Americans for Financial Reform

This Week in Wall Street Reform | July 28 – Aug 3

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THE TRUMP ADMINISTRATION, CONGRESS & WALL STREET

Trump Administration Embraces Fintech Startups | Wall St. Journal
The Trump administration embraced an emerging corner of the financial sector on Tuesday, telling companies that offer new ways to bank and invest that the federal government wants to help them grow.

The Treasury Department in a report recommended industry-friendly policy changes for the sector be adopted by regulators that oversee the financial industry. It recommended a "sandbox" giving regulatory financial relief to startups; encouraged the federal consumer regulator to rescind its payday-lending rule; pushed for a fresh look at rules governing fintech investments by banks; and endorsed an effort by nonbank lenders like LendingClub Corp. to ease the resale of loans.

U.S. fintech banking charter decision reopens fierce battle with state regulators | Complinet
A decision this week by the one of the biggest U.S. banking regulators to accept national banking charters from fintech companies has reignited a fierce turf battle with state regulators, and highlights the hurdles innovative financial firms face within the complex U.S. regulatory framework. On Tuesday, the Office of the Comptroller of the Currency, which supervises close to 1,400 banks across the country, announced that it would begin accepting applications for national bank charters from "non-depository" fintech companies who are engaged in banking. The decision follows the U.S. Treasury's endorsement this week of regulatory 'sandboxes' for financial technology companies, a practice popular with foreign regulators such as the UK Financial Conduct Authority.

After years of debate, OCC to offer fintech charter | American Banker
The Office of the Comptroller of the Currency announced Tuesday that it would move ahead to consider special-purpose charter applications from fintech firms, ending the guessing game over whether the agency was serious about giving fintechs a federal option.

Leading Groups Oppose Occ Proposal To Charter Fintechs | US PIRG (Ed Mierzwinski)
Fintech is a shiny new toy that offers promise, but also poses threats to consumer protection. Yesterday, we joined leading consumer organizations to criticize a proposal by the chief national bank regulator known as the Office of the Comptroller of the Currency. OCC proposes that, in addition to chartering national banks, it would also charter non-bank fintech companies. We called the idea both illegal and a gateway for online predatory lenders to enter states where high-cost payday lending is banned. Leading state officials also opposed the charter move and also strongly criticized certain other recommendations in a controversial Treasury Department fintech report released the same day.

In response to a February 2017 presidential executive order, yesterday's Fintech report is the fourth and final report in a series on modernizing the financial system. In March 2017, a senior official with Treasury, Craig Phillips, counselor to Treasury Secretary Mnuchin, and also the principal author of the new report, held a perfunctory meeting with consumer and civil rights organizations. He and other officials have likely held innumerable meetings with bank industry and trade associations. Last year, a study by **Americans for Financial Reform** found that one of the previous reports in the series had practically copied the recommendations of the Clearinghouse Association, a powerful big bank lobby.

Bank regulator will now offer national approvals to financial tech firms | The Hill
The Office of the Comptroller of the Currency (OCC) announced Tuesday that it would now consider bank charter applications from financial technology companies seeking approval to operate nationwide.

Comptroller of the Currency Joseph Otting said his agency will accept applications from online-only lenders, mortgage and loan servicers, and payment platforms to receive special-purpose federal bank charters. The OCC said companies that take and hold deposits from customers would not be eligible for the charter.

Treasury calls for sweeping changes in fintech, end to payday-lending rule | Politico
The Treasury Department on Tuesday released its blueprint for regulating financial technology, a sweeping document that could influence policy in the emerging industry for years to come.

The recommendations include the endorsement of so-called regulatory sandboxes, which would allow companies to experiment with new services that push the boundaries of current law.

Online Lenders and Payment Companies Get a Way to Act More Like Banks | NY Times
The federal government began clearing a path on Tuesday for online lenders and payment companies to more easily and directly compete with traditional banks, a change that one regulator said would allow innovative businesses to expand nationwide.

Online lenders and other so-called fintech firms — including the payment processor Square, the online lender Lending Club and the cryptocurrency exchange Coinbase — have pressed for regulatory routes that would let them cut through the thicket of state and federal laws that govern financial businesses.

Heeding those requests, the Treasury Department released a 222-page report laying out the Trump administration's view on how nonbank financial companies should be regulated. Hours later, the Office of the Comptroller of the Currency, a national bank regulator, announced a new kind of charter that would potentially free such companies from the state-by-state approvals they currently need to offer loans and other financial products.

With OCC's door officially open, will fintechs enter? | American Banker
Fintech companies now have the federal option they have long sought after the Office of the Comptroller of the Currency green-lighted firms to apply for a special-purpose bank charter. But winning OCC approval on charter bids will not be a walk in the park.

One day after the OCC announcement, some fintech firms signaled clear interest in the charter. But the agency's decision also prompted a slew of additional questions, including whether firms would be able to meet the regulator's tough criteria, and whether state regulators would continue to fight the charter concept in court.

See **joint statement** by National Consumer Law Center, Americans for Financial Reform, and Center for Responsible Lending

Trump's Tariffs Threaten Banks' Credit Portfolios | TABB Forum (Mayra Rodriguez Valladares)
Banks of every size should not wait for the long run to figure out how tariffs and reduced foreign direct investment may affect their credit portfolios. While it is impossible to predict with any certainty the number of jobs at risk given the unpredictability of how different politicians in all the countries involved might react, this should not stop banks' senior executives and risk management from creating a framework to analyze how tariffs and reduced foreign investment might affect their banks' existing and future borrowers' ability to repay existing credit lines.

CONSUMER FINANCE AND THE CFPB

Despite a suspect nominee, CFPB can still protect consumers | The Hill (Mike Litt)
Recently, the Senate Banking Committee conducted a confirmation hearing for Consumer Financial Protection Bureau (CFPB) director nominee Kathy Kraninger.

The CFPB is the federal agency that many consumer and community groups pushed Congress to create after millions of Americans lost their homes, jobs and savings during the Great Recession. It was created seven years ago to protect consumers.

Senate postpones vote for next CFPB director | Housingwire
The Senate Banking Committee was set to vote Thursday on the confirmation of the next director of the Consumer Financial Protection Bureau, but announced suddenly that it would postpone its vote.

The committee planned its vote for the nomination of Kathy Kraninger as the next director of the CFPB, along with other nomination votes. However, Wednesday night, the Banking Committee announced the postponement of its vote. The new date for the vote is still to be determined.

Consumer agency hated by Trump and GOP lawmakers has the backing of most Americans | LA Times (David Lazarus)
The Trump administration and Republican lawmakers have long viewed the Consumer Financial Protection Bureau as a rogue agency, dedicated solely to preventing decent, hard-working businesses from creating jobs and growing the economy.

It turns out, though, that the CFPB enjoys strong support from at least one group: Consumers. Millions of them. Republican and Democrat.

Americans for Financial Reform and the Center for Responsible Lending will release survey results Tuesday showing that an overwhelming majority of Americans — at least 80% — are concerned about the Trump administration's recent efforts to curb oversight of banks and payday lenders, and the possible shutdown of a database of consumer complaints.

Similarly high percentages of Americans worry about a reduction in regulatory monitoring of racial discrimination among lenders, increasingly cozy ties between government officials and industry lobbyists, and any moves aimed at easing rules for businesses rather than protecting consumers.

Consumers Support CFPB Despite Efforts to Undermine the Bureau | Inside Sources
According to a recent poll released by the left-leaning **Americans for Financial Reform** (AFR) and the Center for Responsible Lending (CRL), 80 percent of American voters are "concerned about CFPB's efforts to curb enforcement of fair lending rules, ending enforcement of payday lending rules and restricting public access its database of complaints."

New Survey Shows Vast Amount Of Americans Support CFPB | Pymnts
The Consumer Financial Protection Bureau (CFPB) may be hated by Republicans and the Trump White House, but it turns out to have strong support among consumers… **Americans for Financial Reform** and the Center for Responsible Lending are planning to release a survey that shows at least 80 percent of Americans are concerned by Trump's recent efforts to limit oversight of banks and payday lenders, and potentially shut down the database of consumer complaints. What's more, the survey is expected to show that a high percentage of Americans are concerned about reduced regulatory oversight of racial discrimination among lenders, more cozy relationships between government officials and industry lobbyists, and laws that will ease the rules for businesses instead of focusing on protecting consumers.

"This survey tells us that people haven't been swayed by arguments that the CFPB is a job killer," said Lisa Donner, executive director of **Americans for Financial Reform** in the report. "They think financial regulation is important to them, and it needs to be tougher, not weaker. This means the actions being taken by the administration are completely opposite to the will of the people."

See poll summary.

Banning overdraft fees: Cory Booker's new idea to tackle big banks | Vox
Sen. Cory Booker is taking aim at bank overdraft fees, which users incur if they spend or withdraw more than their available checking account balance. These fees have become a crucial source of revenue for financial institutions and have long targeted low-income customers who struggle the most to stay out of debt.

Booker's newly proposed legislation — informed by a survey of several large banks that his office conducted last year — would bar financial institutions from charging overdraft fees on debit card transactions and ATM withdrawals. The bill would also restrict the frequency of such charges on payments made by check.

Validation and Verification Vignettes: More Results from an Empirical Study of Consumer Understanding of Debt Collection Validation Notices | Rutgers Law Review
In this article, we report that a fifth of the respondents who said they would write a letter if told they needed to do so to dispute a debt they did not owe failed to realize that the letter they saw said that the collector would have to verify the debt if they wrote 25 days after receipt of the collector's demand for payment—even though the demand letter had been approved by the Seventh Circuit. Most respondents did not find the validation notice salient enough to mention when asked an open-ended question about the contents of the two-page

collection letter they saw. We also found a gulf between what many consumers expect when requesting verification of a debt and what some courts say collectors must provide.

DERIVATIVES, COMMODITIES & THE CFTC

What Does The U.S. Treasury Fintech Report Mean For Crypto? | Forbes

After 18 months of anticipation, the Treasury Department released on Tuesday a seminal report examining the barriers to financial technology and innovation in the United States and proposing a sweeping set of recommendations designed to cut red tape and foster continued experimentation.

While the report only mentions cryptocurrency and blockchain technologies in passing, many of the current problems it highlights and recommendations it proposes are highly germane to the crypto industry and nonbank financial entities of all stripes.

US Treasury Dept. Fintech Innovation Report Touches on Crypto, Blockchain | CoinTelegraph

A major new report from the U.S. Treasury Department published July 31 has called for a more agile and conducive regulatory approach to innovations in the fintech sector.

The 222-page report, devoted to 'Nonbank Financials, Fintech, and Innovation,' only fleetingly touches upon cryptocurrencies and distributed ledger technologies (DLT) such as blockchain, noting that these are currently being "explored separately in an interagency effort led by a working group of the Financial Stability Oversight Council."

Overall, the document indicates a strong impetus on the part of the U.S. government to foster nascent financial technologies and to modernize existing regulatory frameworks in order to remove impediments to their evolution.

Regulators Probe Options Market's Major Clearinghouse | Wall St. Journal

The company tasked with curbing risk in the U.S. options market is under investigation by federal regulators for how it handled a recent period of market turbulence, according to people familiar with the matter.

The probes from the Securities and Exchange Commission and Commodity Futures Trading Commission include concerns that Options Clearing Corp. failed to accurately forecast how much cash would be needed to cover trading losses triggered by a spike in volatility last February…

INVESTOR PROTECTION, THE SEC, AND RETIREMENT SAVINGS

Worried About Wall Street Conflicts? The SEC Isn't. | Bloomberg (Elizabeth Warren)

Your lawyer can't take money from your opponent to give you bad legal advice. If you're on Medicare, your doctor can't take kickbacks from drug manufacturers for prescribing their drugs. But, under current law, your broker-dealer can receive monetary rewards and other perks for recommending certain investment products, even if those products aren't in your best interest.

Each year, Americans lose billions of dollars because of brokers who are looking out for their own financial interests instead of their clients'. The Securities and Exchange Commission recently proposed a new set of rules, supposedly to address this problem — but the SEC has fallen far short of giving American families the protection they need and deserve.

Trump SEC Pick Peirce to Cheated Investors: No Day in Court | Medium.com (Paul Bland)
Time and again, investors who were cheated out of their savings have been able to recover very substantial sums through class actions (many billions of dollars over time), protecting large pension funds for police officers and firefighters and the life savings of regular Americans holding IRAs and 401(k)s. And if a corporate actor was considering making a deceptive statement, they had to consider the risk that the corporation (and they) could be held accountable in a substantial and successful lawsuit.

Hester Peirce, picked by Donald Trump to a seat on the SEC, takes a different view. Yesterday, she told Politico that she "absolutely" believes that corporations should be able to insist upon mandatory arbitration provisions, essentially giving a green light to bolting shut the courthouse doors to those who have been cheated.

Why SEC policy change on arbitration could curb state investments | Bond Buyer

MORTGAGES AND HOUSING

Relief from HMDA requirements may go further than banks realize | American Banker
Federal reporting requirements for mortgage data have been a moving target in recent years. Just as one set of policymakers expands reporting rules, another eases them. But bankers are starting to see more signs of clarity.

One point of confusion: Do reforms enacted in May reducing Home Mortgage Disclosure Act reporting fields for small lenders mean they still have to collect the data?

An official at a recent Federal Deposit Insurance Corp. meeting suggested that banks qualifying for the exemption are under no obligation to collect the data internally, except in certain rare circumstances.

As Affordable Housing Crisis Grows, HUD Sits on the Sidelines | NY Times
The country is in the grips of an escalating housing affordability crisis. Millions of low-income Americans are paying 70 percent or more of their incomes for shelter, while rents continue to rise and construction of affordable rental apartments lags far behind the need.

The Trump administration's main policy response, unveiled this spring by Ben Carson, the secretary of housing and urban development: a plan to triple rents for about 712,000 of the poorest tenants receiving federal housing aid and to loosen the cap on rents on 4.5 million households enrolled in federal voucher and public housing programs nationwide, with the goal of moving longtime tenants out of the system to make way for new ones.

Treasury recommends changes to mortgage regulation | Mortgage Professionals of America
The US Treasury has issued a report outlining recommended changes to the regulation for mortgage lending and servicing. In the report, the agency recommended changes to regulation that would promote the accommodation of an end-to-end digital mortgage,

including acceptance of digital promissory notes, recognition of modern digital notary standards, and automated property appraisals.

Reverse Mortgage Players Suggest Back-End Fixes to FHA's Systems | Reverse Mortgage Daily
New Federal Housing Administration commissioner Brian Montgomery laid the blame for troubles in the reverse mortgage industry on back-end issues at his own department. The new commissioner, confirmed in May, inherited a Home Equity Conversion Mortgage program that caused a $14.5 billion drag on the Mutual Mortgage Insurance Fund (MMIF), according to the most recent analysis. Department of Housing and Urban Development officials explicitly cited those numbers when discussing the lower principal limit factors instituted last fall, and Montgomery indicated that his department isn't done attempting to root out the issues behind those bleak numbers.

U.S. homeownership climbs on millennial surge | Scotsman Guide

Home prices continue upward march | Scotsman Guide
Home-price gains slowed down slightly in some of the nation's hottest markets in May, but were still rising at a torrid pace far above the rate of inflation, according to the S&P Dow Jones CoreLogic Case-Shiller indices.

Nationally, home prices recorded an annual gain of 6.4 percent, the same as in April. Case-Shiller's 10-city and 20-city indices posted annual gains of 6.1 percent and 6.5 percent, respectively, which was slightly lower than the annual gains recorded by the indices in April.

REGULATION IN GENERAL

Cutting Through the Rhetoric of Cutting Red Tape | The Reg Review (Jodi L. Short)
Regulation counting has become a cornerstone of U.S. deregulatory policy with the issuance of President Donald J. Trump's Executive Order 13,771, which requires agencies to repeal two regulations for every one they propose. Trump Administration proponents tout the "two-for-one" order as one of its signature achievements and claim that its deregulatory actions are responsible for record economic growth. Critics have mostly dismissed the two-for-one order as a one-off political stunt.

Why we need government to safeguard against the new robber barons | Washington Post (Gegory Crouch)
Technology and content companies are scrambling to grow and consolidate, claiming that this is the recipe for survival in the media landscape wrought by the new Goliaths — Facebook, Google, Apple and Amazon.com — which have themselves used mergers and acquisitions to grow ever larger.

For the past 18 months, AT&T has been hoping to imitate its new media rivals and amalgamate with Time Warner. A federal judge recently approved their merger, but the Justice Department appealed the decision. As we await the outcome of that process, it's worth taking a moment to remember the lessons of the first vertically consolidated media monopoly, which arose in the early 1880s under Jay Gould, the robber baron who owned both the "media" — newspapers — and the "technology" — domestic and international telegraphy.

[Regulatory Reform Under Reagan and Trump](#) **| The Reg Review (Richard J. Pierce, Jr.)**

STUDENT LOANS AND FOR-PROFIT SCHOOLS

Report: Gainful Employment Repeal Would Cost $4.7B | Inside Higher Ed
A repeal of the Obama administration's gainful-employment rule would cost $4.7 billion over 10 years, according to an Education Department cost analysis, Politico reported this week.

Much of that spending would be driven by Pell Grants that would otherwise be denied to programs -- most of them at for-profit institutions -- that would fail to meet accountability standards if the rule was left in place. One in 10 vocational programs assessed under the rule last year failed the gainful-employment standards; of the failing programs, 98 percent were at for-profits.

How Betsy DeVos Is Reshaping Federal Education Policy | WBUR
Education Secretary Betsy DeVos has made headlines recently for plans to further shake up policies regarding for-profit higher education.

She's proposed a new rule that critics say would make it harder for defrauded students to seek debt relief. She's also taken aim at so-called gainful employment regulations put into place by the Obama administration, which forced for-profit schools to prove students they enrolled were able to secure decent jobs.

Would proposed borrower-defense rules help or harm indebted students? | Hechinger Report
The Department of Education revealed last week a new plan for relieving some students of their federal debt, but the proposed regulations could actually leave students with a huge bill.

These proposed rules are a rewrite of the 2016 borrower-defense rules enacted under Barack Obama. They allow borrowers to have their federal loans forgiven if their schools have closed or engaged in misconduct, such as providing lackluster academics or little-to-no career preparation. Thousands of students from Corinthian Colleges, a now closed for-profit school, used the 2016 rules to get debt relief.

Many higher education experts say the proposed rules, unlike those used under Obama's administration, put the burden of guilt on borrowers for not making a wise decision about their education instead of on schools that use students primarily to make money.

Revised Borrower Defense to Repayment Regulations Proposed | National Law Review

Borrower Defense: Trump Administration Sullies Reforms | Forbes (Preston Cooper)

Rollback of 'Gainful' Rule Will Cost Billions, Ed Department Projects | Politico

DeVos Doesn't Give a Damn about Students, Education or its Cost | The Root (Monique Judge)

Dept. of Ed proposal lets schools use forced arbitration agreements | National Law Review

Why We Need to Hold For-Profit Colleges Accountable | SwampED Podcast(James Kvaal)

Administration plans to scrap rule to limit for-profit school abuses | Washington Post

DeVos to Announce New Push for Deregulation, Innovation | Inside Higher Ed

Betsy DeVos' Message to Students: You Have the Right to Be Ripped Off | Daily Beast (Anna Clark)

DeVos to kill second for-profit college regulation | Education Dive (James Paterson)

'Why would anyone deliberately hurt students who have been screwed over by scam schools?' | Washington Post (Valerie Strauss)

SYSTEMIC RISK

Senate Dems to regulators: Proposed Volcker changes go too far | American Banker
Thirty-one Senate Democrats on Thursday blasted regulators' efforts to ease the Volcker Rule, saying their proposed revisions would "undermine a fundamental provision" of the Dodd-Frank Act.

The banking agencies proposed changes in May to clarify what positions are still allowed under the proprietary trading ban, among other changes. They stressed that the core limits established in the statutory provision first proposed by former Federal Reserve Board Chairman Paul Volcker would remain intact. Volcker himself said in a statement that he welcomed "the effort to simplify compliance."

But the Democrats led by Sens. Jeff Merkley of Oregon and Jeanne Shaheen of New Hampshire countered that the proposal went too far. Merkley was one of two senators who had authored the original provision added to Dodd-Frank.

See statement by 31 Senate Democrats.

TAXATION

Trump Administration Mulls a Unilateral Tax Cut for the Rich | NY Times
The Trump administration is considering bypassing Congress to grant a $100 billion tax cut mainly to the wealthy, a legally tenuous maneuver that would cut capital gains taxation and fulfill a long-held ambition of many investors and conservatives.

Currently, capital gains taxes are determined by subtracting the original price of an asset from the price at which it was sold and taxing the difference, usually at 20 percent. If a high earner spent $100,000 on stock in 1980, then sold it for $1 million today, she would owe taxes on $900,000. But if her original purchase price was adjusted for inflation, it would be about $300,000, reducing her taxable "gain" to $700,000. That would save the investor $40,000.

JPMorgan CEO credits Trump tax cuts for boosting economy | The Hill
JPMorgan Chase CEO Jamie Dimon on Tuesday credited the tax-cut law signed by President Trump with helping to boost the U.S. economy, saying in a new interview that the Republican tax plan has "accelerated growth."

Dimon told CNBC that the Republican tax plan signed by Trump last December created "competitive taxes" for the U.S. when compared to corporate tax rates in other countries around the world.

Share buybacks' impact on market requires close evaluation | The Hill (Kurt Schacht)
Corporate share buybacks have been on the rise since the global financial crisis and recently hit a record-high of $178 billion during the first quarter of 2018.

This can be attributed to a range of circumstances, including the tax cuts passed in December of 2017 and the goals of the Trump administration to deregulate businesses. The spike in buybacks is drawing new attention to the practice.

IRS to issue rules on education-savings plans | The Hill
The Treasury Department and IRS on Monday announced that they plan to issue regulations about changes made to education savings plans under the tax law President Trump signed in December.

The agencies' announcement is the latest example of Treasury and the IRS laying out how they intend to implement various aspects of the tax law, which made a number of tax changes affecting individuals and businesses.

Treasury releases first guidance item on Trump tax law reviewed by OMB | The Hill
The Treasury Department and IRS on Wednesday released their first guidance item implementing President Trump's tax-cut law that was reviewed by the Office of Management and Budget (OMB). The proposed rule focuses on the new tax law's transition tax on corporations' untaxed foreign earnings.

OTHER TOPICS

The Daily 202: Inside the Koch strategy to spurn squishy Republicans in key Senate races | Washington Post
A Republican senator's private comments during a lunch with his colleagues helped spur a significant shift in the Koch network's strategy that now threatens to deprive several GOP candidates of significant outside support they've been counting on for the fall.

Word got back to billionaire industrialist Charles Koch that the lawmaker, who had received support from the groups he funds, told a meeting of the Republican conference that they could disregard the opposition of the Koch network to a piece of legislation that was coming up for a vote. "Don't worry about the Kochs," this senator purportedly said. "They're going to support Republicans regardless.

Apple's $1 Trillion Milestone Reflects Rise of Powerful Megacompanies | NY Times
Apple on Thursday reached a milestone that these icons of capitalism never dreamed of: a market value of more than $1 trillion.

That landmark is the result of an extraordinary corporate success story. In a span of just 21 years, a near-bankrupt computer maker evolved into the most valuable publicly traded company in the United States, pushing the tech industry away from big, bulky machines and producing some of the world's most popular consumer products, like the iMac, the iPod and the iPhone. Apple's products have reshaped swaths of everyday life.