Americans for Financial Reform

This Week in Wall Street Reform | August 12 — 18, 2017

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TRUMP ADMINISTRATION AND WALL STREET

Trump Chips Away at Post Crisis Wall Street Rules | Wall St. Journal
Efforts toward financial deregulation are beginning to take concrete shape on rules governing trading desks, bank boardrooms, corporations' financial disclosures and more. Nearly seven months into the Trump administration, regulators are setting the stage for a wave of eased rules. Several agencies are reviewing the Volcker rule, a part of the 2010 Dodd-Frank Act that limits banks' trading. Some regulators also recently dropped a plan to restrict bonuses on Wall Street that had been opposed by banks and brokerage firms. And the Labor Department on Wednesday disclosed an 18-month delay in the so-called fiduciary rule that requires brokers to act in retirement savers' best interests rather than their own. The moves show that while President Donald Trump is struggling to advance his legislative agenda in Congress, his administration has begun laying the groundwork to change some of the myriad rules that Wall Street has sought for years to overturn or water down.

Trump Dissolves Business Advisory Councils as CEOs Quit | NBC News

Inside the C.E.O. Rebellion Against Trump's Advisory Councils | NY Times

CFPB AND CONSUMER FINANCE

Wells Fargo Accused of Overcharging Small Businesses | Consumerist
In a potential class action filed earlier this month in a New York federal court, a restaurant owner from Pennsylvania and a North Carolina tour company allege that Wells Fargo's Merchant Business Services operates an "overbilling scheme" that charged excessive and undisclosed credit card processing fees, along with "massive early termination fees". The suit claims that Wells' 63-page Merchant Processing Application allegedly included "voluminous legalese that could not possibly be read in its entirety or understood by merchant customers" and included "absurd provisions" in the fine print that allowed the bank to charge merchants whatever it wanted in terms of fees.

5 Things Wells Fargo Account Victims Should Do | Bankrate

[More Bank Follies](#) | Huffington Post (Christopher Brauchli)

[How Wells Fargo's Cutthroat Culture Allegedly Drove Bankers to Fraud](#) | Vanity Fair (Bethany McLean)

As Kovacevich told me in a 1998 profile of him I wrote for Fortune magazine, the key question facing banks was "How do you sell money?" His answer was that financial instruments—A.T.M. cards, checking accounts, credit cards, loans—were consumer products, no different from, say, screwdrivers sold by Home Depot. In Kovacevich's lingo, bank branches were "stores," and bankers were "salespeople" whose job was to "cross-sell," which meant getting "customers"—not "clients," but "customers"—to buy as many products as possible. "It was his business model," says a former Norwest executive. "It was a religion. It very much was the culture."

It was underpinned by the financial reality that customers who had, say, lines of credit and savings accounts with the bank were far more profitable than those who just had checking accounts. In 1997, prior to Norwest's merger with Wells Fargo, Kovacevich launched an initiative called "Going for Gr-Eight," which meant getting the customer to buy eight products from the bank. The reason for eight? "It rhymes with GREAT!" he said.

[Wells Fargo Elevates Former Fed Governor Elizabeth Duke to Chairman Role](#) | Wall St. Journal

Wells Fargo & Co. said Elizabeth Duke would replace its chairman, Stephen Sanger, on Jan. 1, making the former Federal Reserve governor the first woman to hold a top board role at one of the nation's largest banks. The San Francisco lender, which has battled a sales-practices scandal and other problems in recent months, announced the promotion of Ms. Duke, the board's vice chairman, Tuesday along with other changes.

[Is Duke too Tied to Wells' Mistakes to Lead a Turnaround?](#) | American Banker

Wells Fargo mostly won praise for its decision to elevate Elizabeth "Betsy" Duke, a former regulator and community banker, as chairman, with many describing her as a strong choice able to navigate the business and policy worlds. Yet there were also outstanding questions about whether Duke is the right person to lead a culture change at a bank mired in the multiple scandals and investigations in which whistleblowers were allegedly wrongfully terminated.

In April, an investigative report from Wells' board, on which Duke has sat since January 2015, criticized directors for not being aggressive enough in addressing the phony accounts scandal, which festered for more than a decade. "This superficial change in leadership at Wells Fargo isn't enough to restore the trust and confidence of the American public," Rep. Maxine Waters, the top Democrat on the House Financial Services Committee, said in a press release. "While Elizabeth Duke is replacing Stephen Sanger as chairman, Ms. Duke was a member of the Wells Fargo board during numerous scandals and failed to rein in the bank's rampant consumer abuses."

[Wells Fargo Shows Erosion of Corporate Accountability Under Trump](#) | NY Times

There is an adage that "it's better to ask forgiveness than it is to get permission." In the world of corporate misconduct, it seems that there is even less need to beg forgiveness these days as the government scales back how much it will police companies that appear to have violated the law. There may be no better recent example of how a corporate culture devolved into an almost preternatural focus on expanding the bottom line at the expense of customers and the law than Wells Fargo.

Sen. Warren Questions Bank CEOs on CFPB's Plan to Eliminate Arbitration Clause | Financial Regulation News
U.S. Sen. Elizabeth Warren (D-MA) is asking the CEOs of 16 large financial institutions if they support or oppose the Consumer Financial Protection Bureau's (CFPB) plan to eliminate the arbitration clause. In her letter to the CEOs, Warren noted that several associations and lobbying groups representing banks and financial firms have condemned the rule, asserting it will harm consumers. "These organizations represent your bank and your industry, but you – and other CEOs of large banks – have remained silent on the rule," Warren wrote. "If your lobbyists are taking such strong positions against the rule, is there a reason both you and your bank have been unwilling to take a public position?"
Wells Fargo Scandal Helps Consumer Advocates in CFPB Rule Fight | Big Law Business
Wells Fargo's latest scandal is providing consumer groups new ammunition as they try to save a Consumer Financial Protection Bureau rule banning companies from using mandatory arbitration clauses. Disclosures last month that the bank may have billed as many as 500,000 customers for unneeded auto insurance is just the latest scandal for the megabank, which last year disclosed it had opened millions of unauthorized deposit and credit-card accounts.

Consumer groups are invoking Wells Fargo as they seek to persuade a handful of Republican senators to help defeat a potential September vote on a resolution blocking the arbitration rule. "We've definitely pointed to Wells Fargo as pretty much the poster child for why we need this rule," Amanda Werner, campaign manager at consumer groups **Americans for Financial Reform** and Public Citizen, told Bloomberg BNA.

Louisiana Senator Emerges as Possible Roadblock to Overturning Consumer-Protection Rule | Legal Newsline
Sen. John Kennedy (R-LA) is still reviewing whether he will vote in favor of overturning a new rule by a consumer-protection agency that forbids financial companies from including contract clauses that bar class-action lawsuits. Kennedy is one of three senators who has emerged as a possible roadblock to Republican attempts to overturn the rule, which was announced by the Consumer Financial Protection Bureau (CFPB) in July. The U.S. House of Representatives voted to overturn the rule, which states that financial-services companies, including banks and payday lenders, cannot include in their contracts with consumers a ban on their involvement in class-action suits. The Senate is likely to vote on the resolution before the end of September.

Trump Is Hypocrite on People's Right to Sue | Valley News (David Lazarus)
President Donald Trump has been party to nearly 4,100 lawsuits over the last three decades. About half the time he was the one doing the suing; the other half he was the one being sued. But what makes Trump a complete hypocrite on this score — and aligns him with the business world — is that although he's never hesitated to use the legal system to protect his own interests, he's denied his employees and campaign workers the same right, requiring instead that they take any disputes to private arbitration.

This is worth noting in light of Corey Lewandowski, Trump's former campaign manager and current adviser, taking to the airwaves the other day to call on the president's new chief of staff, John Kelly, to sack the head of the Consumer Financial Protection Bureau. What's really going on here has more to do with Cordray having recently announced a rule that would make it easier for consumers to band together in class-action lawsuits against financial firms. The rule is radioactive to banks, credit card companies and other lenders because, like Trump when he was running his businesses, these firms routinely include mandatory arbitration provisions in their contracts, forcing people to arbitrate privately rather than have a day in court.

Trump Organization Employees Forced Not to Sue the Company | CBS News
Employees at Trump Organization properties have been told they must give up their right to sue their employer or else they will lose their jobs. This arrangement is called a mutual arbitration agreement, and the document was obtained by CBS News. Arbitration means that instead of going to court, employees must take any complaints to a third party arbitrator paid for by the Trump Organization to resolve disputes. Matters before an arbitrator are secret. A Trump Organization spokesperson provided this statement via email to CBS News: "Because it is faster, more cost effective and tends to level the playing field, it is commonplace for large companies like The Trump Organization to use arbitration as the preferred method for resolving disputes."

Whose Freedom Wins? | Arkansas Business (Paul Dodds)
Americans typically have no effective individual power to refuse when companies hand us "take it or leave it" one-sided agreements of adhesion. Without regulatory limits and access to courts, we are constantly subject to corporate tyranny of contract. I ask you, Sen. Cotton, in truth, how often have you successfully negotiated your way out of an arbitration clause in a standard form agreement? Did you ever sign a confusing and unfair form contract to open the bank account, get the loan, rent the car, buy the required insurance, receive needed hospital care, get the job or gain the internet access?

Of course you did. We all do. We cannot do otherwise and function as economic beings in today's America. We are all helpless babes in this world of one-sided standard forms. Your efforts serve to keep us helpless, not to affirm our maturity. They make America meaner, and funnel more money and power to the top. That is their real goal.

What In-House Counsel Need To Know About Their Form Arbitration Clauses | National Law Review

CFPB's New Federal Rule on Payday Lending Expected Soon | Washington Examiner
Payday industry officials and consumer advocates expect the Consumer Financial Protection Bureau to finalize sweeping new regulations on payday loans in the next few weeks. For now, those expectations are based on rumors and speculation. Cordray, whose term runs until next summer, has not said that he will run for governor, and the bureau has not indicated that it is ready to finalize the rule, which was proposed in June 2016. The bureau did not respond to requests for comment.

Even so, the prognosis for the rule, which payday lenders say would decimate their industry, is much better than it was just months ago. In the wake of President Trump's victory, Republicans hoped they could stop the rule. Failing that, they suggested that it could be reversed through the Congressional Review Act, which they have used to cancel more than a dozen of the rules issued late in former President Barack Obama's term. Now, though, consumer advocates who have fought for years for federal regulations on payday and auto title loans are eager to see Cordray finalize the rule, and believe that it will hold up despite opposition from a unified GOP government. "If some members of Congress want to have a fight about a rule that is as just as a rule against loan sharks, we'd be glad to have that fight," said Gynnie Robnett, the payday campaign director for **Americans for Financial Reform**, a group deeply involved in the push for payday rules.

Trump's DOJ Gives Payday Lenders and Financial Scammers a Massive Gift | Allied Progress (Karl Frisch)

CFPB Foes Use Well-Worn Consumer Tactic Against Agency | American Banker
Consumer groups have long denounced the influence of big banks and for-profit companies on agency rulemakings, often pointing to the number of meetings held between regulators and institutions about a proposal. Now, in an ironic twist, payday lenders and supporters of mandatory arbitration are using the same tactic in accusing the Consumer Financial Protection Bureau of disproportionately favoring consumer groups at the expense of industry. House Republicans and payday lending groups are hoping to use so-called ex parte communications with consumer groups as a basis for an eventual lawsuit against the mandatory arbitration and small-dollar lending rules.

What to Expect If the GOP Takes Control of the CFPB | Bloomberg BNA
Director Richard Cordray's possible departure from the Consumer Financial Protection Bureau is likely to result in incremental change rather than a big shake-up immediately, consumer-finance attorneys say. Expect less "rulemaking by enforcement" and a slowdown or even freeze on formal rulemaking. The agency is likely to focus on blatant fraud rather than push the envelope on its jurisdiction and rely more on supervisory referrals with fewer actions against certain non-banks. "There will be significant changes, but they will be more incremental than monumental," said Alan Kaplinsky, a partner at Ballard Spahr. "After the new director is there for a year or so, that's when I would expect that people might notice more readily what has actually changed."

Stung by Overdraft Fees? U.S. Nudges Banks to Explain Rules Better | NY Times
Consumer advocates have long worried that bank customers are easily confused about how checking account overdrafts work, and that this confusion leads to costly fees. Now, the Consumer Financial Protection Bureau is taking a crack at redesigning the form used by banks to explain overdraft options to customers, and has published samples of four possible versions for public scrutiny. The overdraft form is the latest financial document to receive a makeover from the bureau: In 2015, the agency adopted simplified mortgage disclosure forms, which are meant to help borrowers understand the terms of their home loans. But don't expect banks to use one of the redesigned overdraft disclosures anytime soon. A formal rule-making process would be needed in order to make them official,

according to the bureau. Plus, the agency is under political pressure in Washington, where the Republicans who control Congress oppose the bureau's regulation-friendly approach.

CFPB Finds So-Called Overdraft Protection Costs Some $450/Year | Sensible Safeguards (Ed Mierzwinski)
This week, the Consumer Financial Protection Bureau (CFPB) rolled out draft "Know Before You Owe" disclosures for marketing so-called "Standard Overdraft Protection," a controversial product that requires consumers to "opt-in" for the "privilege" of overdrafting debit and ATM transactions. At the same time, it released a major study that finds that at-risk consumers who opt-in pay $450/year more than other at-risk consumers. The Consumer Bureau's study was based on an anonymous (the CFPB, contrary to its detractors' baseless claims, does not spy on consumers) dataset of over 40 million consumer accounts.

CUNA Reiterates Prepaid Concerns, Asks for Addl' Delay | CUNA News
While proposed changes to the Consumer Financial Protection Bureau's (CFPB) prepaid accounts rule provide some clarity… CUNA remains opposed to the rule's application of Regulation Z to certain prepaid cards. CUNA also urged the bureau in its comment letter to delay the proposed effective date. "We ask the bureau to revisit the final rule to determine areas that can be modified to provide greater relief to credit unions and other issuers, while at the same time ensuring consumer access to prepaid accounts is not unduly restricted," the letter reads. "In addition, we urge the bureau to further delay the effective date until at least October 2018. This will provide issuers and vendors adequate time to make remaining changes required by the final rule as well as substantive changes resulting from this proposal." CUNA also urged the bureau to offer assurance in the form of a safe harbor that card issuers working to comply with the rule prior to its effective date, protecting them from potential liability.

See the FTC's **Report** on Bogus Discount Clubs

DERIVATIVES, COMMODITIES, AND THE CFTC

CFTC Chairman Readies Swaps Rules Revamp | Wall St. Journal
President Donald Trump's recently confirmed head of the U.S. derivatives regulator plans to remove restrictions on where swaps can be traded, revising a rule from the Dodd-Frank financial law critics say has diminished market liquidity. Commodity Futures Trading Commission Chairman J. Christopher Giancarlo, confirmed by the Senate last week, in an interview said one of his first tasks is to rewrite swaps-trading rules in the way that, he believes, Congress intended in the 2010 law. "What the CFTC did was try to superimpose the futures model of swaps execution on a marketplace," he said, referring to rules put in place by the prior Obama-appointed leadership at the commission. "The swaps market cannot, will not trade the way futures trade."

Hoenig Blasts Regulator Guidance on Centrally Cleared Derivatives Payments | Politico Pro
FDIC Vice Chairman Tom Hoenig today criticized a move by bank regulators to change the way they treat daily payments under centrally cleared derivatives contracts, arguing that it may have "negative and unintended consequences." "It is important for the financial regulatory agencies to be responsive

to legitimate burdens posed by rules and regulations that may have unintended consequences," Hoenig said in a statement. "Unfortunately, this is not the case of the recently published supervisory guidance." The guidance says regulators will treat variation margin for centrally cleared derivatives contracts as a settlement payment rather than as collateral, but only if the counterparty treats it that way. The payment must, for example, settle any outstanding exposure on the contract until the next payment is made.

Guidance on Centrally Cleared Derivatives Would Ease Capital Requirements | Politico Pro
The Office of the Comptroller of the Currency today announced new guidance from regulators that could ease capital requirements for many banks by changing the treatment of daily payments under centrally cleared derivatives contracts. The guidance says regulators will treat variation margin for centrally cleared derivatives contracts as a settlement payment rather than as collateral, but only if the counterparty treats it that way. The payment must, for example, settle any outstanding exposure on the contract until the next payment is made.

EXECUTIVE COMPENSATION

More Investors Are Saying 'No' to Exorbitant Executive Pay Plans | Bloomberg
U.S. investors are showing a greater willingness to express their disapproval over executive compensation. Seven S&P 500 companies garnered less than 50 percent of the votes for their executive-pay plans in the most recent fiscal year, up from six in 2015 and four in 2014, according to data compiled by Bloomberg.

Many of the largest institutional investors have publicly aired their views on corporate governance in recent years and taken firmer stances on compensation plans deemed to be excessive. BlackRock Inc., the world's biggest asset manager, publicly criticized drugmaker Mylan NV in June for failing to address investors' repeated complaints about executive compensation, sidestepping its usual practice of refraining from singling out companies for criticism.

FEDERAL RESERVE

The Fed Wants to Make Life Easier for Big-Bank Directors | NY Times
Amid reports Thursday that Stephen Sanger, chairman of the Wells Fargo board, may step down in the coming months, all eyes are on the bank's directors and their oversight of the troubled institution. While some Wells Fargo shareholders are urging the bank's directors to sharpen their scrutiny in the wake of continuing misconduct, it's noteworthy that new regulatory guidance put forward by the Federal Reserve Board, the nation's top financial regulator, would go in the opposite direction. In essence, the Fed says, big-bank board members need to take a load off.

After a multiyear review, the regulator concluded that excessive regulatory duties are hobbling bank boards and distracting directors from the more important work of guiding bank strategy and adopting effective governance at their institutions. And it proposed guidance to fix the problem. Unfortunately, this proposal — which could go into effect after a 60-day comment period — is very likely to reduce crucial interactions between bank examiners and bank boards, current and former bank regulators say.

INVESTOR PROTECTION AND THE SEC

U.S. Advisers Already Preparing for Proposed Business Continuity, Transition Rules | Compliance

Many investment advisers have already taken steps to comply with a 2016 Securities and Exchange Commission rule proposal to enhance adviser written business continuity and transition plans, an industry survey found. Nearly 26 percent of surveyed firms have changed or are in the process of changing their plans to adapt to the 2016 proposal. This includes firms that have separate plans and those that have a combined business continuity and transition plan, according to the joint survey by the Investment Adviser Association, ACA Compliance Group and OMAM, a global asset management company.

Watchdog Group Wants SEC to Ban Forced Arbitration Clauses | Politico Pro

The SEC should ban mandatory arbitration clauses that companies want to put in their covenants with shareholders as a way to limit lawsuits, a liberal-leaning advocacy group said in a letter to the agency's chairman today. Public Citizen said that for the SEC to allow forced arbitration clauses would go against the agency's mission "by shielding abusive and misleading practices from public scrutiny." The group said it was "greatly distressed" by comments that Republican SEC Commissioner Michael Piwowar made last month when he expressed support for arbitration clauses.

Companies like mandatory arbitration clauses because they can limit class-action lawsuits, but consumer groups argue that such suits are an important tool to keep firms honest. In July, the Consumer Financial Protection Bureau finalized a rule that bars the use of mandatory arbitration clauses in consumer contracts with financial firms. Congressional Democrats praised the rule.

See Public Citizen's **letter** to SEC Chairman Jay Clayton

Search Is on for Top Audit Regulator | Wall St. Journal

U.S. officials are looking to hire a new chairman of the Public Company Accounting Oversight Board, a little-known body that oversees the country's largest accounting firms and their audits of public companies and broker-dealers, according to a statement issued Friday. The PCAOB, as it is known, is a nonprofit regulator that is overseen by the Securities and Exchange Commission. The SEC's commissioners also pick the audit regulator's chairman and other members of its board. The term of the current chairman, James Doty, expired in October 2015, but he stayed in the role because SEC commissioners didn't act to replace him.

The SEC's announcement said it is seeking a successor to Mr. Doty, indicating he won't be reappointed. Mr. Doty has led the body since 2011 and sometimes clashed with the biggest audit firms over proposals that sought to shine more light on the behind-the-scenes work of auditors. In June, for instance, the accounting board approved a rule that requires auditors to disclose more about any "critical audit matters"—areas of their audit that were especially challenging or complex or forced them to make tough decisions in evaluating a company's books.

SEC to Begin Replacing PCAOB Members | Politico Pro
The SEC will begin replacing members of the U.S. auditing industry watchdog, its chairman said today. James Doty, chairman of the Public Company Accounting Oversight Board, will continue to serve until his successor is picked by the SEC, the agency said. Doty's exit was expected, given that his term expired in October 2015, though PCAOB members can serve indefinitely. The leadership change comes as the SEC needs to decide whether to approve one of Doty's biggest accomplishments: A reform to corporate auditor reports that was finalized in June and is opposed by the U.S. Chamber of Commerce. The SEC must approve the PCAOB's proposed standards.

MORTGAGES AND HOUSING

Fannie, Freddie Announce Refinancing Policies for Low-Equity Homeowners | Politico Pro
The Federal Housing Finance Agency extended a crisis-era refinancing program for borrowers with little or no equity in their homes as Fannie Mae and Freddie Mac announced long-term policies to help homeowners even if they owe more on their mortgages than their houses are worth. The new refinance program will be compatible with credit-risk-transfer transactions being used by Fannie Mae and Freddie Mac, the FHFA said. Mortgages made after Oct. 1, 2017, will be eligible for the program.

Mississippi Joins States, Helps First-Time Homebuyers with Down Payments | The Home Story

NY and NYC Pension Funds Invest in 'Predatory' Lender | NBC New York
Despite a pressing need for more affordable housing in New York, the state's public retirement funds have invested more than $1 billion in Lone Star, a private equity company accused of predatory lending and unnecessary foreclosures, an I-Team investigation has found. According to a lawsuit filed by several homeowners in southeast Brooklyn and Queens, Lone Star has purchased large portfolios of distressed mortgages insured by the Federal Housing Administration. But instead of considering typical FHA modifications -- like interest-rate reductions or loan balance reductions -- Lone Star is accused of offering mostly loans with interest-only periods and balloon payments.

REGULATION IN GENERAL

The Case for Regulating Before Harms Occur | The Regulatory Review
When designing regulations, should regulators provide for the imposition of penalties before or after regulated firms have actually caused someone harm by violating the rules? In a recent article, Professor Brian D. Galle of the Georgetown University Law Center argues that “ex post regulation”—which imposes liability only after a harm occurs—has even more significant disadvantages than previously thought. Since managers at regulated firms have a tendency to discount long-term regulatory consequences, Galle favors “ex ante regulation”—or imposing costs before an actor harms another—as the more efficient way of regulating.

Galle explains that corporations can often avoid ex post penalties by lobbying the regulator to reduce or eliminate the penalty. Corporations can also lobby Congress to reduce ex post penalties, both for the sake of the corporation and for the public at large. For example, some experts have argued that United Kingdom-based bank HSBC has been able to avoid criminal prosecutions over alleged money laundering because of its alleged “too big to jail” status, as fully penalizing the bank would have wide economic implications.

The GOP Wasn’t Always Against Regulation | The Week

People Tell Their Tragic Stories to Try to Slow Trump’s Rule-Killing Drive | Huffington Post (Kaeli Subberwal)
When Timothy Frink’s daughter and son-in-law returned from tours of duty in Iraq, he was relieved they were back in the comparative safety of America. Seven months later the family got a harsh reminder of how dangerous home could be: The couple’s 3-year-old daughter, Brianna, was accidentally strangled by a window blind cord in their den. “It’s a terrible irony and a shame that Brianna had to be killed in her own home, which should be a safe haven,” said Frink.

Five years after his granddaughter’s death, Frink was one of six Americans who came to Washington to warn against the risks of inadequate regulatory protections. At a press conference Thursday, they called on Congress to reject the proposed Regulatory Accountability Act, which they say would make it more difficult to impose needed rules.

Trump’s War on Regulation Comes with Big Tradeoffs | CNN Money

Judge Questions ‘Shadow Process’ in Challenge to Regulatory Order | Bloomberg BNA
President Donald Trump’s executive order requiring agencies to eliminate two regulations for each new regulation issued and offset the cost of each new rule is “fundamentally different” than previous executive orders guiding agency rulemaking, a federal judge said Aug. 10. Judge Randolph Moss of the U.S. District Court for the District of Columbia heard lengthy oral arguments in a lawsuit challenging Executive Order 13,771 on Reducing Regulation and Controlling Regulatory Costs.

“It’s like a shadow regulatory process on top of the regulatory process,” in that before agencies can act on a new rule, they must consider which other, completely unrelated rules to cut, Moss said. The lawsuit, filed Feb. 8 by Public Citizen, the Natural Resources Defense Council, and the Communications Workers of America, asks the court to declare that the order cannot be lawfully implemented and to bar federal agencies from implementing the order.

Revealing The Secret Teams Gutting Public Protections | Sensible Safeguards (Bret Thompson)
Just under half of the bills [Trump] he signed during his first 100 days in office were aimed at removing Obama-era protections from law. Many of these, and a number of his executive orders, could be classified as under-the-radar handouts for big corporations. A recent New York Times–ProPublica investigation revealed what may be the most secret and corporate-friendly policy project yet undertaken by the Trump administration. A Trump executive order to create federal agency teams to slash regulation is being executed in the least transparent way imaginable. The membership of these “Task Forces” has largely been kept from the public. A telling example is a Justice Department Task Force, of which only two members have been identified. A spokesperson said that the rest of the members are not people but “components” and then declined to name them. Perhaps this is because

of those Task Force members whose identities have been revealed, almost a third have material conflicts of interest.

In Trump's Government, the 'Regulated Have Become the Regulators' | NPR (Eric Lipton)

RETIREMENT INVESTMENT AND DOL FIDUCIARY RULE

Who Is Winning with the Fiduciary Rule? | Wall St. Journal
The brokerage business fiercely fought the new retirement advice rule. The rule requires brokers to act in the best interests of retirement savers, rather than sell products that are merely suitable but could make brokers more money. Financial firms decried the restriction, which began to take effect in June, as limiting consumer choice while raising their compliance costs and potential liability.

But adherence is proving a positive. Firms are pushing customers toward accounts that charge an annual fee on their assets, rather than commissions which can violate the rule, and such fee-based accounts have long been more lucrative for the industry. The full effect of the rule remains to be seen. Earlier this week, the Labor Department proposed delaying the rule's compliance deadline by 18 months, a move that experts say suggests revisions are in the offing.

Financial Industry Determined to Kill the Fiduciary Rule Finds a Profit Line | MarketPlace

Fiduciary Rule Critics Cry Wolf | Bloomberg Gadfly
Robert Seawright, chief investment and information officer at Madison Avenue Securities, a dually registered broker and fiduciary adviser... says that the [new fiduciary] rule is "costly and difficult to implement, particularly for smaller firms without lots of resources. The rule as currently in effect, which requires reasonable fees and prohibits misleading information, largely gets the job done without a lot of unnecessary bureaucracy."

On the other hand, Barbara Roper, director of investor protection at the Consumer Federation of America, pointed out by phone that "compliance with the fiduciary rule is hard because the conflicts are so pervasive and reining them in is a big job, not because the rule itself is so complex."
By all means, let's have a robust discussion about how to improve outcomes for investors, but let's stop inventing bogus reasons why we shouldn't look after their best interests.

Best-Interest Contract Could Be Casualty of DOL Fiduciary Rule Delay | Investment News
The part of the Labor Department's fiduciary rule that has heartened supporters and caused heartburn for opponents, the best-interest contract, could become a casualty of the ongoing reassessment of the rule. The DOL said last week in a court filing in a lawsuit over the regulation that it is seeking an 18-month delay in the implementation of the remaining parts of the rule. Two provisions became applicable in June. The time-out will give the agency plenty of opportunity to undo the contract, which backers of the rule say gives it bite. Critics say it is too complicated and raises liability costs.

Retirement Rule Casualty: Brokers' Mutual-Fund Offerings | Wall St. Journal
Is less more when it comes to investor choice? That's the question facing brokerage firms and

investment advisers as they look to comply with a landmark retirement-savings rule. Large brokerage firms typically offer thousands of mutual funds to clients. But compliance demands of the fiduciary rule, which began to take effect in June and requires stewards of tax-advantaged retirement savings to act in clients' best interests rather than their own, are causing some firms to review their offerings. Conducting the due diligence and documentation required on so many investments can be onerous, and under the rule, some firms may face increased litigation risks. As a result, brokerages may remove some funds—including those with higher fees or those that present perceived risks—from their sales platforms.

Uber's Board and the Fiduciary Rule | Bloomberg

Why Is Rep. Roskam Taking Aim at a Critical Protection for Retirees? | Crain's (Stewart Mather)
This summer, Rep. Roskam introduced a bill that works against the Fiduciary Rule and claims implementing the regulation would limit low- and middle-income families' access to advice. His paper-thin political spin asserts that the cost of complying with the rule would cause advisors to abandon these families whose low fees wouldn't cover the cost of services. This myth is easily debunked, however, by the success of advisers who leverage technology to advise investors at a fraction of the cost—half or less of the 1.89 percent average annual fee charged by Wall Street.

Fiduciary Rule is a Chance to Get a Better Standard of Care | Kiplinger

STUDENT LOANS AND FOR-PROFIT SCHOOLS

DeVry Students to Get $2,800 Each | Capitol Confidential
On average, each of the 809 students will receive approximately $2,800 in restitution. The Better Business Bureau, which is administering the restitution process, is expected to begin sending out checks to the students later this month. "DeVry exploited students who were simply trying to further their education," said Attorney General Schneiderman. "We will not allow hardworking New Yorkers to be ripped off by greedy companies – which is why DeVry is now paying millions in restitution to hundreds of students. My office will not back down from policing unscrupulous for-profit colleges in New York State."

Regulators Propose $183 Million Settlement with Student Loan Firm | Washington Post

See the CFPB's **report** on the Increase in the size of student Loans

VA Warned Arizona State Regulators over For-Profit College Approval | Politico
The Department of Veterans Affairs warned Arizona officials about running afoul of federal law after the state approved Ashford University's ability to accept GI Bill education benefits, according to a letter obtained by POLITICO through a public records request. As previously reported, the VA earlier this month rejected Arizona's approval of veterans benefits for Ashford. But the letter shows that VA officials went further. After outlining what the VA believes are five "deficiencies" with Arizona's

approval, the VA suggests that the state's decision could put its own compliance with federal rules in jeopardy.

2-Pronged Strategy Against 'Gainful' Rule | Inside Higher Ed

When the Department of Education gathered comments this summer ahead of an overhaul of its gainful-employment rule, it heard a litany of familiar refrains from representatives of the for-profit college sector. They argued that the rule, which holds career programs accountable for graduating students with debt they can't repay, should apply to all programs regardless of tax status, that it should reflect long-term earnings, and in some cases that it should not be tied to federal aid. Whether the department crafts a new gainful-employment rule that reflects those broad goals will have implications for the accountability measures currently in effect for career programs and the kind of data it would provide students.

See statements by **AFR and TICAS.**

Indiana Backs Purdue-Kaplan Deal | Inside Higher Ed

SYSTEMIC RISK

Don't Get too Comfortable with the 'Pause' in Subprime Lending | American Banker

Subprime loan originations for three out of four major credit products declined for the first time since 2012, a TransUnion study released Wednesday found. Originations of subprime auto loans, personal loans and credit cards dropped 5.3% in the first quarter from a year earlier to 4.63 million, the study said. Subprime mortgages, a lower-volume category, were the exception, rising nearly 10% to 47,125. Researchers consider the declines in the three categories to be only "a pause" on the part of lenders after several years of heightened subprime activity and rising delinquencies, according to a press release issued by the credit reporting agency.

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