AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
April 5 - 11, 2014

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HIGH-FREQUENCY TRADING & DARK POOLS

'Flash Boys' Fuels More Calls for a Tax on Trading
Nelson Schwartz, New York Times, 4/7/14
"It's not every day that you find a fan club for new taxes, especially among economists and legal experts. But a burst of outrage in recent days generated by Michael Lewis's new book about the adverse consequences of high-frequency trading on Wall Street has revived support in some quarters for a tax on financial transactions, with backers arguing that a tiny surcharge on trades would have many benefits.

"'It kills three birds with one stone,' said Lynn A. Stout, a professor at Cornell Law School, who has long followed issues of corporate governance and securities regulation. 'From a public policy perspective, it's a no-brainer.'"

Will Flash Trades Now Lead to a Financial Transaction Tax?
Peter Schroeder, The Hill, 4/6/14
"Renowned author Michael Lewis's charge that the stock market is rigged against regular investors is making waves in Washington. Liberal lawmakers in particular believe Lewis is bringing critical attention to an issue that could boost their efforts to assign a tax on all financial transactions.

"Rep. Keith Ellison (D-Minn.) joined with civil rights advocates Friday to hold a rally pushing his financial transaction tax bill. At the event, he mentioned Lewis's book *Flash Boys* and blasted high-frequency traders as 'predatory' and 'parasitic.'"

The Michael Lewis Factor
Zachary Warmbrodt and Dave Clarke, Politico, 4/5/14

Slow Cop, Fast Beat: SEC Takes Its Time on High-Frequency Trading Rules
Dave Michaels, Matthew Philips & Silla Brush, Bloomberg, 4/10/14
"Yet White is in no rush. The SEC chief says her agency will make sure any rule changes are supported by data as it conducts a survey of the entire market, rather than focusing specifically on speed traders. 'I think you really do want to do a soup-to-nuts review,' says White, who stresses that any study will begin with the presumption that 'the markets are not rigged.'

"White's go-slow approach has the backing of some market participants who fear that premature attempts at reform may do more harm than good. Included in that camp are some of the investors that HFT's critics say are being taken advantage of the most. One criticism of speed traders is that they use sophisticated trading algorithms to detect the moves of big institutional investors and then jump in front of their large orders. Speed traders can then profit from buying and then quickly selling a stock for a slightly higher price to the bigger, slower investor. Yet Joe Brennan, global head of equity investing at Vanguard Group, the world's largest mutual fund company, says the majority of high-frequency traders 'play within the rules' and even 'knit together' the fragmented market by ensuring that prices stay in line with each other across different trading venues. That makes the markets more efficient and lowers trading costs for many participants, he says. This is not to say there aren't bad actors, he adds, who 'unfairly tax the system'."

Fallout From High-Frequency Trading Hits Brokerages

Bradley Hope, Wall Street Journal, 4/6/14

"Shares of E*Trade Financial Corp., Charles Schwab Corp. and TD Ameritrade Holding Corp. tumbled last week amid concerns that regulators would ban a practice that allows brokerages to collect hundreds of millions of dollars a year in revenue by selling orders to middlemen who use high-frequency strategies to trade with the brokers' customers.

"The practice, called payment for order flow, has gained more attention since the release of 'Flash Boys,' a book by Michael Lewis that argues the markets are 'rigged' to benefit high-frequency traders, allegations that are stirring up long-running questions about the fairness of markets."

Dark Markets May Be More Harmful Than High-Frequency Trading

John McCrank, Reuters, 4/7/14

"Those whose trade never makes it to an exchange can benefit as the broker avoids paying an exchange trading fee, taking cost out of the process. Investors with large orders can also more easily disguise what they are doing, reducing the danger that others will hear what they are doing and take advantage of them.

"But the rise of 'off-exchange trading' is terrible for the broader market because it reduces price transparency a lot, critics of the system say. The problem is these venues price their transactions off of the published prices on the exchanges - and if those prices lack integrity then 'dark pool' pricing will itself be skewed.

"Around 40 percent of all U.S. stock trades, including almost all orders from 'mom and pop' investors, now happen 'off exchange,' up from around 16 percent six years ago."

High Frequency Is The Wrong Debate

Niki Beattie, Financial Times, 4/7/14

"The real debate should not be about who receives what information when, but about what we want our financial markets to look like. Governments have repeatedly failed to step up and define a blueprint for markets, and our regulators continue to flounder, resulting in rules that are at best unhelpful and at worst contradictory, with little thought for the longer-term consequences…

"Hence the development of another seemingly unpalatable form of trading, 'dark pools', where large institutional orders can be matched with less detection – something else regulators and politicians don't like. If asset managers go out into the transparent market where their orders are quickly seen by all, they complain that people are trading against them; but what do they expect when the likelihood of a large trade in the market is clearly going to move the market price?"

[**How High-Frequency Traders Hurt ETF Investors**]
Ron DeLegge, Think Guide, 4/6/14
"Actually, none of this is new. In his 1970 best seller titled 'Wall Street Jungle,' Richard Ney exposed the dirty mechanics of the NYSE's market specialist con. He wrote, 'One of the specialists' greatest advantages over the average investor is that the specialist is in the right place at the right time.'

"Today, the same thing can be said about HFTs."

High-Frequency Trades Are 'Intense Focus' of SEC, White Says
Dave Michaels, Bloomberg, 4/10/14

Should High-Frequency Trading Be Regulated?
Todd Zywicki, Washington Post, 4/6/14

High-Frequency Trading: We Need More Data
James Pethokoukis, National Review, 4/7/14

High-Frequency Din Rises as Trading Inquiries Evoke Market's Past Scandals
Sam Mamudi and Gerrit De Vynck, Bloomerg, 4/7/14

CONSUMER FINANCE AND CFPB

Bank of America to Pay Nearly $800 Million for Deceptive Credit Card Practices
Danielle Douglas, Washington Post, 4/10/12
"Americans gravitated to credit protection products that promised debt cancellation or deferment to shield themselves from unforeseen economic problems in the wake of the recession. But in an aggressive push to sell these credit card add-ons, some financial firms glossed over the terms or enrolled unwitting customers…

"The bank will pay $268 million to reimburse about 1.4 million consumers who paid for credit protection services that they never fully received between 2010 to 2012. Another $459 million will go to 1.5 million customers who were hit with unauthorized charges for identity protection products from October 2000 through September 2011, according to the CFPB."

$772 Million Penalty for Bank of America Credit Card Practices
Michael Corkery and Jessica Silver-Greenberg, New York Times, 4/9/14
"As part of a consent order with the agency announced on Wednesday, the bank was ordered to give refunds to more than a million customers who purchased these add-on products for their credit cards. The bank must also pay a $20 million fine to the Consumer Financial Protection Bureau and $25 million to the Office of the Comptroller of the Currency."

BofA Sets $783 Million Accord on Card Marketing Dispute
Hugh Son, Bloomberg, 4/9/14

BofA Paying $772M Over Selling Credit Card Extras
Marcy Gordon, Associated Press, 4/9/14

Nearly Half of Banks Still "Reorder" Checks, Boosting Overdraft Fees
Kathy Kristof, MoneyWatch, 4/9/14
"Nearly half of banks still 'reorder' checking account transactions -- a practice that can dramatically increase overdraft fees by processing larger withdrawals first, leaving smaller transactions to pile up the fees -- one of a number of findings in a new survey by Pew Charitable Trusts.

"The survey of 44 major banks looked at their checking account practices, including their efforts to increase transparency and make banking more consumer-friendly. Of the 44 banks only one -- Ally Bank -- came out with a perfect score."

SECURE Act Would Help You Clear up Credit-Reporting Errors
Anthony Giorgianni, Fox Business News, 4/9/14
"Sen. Brian Schatz (D-Hawaii) and Sen. Sherrod Brown (D-Ohio) introduced the Stop Errors in Credit Use and Reporting Act of 2014 on April 9, saying that even those consumers who pay their bills on time and otherwise play by the rules are hurt by errors that show up in their credit reports and affect their scores...

"The bill drew praise from consumer groups, including the Consumer Federation of American, the National Consumer Law Center, Americans for Financial Reform, and Consumers Union, the policy and advocacy arm of Consumer Reports."

Cheat Sheet: What to Expect from CFPB on Payday Lending
Kevin Wack, American Banker, 4/4/14
"The Consumer Financial Protection Bureau is in the late stages of formulating the first nationwide rules for payday lending. The regulations will apply to all 20,000 or so payday stores across the country and many more online.

"The industry has been preparing for tougher consumer protection rules since at least 2010, when Congress established the CFPB and gave it authority over payday stores.

"Payday lenders are taking a pragmatic approach with their new overseers. Firms are migrating away from short-term loans tied to the borrower's pay cycle and toward longer installment loans, a move that could help mitigate the impact of the new regulations."

Payday Lenders That Used Tribal Affiliation to Illegally Garnish Wages Settle with FTC
Federal Trade Commission, 4/11/14

Republican Lawmaker Pushes 'Sunshine' at U.S. CFPB
Alan Zibel, Wall Street Journal, 4/8/14
"Mr. Duffy is upset about being denied permission to attend a private meeting of a CFPB advisory committee in February. He has introduced legislation to make the CFPB subject to a federal law mandating public meetings for such advisory panel.

"The CFPB has three such advisory groups representing community banks, credit unions as well as a broad consumer advisory board made up of business people as well as consumer groups."

Short Memories at the House Financial Services Committee
Jim Lardner, AFR, 4/8/14

House Lawmakers Press Regulators on Volcker, Payday Lending
Victoria Finkle, American Banker, 4/8/14

Lawmakers Criticize Agencies Over Payday Lending Regs
Tim Devaney, The Hill, 4/8/14

House GOP: We're Willing to Subpoena CFPB
Peter Schroeder, The Hill, April 10, 2014

DERIVATIVES, COMMODITIES & THE CFTC

House Panel Votes to Limit CFTC's Ability to Impose Derivatives Rules
Andrew Ackerman, Wall Street Journal, 4/9/14
"The House Agriculture Committee included several provisions aimed at restricting the CFTC's authority in legislation that outlines the commission's powers. The reauthorization measure, which would run for five years, cleared the panel on a voice vote and now goes to the full House…

"As part of Wednesday's bill, the CFTC's staff wouldn't be able to impose regulation through last-minute "guidance," as the agency did in July and November for rules on swaps trading overseas. Instead, commissioners would have to sign off on formal policy. They also would be directed to recognize overseas swaps rules as more comparable to their own than they do now.

"Marcus Stanley, policy director for Americans for Financial Reform, said the bill is a 'lobbyist Christmas tree,' citing provisions that would make it easier for industry groups to block CFTC rules in court. The legislation would limit the deference courts must show to the commission's rationale for its rules, he said."

CFTC's Dodd-Frank Power Curtailed in Bipartisan Measure
Silla Brush, Bloomberg, 4/8/14
"The U.S. Commodity Futures Trading Commission would face limits on its ability to impose rules on derivatives traded overseas and on manufacturers that use swaps to hedge business risks under bipartisan congressional legislation curbing the scope of the agency's powers.

"Republicans and Democrats on the House Agriculture Committee, which has jurisdiction over the CFTC, introduced a 48-page bill yesterday that would also force the agency to assess the costs of its Dodd-Frank Act regulations and conduct a new study of high-speed trading. The legislation is typically enacted once every five years…

"'There are provisions in this bill that would effectively unwind a good deal of the work the CFTC has already done and make it much harder for them to regulate the derivatives markets,' Marcus Stanley, policy director for Americans for Financial Reform, a coalition including the AFL-CIO labor federation, said in a phone interview."

See AFR Letter on "End User Relief Act."

[House Panel Quickly Approves CFTC Tweaks]
Peter Schroeder, The Hill, 4/9/14

[Derivatives Rules Softened in Victory for Banks]
Matthew Leising, Bloomberg, 4/10/14
"In a victory for banks, global financial regulators revised rules governing how much money must be set aside to cover losses by swaps traders, backing away from guidelines that firms warned would destabilize the $693 trillion derivatives market.

"The Basel Committee on Banking Supervision's final rule, released today, would require swaps dealers to hold less cash to protect against defaults than did a proposal published last year. The plan now applies a minimum 20 percent risk weighting to money deposited at clearinghouses, which are third parties that guarantee the transactions, down from 1,250 percent in the original proposal. The change takes effect on Jan. 1, 2017.

"The interim plan had threatened to boost costs as much as 92 times, according to calculations by three banks shared with Bloomberg News. The risk from that original rule, which was last revised in 2013, was the higher costs could have caused market participants to flee rather than take advantage of the clearinghouses, making it more difficult for the third parties to safeguard the swaps market."

[Bank Reform Seen by Schreiber Pushing Commodities Into Opacity]
Rudy Ruitenberg, Bloomberg, 4/8/14
"Banks pulling out of commodity trading because of rules on proprietary investing and capital requirements are pushing raw-material trade into less regulated and more opaque territory, investor Eric Schreiber said.

"Regulations such as Basel III and the Dodd-Frank Act have a "significant impact" on banks, pushing commodity business to trading houses, according to Schreiber, the former head of commodities at Swiss wealth manager Union Bancaire Privee.

"'One of the unforeseen consequences is that it's pushing part of the business into a more opaque, unregulated area, that is, the trading houses,' Schreiber said before a presentation today at a United Nations conference in Geneva."

[Senate Panel Approves Nominees to Futures Trading Commission]
Alexandra Stevenson, New York Times, 4/8/14
"The Senate Agriculture Committee on Tuesday approved the nomination of Timothy G. Massad, a former corporate lawyer, as chairman of the Commodity Futures Trading Commission, one of Wall Street's toughest watchdogs.

"The Senate committee also approved the nominations of Sharon Y. Bowen and J. Christopher Giancarlo as commissioners. The three now await full confirmation by the Senate…"

[Massad Moves a Step Closer to Taking Helm of U.S. CFTC]
Silla Brush, Bloomberg, 4/8/14

[Growth Threatened in $693 Trillion Derivatives Review]
Abigail Moses, Bloomberg, 4/9/14
"Global regulators' failure to align efforts to reform the $693 trillion derivatives market threatens to undermine economic growth, according to the International Swaps & Derivatives Association.

"Investors are struggling to adapt to regional differences to changes agreed by the Group of 20 nations as the industry meets for its annual conference in Munich today. In the U.S. traders have been reporting derivatives transactions to data repositories and have been required to have central clearinghouses back their contracts since last year, while European regulators are still defining the requirements."

World Waits for EU-U.S. Answer on Derivatives Rules, Faull Says
Rebecca Christie and Silla Brush, Bloomberg, 4/9/14

ENFORCEMENT

Official's Remarks Attacking S.E.C.'s Timidness Causes Stir
Ben Protess, New York Times, 4/8/14
"A textbook retirement speech blends beloved anecdotes with tired clichés. James Kidney, a trial lawyer at the Securities and Exchange Commission who recently departed the agency, offered a different style: an airing of grievances.

"Mr. Kidney's farewell remarks – he slammed colleagues for 'tentative and fearful' actions and implied that the S.E.C. 'polices the broken windows on the street level and rarely goes to the penthouse floors' — have caused a stir on Wall Street and in Washington. The remarks came to light on Tuesday in a Bloomberg News report that also includes an interesting interview with Mr. Kidney, who said that he would 'always be an S.E.C loyalist and was trying to offer constructive criticism that could help the agency'."

SEC Goldman Lawyer Says Agency Too Timid on Wall Street Misdeeds
Robert Schmidt, Bloomberg, 4/8/14
"The SEC has become 'an agency that polices the broken windows on the street level and rarely goes to the penthouse floors,' Kidney said, according to a copy of his remarks obtained by Bloomberg News. 'On the rare occasions when enforcement does go to the penthouse, good manners are paramount. Tough enforcement, risky enforcement, is subject to extensive negotiation and weakening'...

"The SEC has taken a beating from critics including lawmakers, judges and advocacy groups who say the agency has been too easy on the banks that helped fuel the 2008 crisis by peddling mortgage-backed securities of questionable value to unwary investors. No senior executive at a major financial firm has gone to jail and the SEC has brought civil charges against only a handful…

"'I don't think we did a very aggressive job with all the major players in the crash of '08,' he said, noting that as a civil enforcement agency, the commission does not need to prove its cases beyond a reasonable doubt like the Justice Department does. 'The SEC has a lower burden of proof and we should be pushing the envelope a bit'."

The Best SEC Speech Ever
Jonathan Weil, Bloomberg View, 4/8/14
"[James] Kidney, a longtime trial attorney for the Securities and Exchange Commission, delivered a barnburner of a going-away speech at his retirement party last month, which has only just begun to make the rounds publicly… Here's a thought: How about making Jim Kidney an SEC commissioner the next time a seat comes open? As he said: 'We need to get and keep at all ranks people who believe in the mission of this agency, believe in afflicting the comfortable and powerful, and

are willing to put their time in. Those people are becoming quite scarce.' Especially at the top."

[The Best SEC Money Can Buy]
Barry Ritholtz, Bloomberg View, 4/10/14
"Instead of the kind of enforcement that serves as a deterrent, we got fines and mealy-mouthed deals in which wrongdoers promised never to misbehave again. The fines are merely a cost of doing business for Wall Street. The bad old days of the SEC turning over cases to Justice Department for criminal enforcement are a distant memory."

[Yes, the SEC Was Colluding With Banks on CDO Prosecutions]
Felix Salmon, Reuters, 4/9/14
"Back in 2011, I asked whether the SEC was colluding with banks on CDO prosecutions. And now, thanks to an American Lawyer Freedom of Information Request, we have the answer: yes, they were.

"[T]he key precedent, it seems, was the first one, Goldman Sachs. The SEC filed its case against Goldman and Tourre on April 16, 2010. Three days later Goldman reached out with a $500 million settlement offer, according to an email that Reisner sent Khuzami. Although that proposal was close to the final payment, it took another three months to announce a settlement. As Khuzami described to Kotz, Goldman wanted a global settlement that resolved not just the Abacus investigation but the SEC's probes into roughly a dozen other Goldman CDOs."

[Goldman Sachs Secret Deal with SEC Beggared Belief]
Robert Lenzner, Forbes, April 10, 2014
"Thank the assiduous brilliance of Reuters' star columnist Felix Salmon for tearing away the phony artifice of the coziness between Wall Street regulators and Wall Street. In today's offering Salmon blew me away with his exclusive discovery that the SEC secretly promised Goldman Sachs NOT to prosecute any other notorious ripoffs of the innocent investor in mortgage back securities other than Abacus, the heretofore biggest Goldman black eye coming out of the melt-up before the meltdown…

"The SEC took Goldman's offer of a $550 million fine to cover its sins in the Abacus public offering, which dumped lousy mortgage-backed securities on an unsuspecting public and promised the public that the settlement did not exclude the agency from pursuing fines on other smell-like garbage deals like Hudson and others where Goldman was going mainly short but wanting its public clients to go long the same securities it was shorting. Yet, the SEC quietly told Goldman it was taking the Abacus fine as recompense for all of its sins, a hell of a fine day of fixing the government."

[The SEC's Internal Battles over Goldman Sachs Probe]
Susan Beck, American Lawyer, 4/9/14

[Judge Approves SAC Plea, Closing a Painful Chapter]
Matthew Goldstein and Ben Protess, New York Times, 4/10/14

[SAC Record $1.8 Billion Insider Plea Caps 7-Year Probe]
Patricia Hurtado, Bob Van Voris and Saijel Kisha, Bloomberg, 4/10/14

[Judge Oks Guilty Plea in SAC Capital Insider-Trading Case]
Christopher M. Matthews, Wall Street Journal,4/10/14

Credit Suisse Is Said to Be Facing Double-Barreled Inquiries
Ben Protess and Alexandra Stevenson, New York Times, 4/6/14
"The biggest danger to Credit Suisse, suspected of sheltering billions of dollars for American clients who evaded taxes, comes from federal prosecutors. While the Justice Department has considered a so-called deferred-prosecution agreement that would suspend any indictment in exchange for a large cash penalty and other concessions, it is also pushing for a guilty plea from a Credit Suisse subsidiary, people briefed on the case said, a punishment that banks generally avoid in all but the gravest cases. The cash penalty, the people said, is expected to exceed the $780 million that Switzerland's largest bank, UBS, paid to resolve a similar case in 2009."

Banks Caught In Widening Foreign Exchange Probes
Kevin McCoy, USA Today, 4/7/14
"New expansions of the global investigations and lawsuits targeting suspected foreign-exchange market manipulation are raising the financial and legal risks facing major banks.

"Switzerland's competition commission this week became the first public regulator to confirm evidence of suspected rigging, while authorities in Hong Kong and Great Britain disclosed new moves in their investigations.

"Separately, an amended U.S. federal court lawsuit filed by municipal retirement systems and financial funds added new allegations against 12 major banks whose traders are suspected of colluding to boost their own profits by rigging currency rates.

"The developments prompt comparisons with the separate investigation of Libor, the London Interbank Offered Rate used to set rates on trillions of dollars in mortgages, loans and credit cards. U.S. and British authorities so far have fined four global banks and the world's largest inter-dealer broker more than $3.6 billion collectively for rigging the financial benchmark."

Barclays Settles U.K. Libor Case Weeks Before Start of Trial
Jeremy Hodges and Kit Chellel, Bloomberg, 4/8/14
"Barclays agreed to restructure the debt of Graiseley Properties Ltd., which filed the lawsuit, as part of the settlement, Barclays said in a statement yesterday. The company, part of the Guardian elderly care homes group, was seeking to rescind interest-rate hedging contracts linked to Libor.

"The settlement spares the bank a trial that would have featured testimony from former Barclays officials, including ex-Chief Executive Officer Bob Diamond. Banks including Barclays, UBS AG (UBSN) and Royal Bank of Scotland Group Plc have been fined a total of about $6 billion for manipulating the London interbank offered rate, or Libor, and related benchmarks that underpinned about $300 trillion worth of transactions worldwide…

"At a hearing last month, lawyers for Graiseley introduced a 2007 e-mail from Jerry Del Missier, the former chief operating officer of Barclays, describing the rates as a 'fantasy'."

The SEC's Internal Battles over Goldman Sachs Probe
Susan Beck, American Lawyer, 4/9/14

EXECUTIVE COMPENSATION

Barnier Seeks Executive Pay Oversight After Banker Bonus Victory
Jim Brunsden, Bloomberg, 4/9/14
“European Union financial services chief Michel Barnier, who has already won caps on banker bonuses, will introduce plans to give shareholders a veto over the pay packages for executives at publicly traded companies.

“Barnier will introduce measures tomorrow that call for shareholders throughout the 28-nation bloc to vote on remuneration policies for company directors at least every three years.

“Barnier’s push for more shareholder control of remuneration adds to a salvo of EU moves to rein in bonuses. Since the outbreak of the 2008 financial crisis, the EU has agreed to ban banker bonuses of more than twice fixed pay, and approved pay rules for managers of hedge funds and other EU investment vehicles known as Undertakings for Collective Investment in Transferable Securities, or UCITS.”

EU Takes Aim At CEO Paychecks
Mark Thompson, CNNMoney, 4/9/14
“The European Commission released proposals Wednesday that would require Europe's 10,000 publicly listed companies to hold binding votes, and to say how employee and executive pay compares.

“The EU has already capped bonuses for bankers earning more than 500,000 euros a year ($690,000), a measure that mainly affects executives working in London. The maximum pay is now equal to annual salary or twice salary if a majority of shareholders approve.

“The U.K. is challenging the bonus cap in court. Meanwhile, banks are finding ways around it by raising fixed salaries and offering allowances and other forms of compensation.”

INVESTOR PROTECTION & THE SEC

Savers Beware: Fees May Be Shrinking Your 401(K)
Josh Boak and Paul Wiseman, Associated Press, 4/11/14
“And now a new study finds that the typical 401(k) fees — adding up to a modest-sounding 1 percent a year — would erase $70,000 from an average worker's account over a four-decade career compared with lower-cost options. To compensate for the higher fees, someone would have to work an extra three years before retiring…

"The corrosive effect of high fees in many of these retirement accounts forces many Americans to work years longer than necessary or than planned," the report, being released Friday, concludes.

See Fixing the Drain on Retirement Savings (Center for American Progress, April 2014)

Bogus Private-Equity Fees Said Found at 200 Firms by SEC
Alan Katz, Bloomberg, 4/7/14
"A majority of private-equity firms inflate fees and expenses charged to companies in which they hold stakes, according to an internal review by the U.S. Securities and Exchange Commission, raising the prospect of a wave of sanctions by the agency.

"More than half of about 400 private-equity firms that SEC staff have examined have charged unjustified fees and expenses without notifying investors, according to a person with knowledge of the SEC's findings who asked not to be named because the results aren't public."

SEC Forms Squad to Examine Private Funds
Greg Roumeliotis and Sarah N. Lynch, Reuters, 4/7/14
"The U.S. Securities and Exchange Commission (SEC) has put together a dedicated group to examine private equity and hedge funds, after the 2010 Dodd-Frank law required the funds to be regulated, according to people familiar with the matter.

"The examiners will look at areas including how private equity and hedge funds value their assets, disclose their fees, and communicate with investors."

SEC to Examine Private-Fund Advisers
Andrew Ackerman, Wall Street Journal, 4/7/14
"Agency officials have vowed to examine 15% to 25% of the roughly 1,500 newly registered advisers over two to three years. One of the sources said the agency is on track to meet that goal, but the agency has declined to provide a precise number of firms it has examined so far. The vast majority of the newly registered advisers are for private funds."

Why The SEC Is Investigating Private Equity
Dan Primack, Fortune, 4/8/14

MORTGAGES, FORECLOSURES & HOUSING

Brown Says Fannie Mae Revamp Won't Become Law This Year
Cheyenne Hopkins, Bloomberg, 4/9/14
"Senator Sherrod Brown said a comprehensive revamp of the U.S. housing finance system won't become law this year and called for simpler changes to Fannie Mae and Freddie Mac.

"Brown, an Ohio Democrat and a member of the Senate Banking Committee, said a bipartisan bill to replace Fannie Mae and Freddie Mac is too complicated and doesn't do enough to address too-big-to-fail concerns or provide assistance for affordable housing…

"The U.S.-owned companies would be replaced by a system in which mortgages are mostly backed by private capital. The federal government would play a smaller role in the market by taking a backstop position on mortgage securities, stepping in only if private interests were wiped out by catastrophic losses."

[“They Don’t Care If We Freeze”: The Shameful New Way Wall Street Is Swindling Ordinary Americans]
Laura Gottesdiener, Tomdispatch.com, 4/9/14
“Over the last few years, giant private equity firms have bet big on the housing market, buying up more than 200,000 cheap homes across the country. Their plan is to rent the houses back to families — sometimes the very same people who were displaced during the foreclosure crisis — while waiting for the home values to rise…

“It turns out that the real estate market in my New York City backyard has been a private equity playground for the last decade, and the result, unsurprisingly, has been a disaster for tenants and the market alike.”

STUDENT LOANS & FOR-PROFIT SCHOOLS

[Jeb Bush to Address Convention of Predatory For-Profit Colleges]
David Halperin, Huffington Post, 4/8/14
“As Bush weighs a run for the White House in 2016, he may be attracted to the immense wealth of the for-profit college industry, which has been receiving more than $33 billion a year from federal taxpayer money, and uses a good chunk of that money to make campaign contributions and buy the allegiance of politicians in Washington. Although the industry provides plenty of cash to [Capitol Hill Democrats], it is closely aligned with the Republican Party, and in 2012 it [bet big on Mitt Romney], who praised for-profit colleges on the campaign trail and turned out himself to be an investor in the industry.”

[This New Lawsuit Against Everest College Explains Why The Government Is Going After For-Profit Schools]
Molly Hensley-Clancy, Buzzfeed, 4/8/14
“The Obama administration has been cracking down on for-profit colleges. And Corinthian Colleges Inc., which owns Everest College, has been the biggest target: They’ve been the subject of investigations by the Department of Education, the Securities and Exchange Commission, the Consumer Financial Protection Bureau, and more than a dozen state attorneys general.

“Last week, Massachusetts’ attorney general filed the latest lawsuit, the result of a two-year-long investigation. The suit, which draws from interviews with students of Everest College campuses in Massachusetts, lays out exactly what the government’s problem is with the for-profit education industry.”

[What’s the Real Cost Behind For-Profit Schools? (Video)]
Cory Johnson, MSN/Bloomberg, 4/9/14

SYSTEMIC RISK

[Why Big Banks Have to Raise $68 Billion by 2018]
Danielle Douglas, Washington Post, 4/9/14
“The rule, known as the supplemental leverage ratio, is far tougher than the 3 percent minimum set in a global accord by the Basel Committee. And it doesn't rely on any ‘risk-weighted’ calculation like most bank capital rules, taking away the subjectivity that let ratings agencies and Wall Street decide that sub-prime mortgages were safe investments…

"But it's entirely possible that the added layer of capital will have minimal impact on bank balance sheets. Indeed, most of the banks have said they can or will soon meet the leverage demands…

"'We don't believe that this is enough,' said Marcus Stanley of Americans for Financial Reform. 'Raising $60 billion in extra capital is helpful, but it's really not in line with the kinds of risk we saw in the financial crisis'."

Banks Ordered to Add Capital to Limit Risks
Peter Eavis, New York Times, 4/8/14
"Federal regulators on Tuesday approved a simple rule that could do more to rein in Wall Street than most other parts of a sweeping overhaul that has descended on the biggest banks since the financial crisis.

"The rule increases to 5 percent, from roughly 3 percent, a threshold called the leverage ratio, which measures the amount of capital that a bank holds against its assets. The requirement — more stringent than that for Wall Street's rivals in Europe and Asia — could force the eight biggest banks in the United States to find as much as an additional $68 billion to put their operations on firmer financial footing, according to regulators' estimates.

"Faced with that potentially onerous bill, Wall Street titans are expected to pare back some of their riskiest activities, including trading in credit-default swaps, the financial instruments that destabilized the system during the financial crisis."

An Important Step in Taming the Big Banks
John Cassidy, The New Yorker, 4/9/14
"The new requirements certainly don't rule out the possibility of another banking crisis, and they don't solve the too-big-to-fail model. But they make the former less likely, and they go some way toward addressing the negative externality that lies at the heart of the latter. Another promising thing about them is that they can be further developed. Once you accept the logic of beefing up capital requirements, there is nothing sacred, or particularly persuasive, about stopping at five per cent. Some commentators, such as Stanford's Anat Admati, argue that the banks should hold equity equal to twenty or thirty per cent of their assets, which is what they did in the distant past. That's not going to happen anytime soon, but capital requirements are a flexible tool, and they don't require approval from elected officials who are hungry for campaign donations from the banks."

What Awaits Banks After the Leverage Ratio
Mayra Rodríguez Valladares, New York Times, 4/9/14
"Unless banks are really compelled to be transparent about their risk exposures, especially about those that are off-balance sheet, like derivatives or repos, no amount of Basel rules will really help the public identify the level of banks' credit, market, liquidity and exposure to risk."

The Fed's New Capital Rule Is Good But Not Yet Good Enough
Editorial, Bloomberg View, 4/10/14
"In a new report, the International Monetary Fund offers a sense of how much such subsidies to systemically important banks cost taxpayers every year. For the U.S., the IMF's estimates range from $15 billion to $70 billion for 2011 and 2012 -- an amount that accounts for a big chunk of the banks' profits. Add in the euro area, the U.K., Switzerland and Japan, and the range gets as high as $156 billion to $630 billion. The report notes that even the biggest number might be an underestimate…

"Given the immense costs of financial crises, erring on the high side would be prudent. The point isn't that banks should avoid taking risks; taking risks is their business. The point is that taxpayers should no longer be on the hook when the risks turn bad."

Don't Be Fooled: The Fed's New Capital Rule Lets Banks Off Easy
Mike Konzal, New Republic, April 11, 2014
"From the headlines and coverage, you'd think the regulators punished the beleaguered financial industry with serious reform… Though a step in the right direction, we should be careful about taking a victory lap or declaring Mission Accomplished when it comes to these capital rules. The new rule, while important, isn't where it needs to be in order to work properly. And there are still two major battles coming up this year when it comes to capital requirements, which is the amount of money regulators require a bank to hold. These battles will prove equally consequential, and ultimately determine whether or not the problem of Too Big To Fail is fixed.

"The rules in question are designed to get banks to fund themselves with safer equity instead of risky debt. Capital requirements are an excellent regulatory tool because they strengthen a whole set of public policy objectives. As is commonly discussed, they make firms less likely to fail. But they also mean an easier landing when failure happens, giving regulators working capital to help keep a failing firm from causing a market wide panic."

Big Banks Face $68B Shortfall to Meet Tougher Leverage Rule
Donna Borak, American Banker, 4/8/14

Tougher Leverage Caps for U.S. Banks Set for Regulator Approval
Jesse Hamilton, Bloomberg, 4/8/14

Collateralized Loan Obligations: Our Next Financial Nightmare
Cyrus Sanati, Fortune, 4/10/14
"Sound familiar? CLOs are pretty much like the CDOs (collateralized debt obligations) that imploded so spectacularly during the 2008 meltdown, but instead of being chock full of bad mortgages, CLOs are filled to the brim with junky leveraged loans. A leveraged loan is a loan issued by a bank to a firm that already has a lot of debt on their books and thus has a lower credit rating.

"CLOs didn't implode as badly as their CDO counterparts, so investors have gravitated to them over the last two years as a way to achieve outsize returns with no measurable increase in risk. For the last 94 weeks, there has been a positive inflow of cash into the CLO market. A whopping $83 billion worth of CLOs were issued in 2013, a remarkable comeback from the $3 billion issued in 2009."

Banks Given Two More Years to Meet Volcker CLO Standards
Cheyenne Hopkins, Bloomberg, 4/8/14
"The Federal Reserve is giving banks an additional two years to comply with Volcker Rule standards for treatment of collateralized loan obligations after industry complaints that the requirements would lead to big losses.

"The Fed will issue two one-year extensions for banks to make their interests in CLOs conform to the trading restrictions adopted in December, pushing the deadline to July 21, 2017, according to a statement released today. Banks then wouldn't be required to deduct CLO investments from tier 1 capital under the final rule until the new conformance date, the Fed said."

[Banks Given Two Extra Years to Fully Comply With Volcker Rule]()
Ryan Tracy and Katy Burne, Wall Street Journal, 4/8/14

[IMF Warns Europe's Banking System Poses Threat to Global Financial Stability]()
Phillip Inman, The Guardian, 4/9/14
"The eurozone's creaking banking system poses a serious threat to global financial stability, according to the International Monetary Fund, which warned European leaders to accelerate plans to support weak banks and create a banking union…

"He said the eurozone's incomplete repair of bank and corporate balance sheets continued to place a drag on the recovery, while the widening gap between Germany and the poorest of the 18 member states was restricting the flow of funds around the currency zone and hampering the growth of smaller businesses. 'Thus, further efforts must be made to strengthen bank balance sheets, through the European comprehensive bank assessment and follow-up, and to tackle the corporate debt overhang,' he said."

OTHER TOPICS

[KKR Said to Hire Ex-SEC Attorney Karpati for Compliance]()
David Carey, Bloomberg, 4/10/14
"Bruce Karpati, a former top attorney at the U.S. Securities and Exchange Commission, is joining KKR & Co. as the private-equity firm's global chief compliance officer, a person with knowledge of the matter said…

"The SEC is carrying out a broad review of U.S. private-equity managers to ensure that their business practices meet requirements of the 2010 Dodd-Frank Act regulating financial services. Karpati worked for more than a dozen years at the agency, last serving as head of the enforcement division's asset-management unit, where he oversaw more than 75 lawyers."

[The Dodd-Frank Effect: 'Too Small to Succeed']()
Brad Schaeffer, Wall Street Journal, 4/9/14
"I owned a small business by my industry's standards… My company was an interdealer broker of over-the-counter energy derivatives, specifically natural gas. Simply put, our company matched up institutional buyers and sellers of derivatives—futures, options, structures tailored to specific pipelines—and collected a per-contract fee for our services. I co-founded this group with partners and angel investors in 2006. By 2010, the company was profitable.

"Then came Dodd-Frank. Stacked nearly a foot high when printed out, this incomprehensible bill affected my small business in ways that no one crafting it could ever have anticipated. Though the law is far too complex to parse here, one of its overall assumptions is rather simple: A derivative is a derivative is a derivative. Thus, the law considers a utility looking to hedge its long-term exposure to fluctuating gas prices, and the brokers who facilitate such deals, to be as much a threat to global order as cowboy credit-default-swap speculators stacking up insane leverage."

Dodd-Frank Interfering With Small Business Investment
Brett Palmer, Wall Street Journal, 4/9/14

Nearly Half of Dodd-Frank Rules Still Unwritten
Vipal Monga, Wall Street Journal, 4/8/14
"The Wall Street Reform and Consumer Protection Act, commonly known as the Dodd-Frank Act, remains a work in progress almost four years after it was signed into law. As of April 1, only 52% of the 398 rules mandated by the law have been completed, according to law firm Davis Polk & Wardwell LLP."

Consumer Beware: Regulators 'On Steroids'
Kendric Ward, Watchdog.org, 4/9/14
"Financial regulations imposed after the 2008 Wall Street crash are backfiring on consumers and pose a 'compliance nightmare' for lenders. What we have are policymakers on steroids,' U.S. Rep. Scott Garrett charged Tuesday.

"'They have contempt for the public,' said the New Jersey Republican, who complained that the Federal Reserve Board has yet to provide an unredacted report of events leading up to the financial meltdown six years ago."

Dimon Says JPMorgan Had 'Tin Ear' Dealing With Regulators
Zachary Tracer and Hugh Son, Bloomberg, 4/9/14
"JPMorgan Chase & Co., the biggest U.S. bank by assets, had a 'tin ear' when dealing with regulators before settling probes into mortgage lapses and trading losses, Chief Executive Officer Jamie Dimon said.

"'Our response generally was, "We know what we're doing",' Dimon wrote today in a letter to the New York-based bank's investors. 'Well, we should have done more self-examination. We need to be better listeners.'

"Dimon is seeking to improve relations with overseers after lamenting in prior years that regulation could thwart growth. JPMorgan's earnings last year were marred by more than $20 billion in legal settlements that contributed to the first quarterly loss under Dimon."

Dimon Says Banks to Gain as Crisis-Era Rules Sting Poor
Hugh Son, Bloomberg, 4/10/14
"Hedge funds, low-income borrowers and municipalities face steeper costs from global rules enacted after the financial crisis as banks stand to benefit, said JPMorgan Chase & Co. (JPM) Chief Executive Officer Jamie Dimon.

"Clients seeking derivatives, short-term deposits, revolving credit, trade finance and retail mortgages will be disproportionately affected by higher banking costs, Dimon, 58, said yesterday in his annual letter to shareholders."

[Private Equity Tax Breaks: How Long Will They last?]

Eileen Applebaum, CNNMoney, 4/10/14

"With the annual tax deadline approaching next week, middle class Americans may be wondering how private equity titans like Mitt Romney get away with such low tax rates on their millions in income. The answer is that private equity firms are treated as passive investors in the companies they buy and – unlike you and me – partners in these firms are taxed at the lower capital gains rate (typically 20%) on most of their income. But are private equity firms merely investors, or are PE partners active managers and employers of their acquired companies?

"The Internal Revenue Service recently established a taskforce to review the way private equity is taxed. At issue is the question of whether PE funds are similar to mutual funds or whether they are in the business of buying, developing, and then selling companies at a profit – much as real estate developers buy properties and develop them for resale to customers. Much hinges on the answer."