Americans for Financial Reform

This Week in Wall Street Reform | Apr. 16–Apr. 22, 2016

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CONSUMER FINANCE & THE CFPB

Online payday loans hit consumers with hidden risk
Kevin McCoy, USA Today, 4/20/16
Consumers who turn to online lenders for payday loans face hidden risks of costly banking fees and account closures, according to a federal analysis released Wednesday. Half of the borrowers who got the high-interest loans online later were hit with an average of $185 in bank penalties for overdraft and non-sufficient funds fees when the lenders submitted one or more repayment requests, the Consumer Financial Protection Bureau analysis found. One third of the borrowers who racked up a bank penalty ultimately faced involuntary account closures, the report also found.

New CFPB Report Details Financial Harms Caused by Payday Lending
Diane Standaert and Robin Howarth, Center for Responsible Lending, 4/20/16

Consumer bureau study: Online loans can lead to bank woes
Peter Schroeder, The Hill, 4/20/16

Prepared Remarks of CFPB Director Richard Cordray on Payday Lending Research Report Press Call
Richard Cordray, CFPB, 4/20/16

See AFR statement.

Payday lenders prey on women, families
Debra Grant, Virginian Pilot, 4/17/16
I had a relative who needed to borrow $150, so I took out a payday loan to help. Every month, I would have to roll the loan over until the next month, for a $37 fee. It took great sacrifice, but I was eventually able to pay off the loan. Soon after, another relative needed my help again, and I took out a loan of $300, plus an $87 fee every time I rolled that one over.

I was finally able to pay that one off — and then another family member needed help. Seeing no other alternatives, some of my relatives took out a car title loan, missed a payment and lost their car. Without a car, our whole family suffered. As a single mother and breadwinner for my family, I thought I had no other choice.

Prevent a shark attack by avoiding payday loans
Michelle Singletary, Washington Post, 4/15/16
[S]harks are just doing what comes naturally. They are "apex predators," meaning they're at the top of the food chain. When a shark hunts for prey, it's not personal.

Yet, here's one way Merriam-Webster defines a different kind of shark: "A rapacious crafty person who takes advantage of others." I see payday lenders in this sense. They see a group of people flailing about financially and do what comes naturally to them. They prey.

[CFPB Sheds Light on Coming Payday-Loans Rule]
Yuka Hayashi, Wall St. Journal, 4/20/16

[My Turn: Providing an alternative to Arizonans on payday loans]
JD Mesnard, AZ Central, 4/17/16
Last month, the Arizona House of Representatives passed a consumer finance bill that contained little-noticed provisions inserted by my colleagues that abolish the toxic lingering effects of payday loans once and for all in Arizona. It was a wise move, as Arizona is the only state where certain loopholes are used due to the lack of other legal lending options available in the state, such as installment loans.

[White House, Faith Groups Push Payday Lending Rule]
Yuka Hayashi, WSJ Pro (paywalled), 4/14/16

[LendingClub Increases Rates as Outlook Sours with Some Loans]
Matt Scully and Noah Buhayar, 4/21/16

[House Democrats Call for Curbs on Required Arbitration]
Jessica Silver-Greenberg and Michael Corkery, NY Times, 4/14/16
A handful of House Democrats took to the floor of Congress on Thursday to call for an overhaul of arbitration, a private justice system for resolving disputes that is often slanted against consumers.

Beginning the unusual session was Representative Hank Johnson of Georgia, a ranking member of the House Judiciary Committee. He implored Congress to strictly curtail the use of mandatory arbitration, in which judges and juries are supplanted by arbitrators who often consider the companies their clients.

[Time to Prepare for the CFPB's Proposed Rule Imposing a De Facto Ban on Arbitration in the Consumer Financial Services Sector]
Mayer-Brown Legal Update, 4/13/16

[Forced Pre-Dispute Arbitration Gets Federal Attention]
National Law Review, 4/20/16

[Congressional Democrats Call for End to Forced Arbitration]
Nathaniel Gryll, Alliance for Justice, 4/18/16

[How the Court Could Rule in the CFPB Constitutionality Case]
Kate Berry, American Banker, 4/19/16

[Feds sue online lead aggregator]
Truman Lewis, ConsumerAffairs, 4/21/16

THE ELECTION AND WALL STREET

[Exit Polls Find High Distrust of Wall Street]
Aaron Zitner, Wall St. Journal, 4/19/16
Voters in New York's Democratic and Republican primaries on Tuesday brought far different views to the task of picking a presidential nominee, but they found one notable point of agreement: a distrust of Wall Street. Some 63% of Democrats and 49% of Republican voters said Wall Street hurts the economy more than it helps, a finding that is especially notable given New York's status as the nation's financial center.

Among Republican voters, 45% said Wall Street helps the economy. Among Democrats, only 30% saw Wall Street as helpful.

[Sanders taunts Clinton again on Wall Street ties]

Colin Wilhelm, Politico, 4/17/16

Vermont Sen. Bernie Sanders on Sunday pressed his line of attack again that "Wall Street and other special interests" are for rival Hillary Clinton and want to bring "oligarchy" to the country. "This is the issue of American politics today: Do we have a government that represents all of us or just the 1 percent?" Sanders said on CNN's "State of the Union." "You're not going to have a government that represents all of us, so long as you have candidates like Secretary Clinton being dependent on big money interests."

EXECUTIVE PAY

[Wall St. Regulators Propose Stricter Pay Rules for Bankers]

Nathaniel Popper, NY Times, 4/21/16

The 2010 Dodd-Frank legislation required the major financial regulators to collaborate on rules aimed at encouraging a longer-term approach to compensation at big financial institutions. The regulators were supposed to propose the rules within 90 days of the law's passage. Instead, the regulatory agencies delivered a first draft of new rules in 2011, but that draft was widely panned as being too weak. Now, five years later, the six agencies have delivered a new, stronger version of the rules…

"This is pretty clearly an improvement of the 2011 rule, but the 2011 rule was very weak," said Marcus Stanley, the policy director at the advocacy organization **Americans for Financial Reform**. Mr. Stanley said he had hoped that banks would have to hold back pay for more than four years because big losses on bank investments can often take longer than that to materialize.

[Regulators Line Up to Consider New Executive Compensation Proposal]

Donna Borak, Wall St. Journal, 4/20/16

Federal regulators are lining up to consider a new rule to rein in Wall Street's executive compensation nearly a decade after the financial crisis.

The National Credit Union Administration plans to meet Thursday, giving Wall Street banks, investors and others the first glimpse of the regulators' latest effort to overhaul Wall Street pay rules for top executives.

Next week, two other regulators are scheduled to consider the revised plan, according to a government notice posted Wednesday. The rule would require banks to retain much of an executive's bonus beyond the three years already adopted by many firms, people familiar with the matter said.

[U.S. Money Managers Avoid Brunt of Dodd-Frank Bonus Crackdown]

Miles Weis, Bloomberg, 4/21/16

Thanks to the way [the proposal] defines assets, even large managers such as BlackRock Inc. may qualify for the lightest regulation. The plan, stemming from the 2010 Dodd-Frank law, reserves its strongest restrictions for financial companies with $250 billion or more in assets, but that excludes holdings belonging to clients.

Only 18 of the 669 registered investment advisers subject to the rule would face the heaviest regulation, the U.S. Securities and Exchange Commission estimated in a briefing Thursday. About 630 firms would fall below the $50 billion threshold for a lower level of regulation. Those with less than $1 billion in proprietary assets aren't covered.

[Credit union regulator to re-propose executive-compensation rule]

Patrick Temple-West, PoliticoPro (paywalled), 4/20/16

[With Voluntary Disclosure, Companies Get Ahead of CEO Pay Ratio]

Equilar Blog, 4/11/16

FINANCIALIZATION

Are we repeating history by letting our financial sector grow too large?

James Lardner, Washington Post, 4/20/16

Since 1950, the financial sector has expanded dramatically as a share of the overall U.S. economy, more than doubling in GDP terms and roughly tripling in profit terms. Meanwhile, financial deal-making and trickery have become much larger priorities across the rest of the corporate world…

Financialization has been the elephant in the room of economic policy debate — a huge contributing factor to the skyrocketing incomes of a few and the nonliving wages of many, and a force that helps explain our neglected infrastructure, underfunded schools, outlandishly expensive colleges and the phenomenon of graduates impoverished by the high-interest loans that banks thrive on these days."

Has our economy become too 'financialized'?

Christine Emba, Washington Post, 4/18/16

In the United States, finance, insurance and real estate (known as FIRE) now account for 20 percent of gross domestic product, compared with only 10 percent in 1947. Financial institutions have significantly increased in scale and profitability relative to what most see as the "real" economy —the businesses that produce tangible goods — which has left the United States increasingly reliant on the financial sector to create overall economic growth.

What both Bernie Sanders and Donald Trump get wrong about Wall Street

Gautam Mukunda, Washington Post, 4/21/16

In 1980, workers in finance were paid the same as workers in other sectors. Post-deregulation, by 2006, workers in finance were making 50 percent more than workers in other sectors — exactly the same premium that workers in finance enjoyed just before the Great Depression and which vanished after the passage of Depression-era reforms. In 2006, senior executives on Wall Street made 300 percent more than their equivalents in the real economy. This excess is responsible for as much as one-fourth of the increase in American inequality since 1980.

The swollen financial sector misallocates capital by shifting investment from real assets (like factories) to financial ones, so company after company spends money buying their own stock instead of investing in their future. It misallocates talent by using status and money to lure people who would otherwise be creating value (e.g., by advancing technology) into finance, where they mainly reallocate it. Think of all the brilliant engineers who work to shave milliseconds off high-frequency trades instead of actually generating wealth.

Most importantly, financialization shifts the way business and government think. Finance is an intermediary. Its job is to get capital to the people who can most productively use it. When the rest of the economy serves the needs of the financial sector, the tail of the economy is wagging the dog — and that's exactly what we see today. A 2003 survey, for example, showed that 78 percent of chief financial officers would "destroy economic value" — actually hurt their company — if that helped them meet Wall Street's demands.

How the rise of finance has warped our values

Mike Konczal, Washington Post, 4/22/16

There's a lot of attention on the Verizon strike, but less attention to Verizon's payouts to shareholders. Verizon did a $5 billion stock buyback last year to boost its stock price, on top of an already generous dividend. If that money had instead been divided among 180,000 workers, it would have come to $28,000 per person — showing that there's plenty of profit to be shared across the company. Or, if it costs $500 to install FiOS in one household, that money could have been used to help 10 million households cross the digital divide. More generally, in a period with slack demand, low interest rates and high profits, we'd expect there to be more investment to take advantage of profitable opportunities, driving down those very profits. There is not, and the increasing power of finance has played a role in making this the case.

Beyond the material dimensions of whom corporations should work for, there's also an ideological component. Increasingly, we regard *ourselves* as miniature financial firms and view social goods as mere financial claims. In the words of business professor Gerald Davis, we see ourselves living in a "portfolio society," one where "entire categories of social life have been securitized, turned into a kind of capital."

[The government isn't to blame for the rise of Wall Street](#)
Costas Lapavitsas, Washington Post, 4/19/16

[Stop worrying. The financial sector isn't destroying the economy](#)
Martin Neil Baily, Washington Post, 4/21/16

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

[The Billionaires' Loophole](#)
Alec Macgillis, New Yorker, 3/14/16
Until recently, relatively little attention had been paid to one source of [Carlyle Group co-founder David] Rubenstein's wealth, which he has quietly fought to protect: the so-called carried-interest tax loophole. The tax break has helped private equity become one of the most lucrative sectors of the financial industry. Since the end of the recession, private equity has reported record profits, and at least eighteen private-equity executives are estimated to be worth two billion dollars or more each…

The notion of "carried interest" derives from the share of profits that twelfth-century ship captains received on the cargo they carried. It came into its modern usage in the nineteen-twenties, in the oil-and-gas industry, and was enshrined in the federal tax code in 1954. When a group of partners drilled for oil, a few would put up the money and others would invest only their labor, or "sweat equity"—finding land and investors, buying equipment, and so on. If the partners sold out, the I.R.S. would tax the profits of all the partners at the lower rate for capital gains rather than as ordinary income.

[U.S. activist investors finding fewer opportunities; compromise more common](#)
Svea Herbst-Bayliss, Lawrence Delevingne and Michael Flaherty

See **[AFR letter](#)** on disclosure of carried interest.

[Democrats bash GOP for collapse of Puerto Rico bill](#)
Rachael Bade and Colin Wilhelm, Politico, 4/19/16
House Democratic leaders on Tuesday morning blasted GOP leaders for the collapse of a Puerto Rico rescue package last week amid Republican infighting, accusing the GOP of putting conservatives ahead of the Caribbean Island's needs.

In a series of morning press conferences, top Democrats knocked the GOP for failing to negotiate with them on the measure, which is intended to prevent Puerto Rico from defaulting on hundreds of millions in debt. Instead, Democrats said GOP leaders were only focused on getting more votes from the right flank of their party.

INVESTOR PROTECTION AND THE SEC

[Warren faults SEC over Cohen hedge fund enforcement](#)
Patrick Temple-West, PoliticoPro (paywalled), 4/21/16
Sen. Elizabeth Warren today denounced the head of the Securities and Exchange Commission for allowing a suspended hedge fund manager to indirectly get back in business. In January, the SEC barred hedge fund manager Steven Cohen from managing other people's money until 2018, ending a long-running enforcement case against the billionaire.

But two months after that settlement, the SEC approved an investment management vehicle co-owned by Cohen. He owns the firm through two separate holding companies that he acquired in March.

[Why the S.E.C. Didn't Hit Goldman Sachs Harder](#)
Jesse Eisinger, New Yorker, 4/21/16

[A Mutual-Fund Fee Falls Out of Favor]
Daisy Maxey, Wall St. Journal, 4/22/27

MORTGAGES & HOUSING

[This election is blinding us to a Wall Street outrage: the media's negligent response to a foreclosure disaster]
David Dayen, Salon, 4/20/16
One of the biggest problems with the permanent campaign mentality we've succumbed to is that every issue gets folded into the presidential election. Last week we saw a perfect example. An activist group that has for years been criticizing pernicious practices at the Department of Housing and Urban Development (HUD) escalated their campaign, known as Don't Sell our Homes to Wall Street. And the only thing the media cared about was how it would affect HUD Secretary Julián Castro's chances for the vice presidency.

Politico won the day with the headline "Progressive groups target Julián Castro." Progressive caucus co-chair Raul Grijalva had to explain to Buzzfeed that he wasn't trying to torpedo Castro's VP bid, entangling the entire matter with intra-Latino politics. Castro himself turned around the campaign, telling NBC News that he thought "it was really about politics and the presidential race and not really about the policy."

[What Makes Housing Too Expensive]
Justin Fox, BloombergView, 4/18/16

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Isakson Introduces Disapproval Resolution for Fiduciary Rule]
Ryan Rainey, MorningConsult, 4/18/16
Sen. Johnny Isakson (R-Ga.) on Monday introduced a resolution that would block the Obama administration's recent conflict-of-interest rule for retirement investment advisers.

The resolution is an official rebuke of the fiduciary rule under the Congressional Review Act. It marks a step beyond existing congressional efforts to preempt the rule through legislation in both chambers of Congress, including S. 2502, which Isakson has championed.

[House to hold CRA vote on fiduciary rule next week]
Marianne LeVine and Patrick Temple-West, PoliticoPro (paywalled), 4/21/16
House members are expected to vote late next week on [a resolution] to block the Labor Department's [final fiduciary rule], according to multiple Hill sources. The floor vote comes less than a month after the Labor Department released the rule, which requires brokers to act exclusively in their clients' best financial interest when offering retirement advice.

The House Education and the Workforce Committee today approved the resolution 22-14, along party lines.

[Following on Senate's heels, House members introduce resolution to stop DOL fiduciary rule]
Mark Schoeff Jr., Investment News, 4/19/16

See **[joint letter]** to House Education and Workforce Committee.

STUDENT LOANS & FOR-PROFIT EDUCATION

[Troubled For-Profit Colleges 'Eager to Assist'-Enroll-Students of Shut-Down School]
David Halperin, Huffington Post, 4/19/16
The headline of a Kansas City Star article posted today reads, "Some private for-profit schools come to the aid of former Wright Career College students; Vatterott Educational Centers, Brown Mackie College and National American University offer assistance…"

Kansas-based Wright Career College shut down suddenly last week and filed for bankruptcy, leaving in educational limbo about 1,000 students in five cities. Wright is a non-profit college, but it has been accused by its students of fraud and misrepresentation, in a lawsuit that the school's operators called "absurd." Wright is accredited by the controversial Accrediting Council for Independent Colleges and Schools (ACICS), which has developed a record of ignoring problems at some of the worst for-profit schools.

What the Star article doesn't mention is that the schools so "eager to assist" these Wright students have inflicted plenty of harm on some of their own enrollees.

[Amid Accusations of Lax Oversight, Accreditor Gets Tough With ITT]()

Andy Thomason, Chronicle of Higher Education, 4/21/16

As it endures criticism for what is seen as faulty oversight of for-profit colleges, the Accrediting Council for Independent Colleges and Schools has told ITT Educational Services Inc. to demonstrate that its accreditation should not be revoked.

In a corporate filing on Wednesday, ITT said it had received the show-cause letter that day, instructing the company to show "why its current grants of accreditation should not be withdrawn by suspension or otherwise conditioned" at the accreditor's next meeting. ITT has been the subject of much scrutiny by federal and state bodies in recent years, and it's unclear why the accreditor is just now piping up.

SYSTEMIC RISK

[Breaking Up The Banks May Be More Complicated Than It Seems]()

Jim Zarroli, NPR, 4/19/16

Sen. Bernie Sanders says that if he is elected president in November, one of his first acts in office would be to begin breaking up the large financial institutions that pose a grave risk to the economy…

"There's no doubt that the regulators have the ability to put tougher rules on the larger banks, (and) create an incentive for the larger banks to break up," says Marcus Stanley, policy director for **Americans for Financial Reform**, a progressive group that advocates for bank reform.

[Why We're Reviewing Asset Management]()

Jacob Lew, The Wall Street Journal, 4/19/16

Opponents of financial reform are cheering a court decision to rescind the Financial Stability Oversight Council's designation of MetLife for heightened regulatory supervision. FSOC designated MetLife after determining that material financial distress at the company could threaten U.S. financial stability. Leaving aside whether the decision will be overruled on appeal, efforts to depict the court's decision as a positive for our financial system are mistaken and dangerously ignore the lessons of the financial crisis.

Congress passed Wall Street Reform after the financial crisis with the aim of uncovering and protecting against risks to financial stability, wherever they may arise. A historic set of reforms—including increased capital requirements so that financial institutions bear the burden of their own risks and the creation of the FSOC—have helped to bolster our largest institutions and markets, and our system is far safer and more resilient as a result.

OTHER TOPICS

['We're No. 1,' Say Three of Wall Street's Top Merger Advisers]()

Hugh Son and Dakin Campbell, Bloomberg, 4/19/16

When it comes to the lucrative business of advising corporations on buying rivals or selling themselves, it pays to be the leader.

So it's not surprising, perhaps, that three of Wall Street's biggest banks all claimed to be the best dealmaker in the first quarter. Goldman Sachs Group Inc. and Morgan Stanley each touted their No. 1 position this week atop their earnings statements. JPMorgan Chase & Co. made the point last week in a slide titled "select leadership positions."

“They’re all vying for bragging rights,” said Charles Peabody, an analyst at Portales Partners. “It’s important in their marketing, when they’re trying to convince a CEO to do a deal, to show the credibility of your deal history.”

On Regulatory Reform, It's Now Warren vs. Sunstein

James Goodwin, Center for Progressive Reform, 4/19/16

Several weeks ago, Sen. Elizabeth Warren delivered perhaps the most important speech on the U.S. regulatory system in recent memory at a forum on regulatory capture organized by the Administrative Conference of the United States. In it, she described how the regulatory system was not working for the people as it should be – or as Congress had intended. Instead, she described how corporate influence over the regulatory process has become so far-reaching and so overwhelming that it has become fundamentally "tilted" to generate results that favor corporate profit at the expense of crucial safeguards necessary for protecting people and the environment.

Senate Republicans Block Proposal to Regulate Tax Preparers

Richard Rubin, Wall St. Journal, 4/20/16

See joint letter to Senate Finance Committee.