -Salt Lake Tribune - Hatch and Lee disappointed Utah consumers
Linda Hilton (op-ed for Salt Lake Tribune – UT)
January 7, 2012

"Since July 21, the new Consumer Financial Protection Bureau, or CFPB — a centerpiece of the 2010 Wall Street Reform and Consumer Protection Act — has been up and running. It's the nation's first federal financial regulator charged with protecting consumers from unfair financial practices, products and services. On Dec. 8 nearly all Senate Republicans filibustered the president's nominee, Richard Cordray, the former Ohio attorney general, to direct the CFPB. The filibuster had nothing to do with Cordray's qualifications, but everything to do with rolling back Wall Street reform. Cordray has been universally praised and recently 37 state attorneys general, led by Utah Attorney General Mark Shurtleff, sent a letter to the Senate urging his confirmation. Linda Hilton is project director for the Coalition of Religious Communities at Crossroads Urban Center in Salt Lake City." Click here for more.

Eileen Ambrose - Wish list for new director of Consumer Financial Protection Bureau
Eileen Ambrose (The Baltimore Sun)
January 9, 2012

"To: Richard Cordray, Director Consumer Financial Protection Bureau Dear Mr. Cordray: First, congratulations on your appointment to lead the Consumer Financial Protection Bureau. Unless the banking interests have their way, your appointment is expected to last at least through the end of next year. And now with a director in place, the agency will be able to exercise its full powers to oversee such groups as payday lenders, credit bureaus and private education lenders. Granted, you have a lot on your plate, but here are a few suggestions on where to focus your attention:" Click here for more.

Orson Aguilar - The Greenlining Institute - Obama did the right thing by appointing CFPB chief
Orson Aguilar (Los Angeles Daily News, Long Beach Press-Telegram and Torrance Daily Breeze
January 6, 2012

"The controversy President Barack Obama set off Wednesday when he made a "recess appointment" of Richard Cordray to head the Consumer Financial Protection Bureau was as predictable as it was beside the point. What the Beltway talking heads missed, as usual, was how important this is for real people. The pundit class and cable news shouting heads focused, as always, on the sniping between Republicans and Democrats over legal technicalities and the implications for the 2012 campaign. A shocking number of news stories quoted only politicians and Capitol Hill staffers. Consumers got mostly left on the cutting-room floor.

Those of us who represent vulnerable communities know better. We've met the victims of the practices CFPB was created to protect." *Click here for more.*

Kevin DeMarrais - Consumers win with CFPB appointee
Kevin DeMarrais (Bergen Record – NJ)
January 10, 2012

"The action was cast in political terms — a Democratic president defying Republican senators — but President Obama's decision to use a recess appointment to name Richard Cordray director of the new Consumer Financial Protection Bureau was mostly a victory for consumers. With Cordray's appointment, consumers will finally have someone representing our interests in Washington, not just the interests of the banks and other financial entities whose unregulated or underregulated practices are responsible for many of the nation's financial problems. We saw Tuesday why consumer advocates have fought so hard to create the agency when the U.S. Supreme Court ruled that disputes between consumers and companies that issue low-rate credit cards to people with bad credit ratings must be handled in arbitration, rather than federal court. From a purely legal standpoint, the 8-1 decision makes sense. The case involved consumers who said they were promised an initial $300 in available credit, but were charged $257 in fees in the first year they had the credit card. The court agreed with the companies who argued that disputes must be settled through arbitration, because that was part of the agreement the customers signed. But fees and the need to settle disputes through business-friendly arbitration are often obscured in the fine print, and that is why one of the top priorities for the CFPB is to improve transparency so consumers know what they're getting." *Click here for more.*

Click here to view the press statement from the National Consumer Law Center and **click here** to view the press statement from NACA on *CompuCredit Corp. v. Greenwood.*

The Daily Show – Commission: Impossible
The Daily Show
January 5, 2011

"Commission: Impossible Episode #17039 - Elected officials in America's vaunted punditocracy object to Barack Obama's appointment of Richard Cordray as head of the Consumer Financial Protection Bureau. (03:38)." *Click here for more.*

Click here to view a round-up of press statements and editorials on the nomination.

Consumer Issues

Consumer Bureau Gets Busy With Mortgage Probe
Maya Jackson Randall (WSJ – subscription required)
January 10, 2012

"The Consumer Financial Protection Bureau has launched an investigation into PHH Corp.'s mortgage-insurance practices, the agency's first publicly disclosed probe. The consumer bureau was created by the 2010 Dodd-Frank financial law to protect consumers from unfair financial practices related to mortgages, credit cards, student loans and other financial products. Businesses and consumer advocates have been eager to see how it would wield its new powers. The CFPB notified the mortgage lender earlier this month that it had opened an investigation to determine whether it was complying with a federal law barring kickbacks in real-estate transactions, PHH disclosed in a Securities and Exchange Commission filing Tuesday." *Click here for more.*

Consumer bureau chief looking into Buy Here Pay Here auto dealers
Jim Puzzanghera (Los Angeles Times)
January 12, 2012

"The new head of the Consumer Financial Protection Bureau is looking into the practices of Buy Here Pay Here auto dealers and the rapid growth of the industry. 'We are looking at that space,' Richard Cordray said Thursday at his first news conference since being appointed as director last week. 'We're concerned about it.' Buy Here Pay Here dealers often target poor people and those with bad credit. Unlike conventional auto

dealers, who act as middlemen in arranging financing, Buy Here Pay Here dealers lend the money themselves — at interest rates that can top 30%. That direct lending makes them subject to consumer bureau oversight. The Times recently published a series of stories about the [Buy Here Pay Here](#) industry, showing how dealers take advantage of people desperate for transportation by selling high-mileage vehicles for much more than their Kelley Blue Book value." [Click here for more.](#)

Hefty Profit Seen for Card Issuers
Andrew R. Johnson (WSJ – subscription required)
January 10, 2012

"Investors in coming weeks will get a closer look at a rare bright spot on a bleak financial-sector landscape: credit-card companies. Higher holiday sales and increased card use are expected to help [Visa](#) Inc. and [MasterCard](#) Inc. post improved quarterly earnings, say analysts. Visa and MasterCard don't lend to customers but make money by processing card transactions for banks and merchants—a business that has been getting more lucrative, thanks in large part to consumers' continuing move to cards from cash and checks. The processors' gains stand in contrast to major banks and securities firms, which were hammered over the past year amid weak financial performance, worries about the European debt crisis and ongoing mortgage litigation." [Click here for more.](#)

Why 2012 will be the year of prepaid credit cards
Geoff Williams (CreditRatings.com)
January 9, 2012

"Prepaid cards have something of a bad image -- hidden fees, no protection if they're stolen, not a method of building credit -- but mark my words, that image is going to improve. If you've been pondering the pros and cons of getting into a [prepaid credit](#) card, and you're still on the fence, read on. Chances are, the benefits of [prepaid credit cards](#) are going to increase as we get deeper into 2012. Why? This is just speculation for the moment, but the moment seems right for prepaid cards to better themselves. Here are three reasons I'm thinking prepaid credit cards are due for some improvements this year." [Click here for more.](#)

PayPal Launches Pilot With Home Depot to Offer In-Store Payment Service
Stu Woo (WSJ – subscription required)
January 6, 2012

"PayPal, the electronic-payments division of eBay Inc., said it is testing an in-store payment system with Home Depot Inc. that allows shoppers to purchase items without cash or a conventional credit card. The pilot program is being run in five Home Depot stores, a PayPal spokesman said. Shoppers at those hardware stores can pay for items via PayPal by typing in their phone number, as well as a personal-identification number, into a payment terminal. The phone number is connected to customers' PayPal accounts. Customers can also use a plastic card with a magnetic stripe that PayPal plans to issue. The card works like a conventional credit card or debit card and is tied to a PayPal account. Home Depot confirmed it is testing PayPal as a pilot program at five locations but declined further comment. PayPal is the leading online-payments service, with about 100 million users. It develops a payments system that Web retailers can put on their websites. It makes a small commission on each transaction." [Click here for more.](#)

Suze Orman introduces prepaid debit card
Nancy Marshall-Genzer (NPR's Marketplace
January 9, 2012

"**Kai Ryssdal: Love her or hate her, Suze Orman is a force in the personal finance business. She is, quite possibly, the biggest personal finance celebrity there is. So the news today that she's breaking into the prepaid debit card business is actually news in certain circles. Orman's promising low fees and free credit reports for her customers. Marketplace's Nancy Marshall Genzer has more. Nancy Marshall-Genzer: Suze Orman says put your financial life in her hands. Sign up for her Approved prepaid debit card, and you're home free. Suze Orman: My goal has always been to save America one wallet at a time. And I believe that this card will absolutely do so. [The Approved Card](#) works like this: Deposit at least $20 onto it every month, and pay just $3 a month. Use the card to pay bills and shop. Now, other celebrities have put their faces on prepaid cards, but Orman is different. She has a consumer finance show on CNBC. Viewers rely on her for advice. And now she'll be peddling a prepaid card. Conflict of interest? **Lauren Saunders:** I don't know if she's in it to make money. That's Lauren Saunders, managing attorney at the **National Consumer Law

***Center**. She met with Orman a few months ago. She believes Orman really is on a mission. **Saunders:** To prove that prepaid cards can be a viable option for people and can help them on the pathway to financial success."* [*Click here for more.*]

Checking accounts vs prepaid cards, Suze Orman edition
Felix Salmon (Reuters)
January 10, 2012

"I still like Suze Orman's Approved Card — but maybe not as much as I liked it yesterday morning. The main reason is an interview she gave to GOOD: The majority of people who have these cards are called the unbanked and the underbanked. They do not have a bank account at all—unbanked—and even if they do have a bank account, what's then happening is that they're not using all the services that the bank is providing… The 99 % movement, the Occupiers, is a very valid movement. It's a movement that is very necessary. By the way, this card was developed for them, because this card which I have now created is a way for you to carry a little bank in your pocket with you. I'm actually asking the 99 percenters, 'you best join me with this movement, people.' If you want to keep your money in big banks, if you want to continue to get fees, if you want to continue to get all those things, you leave it right where it is. If you want to make a difference in your own life, how you use money, the accounting of money, everything about it, I am telling you put your money on me. Orman, here, is destigmatizing the idea of being unbanked, which is very much in keeping with her 'people first' approach to finance. If you're going to provide a prepaid card to the unbanked, then it's silly to lecture your customers on how they really should have a bank account instead."
Click here for more.

Cordray Says Consumer Bureau Backs Changing Attorney-Client Rule
Carter Dougherty (Bloomberg)
January 12, 2012

"The Consumer Financial Protection Bureau wouldn't oppose a push by lenders to tighten protection of information they share as part of the bank supervision process, according to Richard Cordray, the agency's director. Cordray, at his first news conference since being named director last week, moved today to allay concerns raised by Congress's decision not to subject the bureau to a 2006 law requiring regulators to respect attorney-client privilege." Click here for more.

New CFPB chief Cordray to testify before House panel
Jon Prior (Housing Wire)
January 11, 2012

*"The newly appointed director of the **Consumer Financial Protection Bureau** will testify before a House subcommittee Jan. 24, according to a spokesman for Rep. Patrick McHenry, R-N.C. McHenry chairs the subcommittee covering the Troubled Asset Relief Program and other bailout funds. He criticized President Obama for his appointment of Richard Cordray while Congress was in recess and invited the former Ohio attorney general to testify." Click here for more.*

Ed Mierzwinski - Professor's paper on "Industry's Misguided Quest to Undermine the CFPB"
Ed Mierzwinski (US PIRG's Consumer blog)
January 12, 2012

"Last fall, U.S. PIRG co-hosted, with Americans for Financial Reform and the Consumer Federation of America, an academic symposium featuring a discussion of a forthcoming paper by Professor Art Wilmarth of George Washington University Law School, perhaps the nation's leading bank law scholar. I am pleased to report that a close-to-final draft of Professor Wilmarth's paper -- "The Financial Services Industry's Misguided Quest to Undermine the Consumer Financial Protection Bureau -- is now available for review at the AFR website and will be published in the Spring 2012 issue of the Review of Banking and Financial Law at Boston University Law School." Click here for more.

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Shadow Markets and Systemic Risk

CFTC Votes 4-to-1 for Rules Aimed at Wall Street Swap Abuse
Silla Brush and William Selway *(*BusinessWeek)
January 12, 2011

*"U.S. regulators moved to soften Dodd-Frank Act rules designed to protect less-sophisticated customers in swap trades after banks, pension funds and municipalities said the original plan could damage the market. The Commodity Futures Trading Commission, meeting in Washington today, voted 4-1 for revised regulations that ease responsibilities initially proposed for Wall Street banks. The changes loosen requirements that trades be suitable for clients and limit banks' obligation to act in the best interest of public agencies, so long as they don't recommend specific swaps. …The business-conduct rules for municipal investors have been the subject of lobbying since they were introduced in December 2010. The measure approved today aims to address concerns about potential market impact that were raised by pension funds, the Government Finance Officers Association and the Securities Industry and Financial Markets Association, whose members include JPMorgan Chase & Co., Goldman Sachs Group Inc. and Morgan Stanley. …The final regulations are a 'significant weakening' of the CFTC's original proposal, **Marcus Stanley**, policy director of **Americans for Financial Reform**, which includes AFL-CIO and other labor unions, said in an e-mail today. 'The numerous opt-outs, exceptions, and safe harbors in the final rule can effectively give swap dealers a free pass out of compliance with key statutory protections,' Stanley said." Click here for more.*

Swap Dealers Rule OK'd
Joan Quigley (The Bond Buyer)
January 12, 2012

*"The Commodity Futures Trading Commission on Wednesday voted 4 to 1 to approve a final rule on business conduct standards for swap dealers designed to protect states and local governments, as well as taxpayers, from fraud in the swaps marketplace. …The CFTC will not release its final rule for several days, according to an agency spokesperson. But based on a fact sheet and a question-and-answer document posted on the commission's web site Wednesday, market participants expressed a range of concerns about the rule. …'This is an issue where the devil is definitely in the details and I don't know how bad it will be until I look at the final rule proposal,' said **Barbara Roper,** director of investor protection for the **Consumer Federation of America**. But, she added: 'It's significantly weaker than it was.' …Last month, consumer groups warned that industry groups had lobbied to weaken both agencies' proposed business-conduct standards. Without them, they said, the market would see more cases like Jefferson County, Ala., which filed for bankruptcy protection last year after terminating more than $3 billion in interest rate swaps. The consumer groups also said that under the SEC's proposal, a state or local government with an independent advisor could sign a waiver saying the swap dealer is acting as a counterparty in an arm's-length transaction and that the best-interests standard does not apply because the government has an independent advisor. In an interview Wednesday, Roper said the CFTC's final rule appears to be more closely patterned after the SEC's proposal. Specifically, she said, the CFTC created a safe harbor that did not exist in its original proposal. …Another consumer group shared Roper's concerns. 'These rules, unlike the initial proposal, are simply not sufficient to fully implement the Dodd-Frank protections,' **Americans for Financial Reform** said in a release." Click here for more.*

Click here to view/read testimony from the CFTC's Open Meeting on Three Final Rules, One Proposed Rule and a Delegation of Authority Order

Click here to view AFR's press statement.

Excerpt:

> *"The final rules on swaps dealer business conduct approved by the CFTC today represent a significant weakening of the Commission's initial proposed rules in this area. The Dodd-Frank Act created a significant set of new protections for public entities and pension funds in the derivatives markets. These rules, unlike the initial proposal, are simply not sufficient to fully implement the Dodd-Frank protections. The numerous opt-outs, exceptions, and safe harbors in the final rule can effectively give swap dealers a free pass out of compliance with key statutory protections. Given the*

dramatic changes between the initial and final rules, fierce lobbying by the derivatives industry appears to have had an impact in weakening the rule."

Americans Proving Clueless Paying Wall Street $20 Billion for Broken Swaps
Darrell Preston and Aaron Kuriloff (Bloomberg)
January 13, 2012

*"Seven months after Hurricane Katrina ripped holes in the Superdome's roof in 2005, Louisiana State Bond Commission members made what they were told would be 'the best of a bad situation' in financing the stadium's renovation. Acting against the recommendation of their staff, the commissioners voted for a Merrill Lynch & Co. plan to use debt and interest-rate swaps to pay for the job. While the deal helped keep the National Football League's New Orleans Saints from leaving town -- and the arena got new scoreboards while 12,000 seats were converted to luxury class -- taxpayers became the losers for supporting a winning team. … Government overseers often didn't understand that the market was controlled by the banks that sold the derivatives they claimed would minimize risk, and that could impose penalties when deals unraveled. From Portland to Puerto Rico, officials gambled with sewer, road, school, pension and stadium financing. Municipal securities made up about half of the $330 billion auction-rate market when it collapsed in February 2008, data compiled by Bloomberg show. Taxpayers have forked over $20 billion in fees for swap agreements in the past five years, according to Andrew Kalotay, chief executive officer of the debt-management firm Andrew Kalotay Associates Inc. in New York. Public officials, Kalotay said, 'think they know what they're doing, and they screw up.' Few have acknowledged their mistakes. 'No one wants to say out loud they're unsophisticated,' said **Marcus Stanley, policy** director of the Washington-based nonprofit **Americans For Financial Reform**, a coalition of unions and civil rights and consumer advocates." Click here for more.*

Whistleblower Bill Draws Lobbying
Andrew Joseph (National Journal)
January 10, 2012

*"A bill that critics warn weakens whistleblower protections quietly moved through a House subcommittee last month and now has supporters like the **U.S. Chamber of Commerce** pushing the full committee to quickly pass it. The Whistleblower Improvement Act of 2011, introduced by Rep. **Michael Grimm** (R-N.Y.), would require whistleblowers, with some exceptions, to report criminal activity internally in addition to filing a complaint with the **Securities and Exchange Commission**. Supporters of the bill say the internal reports allow companies to stop criminal activity early, relieving the pressure on an overburdened SEC that is failing to address complaints. The **House Subcommittee on Capital Markets and Government Sponsored Enterprises** passed the bill last month, moving it to the full **Financial Services Committee**. The bill's critics, including POGO, the **AFL-CIO** and **Americans for Financial Reform**, also wrote a letter to lawmakers warning of its impact on whistleblower protections. The bill, the letter said, 'is an extreme approach that would silence would-be whistleblowers, endanger critical inside informants, undermine investigations, hamstring enforcement at the SEC and [Commodity Futures Trading Commission], and provide lawbreaking financial firms with an escape hatch from accountability.'" Click here for more.*

Bank Regulators to Allow Leeway on Capital Rule
Susanne Craig (NYT)
January 8, 2012

"Since the financial crisis, regulators have been pushing big banks to increase capital levels, a move aimed at avoiding the cash flow troubles that brought the financial system to the brink of disaster in 2008. The oversight panel of the Basel Committee on Banking Supervision, an international organization of financial regulators, met on Sunday and issued a statement saying that while more capital was always better, that did not mean banks would never be allowed to dip below required levels. 'During a period of stress, banks would be expected to use their pool of liquid assets, thereby temporarily falling below the minimum requirement,' the statement said. Among the main topics of the meeting were proposals on the so-called liquidity coverage ratio, which is intended to ensure that financial institutions have enough liquid assets to ride out a crisis. Click here for more.

John Gapper - Promises that proved ultimately empty
John Gapper (FT – registration required)
January 9, 2012

"More than three years after taking the world to the brink of economic meltdown, banks remain heavily troubled. Instead of the rebound from losses that would normally have taken hold, they are now confronted with a rumbling debt crisis in Europe. The crisis of legitimacy in capitalism has meanwhile spread since 2008, just as Occupy Wall Street has expanded from its original focus on bail-outs and bankers' pay to a global reference point for the grievances of the "99 per cent". Yet it was within banks where the crisis emerged and where its heart still lies. Their troubles go beyond the financial. In the 1990s and 2000s, banks became a leading force in western economies. Their share of gross domestic product rose sharply; Wall Street banks such as Goldman Sachs extended their reach across Europe and Asia; the boundaries between commercial and investment banking were eroded, and bankers were highly rewarded and even regarded as glamorous." Click here for more.

Vikram Pandit - Apples v apples – a new way to measure risk
Vikram Pandit (FT op-ed – registration required)
January 10, 2012

"It is hardly surprising that the financial crisis and ongoing economic turmoil have caused some to question the value of capitalism. But in fact the crisis was not an indictment of capitalism. It should be seen, rather, as a call to improve how we practise it. Many remedies have been proposed to shore up the safety of the financial system, including the Dodd-Frank law and the higher capital requirements of the Basel process. I support both. But I also believe a market-driven mechanism would further strengthen the system." Click here for more.

Simon Johnson - Refusing To Take Yes For An Answer On Bank Reform
Simon Johnson (Baseline Scenario)
January 12, 2012

"The debate over megabanks and – in the aftermath of the 2008 financial crisis – how to deal with all the problems associated with "too big to fail" in the financial sector has not been easy for many politicians. The problems and potential real solutions do not map readily into the standard left vs. right divide in American politics. The left generally wants the state to do more, and these days most of the right usually wants the state to do much less. But in this space regulators are 'captured', meaning that too many of them are effectively working to promote the interests of the big banks rather than to limit the dangers to the rest of us – so 'more regulation' does not make much sense. And these big banks have a strong incentive to get even bigger – it's their size that gives them economic and political power. If you leave these banks to their own devices, they will become even bigger and blow themselves up at greater cost to ordinary citizens (see Western Europe for details). So 'no regulation' is also not an appealing proposition. … The way to cut our Gordian financial knot is simple – force the big banks to become smaller." Click here for more.

Raymond J. Learsy - SEC Alters Enforcement Policy. Too Late for Goldman Sachs and the Nation
Raymond J. Learsy (Huffington Post)
January 9, 2012

"One of the most grievous mishandlings by our government's oversight agencies was the botched July 2010 consent judgment of the S.E.C. v Goldman Sachs & Co... an action brought by the SEC as part of its statutory oversight responsibilities. The judgment permitting Goldman Sachs to enter a consent decree without admitting or denying the allegations of the complaint was an unbridled sop viewed by too many as a ploy of the old boys network looking after each other. The "Abacus" instruments Goldman created and then bet against cost their clients hundreds of million more than the $550 million fine assessed against them in their consent judgment with the SEC, this while setting aside a bonus pool of $23 billion seemingly derived in part from profits of actions incorporated under the consent decree." Click here for more.

Futures industry nabs former government regulator as new leader
Nancy Watzman (Sunlight Foundation)
January 10 2012

"In the latest example of a former financial regulator finding employment in the industry, the Futures Industry Association (FIA) has announced that its new president will be a former leader at the Commodity Futures Trading Commission (CFTC). Walter Lukken was nominated to the commission by former President George W. Bush and chaired the agency's global markets advisory committee while there. From 2007-2008, when the financial crisis was at its height, he served as its acting chairman. Lukken resigned when President Obama took office in 2009." Click here for more.

Commodity Speculation

UPDATE: SIFMA, ISDA Ask Court To Put Position-Limit Rules On Hold
Katy Burne (Dow Jones Newswires)
January 10, 2012

"A pair of financial market trade groups filed a motion Monday asking a court to put on hold rules aimed at curtailing bets in the commodities markets while the court considers a previously filed legal challenge to the rules. The 'emergency motion to stay rule' was filed in the U.S. Court of Appeals for the District of Columbia by The Securities Industry and Financial Markets Association and the International Swaps and Derivatives Association. The groups, which are lobbying on behalf of banks and asset managers, want the effective date of the so-called "position limits" rules for commodity derivatives trading--passed by the Commodity Futures Trading Commission late last year--pushed back while that litigation is pending. If the court grants the stay motion and the trade groups win the case, the position limit rule may never go into effect." Click here for more.

Judges set for CFTC position limits challenge
Jeremy Pelofsky and Christopher Doering (Reuters)
January 12, 2012

"Wall Street's legal challenge to new regulations clamping down on commodity market speculation will be heard by one of the judges who ruled earlier against a piece of the landmark Dodd-Frank law plus two Democrat-appointed judges. The randomly selected three-judge panel on the U.S. Appeals Court for the District of Columbia Circuit will hear arguments by two leading financial industry groups that the Commodity Futures Trading Commission exceeded its authority with the new regulation, one of the most contentious of dozens of new rules it is implementing. Judges Judith Rogers and Merrick Garland -- both appointed by President Bill Clinton -- and Janice Rogers Brown, appointed to the bench by Republican President George W. Bush, were assigned to the case, the court said late on Wednesday. They were selected by random computer assignment. Briefs were ordered completed by Jan. 19 on the CFTC's motion to dismiss the lawsuit challenging the rules setting "position limits" on the the number of commodity futures and swaps contracts that a trader could hold." Click here for more.

Banks Fuel Hunger, Need Position Curbs, Environment Group Says
Rudy Ruitenberg (Bloomberg)
January 12, 2012

"European banks, pension funds and insurers fuel hunger through 'excessive speculation' in food commodities, and 'hard' position limits are needed, environmental campaign group Friends of the Earth said. European Union market proposals must be strengthened by capping the size of bets speculators can make, and index investors should be banned from agricultural-commodity markets, the group wrote in an e-mailed report." Click here for more.

Click here to view the full report from Friends of the Earth entitled "Farming Money: How European Banks and Private Finance Profit from Food Speculation and Land Grabs".

Volcker Rule

Michael Hiltzik - Bankers' opposition to Volcker rule is no surprise
Michael Hiltzik (LA Times)
January 10, 2012

"Mandy Rice-Davies, an exotic dancer who played a peripheral role in the Profumo affair that rocked 1960s Britain — in which a Parliament minister was discovered sharing a mistress with an alleged Soviet spy — won her bit of fame by uttering perhaps the wisest riposte ever about the reflexive disavowals one hears from those caught doing wrong. Told that one of her high-placed lovers denied ever having met her, she replied, 'Well, he would say that, wouldn't he?'Those words came back to me as I read the comments filed with federal regulators by bankers, investment big shots and high-priced lawyers pushing back against the so-called Volcker rule. Named after former Federal Reserve Chairman Paul Volcker, who proposed it, this is a provision in the 2010 Dodd-Frank Wall Street reform act designed to prohibit banks from making risky trades for their own accounts." Click here for more.

NOTE: Next Wednesday House Financial Services Committee will hold a hearing entitled "Examining the Impact of the Volcker Rule on Markets, Businesses, Investors and Job Creation" – see *'Upcoming Events'* section.

International

Draghi hails 'tentative' stabilisation
Ralph Atkins in Frankfurt and Robin Wigglesworth in London (FT – registration required)
January 12, 2012

"The European Central Bank said on Thursday there were "tentative" signs of economic stabilisation in the eurozone as successful Spanish and Italian government bond auctions also pointed to at least a temporary easing of the region's debt crisis. Although Mario Draghi, ECB president, tempered his cautiously optimistic tone by saying that financial market tensions continued to hit eurozone economic activity, markets reacted positively to his comments and the bond auctions. The euro gained almost 1 per cent against the US dollar." Click here for more.

For Europe, Few Options in a Vicious Cycle of Debt
Peter Eavis (DealBook/NYT)
January 11, 2012

"Europe has a $1 trillion problem. As difficult as the last two years have been for Europe, 2012 could be even tougher. Each week, countries will need to sell billions of dollars of bonds — a staggering $1 trillion in total — to replace existing debt and cover their current budget deficits. At any point, should banks, pensions and other big investors balk, anxiety could course through the markets, making government officials feel like they are stuck in a scary financial remake of 'Groundhog Day.' Even if governments attract investors at reasonable interest rates one month, they will have to repeat the process again the next month — and signs of skittish buyers could make each sale harder to manage than the previous one." Click here for more.

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Foreclosures and Housing

State prosecutors confer over US mortgages probes
Shahien Nasiripour in Washington (FT – registration required)
January 12, 2012

"More than a dozen US state attorneys-general met in Washington this week to share litigation strategies and investigative findings from their mortgage-related probes into leading US banks, people familiar with the matter said. The states, some of which have sued banks including JPMorgan Chase and Bank of America, discussed ways they could pool their resources for future mortgage-related investigations and lawsuits

against large financial institutions, raising the spectre of protracted lawsuits for investors in bank stocks whose shares were hammered last year in part due to litigation fears." *Click here for more.*

US foreclosure rate lowest since pre-recession
AP
January 12, 2012

"About 1.9 million homes entered the foreclosure process in 2011, the lowest level since 2007 when the recession began, according to a report Thursday by the foreclosure listing firm RealtyTrac Inc. The firm cautioned that the decline does not necessarily indicate that the housing market is getting better, as many foreclosures have been delayed due to confusion over documentation and legal issues involved in the process." *Click here for more.*

Foreclosures expected to rise, pushing home prices lower
E. Scott Reckard (Los Angeles Times)
January 12, 2012

"California and other states are likely to see an enormous wave of long-delayed foreclosure action in the coming year as banks deal more aggressively with 3.5 million seriously delinquent mortgages. And experts said that dealing with the foreclosure process, from issuing notices of default to selling repossessed homes, is likely to push housing prices lower this year before the real estate market has a chance to recover. A report from RealtyTrac, an Irvine data firm, said about 1.9 million U.S. homes were hit with default notices, foreclosures and other actions last year. That is down from 2.9 million in 2010. Seriously delinquent loans are defined as being four months in arrears." *Click here for more.*

Foreclosure reviews to take longer than expected
Julie Schmit (USA Today)
January 13, 2012

"Reviews of hundreds of thousands of foreclosure cases ordered by regulators last year will take months longer to complete than first expected, according to documents filed with federal banking regulators. The delays could postpone compensation for some homeowners harmed by improper foreclosure actions. The reviews cover foreclosure actions in 2009 and 2010 by the nation's 14 largest mortgage servicers, which handle payments for about 65% of U.S. mortgages. They are required by enforcement orders announced by federal regulators last April." *Click here for more.*

Freddie extends mortgage forbearance for unemployed
Jacob Gaffney (HousingWire)
January 6, 2012

*"Mortgage finance firm **Freddie Mac** will give unemployed borrowers a break on their mortgage for up to one year. 'These expanded forbearance periods will provide families facing prolonged periods of unemployment with a greater measure of security by giving them more time to find new employment and resolve their delinquencies,' said Tracy Mooney, senior vice president of single-family servicing and REO at Freddie Mac. 'We believe this will put more families back on track to successful long-term homeownership,' Mooney adds. Freddie said the new deal expands the powers of mortgage servicers. The edict gives servicers the ability to forebear a mortgage for six months without prior approval from Freddie. Freddie Mac can approve an additional six months after that."* *Click here for more.*

From East and West, Foreclosure Horror Stories
Gretchen Morgenson (NYT)
January 7, 2012

"The authorities have fallen silent lately about a possible settlement over foreclosure abuses at big mortgage servicing companies. The talks began in earnest last March, and people keep whispering that a deal is nigh. But last week, a spokesman for Shaun Donovan, the secretary of Housing and Urban Development and a lead negotiator, said that there was nothing new to report. That's probably not a terrible thing. After all, no deal is better than a bad deal. State and federal authorities jumped into these talks without conducting serious investigations into foreclosure shenanigans. Why strike a deal — one that would, say, shield banks from new litigation over toxic loans, flawed securitizations and the mess at MERS, the registry that has made such a jumble of land records — without knowing what happened? " *Click here for more.*

Joel Sucher - Treasury's on First, FHFA's on Second, I Don't Know's on Third
Joel Sucher (American Banker)
January 6, 2012

"There's more confusion in the Obama administration's policy response to the foreclosure crisis than an Abbott and Costello routine. Who's going to help the strapped homeowner? Treasury? Yes. Wait, what about FHFA? Maybe. What about the CFPB? *Now, the Federal Reserve steps up to the plate, this time with a report issued on Jan. 4 entitled "The U.S. Housing Market: Current Conditions and Policy Considerations." A very somber, serious title for a well-thought out "white paper," full of the obvious ("The ongoing problems in the U.S. housing market continue to impede the economic recovery") and sets of very reasonable-sounding suggestions for ways to remediate the problem (such as converting foreclosed homes to rentals). Chairman Ben Bernanke's cover letter reiterates what most of us already know, or should know: that 'restoring the health of the housing market is a necessary part of a broader strategy for economic recovery.'" Click here for more.*

Obama loan modification program moving slowly
Ronald D. Orol (MarketWatch)
January 9, 2012

"The Treasury Department on Monday said that nearly 910,000 troubled borrowers on the verge of foreclosure have had their mortgages permanently modified to lower payments as part of a White House program -- far short of the original goal. The program, known as the Home Affordable Modification Program (HAMP) helps struggling homeowners by allowing them to reduce monthly loan payments. Under this plan, the lender voluntarily lowers the interest rate, and the government provides subsidies to the lender." Click here for more.

Mortgage modification scams trap desperate homeowners
Jennifer Dixon (Detroit Free Press)
January 8, 2012

"The foreclosure crisis that has spread across the country is producing another epidemic: mortgage modification scams that have cost desperate borrowers thousands of dollars — even their homes. 'There are devastating consequences to this fraud,' said Christy Romero, deputy special inspector general who monitors potential fraud in the federal Troubled Asset Relief Program (TARP).In early December, Romero's agency, SIGTARP, joined the U.S. Treasury Department and the federal Consumer Financial Protection Bureau to fight scams targeting homeowners seeking mortgage modifications under the U.S. Home Affordable Modification Program (HAMP)." Click here for more.

80 Percent Of Homeowners Behind On Mortgage Ineligible For Loan Modification Program
Loren Berlin (Huffington Post)
January 10, 2012

"Less than 20 percent of homeowners who theoretically qualify for a government mortgage modification are actually eligible, according to data released Monday by the Treasury Department. Although roughly 4.6 million U.S. homeowners have missed at least two mortgage payments -- making them technically eligible for Making Home Affordable, the federal government's flagship homeowner assistance program -- a whopping 80 percent of those borrowers cannot be helped by the program. According to the Treasury report, just 900,000 homeowners actually qualify for a loan modification under Making Home Affordable." Click here for more.

Big Banks Face Inquiry Over Home Insurance
Louise Story (NYT)
January 10, 2012

"A New York State financial services agency is investigating several large banks to see whether they fraudulently steered homeowners into overpriced insurance policies. The investigation centers on so-called force-placed insurance that has become increasingly common since the downturn of the housing market began and homeowners had trouble keeping up with payments on their home insurance. JPMorgan Chase, Bank of America, Citigroup and Wells Fargo are among the major companies involved in the inquiry by the office of Benjamin M. Lawsky, the superintendent of New York State's Department of Financial Services,

according to a person briefed on the investigation who asked to remain unidentified because the matter was private." Click here for more.

Fannie Mae CEO quits
Josh Boak (Politico)
January 10, 2012

"Fannie Mae announced Tuesday its CEO Michael Williams is resigning from the mortgage behemoth that has been under government control since 2008. Williams has been the subject of intense congressional scrutiny for collecting bonuses worth more than $3.8 million in 2010, as Fannie and Freddie Mac continue to rely on a taxpayer lifeline in excess of $150 billion. In a statement, Williams took credit over his three-year tenure for turning around a company that many lawmakers consider to be a drain on the federal government." Click here for more.

Ray Brescia - 2012: For Banks, the Year of Fear and Litigation, and a Chance for Peace
Ray Brescia (Huffington Post)
January 11, 2012

"Last year was a banner year for litigation addressing a decade's worth of risky bank behavior. Financial institutions agreed to pay billions in penalties and fines to resolve allegations of securities fraud and lending discrimination during the lead up to and fallout from the financial crisis. But the payments made to date pale in comparison to what is looming in 2012. This year looks like it will be only worse for the banks, as dozens of lawsuits will work their way through the courts, threatening bank balance sheets and likely dragging down the value of financial sector stocks. That some may collapse completely under the weight of these legal challenges is not out of the question. Virtually every large bank is besieged in some way from litigation and the threat of litigation over its practices. Whether it is over shoddy securitizations or perjury in the foreclosure process, many banks face investigations, protracted litigation, and the prospect of stiff fines and large judgments. Added together, these could all translate into big hits to their bottom lines." Click here for more.

CFPB Gears Up to Examine Mortgage Firms
Maya Jackson Randall (WSJ – subscription required)
January 11, 2012

"Thousands of U.S. mortgage lenders and brokers that aren't banks will soon undergo a first in-depth federal-government review of their books and records, now that the new Consumer Financial Protection Bureau is gearing up to dispatch examiners to supervise them. In its new 'Mortgage Origination Examination Procedures' guide, released Wednesday, the consumer bureau disclosed details about how its examiners will size up the nonbank mortgage companies, noting it will be leaning on other federal and state regulators for help." Click here for more.

Click here to view the CFPB's 'Mortgage Origination Examination Procedures' guide

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Executive Compensation

Proxy Access Win at KSW
James McRitchie (Corporate Governance site at CorpGov.net)
January 12, 2012

"Daniel Rudewicz, a USPX member, reports what I would term the first win under recently implemented SEC rules that once again allow proxy access proposal to be filed. As reported earlier, Rudewicz filed a proposal at KSW, a Long Island City, N.Y.-based company with a $19.7 million market capitalization that furnishes and installs heating, ventilating, and air conditioning systems and process piping systems. Rudewicz's binding proposal calls for investors to hold at least a 2% stake for one year to be eligible to nominate director candidates for inclusion in the corporate proxy materials. I understand from Rudewicz that KSW has filed a no-action request but haven't gotten a copy of the request or details as I write this. It appears from KSW's 1/5/2012 8-K filing that they will assert the proposal was "substantially implemented," under SEC Rule 14-8(i)." Click here for more.

Wall Street Prepares to Take Sharp Pay Cut
Liz Rappaport and Colin Barr (WSJ – subscription required)
January 9, 2012

"A dismal year means Wall Street is about to take a big hit to its wallet. As banks prepare to report fourth-quarter results and make final bonus decisions for 2011, total compensation is likely to be the lowest since 2008, when the financial crisis destroyed some firms and left many survivors on government life support. While still lofty compared to the rest of the U.S., pay for some Wall Street workers will be the lowest in years, at a time when critics have been lashing out at what they deem excessive finance-industry compensation." Click here for more.

Do bankers' bonuses reward risky behavior?
Suzy Khimm (Washington Post)
January 8, 2012

"In the run-up to the 2008 financial crisis, some of the most troubled financial firms also doled out whopping bonuses to their top executives. In response, the United States — along with the UK and the European Union—imposed new regulations on executive pay, with the rationale that executive pay was overly skewed to reward short-term profits and encouraged risky behavior that undermined a sound financial system. VoxEU's Ian Tonks took a closer look at whether this was actually the case and concluded that executive pay had little to do with short-term financial performance." Click here for more.

Wall Street Employees Threaten To Quit If Bonuses Aren't Up To Snuff
Jillian Berman (Huffington Post)
January 9, 2012

"For some on Wall Street, a less-than-stellar bonus is simply too much to bear. Brokerage executives at one Wall Street firm, Jefferies Group, have threatened to leave the company if their bonuses aren't up to par with other firms, the New York Post *reports. Though some particularly stellar employees may be able to eventually convince their bosses to give them a bigger share of the bonus pie, nervousness surrounding dismal job prospects on Wall Street will likely keep most bankers quiet." Click here for more.*

A Paradox of Smaller Wall Street Paychecks
Andrew Ross Sorkin (DealBook/NYT)
January 9, 2012

"Is Wall Street cutting bonuses enough? That is a question worth considering amid chatter that investment banking bonuses are expected to be the lowest they have been since 2008 amid lackluster profits. Few people outside the industry are shedding tears. The average Goldman Sachs employee was paid $292,397 in the first nine months of 2011, down about 21 percent from the same period in 2010, when the average payout was $370,056. That is of course, an average, and includes the salaries of those on the lower scales, like support staff. Each Goldman partner is still expected to take home at least $3 million; in previous years, payouts twice that amount were considered common for the top echelon. While the total compensation reported by big banks in their 2011 results may be lower, keep an eye on another, and perhaps more important, yardstick that is likely to increase at some firms: the compensation-to-revenue ratio." Click here for more.

Executive pay across the world
Mindful Money (UK)
January 11, 2012

"When Vince Cable first proposed a cap on executive pay, John Cridland, director-general of the CBI said: 'Talent competes globally... executive pay must not become a political football'. But, as David Cameron seeks to tackle the issue, it is worth examining whether this is true. Is executive pay really set 'globally' or is it, in fact, different from country to country? If so, does it destroy the argument made by many executives that pay needs to remain high in order for companies to win and retain talented management across borders?" Click here for more.

Executive Compensation: What Will 2012 Bring?
Scott Hirst (co-editor, HLS Forum on Corporate Governance and Financial Regulation)
January 12, 2012

"Editor's Note: This post comes to us from John J. Cannon, a partner in the Executive Compensation and Employee Benefits Group at Shearman & Sterling LLP, and is based on a memorandum by Linda Rappaport. Executive compensation continues to command the center stage in public discourse about corporate governance. In the context of a troubled worldwide economy, the focus on pay in the financial services industry— most prominently evidenced by the Occupy Wall Street movement— has led to increased scrutiny of executive compensation at all companies. As 2011 draws to a close, boards of directors of U.S. public companies are subject to conflicting pressures in making executive pay decisions for this year and in designing compensation programs for 2012. There is a widespread public sentiment that senior executives of large U.S. corporations are paid too much, and there are newly enacted laws and regulations that emphasize the importance of paying for performance and guarding against excessive risk-taking. Corporate directors, however, continue to have an obligation to foster the future profitability of their corporations, and they see compensation as a key motivating tool. Against this backdrop, it is helpful to look forward to major legal themes that will be likely to affect incentive compensation in 2012 and the effect those themes may have on decision-making in U.S. corporate boardrooms." Click here for more.

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Student Lending

Consumer Agency Sees Problems in Student Loan Business
Edward Wyatt (NYT)
January 12, 2012

" The Consumer Financial Protection Bureau is stepping up its scrutiny of student loans, particularly those made by for-profit colleges and trade schools that have high rates of default, the newly appointed director of the bureau said Thursday. The director, Richard Cordray, compared the practices of some parts of the student loan business to those of the subprime mortgage lending machine that contributed to the financial crisis. 'We're seeing some of the schools anticipating as much as a 50 percent default rate on their students, yet they're making those loans anyway,' Mr. Cordray said at a press briefing. 'We will be looking closely at those loans. We will be looking closely at the tactics by which they are marketed and making sure that the law is being followed.' Mr. Cordray was appointed as the bureau director by President Obama last week, during a Senate recess, after Republicans blocked the Senate during its last session from bringing his nomination to a vote. A memorandum from the Justice Department's Office of Legal Counsel released Thursday concluded that Mr. Obama had the authority to make the recess appointment, an assertion that has been disputed by Republicans." Click here for more.

Drowning in debt before they knew it
Linda Conner Lambeck (News Times – CT)
January 10, 2012

*"Michael Lantowski is living his dream, but it comes at a price. The 44-year-old Shelton resident said he feels blessed to be working full-time as choir director at St. Pius X Church in Fairfield and part-time organist at Temple Israel in Westport. In doing so he is putting to use the bachelor's degree in liturgical music he earned 15 years ago from the Manhattan School of Music. But his gross earnings of about $65,000 a year makes it hard to keep up with a student loan debt that exceeds $100,000. At times he has missed payments and defaulted. He is now making regular payments but owes more now than when he graduated. 'I am paying $519.38 a month. It's basically like a small mortgage' said Lantowski. He is part of an increasing number of college-educated individuals drowning in a sea of student loan debt. **Lisa Donner**, executive director for the **Americans for Financial Reform**, said students often finance their education with costly private loans before exhausting all federal loan limits, even when college financial aid officials warn them against that. Federal student loans have fixed interest rates, income-based repayment options and the chance for forgiveness. Private student loans are typically the hardest to pay back because they carry variable interest rates, lack flexible repayment options, and are unforgivable, according to a report from the Project on Student Debt at **The Institute for College Access & Success** in California." Click here for more.*

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FTT

David Cameron: I will veto financial transaction tax
Reuters
January 8, 2012

"Prime Minister David Cameron has said for the first time he would veto a European-wide financial transaction tax unless it was imposed globally, deepening a confrontation with European Union heavyweights France and Germany. He said France should be free to go it alone and introduce a financial transactions tax if it wished. Paris and Berlin have been pushing for an EU-wide tax of financial transactions but Britain has strongly resisted, fearing it will damage the City of London, a global financial centre where much of the tax would be raised." Click here for more.

Financial Transaction Taxes Gain Traction
Jeffrey Kutler (Institutional Investor)
December/January 2012 Issue

"At least since the Reagan-Thatcher era, the political climate has been hostile to taxes. Nobody thinks kindly of them. Even fresh proposals with some merits, such as flat tax rates and consumption levies, make little headway with politicians and public opinion. A case in point is the financial transaction tax, an innovation—if that label still applies to a 40-year-old idea—that has effectively been shouted down in the banking capitals of London and New York. The opposition carried the day when French President Nicolas Sarkozy failed to win an official endorsement of his FTT proposal at the November Group of Twenty (G-20) meeting in France. Still, the pro-FTT forces may be gaining ground. They had a powerful spokesman at the November meeting in the person of Microsoft Corp. chairman Bill Gates, with support from the likes of German Finance Minister Wolfgang Schäuble and the archbishop of Canterbury. Although consensus was lacking within the G-20, a poll of the leaders would show more leaning in favor of an FTT than not. With public opinion still running against the financial sector, in part because of a perception that it was not sufficiently punished for the crisis of 2008–09, the industry is not invulnerable. The Obama administration has been anti–transaction tax, but it has proposed a financial crisis responsibility fee designed to penalize excessive leverage and force large banks to pay back benefits received from the Troubled Asset Relief Program." Click here for more.

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Other

Fed's Lofty Profit Becomes Treasury's Gain
Luca Di Leo and Michael S. Derby (WSJ – subscription required)
January 11, 2012

"The Federal Reserve turned $76.9 billion of its profits over to the U.S. Treasury last year, close to the record amount transferred to government coffers in 2010 amid gains generated in its expanding portfolio of securities. Preliminary unaudited results released by the central bank Tuesday showed the Fed had net income of $78.9 billion in 2011. In 2010, the Fed booked a record $81.7 billion profit and returned $79.3 billion of it to the Treasury." Click here for more.

Bank of America Ponders Retreat
Dan Fitzpatrick and Joann S. Lublin (WSJ – subscription required)
January 13, 2012

"Bank of America Corp. has told U.S. regulators that it is willing to retreat from some parts of the country if its financial problems deepen, according to people familiar with the situation. Executives at the Charlotte, N.C., financial giant put the potential move on a list of emergency scenarios submitted to the Federal Reserve last year, these people said. While people close to Bank of America insist that no retreat is imminent, even the possibility of selling branches and losing customers it spent huge sums to lure underscores the depth of its problems." Click here for more.

The New Bottom Line and Rainforest Action Network – BankruptingAmerica Tumblr Blog
Press Release
January 9, 2012

"Today, Rainforest Action Network and The New Bottom Line teamed up to launch a new Tumblr blog, called Bankrupting America. This hub on everything Bank of America highlights the worst of the big bank's deeds, personal stories of those that have been hurt by the company and what everyday people are doing to fight back. The web site features everything from posts lampooning the company, to on-the-ground organizing efforts, to the latest news and reports on Bank of America activities." Click here for more.

MY VIEW, Congressman Spencer Bachus: My reputation important to me and you
Rep. Spence Bachus (Birmingham News op-ed)
January 8, 2012

"As your congressman, I view my character and reputation as not only my business, but yours. A book titled 'Throw Them All Out' by Peter Schweizer is premised on the allegation that while Americans were losing their life savings in the financial crisis of 2008, members of Congress were getting rich by trading on inside information. While purposely designed to inflame, it was certainly not true for my wife, Linda, and me. Although the author asserts I was among those members who profited, like many Americans, my wife and I lost a third of the value of our mutual fund, stock and pension savings in 2008. The author further attempts to build animosity by claiming Congress is exempt from insider-trading laws. The truth is completely the opposite, as the director of enforcement for the U.S. Securities and Exchange Commission has stated repeatedly under oath. I have never traded on insider information." Click here for more.

Romney Beating Obama May Buoy Banks, FBR'S Miller Says
Mike Dorning (Bloomberg)
January 10, 2012

"Goldman Sachs Group Inc. and JPMorgan Chase & Co. are among Wall Street firms likely to rally if Mitt Romney is elected president, giving U.S. banks a reprieve from being top political targets, according to FBR Capital Markets Corp. analysts. Romney, who's favored to win today's New Hampshire primary, will get the Republican nomination and beat President Barack Obama in November, bringing with him a regulatory team that's friendlier to big banks, said FBR's Paul Miller, a Republican, and Ed Mills, a Democrat. 'Romney is going to take over the elections and by the summer it will be apparent that Obama will lose,' Miller said last month in an interview at Bloomberg's headquarters in New York." Click here for more.

Wall St. on Bain-bashing: Better now
Ben White (Politico)
January 10, 2012

"Wall Street titans knew they were going to get savaged in the 2012 campaign. They just didn't think it would come at the hands of Republicans. But that is exactly what has happened in the past few days in New Hampshire and South Carolina as Newt Gingrich, Rick Perry and other GOP presidential candidates have taken a page from what is expected to be President Barack Obama's reelection playbook and piled on the Republican front-runner and the industry he has proudly embraced. The Mitt Romney portrayed by his opponents was a callous corporate raider who slashed jobs as head of Bain Capital and paid himself and his investors hundreds of millions in management fees earned off the misery of discarded middle-class workers." Click here for more.

Is Jack Lew's Bank Background Bad News For Financial Reform? (UPDATE)
Ben Hallman (Huffington Post)
January 10, 2011

*"As President Barack Obama's new White House chief of staff, ex-banker Jacob Lew assumes a powerful position at the height of a Washington battle over the future of bank trading divisions like the one he used to run. For most of his three-decade career, Lew has worked in government, most recently as head of the Office of Management and Budget, where he was praised by both parties. But he took a three-year break from public service during one of the most calamitous economic stretches in modern U.S. history at Citigroup, where in 2008 he ran Citi Alternative Investments, the bank's then-$54 billion proprietary trading, hedge fund and private equity unit. …**Marcus Stanley**, policy director for **Americans for Financial Reform**, a consumer advocacy group, did not want to comment on Lew specifically. But he said the ascension of*

another official with big bank experience is a sign that the revolving door between Wall Street and Washington continues to swing. 'Many political elites in both parties have moved through Wall Street,' Stanley said. 'In some cases, they worked at the same institutions as those lobbying against effective implementation of Dodd-Frank. I hope and expect that in a government role they can set that past aside and implement the law as written.'" Click here for more.

Inside the Fed in 2006: A Coming Crisis, and Banter
Binyamin Appelbaum (NYT)
January 12, 2012

"As the housing bubble entered its waning hours in 2006, top Federal Reserve officials marveled at the desperate antics of home builders seeking to lure buyers. The officials laughed about the cars that builders were offering as signing bonuses, and about efforts to make empty homes look occupied. They joked about one builder who said that inventory was 'rising through the roof.' But the officials, meeting every six weeks to discuss the health of the nation's economy, gave little credence to the possibility that the faltering housing market would weigh on the broader economy, according to transcripts that the Fed released Thursday. Instead they continued to tell one another throughout 2006 that the greatest danger was inflation — the possibility that the economy would grow too fast." Click here for more.

America Forgives The Vampire Squid: Goldman's Reputation Now Back At 'Pre-Fraud Levels' Among Consumers
Jim Edwards (BusinessInsder.com)
January 12, 2012

"Goldman Sachs has managed to lift its reputation among consumers back to "pre-fraud suit levels," according to the YouGov BrandIndex's ongoing survey of 2.5 million people. Goldman has been sued multiple times for its role in the sub-prime mortgage crisis, including a claim by the SEC in April 2010 that Goldman failed to disclose a $1 billion short bet on investments the ban was selling to its clients." Click here for more.

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Upcoming Events

Capitol Hill

The United States Senate is in pro forma until January 23, 2012.

House

House Committee on Financial Services

Joint hearing entitled "Examining the Impact of the Volcker Rule on Markets, Businesses, Investors and Job Creation"
Capital Markets and Government Sponsored Enterprises
Financial Institutions and Consumer Credit
January 18, 2012 9:30 AM in 2128 Rayburn HOB

From Ben White, Politico's Moring Money – January 13, 2012: Next Wednesday's big House Financial Services Committee hearing on how the Volcker rule could impact markets and job creation: http://bit.ly/wqQyXp Witness list: http://bit.ly/A6L2IB

House Small Business Committee

No pertinent markups/hearings scheduled as of 1/13/12

[House Committee on Agriculture]

Wednesday, January 25, 2012 – 10:00 a.m.
1300 Longworth House Office Building
Washington, D.C.
Full Committee on Agriculture -- Business Meeting
RE: To consider legislation amending Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act.

[Committee on Oversight and Government Reform]

No pertinent markups/hearings scheduled as of 1/13/12

[Subcommittee on TARP, Financial Services and Bailouts of Public and Private Programs]

No pertinent markups/hearings scheduled as of 1/13/12

New CFPB chief Cordray to testify before House panel
Jon Prior (Housing Wire)
January 11, 2012

*"The newly appointed director of the **Consumer Financial Protection Bureau** will testify before a House subcommittee Jan. 24, according to a spokesman for Rep. Patrick McHenry, R-N.C. McHenry chairs the subcommittee covering the Troubled Asset Relief Program and other bailout funds. He criticized President Obama for his appointment of Richard Cordray while Congress was in recess and invited the former Ohio attorney general to testify." Click here for more.*

[SEC]

No pertinent meetings scheduled as of 1/13/12

[CFTC]

No pertinent meetings scheduled as of 1/13/12

[CFPB]

National Credit Union Administration (NCUA) Board Chairman Debbie Matz will host a free webinar with Richard Cordray, the first Presidentially appointed director of the Consumer Financial Protection Bureau (CFPB), on Wednesday, Feb. 8, at 3 p.m. EST.