AFR Americans for Financial Reform

This Week in Wall Street Reform | Nov 18 - Dec 1, 2017

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TRUMP ADMINISTRATION, CONGRESS, AND WALL STREET

Banks stand to be big winners from the tax-code overhaul I Wall St. Journal
Big financial firms pay among the highest effective tax rates of any major industry, making a possible drop to a 20% corporate rate highly profitable. S&P Global Market Intelligence estimated the five largest diversified U.S. banks might have had a combined tax savings of $11.5 billion in 2016 if the new rate had been enacted…

There are potential drawbacks, however. Several big banks, including Bank of America and Citigroup Inc., will have to write-down the value of tax I.O.U.s generated by financial-crisis losses. The biggest banks may also lose the ability to deduct payments they make to the Federal Deposit Insurance Corp. for tax purposes.

Trump Ran for the 'Forgotten.' Then He Forgot Them. I NY Times (Robert Kuttner)
How does President Trump continue to pass for an economic populist even as his policies and appointees are those of an economic royalist? The Republican tax plans he supports are a prime example: They favor corporations and upper-bracket individuals and rely on the long-discredited "trickle down" theory to offer benefits to workers. Mr. Trump's key economic posts have gone to Wall Street veterans. The president's other top economic officials are either investment bankers or private equity managers.

Think of Tax Reform as Trump Family's Christmas List I Wall St. Journal (Alan S. Blinder)
Here's my list of the top presents proposed for the Trump family Christmas tree. They are huge.

- REPEAL THE ESTATE TAX. Even using Forbes's "low" estimate of his net worth, dropping the estate tax rate from 40% to zero, as the House bill does, would stuff more than a billion dollars into the stockings of Mr. Trump's heirs… The Senate version, which keeps the estate tax but raises the threshold of wealth subject to it, would give them much less.
- CREATE A PREFERENTIALLY LOW TAX RATE FOR INCOME FROM PASS-THROUGH BUSINESSES. No one knows how much income the president derives from these pass-through operations. But a rough guess based on his leaked 2005 tax return suggests it might be over $100 million a year. If that's roughly right, dropping the tax rate from around 40% to around 25% (again, the House version—the Senate is less munificent) would amount to more than $15 million a year.

- ABOLISH THE ALTERNATIVE MINIMUM TAX. His 2005 tax return revealed that 81% of the taxes he paid that year—$31.2 million of $38.4 million—derived from the alternative minimum tax, not from the regular income tax. Getting rid of this tax would bring great comfort and joy to the Trump family.
- LEAVE EGREGIOUS LOOPHOLES FOR REAL-ESTATE DEVELOPERS INTACT.

Senate Tax Revisions Mostly Favorable to Venture-Capital Firms I Wall St. Journal

Tax Changes for Overseas Cash Could Ripple Through Markets I Wall St. Journal

Democrats split over support for GOP-led bank bill I Politico
The legislation was negotiated by Senate Banking Chairman Mike Crapo (R-Idaho) with a group of red-state Democrats who have been working for years to ease regulations that they say are stifling lending. They are pushing ahead despite opposition from liberal lawmakers, including two prominent finance industry critics — Sen. Sherrod Brown of Ohio, the top Democrat on the Banking Committee, and Sen. Elizabeth Warren of Massachusetts…

"We really hope [Senate Minority Leader Chuck] Schumer holds the line on this and that this proposal gets very vigorous debate," said Marcus Stanley, policy director for **Americans for Financial Reform**, a coalition of consumer and labor groups that advocates for stricter Wall Street oversight.

Big U.S. banks in last-ditch push on regulatory relief bill I Reuters
Wall Street banks and big regional lenders are scrambling to secure changes to a U.S. Senate bill easing rules on smaller banks ahead of a key lawmaker meeting next week, several bank lobbyists told Reuters.

Voodoo Too: The GOP Addiction to Financial Deregulation I NY Times (Paul Krugman)
[J]ust behind the tax story is the effort to gut the Consumer Financial Protection Bureau; and this too needs to be understood in the context of a broader GOP commitment to a demonstrably false but useful narrative. Think about it: what would it take to persuade the right that financial deregulation is a bad idea, and some kinds of regulation are very good for the economy?

CFPB SUCCESSION AND FUTURE

Dueling Appointments Lead to Clash at Consumer Protection Bureau I NY Times
“Fortunately, the statute creating the C.F.P.B. says that the agency’s deputy director serves as acting director until a new director has been nominated by the president and confirmed by the Senate,” Lisa Donner, executive director of **Americans for Financial Reform**, said in a statement. “Mulvaney has said he is opposed to the very existence of the C.F.P.B., and as a member of Congress he voted in favor of Wall Street banks and predatory lenders — his largest donors — again and again.”

Legal clash looms over CFPB leadership I American Banker
At issue is the language of Dodd-Frank, which says that the bureau's deputy director will serve as acting CFPB director in the "absence or unavailability of the director."

That is different from the earlier Federal Vacancies Act, which generally gives the president the power to appoint any Senate-confirmed individual to the temporary leadership of an independent agency. Lawyers said the question is whether Dodd-Frank, which was more recently enacted, supersedes the Federal Vacancies Act in this case.

Confusion and chaos engulf consumer agency I Politico
Two acting directors of the Consumer Financial Protection Bureau showed up for work Monday, trading memos and warnings as a political showdown threw the embattled agency into more confusion. White House Budget Director Mick Mulvaney, President Donald Trump's choice to temporarily lead the bureau, arrived at about 7:30 a.m. and settled in at the CFPB director's office, where he read briefing books. His challenger for the job, CFPB Deputy Director Leandra English, was also in the building. English, former Director Richard Cordray's handpicked replacement, sent the staff an emailed greeting shortly before 8 a.m. and signed it with the bureau's top title, acting director. Mulvaney quickly fired back with a memo instructing staff to ignore any instructions from English. "I apologize for this being the very first thing you hear from me," he wrote, and invited employees to the bureau's fourth floor for doughnuts.

Battle for Control of Consumer Agency Heads to Court I NY Times

How the CFPB leadership crisis affects you — and what to know about Mick Mulvaney v. Leandra English I Mic.com
“The law is really clear here, the Vacancies Act is supposed to be a stop-gap — if there’s no legislative basis for replacing an agency director, you can use that,” said Amanda Werner of **Americans for Financial Reform**. “But Dodd-Frank very clearly states how the law works, so you can’t use the Vacancies Act to override it.”

White House Memo Justifying CFPC Takeover Was Written By Payday Lender Attorney Intercept (David Dayen)

Who Will Be in Charge on Monday? That’s the Question in Agency Battle I NY Times

At CFPB, Bitter Feelings about Final Cordray Maneuver I American Banker

WH says it's on solid legal ground I LA Times

Lawyers side with Trump in battle over CFPB leadership I Housing Wire

Dodd & Frank on CFPB: Mulvaney There to 'Shut the Agency Down' I Credit Union Times
The primary sponsors of the Dodd-Frank Act said Thursday that President Trump did not have the power to appoint an interim CFPB director—making the appointment of Mick Mulvaney illegal. “He cannot simply appoint someone to run the agency” until someone is nominated on a permanent basis, former Rep. Barney Frank (D-Mass.) told reporters.

Frank and former Sen. Christopher Dodd (D-Conn.) said that Dodd-Frank established a process for the selection of an interim director. The law, they said, authorizes the agency director to appoint an interim director when the director is not available. They said that when Director Richard Cordray left office, his deputy, Leandra English, should have taken over the agency.

Richard Cordray's CFPB Has Done Its Job Well I Bloomberg (editorial)
As recently as a decade ago, the U.S. had no single regulator tasked with looking out for the interests of consumers in financial markets. Fragmented oversight allowed all kinds of bad behavior to fall through the cracks. Mortgage brokers hid the true terms of loans in piles of nearly indecipherable documents. Banks changed the order of transactions to extract the maximum overdraft fees from poor customers. Payday lenders offered products designed to trap people in an unending cycle of debt...

Cordray has accomplished a lot. The CFPB designed new, simpler mortgage-loan disclosures. It shed light on banks' overdraft practices. It created the first federal rules to make payday lending less predatory. It gave the public reams of valuable information, such as a database that allows consumers to compare credit-card agreements. Its practice of publishing complaints pushed financial institutions to be more responsive. Its investigation of Wells Fargo brought national attention to the fake-accounts issue.

Cordray on CFPB fight: The law is on my side I The Hill
"The law is clear here. It says that the director, that was me on Friday, shall appoint a deputy director. I did that," Cordray said on MSNBC's "The Rachel Maddow Show." Cordray said the Dodd-Frank Act, which created the consumer protection agency, is unequivocal on this point.

Cordray Resigns From U.S. Consumer Agency, Triggers Political Showdown I US News

Read: Consumer Bureau Director Richard Cordray's Resignation Letter I National Law Journal

Consumer Financial Protection Bureau Showdown I Democracy Now
For more, we go to Washington, D.C., where we are joined by Lisa Donner, executive director of **Americans for Financial Reform**. The group's hundreds of members helped lead the fight for the creation of this Bureau..

LISA DONNER: [T]he CFPB statute clearly says that the deputy director becomes the acting director. And as a number of legal commenters have pointed out, the legislative history of the CFPB really underlines that that was the intent of the drafters. There was one set of language in early versions, and in the final version, there is clarification that there is this plan and process for what happens…

President Wins Round in Battle for the Consumer Bureau I NY Times
President Trump's deregulation push got a boost after a federal judge denied an emergency request on behalf of an Obama-era holdover who disputed Mr. Trump's decision to appoint a new acting director of the Consumer Financial Protection Bureau, delivering a legal victory to the White House, which argued that the president had the authority to install a new leader.

Victorious Trump moves to reshape consumer bureau I Politico
The president's short list of candidates includes House Financial Services Chairman Jeb Hensarling (R-Texas), George Mason University law professor Todd Zywicki, and former acting Comptroller of the Currency Keith Noreika. All are fierce critics of the bureau, which they have accused of overstepping its authority and running roughshod over industry.

We must all fight to defend a key watchdog for financial fairness I Washington Post (Michelle Singletary)
Partisan politics aside, please remember why the agency came about. It was part of the Dodd-Frank Act and was directed to look at the rules governing credit cards, mortgages, student loans and other financial products aimed at consumers. We needed a superhero to put us back on track. In a tweet Monday, the Leadership Conference on Civil and Human Rights wrote, “If the 2008 financial crisis showed us anything, it’s that consumers need and deserve a strong and independent regulator to look after the interests of American consumers. #DefendCFPB” Take to Twitter, the forum we know Trump values. Use the #DefendCFPB hashtag and let your voice to be heard. If you don’t speak up in defense of this agency, you will lose an important watchdog for financial fairness.

The Last Anti–Wall Street Agency in DC Is Being Eaten from the Inside I Vice
"We live in the financial system all of the time, and we are incredibly dependent on it—and incredibly vulnerable to abuses and unfair practices," said Lisa Donner, executive director of the pro-regulation group **Americans for Financial Reform**. "Whether that's Wells Fargo opening two million fake accounts or debt collectors chasing after people for debts they don't owe or a student loan servicer servicing loans that leave people paying millions of dollars more than they should be... there is a huge amount of money and a huge amount of financial security at stake."

Pat Bagley, Salt Lake City Tribune

Trump’s Swampiest Move Yet I Washington Post (Dana Milbank)
Even for this phony populist president, who instead of draining the swamp stocked his White House and Treasury Department with Goldman Sachs executives and sprinkled billionaires and lobbyists across the government, the move on the CFPB is brazen. That’s because Trump’s legal justification for taking control of the CFPB was written by a lawyer who until just a few months ago was defending a foreign payday lender against the agency’s attempts to punish it for lending abuses.

Consumer Bureau Threatened by President's Assertion He Can Select Temporary Director I US PIRG (Ed Mierzwinski)

Why Democrats are to blame for consumer agency debacle I PoliticoPro (Lorraine Woehlert)

Mulvaney has soft spot for payday lenders, if you can believe that I International Business Times

Siding with Trump, judge rules Mick Mulvaney to remain interim CFPB head I USA Today

> *@realDonaldTrump: The Consumer Financial Protection Bureau, or CFPB, has been a total disaster as run by the previous Administrations pick. Financial Institutions have been devastated and unable to properly serve the public. We will bring it back to life!*

Trump once again rises to Wall Street's defense I Washington Post (Philip Bump)

AP Fact Check: Bank sector not in ruins, despite Trump beef I Associated Press
Federally insured commercial banks and savings institutions reported more than 5 percent growth in the third quarter from a year earlier. Of more than 5,700 institutions reporting, more than two-thirds (67 percent) had year-over-year growth in quarterly earnings. The proportion of unprofitable banks fell. Quarterly net earnings also were up in the second quarter.

Similar earnings growth — 4.9 percent — was reported in 2016. As well, litigation expenses — one possible sign of distress — were down by almost $3 billion at a selection of large banks.

Mick Mulvaney is now one of the most powerful bureaucrats in the country I Washington Post
The White House budget director is, for now, also the acting director of a powerful financial regulator, the Consumer Financial Protection Bureau. At the CFPB, he can single-handedly cut the agency's budget and decide whether to proceed with or drop investigations into big financial firms. He also gains a seat on a key regulatory panel that oversees the world's largest financial institutions, called the Financial Stability Oversight Council. Among the council's other members are Treasury Secretary Steven Mnuchin and Federal Reserve Chair Janet L. Yellen.

This agency protects Davids from Goliaths I CNN (David Perry)
Late last May, I accepted a job offer in Minnesota, loaded my family in the van, and -- two months ahead of the actual move -- drove to the Twin Cities to start looking for a new place to live. But when it came time to get pre-approved for a loan, our best laid plans went awry.

My credit score was hundreds of points lower than I expected, thanks to a $2,500 fraudulent Best Buy charge. Our identities had been stolen in 2013 and my wife and I thought we had cleaned it up, but here was this charge in my wife's name. A collection agency had bought the debt and not only trashed her credit rating, but illegally applied it to mine as well. No bank would give us a decent loan.

Trump wants to destroy Elizabeth Warren's brainchild. In a new interview, Warren hits back. **I Washington Post**

States gird for fight as Trump targets consumer finance watchdog **I Reuters**
Pennsylvania's Attorney General [Josh Shapiro] is leading the charge among his Democratic peers preparing to shore up protections for borrowers and savers while President Donald Trump follows through on a pledge to defang a powerful consumer finance watchdog…

Shapiro is part of a group of Democratic attorneys general from powerful and large states such as California and New York who disagree with Trump's call for financial deregulation.

Trump Won't Be Able to Defang the CFPB Without a Fight **I New York Magazine**
[T]he House version of Dodd-Frank said that the Federal Vacancies Reform Act did apply to the CFPB — but this language was stripped out in conference committee, a sign that Congress actively decided to mandate different rules of succession for the bureau.

Thus, according to Adam Levitin, a Georgetown Law professor, the CFPB's acting deputy director David Silberman would assume legal control of the agency, once Cordray officially steps down. Silberman is a former labor lawyer who has worked at the CFPB since its inception. So: not the kind of leader Trump is looking for.

Gutting consumer finance regulator would be a huge Trump mistake **I Chicago Tribune (Robert Reed)**

Beyond Leadership Tiff, What's at Stake at Consumer Watchdog **I NY Times**

Is the Consumer Bureau 'Unaccountable' and Ineffective? **I NY Times (fact check)**
[B]efore the financial crisis that prompted the creation of the bureau, Ms. Block-Lieb said, "regulators were asleep at the switch and there were so many of them, it created a collective action problem." In its six years of existence, the agency has gone after debt collectors and payday lenders, set rules to protect mortgage borrowers and extracted nearly $12 billion for 29 million consumers in compensation. [Fordham University Law Professor Susan] Block-Lieb called the criticism of the Consumer Financial Protection Bureau doing little "absurd." "Are they perfect? Of course not," she said. "But they're important."

Mick Mulvaney's Malarkey and Trump's CFPB Funny Business **I Sensible Safeguards (Bret Thompson)**

Vigil to #DefendCFPB **I AFR blog (Carter Dougherty)**

Initial Thoughts on CFPB Succession Saga and the Road Ahead **I Compass Point**

OLC Legal Opinion and the Missing Legislative History **I Credit Slips (Adam Levitin)**

DOJ/OLC Attorney Giving Trump Legal Cover for Mulvaney CFPB Pick Defended Offshore Payday Lender Being Sued By CFPB **I Allied Progress**

Consumer Bureau Threatened by President's Assertion He Can Select Temporary Director **I U.S. PIRG (Ed Mierzwinski)**

CFPB Political Circus Hits Day Two With More Memos, Protests **I Bloomberg**

Warren Rallies Supporters Against Trump's Appointment **I Huffington Post**
Warren, Sen. Jeff Merkley (D-Ore.) and leaders of major liberal groups, including the Progressive Change Campaign Committee, MoveON and Demos, rallied outside the consumer agency's headquarters in downtown Washington, D.C., as CFPB employees congregated at their office windows to watch.

"For six years, this agency has fought to give consumers a chance. For six years, this agency has fought for working people," Warren declared as demonstrators cheered behind her. "And now it's time for us to fight for the agency."

U.S. Regulator Preparing to Sue Santander Bank Over Auto Loans **I US News**
Wells Fargo's prudential regulator, the Office of the Comptroller of the Currency, has found that the bank's violations in the fake-accounts scandal constitute "unsafe or unsound" practices. By statute, this alone is grounds for the FDIC to terminate a bank's deposit insurance. Yet there is no indication the FDIC has even begun an investigation into whether Wells Fargo deserves continued access to that privilege.

What Will Become of the CFPB's Case Against Santander? **I AFR blog (Jim Lardner)**

One Thing at Risk at CFPB: Ability to Deliver Relief to Victims of Financial Flimflams **I AFR blog (Jim Lardner)**

Working People Need a Strong CFPB With a Leader Who Supports Its Existence **I AFL (Heather Slavkin Corzo)**

Consumer Agency Is No Stranger to Controversy **I Wall St. Journal**

Wall Street Wants to Kill the Agency Protecting Americans From Financial Scam **I Intercept**
Cordray is departing on his own terms, amid speculation that he will run for governor of Ohio. He announced on Wednesday that he expects to step down before the end of the month, and when he does, he'll leave behind a vibrant, if profoundly embattled, agency.

His departure will be "a huge loss," said Lisa Donner, executive director of **Americans for Financial Reform**. If Trump appoints a new director who is indifferent, or even hostile, to consumer issues, she said, "It will be incredibly costly to the American public."

See statements on succession and future of CFPB by **Americans for Financial Reform**, **Center for Responsible Lending**, **Consumer Federation of America**, **National Consumer Law Center**, **Public Citizen**, **U.S. PIRG**, **Senator Sherrod Brown**, and **Senator Elizabeth Warren**

CONSUMER FINANCE AND THE CFPB

House lawmakers move to repeal new CFPB payday lending rules LA Times
A bipartisan group of House lawmakers on Friday introduced legislation to repeal the first broad nationwide regulations on payday and other short-term loans, arguing the rules from the Consumer Financial Protection Bureau would effectively ban millions of Americans from accessing credit.

The move is the latest in a Republican-led fight against the agency, an Obama-era creation that was the center of controversy this week in a legal dispute over who should serve as acting director. The House members hope to duplicate the successful effort this year to use the Congressional Review Act, a formerly little-used mechanism, to repeal a new consumer bureau rule that would have allowed Americans to file class-action suits against banks instead of being forced in many cases into private arbitration.

New House bill would kill consumer watchdog payday loan rule I CNBC

See statements by **Americans for Financial Reform**, **Center for Responsible Lending**, **Consumer Action**, **Consumer Federation of America**, **Leadership Conference on Civil and Human Rights**, and **National Consumer Law Center**.

Mandatory arbitration is bad policy and bad for business I Reuters
Those who fight against regulation for a living routinely trot out a few fundamental principles to fortify their arguments. One is that consumers should have free choice: the government should not prohibit products or services on the presumption that it knows better than the customer. Another is that "one-size-fits-all" solutions are bound to fail and should not be imposed on the industry or its customers. Following these principles is wise, and helps keep free markets fair and efficient. So, it's ironic and disturbing that these principles were ignored when the financial industry and its supporters in Congress rushed through a resolution which reversed a ban on mandatory arbitration clauses in the financial industry. Reversing the ban leaves financial institutions free to impose closed-door arbitration on all future disputes with customers, blocking recourse to the civil court system regardless of the circumstances.

Does your credit card force you to give up your rights? I CNN Money
But there's another aspect of credit cards that often goes overlooked, usually because people don't think they have much of choice: arbitration clauses.Often these terms are forced. But with 7 out of 10 card issuers allowing their users to resolve disputes in court rather than through forced arbitration, you can avoid them if you know what you're looking for, according to a study by CreditCards.com. Wait: what's an arbitration clause, again?

Arbitration clauses are included in the terms of service for many credit card companies. They require an alternative process to the court system in which a mediator hears both sides of the case and issues a decision. There's no jury and the opportunity to appeal is unlikely. Plus, the consumer loses some rights and protections like the opportunity to join a class action claim.

New credit card? To avoid payment drama, make this one crucial move when you open an account. I Mic
Say you really want the Citi Double Cash card for it's 2% cash back on all purchases or the Amex Platinum for the $200 in free Uber rides. Do you have to give it all up just because of that pesky arbitration clause from both issuers? Nope. In most cases, as soon as you activate your card, just send a snail mail letter to the issuer saying you reject the arbitration provision on your credit card agreement. Be sure to include your name, account number, address and the date you wrote the letter. Send it by certified mail to get a record of receipt and keep a signed, dated copy for your records as well. "Send an actual letter, not an email.

Mandatory arbitration is bad policy and bad for business I Reuters (Scott McCleskey)
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Wells Fargo Is Dubbed a Repeat Offender and Faces New Wrath From Its Regulator I Wall St. Journal
In a harshly worded letter sent earlier this month, the Office of the Comptroller of the Currency, one of the bank's chief regulators, said Wells Fargo had willingly harmed its customers in those two business lines and had until Nov. 24 to respond, according to people familiar with the matter. The letter said the bank repeatedly failed to correct problems in a broad range of areas, not just the auto-insurance and mortgage-lending units, the people said.

Attorney General Balderas Announces Investigation of Wells Fargo I KRWG
Wells Fargo knew about these sales practices, but did nothing to stop the employee behavior, as business skyrocketed. The company also failed to create an adequate risk management framework that would have alerted it to questionable sales practices. Unfortunately, when individual customers attempted to sue Wells Fargo in the past, the bank previously and successfully compelled those cases to arbitration, allowing the fraud to continue for years. Wells Fargo's customer agreements still contain arbitration clauses, which prevent individuals from suing the bank for fraud or wrongdoing. The arbitration clause does not, however, prevent the Attorney General from taking action to protect New Mexico consumers.

Regulators must finish the job of penalizing Wells Fargo I American Banker (Kurt Walter)

DERIVATIVES, COMMODITIES, AND THE CFTC

CFTC Chief Works to Tweak, Not Decimate, Obama-Era Rules I Wall St. Journal
[S]o far, Mr. Giancarlo has been content to tweak derivatives rules tied to the 2010 Dodd-Frank regulatory-overhaul law. His assertion that the bulk of Dodd-Frank derivatives regulations is here to stay has been disarming to some Democrats, who have worried about large-scale deregulation under the Trump administration. Those who know him say Mr. Giancarlo's moderate approach and willingness to work closely with Democrats aren't surprising.

CFTC Reports Steep Drop in Enforcement Actions and Fines I Wall St. Journal
The Commodity Futures Trading Commission's enforcement actions and fines plunged in the first year of the Trump administration from a year earlier, when the figures were lifted by big settlements with banks. The CFTC said Wednesday that it brought 49 enforcement actions in the fiscal year ended Sept. 30, down 28% from 68 in the previous fiscal year. The agency's fines amounted to a third of what it collected last year: Restitution, disgorgement and penalties for the year ended Sept. 30 totaled $413 million, down from $1.29 billion the previous year.

Bitcoin Futures Are About To Be a Thing and It's Sending Prices Soaring I Fortune

CFTC Whistleblower Program Off to a Slow Start I National Law Review

FEDERAL RESERVE

Trump's Fed nominee Jerome Powell met 50 times with Wall Street execs this year. Is that a problem? I Washington Post
"Powell is a respected guy. We've had positive meetings with him, but the question is how he and [new Fed governor Randal] Quarles will stand up to constant barrage from Wall Street to weaken and take down post-financial-crisis controls," said Marcus Stanley, policy director of **Americans for Financial Reform**, an advocacy group that is pushing for Dodd-Frank and other regulations on big banks to stay in place.

Stanley met one-on-one with Powell in July. Stanley said he is somewhat alarmed to see Powell meet so often with Goldman, since the bank has been pushing for the Fed to scale back the Volcker Rule, which prevents Wall Street firms from proprietary trading.

Fed Chair Nominee Powell Sees No Too-Big-To-Fail Banks I NY Times

Trump's Fed chair nominee says Wall Street regulations are 'tough enough' I Washington Post
Jerome "Jay" Powell, President Trump's nominee to lead the Federal Reserve, told senators Tuesday that he thinks regulations on Wall Street banks are "tough enough," a remark that made Democrats cringe..

How Jerome Powell can save the Fed from Trump I PoliticoPro

INVESTOR PROTECTION AND THE SEC

Wall Street's watchdog is pursuing fewer cases since Trump took office I Washington Post

[D]ata shows that during the first months of the Trump administration, the agency may be scaling back those efforts. SEC penalties fell 15.5 percent to $3.5 billion this fiscal year compared to 2016, according to data compiled by Georgetown University law professor Urska Velikonja. The SEC filed 62 enforcement actions against public companies and their subsidiaries in fiscal 2017, a 33 percent decline from the previous year, according to another study released earlier this month by the New York University Pollack Center for Law & Business and Cornerstone Research.

Trump Administration Questions Validity of SEC Judges I Wall St. Journal

The Trump administration on Wednesday abandoned its defense of the Securities and Exchange Commission's in-house judicial system, siding with opponents who say the hiring process for the SEC's judges is unconstitutional. In a brief filed with the U.S. Supreme Court, lawyers for the Justice Department wrote they now consider the SEC's administrative law judges to be officers like other presidential appointees, instead of employees who are picked through a human-resources process. That means the way the SEC hires the judges may violate a constitutional clause that safeguards separation-of-powers principles.

SEC Nominees Face Delay as Democratic Senator Puts Up Roadblock I Wall St. Journal

A Democratic senator says she won't agree to quickly confirm two nominees to the Securities and Exchange Commission until they outline their views on whether regulators should rein in activist investors, stock buybacks and executive pay. In letters sent Wednesday to a pair of nominees who advanced through the Senate Banking Committee this month, Sen. Tammy Baldwin (D., Wis.) says she is standing up for workers and long-term shareholders by questioning current rules that she argues are too friendly to Wall Street. Her ultimatum could slow the confirmation of Democrat Robert Jackson and Republican Hester Peirce, because she won't agree to an expedited vote this year without detailed answers.

U.S. Securities and Exchange Commission ratifies administrative law judges I Reuters

The U.S. Securities and Exchange Commission said Thursday it had ratified the prior appointment of its administrative law judges. The SEC said in a statement the ratification of five in-house judges would resolve concerns about administrative proceedings handled by those officials, after their status as SEC employees was challenged in court.

SEC Gives Advice On ICOs But Leaves Questions Unanswered I Forbes

MORTGAGES AND HOUSING

Lawmakers Should Oppose Bill that Harms Manufactured Home Owners I Huffington Post (Thomas A. Cox)

[I]nstead of preserving protections for consumers, H.R. 1699 takes away rules that were put in place after the last mortgage foreclosure crisis. Sadly, Congressman Bruce Poliquin from Maine has signed on as a co-sponsor of this bill and appears to be poised to vote for it.

Manufactured homes (sometimes called mobile homes) can be a great source of affordable housing. Many Mainers would be unable to enjoy the benefits of homeownership if manufactured homes were not available to them. But, just like people buying traditional homes, these Mainers usually need a mortgage. Getting a mortgage can be complicated and there is much that goes on behind the scenes.

See letter of opposition from **AFR and more than 50 organizations.**

Case Shiller: Home prices rise at fastest pace since 2014 I Housing Wire

Real Estate Firm's Arbitration Agreements Violate Law: NLRB Judge I The Recorder
The real estate company CBRE Inc.'s mandatory arbitration agreements violate federal labor law, according to an administrative law judge ruling that highlighted controversial employee restrictions that are at the center of a U.S. Supreme Court case this term. Administrative law judge John Giannopoulos at the National Labor Relations Board ruled that the global commercial real estate firm's employment agreements violate labor law by requiring that disputes be handled through arbitration and not through "any class, collective or representative action."

REGULATION IN GENERAL

Trump Administration Cuts New Rulemaking by 75 Percent I Bloomberg
President Donald Trump boasted in the early days of his presidency that he would cut regulations by 75 percent—and by one measure he appears to be doing exactly that. The number of new rulemakings proposed by federal agencies in the first 10 months of the Trump administration is down almost 75 percent, compared to comparable periods during Presidents George W. Bush's and Barack Obama's administrations, new research shows. Agencies submitted 250 significant final rules to the Office of Information and Regulatory Affairs (OIRA) in the first 10 months of the Bush administration, compared with 280 rules during the same period in the Obama administration, the research shows.

White House Set to Update Growing List of Deregulation Targets I Bloomberg
The Trump administration is set to release within days its second government-wide report listing all the regulatory and deregulatory actions that agencies intend to take in the next 12 months, with more deregulatory actions expected than ever before.

RETIREMENT INVESTMENT AND DOL FIDUCIARY RULE

DOL Officially Delays Start of Fiduciary Rule I National Law Journal
The Save Our Retirement Coalition, which includes the Consumer Federation of America and **Americans for Financial Reform**, blasted the 18-month delay, stating in a Monday release that the action "is effectively a repeal of the fiduciary rule's most critical provisions – the provisions that ensure the rule is effective and enforceable and that financial advisers and their firms are accountable for providing the best interest advice retirement savers both want and need."

DOL, the Coalition said, "claims it is simply delaying the full implementation and enforcement of the fiduciary rule by 18 months, but delay implies these provisions will become applicable in the near future. However, the Trump Administration has made clear its goal is that these most critical provisions never become applicable. Instead, the Administration's intent is to use this time to permanently dismantle key elements of the rule."

Risks Lurk in DOL Rule Exemption for 'Clean Shares' I ThinkAdvisor

DOL officially puts Obama administration's fiduciary rule on hold for 18 months I Legal News Line

Lisa Donner, executive director of **Americans for Financial Reform**, said the DOL's decision shows the Trump administration clearly is on Wall Street's side. "If this slow-motion effort to eviscerate the fiduciary rule goes through, Americans will live less comfortable, less secure retirements," Donner said.

U.S. Treasury's Phillips calls fiduciary rule 'regulation looking for a problem' I Reuters

Craig Phillips, counselor to U.S. Treasury Secretary Steven Mnuchin, said on Tuesday that he supports the delay of the fiduciary rule, calling it a "regulation looking for a problem." Phillips, speaking at the Managed Funds Association Conference, said on the Financial Stability Oversight Council: "We believe it's a very valuable forum. We don't have any intention of removing FSOC's authority."

Consumer Advocates Blast DoL Rule Aimed at Killing Fiduciary Rule I ValueWalk

Trump, Republicans are in frontal assault of Obama-era regulations I St. Louis Post-Dispatch

SEC's Jay Clayton calls a fiduciary rule a priority I Investment News

Open Letter to SEC: Disclosure Is Not Enough I Seeking Alpha

Clarifying difference between advice, sales not as simple as it sounds I Investment News

Excessive-fee litigation in retirement plan market moving downstream I Investment News

Clarifying difference between advice, sales not as simple as it sounds I Investment News

The long battle over investment advice standards can be traced to the different standards that apply when a broker sells a product to a client and then helps the same client manage his finances.

The fiduciary rule that applies to investment advisers, which requires that they act in the best interests of their clients, doesn't govern brokers when they offer advice that is "solely incidental to" product transactions, but theoretically would apply when they offered more extensive planning advice.

Finalized: 18-Month Extension of Fiduciary Rule's Transition Period I NAPA

An 18-month extension of the transition period for the Prohibited Transaction Exemption (PTE) amendments and applicability dates for the Department of Labor's fiduciary rule has been finalized.

The special transition period under sections II and IX of the Best Interest Contract Exemption (PTE 2016-01) and section VII of the Class Exemption for Principal Transactions in Certain Assets between Investment Advice Fiduciaries and Employee Benefit Plans and IRAs (PTE 2016-02) is extended to July 1, 2019, rather than ending on Jan. 1, 2018.

STUDENT LOANS AND FOR-PROFIT SCHOOLS

Exploiting Veterans for Profit I NY Times (editorial)
Despite efforts by Congress, the Obama administration and state attorneys general to stop the predatory practices of for-profit colleges, veterans and service members who rely on funding from the G.I. bill and the Defense Department to attend school are still being targeted by an industry infamous for saddling people with debt and useless degrees.

A Senate committee report sounded a warning on this problem three years ago, when it raised questions about deceptive practices in the industry. State attorneys general and federal agencies at the time were investigating seven for-profit outfits with significant revenue streams from the G.I. bill. Some of these schools have since been forced to shut down.

Nevertheless, a new analysis of federal data by Veterans Education Success, a nonprofit that provides free legal services to student veterans, finds that the for-profit industry is still setting its sights on veterans and service members even as its nonmilitary enrollment has declined.

Education Department Signals Possible Changes to Gainful-Employment Rule I Inside Higher Ed
In documents released this week ahead of a negotiated rulemaking session on the gainful-employment rule, the Department of Education signaled potential limits to the Obama-era regulation that went into effect last year. The gainful-employment regulation was written to weed out poor-performing career education programs that produce too many graduates with debt they can't repay. To hold programs accountable, it ties access to federal student aid funds to performance on a debt-to-earnings metric.

For-profit colleges sued twice to block the rule, but it went into effect last year and the first set of full data for career programs subject to the rule was released in January. However, Education Secretary Betsy DeVos said in June that she would appoint a rule-making panel to overhaul the rule, taking account of many of the complaints from colleges.

Why student loans are no excuse for slacking on retirement savings I Market Watch
As a millennial, you probably haven't saved much money for retirement. You're drowning in student loan debt, after all, so how can you prioritize saving? A recent study found that your student loans might not be to blame for your lack of retirement savings. To put it simply, millennials suck at saving for retirement. Only 31% are doing it at all, according to CNBC.

Trump's Department Of Education Looks To Limit Civil Rights Investigations In The Nation's Schools I Good Education
Since becoming the Trump administrations' Education secretary, Betsy DeVos has been dead-set on repealing Obama-era protections for America's most vulnerable students...

Documents leaked to the Associated Press show that DeVos' department is now taking aim at repealing guidelines from the previous administration that protect students and parents who make civil rights violation claims. Currently, investigations are required to examine whether incidents are part of a broader, systemic problem — but according to the leaked documents, the department will begin limiting the scope of civil rights investigations, treating them as individual complaints.

California Attorney General Sues For-Profit Ashford I Inside Higher Ed

SYSTEMIC RISK

Trump Team to Recommend Keeping Dodd-Frank Liquidation Power I Wall St. Journal
The Trump administration doesn't plan to recommend stripping regulators of their power to seize and unwind a failing financial firm in a crisis, according to people familiar with the matter, a development likely to make defenders of the 2010 Dodd-Frank financial law breathe a sigh of relief.

Regulators Open to Making Treasury Market Data Public I Wall St. Journal
U.S. regulators said Tuesday they were considering releasing to the public some of the data on the $14 trillion U.S. Treasury market that they have been collecting since this summer, but no decision was imminent. "The policy for public dissemination of the data is being actively considered," said Craig Phillips, counselor to Treasury Secretary Steven Mnuchin, speaking at the annual Treasury Market Structure conference at the Federal Reserve Bank of New York. Former Treasury Secretary Jacob Lew, an Obama appointee, had favored making the data public, and observers were watching remarks from the New York Fed conference to see where regulators installed by the Trump administration stand on the issue.

Trump to Name Thomas E. Workman to Financial Stability Oversight Council I Wall St. Journal

Noreika: Bank holding company structure may be 'obsolete' I PoliticoPro

OTHER TOPICS

Supreme Court Questions Whether Dodd-Frank Protects All Whistleblowers I Wall St. Journal
Supreme Court justices on Tuesday expressed skepticism that whistleblowers who report corporate wrongdoing internally instead of to the Securities and Exchange Commission are protected from retaliation under the 2010 Dodd-Frank regulatory-overhaul law. The question stems from a lawsuit filed by a whistleblower, Paul Somers, who says he was fired from Digital Realty Trust Inc. DLR -1.05% in 2014 after complaining internally about accounting irregularities, among other matters.

Unrigging the Rules: How This Funder Is Taking on Inequality I Inside Philanthropy
Anna Lefer Kuhn began as executive director of the Arca Foundation in 2008, the week Lehman Brothers collapsed. During the crash and its aftermath, she says, it became clear that the

financial sector's concentrated economic and political power had rigged the rules in favor of the rich, exacerbating inequality. ..

That belief isn't exactly unusual… But according to Kuhn, philanthropy's response has been underwhelming. "What struck the foundation was that there was a robust set of organizations working on inequality issues, but very few that had the capacity and infrastructure to respond to the [2008] crisis..."

Arca's biggest grant both this year and last, for $125,000, supported **Americans for Financial Reform**, the coalition group that's been leading the fight for stronger oversight of Wall Street—yet has only around a dozen staff. Initiatives that critique globalization and free trade have long had an even harder time landing grants, leaving these issues to be weaponized by Donald Trump during his run for the presidency.