Americans for Financial Reform

This Week in Wall Street Reform | Dec. 12–Dec. 18, 2015

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CONSUMER FINANCE & THE CFPB

Automatic Payments Can Be Easy to Start, but Hard to Stop

Ann Carrns, NY Times, 12/11

Consumers who agree to automatic withdrawals from their bank accounts to pay for subscriptions, health club memberships, loans and the like may sometimes hit roadblocks when they try to stop the charges. “It’s a big problem,” said Lauren Saunders, associate director with the National Consumer Law Center. Banks are obligated to help customers stop unwanted debits, she says, but they are sometimes slow to do so.

Many companies — including mortgage and student loan servicers, debt collectors and payday lenders — actively solicit approval from consumers for such preauthorized debits, according to the federal Consumer Financial Protection Bureau. The agency recently reminded companies that they must obtain a consumer’s permission before automatically debiting an account and that they are legally required to give customers a copy of the terms of any preauthorized debits, including the amount and timing of the payments.

Behind the Boom in Online Lending: A Tiny Utah Bank

Telis Demos and Peter Rudegeair, Wall St. Journal, 12/13

Warren Lichtenstein broke onto Wall Street as an investing wunderkind before the financial crisis slashed billions of dollars from his hedge fund. Now, Mr. Lichtenstein is riding a new boom, this time in online marketplace lending. The tiny Utah-chartered WebBank his company controls has become a crucial—and highly profitable—cog to some of the largest marketplace-lending platforms, including LendingClub Corp. and Prosper Marketplace Inc.

Tougher times may be coming though. Regulators from the U.S. Treasury and California are looking into whether anyone is cutting corners in fast-growing marketplace lending, where investors and traditional banks make loans over electronic platforms to individuals who need money. WebBank’s model has also been challenged by a U.S. appellate court decision. The decision this spring, if not overturned by the U.S. Supreme Court, could make it harder for the marketplace lenders to use banks in Utah, which doesn’t have a state usury limit, to skirt rate caps in other states.

CFPB Nears Release of Payday Plan After Months of Delay

Rachel Witkowski, American Banker, 12/14

The long-awaited proposal to bolster regulations on payday-type loans is nearing release by the Consumer Financial Protection Bureau more than nine months after the agency initially unveiled the plan. The agency has struggled with how to regulate small-dollar and payday loans in recent years, pushing back its own deadline several times for completing a proposed rulemaking. It finally unveiled an outline of its intentions in March as part of a small business review process but it has not formally issued a proposal.

Industry representatives said the delay is because the plan is so broad. "The proposal that was put out is so incredibly complicated," said Lisa McGreevy, president and chief executive of the Online Lenders Alliance. "The CFPB was trying to do way too much at one time and I think that's why they've had a difficult time in trying to write this proposal." The agency initially anticipated it would release the proposal in 2014, based on a tentative schedule it provides the public semi-annually. But it has now been pushed to the first quarter of 2016, according to the most recent version of the agenda released on Nov. 20.

[The Public Option for Payday Lending]

John Hindley, Go Local, 12/12

The payday lending industry profits off of the financial insecurity of the poor. Over the past three legislative sessions, advocates from nonprofits and faith groups have advocated for a 36% interest rate for payday loans. However, this will not go far enough in protecting those in poverty from the coercive nature of the industry. Legislators and advocates need a bolder and more effective solution. Rhode Island can be a leader in addressing this moral problem of our time by creating a public option for payday loans.

One cannot ignore the need to reform the payday lending industry. The business model is meant to provide access to credit for those who cannot access credit through a banking institution. For those who make between $10,000- $40,000 a year and rely on government assistance, payday loans are the only option to bridge the gap between their income and unexpected expenses such as medical bills, taxes or car repairs. The industry capitalizes and profits off of this vulnerability by offering short-term, single- payment loans at store front locations usually situated in low- income neighborhoods.

[Payday Loan Crackdown Hurts Fight Against Terror]

Edward D'Alesio, American Banker, 12/17

The Consumer Financial Protection Bureau's proposal to regulate payday and other small lenders — which has yet to be formally released after being reviewed by a small-business advisory panel — could threaten thousands of companies that assist regulators in bringing laundering risks out into the light.

The proposal would apply to many lenders also licensed as money services businesses — the institutions on the front lines in fighting money laundering and terrorist financing. Through the suspicious-activity reports and currency transaction reports they file regularly, MSBs serve to bring financial transactions onto the regulatory radar screen. Without these institutions, certain transactions would be conducted without detection and law enforcement scrutiny.

[Building Financial Security by Overcoming Identification Barriers]

Joe Valenti, Center for American Progress, 12/15

For the nation's 11.3 million unauthorized immigrants, the lack of identification, or ID, can be a major barrier toward completing even basic tasks, such as renting an apartment or collecting a package from the post office. This affects not only immigrants themselves, but also their families, since the children of immigrants who are American citizens may have difficulty enrolling in school or accessing health care benefits. The lack of ID also affects entire communities by complicating interactions with law enforcement and health care personnel.

A report released last month by the Center for American Progress recognized these barriers and discussed a broader range of IDs that are now available to help better integrate unauthorized immigrants. One of the underappreciated benefits of these expanded ID efforts is increased access to safe and affordable financial services for these residents whose economic status is often vulnerable. Connecting unauthorized immigrants to the financial system provides them with better economic outcomes, as they save money and time in their dealings with financial institutions. This connection helps reduce the incidence of crime—since unauthorized immigrants and families are less likely to carry large amounts of cash if they have a safe place to deposit their money—and it helps them build a financial identity in the United States.

[Congress says 'OK' to racist auto lenders]

Van Jones, CNN, 12/16

The entire political class is united in expressing outrage at Donald Trump's latest diatribes that promote discrimination against Muslims overseas. Rightly so! But many of those same politicians are quietly tolerating -- and even abetting -- another kind of discrimination, right here at home.

A white man and a black woman both go to buy a car. They have similar credit histories, and are purchasing the same type of vehicle from the same place. Common sense says they should be charged the same interest rate, right? Well, common sense is missing from the auto market today. There is solid evidence that black, Latino, and Asian-American car buyers are charged higher interest rates than white Americans with similar credit histories. Instead of putting a stop to it, Republicans in the House of Representatives are going the extra mile to allow car dealers to discriminate. Most disappointingly, they are being aided and abetted by far too many Democrats.

We've learned nothing from the subprime mortgage meltdown. Here's proof.

David Lazarus, LA Times, 12/15

"The Big Short," which I saw over the weekend, is an entertaining movie. It's also deeply disturbing because one take-away is that we learned nothing from the stupidity and greed of the subprime mortgage meltdown. Want proof? Look no further than a recent crackdown in the subprime sector by the Consumer Financial Protection Bureau.

The watchdog agency, which conservatives say is the embodiment of regulatory overreach, slapped Florida's Clarity Services Inc. and its owner, Tim Ranney, with an $8-million fine for illegally accessing the credit files of thousands of consumers nationwide. That's bad enough. Making things even worse is what the company did with all those credit files. According to the bureau, Clarity used them to generate sales leads for firms that make "small-dollar loans to consumers who have thin credit files." In plain English, that means Clarity wanted to help pitch high-interest payday loans and similar products to people with little borrowing experience or limited financial resources.

SEC, CFPB Should Curb Mandatory Arbitration, Says Michigan Professor

Ted Knutson, Financial Advisor, 12/15

Michael Barr, the Treasury Department's point person in the development of the Dodd-Frank Act, is urging the Securities and Exchange Commission and Consumer Financial Protection Bureau to use their Dodd-Frank given powers to curb mandatory arbitration clauses. The clauses diminish legal protections and lessen the recovery from wrong-doers by borrowers and investors along with weakening deterrence, argues Barr in the latest issue of the New York University Journal of Law & Business.

"Oftentimes, arbitration clauses preclude the award of punitive damages," he added. Barr is currently a law professor at the University of Michigan. Claiming consumers don't consent to mandatory arbitration knowingly and willingly, Barr said the regulatory agency should give them the power to opt-out of the agreements easily at any time.

CFPB Orders EZCORP to Pay $10 Million for Illegal Debt Collection Tactics

Consumer Financial Protection Bureau Press Release, 12/16

The Consumer Financial Protection Bureau (CFPB) today took action against EZCORP, Inc., a small-dollar lender, for illegal debt collection practices. These tactics included illegal visits to consumers at their homes and workplaces, empty threats of legal action, lying about consumers' rights, and exposing consumers to bank fees through unlawful electronic withdrawals. The Bureau ordered EZCORP to refund $7.5 million to 93,000 consumers, pay $3 million in penalties, and stop collection of remaining payday and installment loan debts owed by roughly 130,000 consumers. It also bars EZCORP from future in-person debt collection. In addition, the Bureau issued an industry-wide warning about collecting debt at homes or workplaces.

"People struggling to pay their bills should not also fear harassment, humiliation, or negative employment consequences because of debt collectors," said CFPB Director Richard Cordray. "Borrowers should be treated with common decency. This action and this bulletin are a reminder that we will not tolerate illegal debt collection practices."

DODD-FRANK (AND CONTINUED ATTACKS)

Finance Industry Falls Short in Wish List for U.S. Spending Bill

Cheyenne Hopkins, Bloomberg, 12/16

Financial industry lobbyists were stymied in their efforts to slip measures helping banks, insurers and private-equity firms into the $1.1 trillion bill funding the U.S. government.
The failures are a stark contrast to 2014, when Wall Street successfully got a provision in the year-end spending legislation that watered down a requirement that banks move swaps trading out of entities that benefit from federal backstops.

This time, the White House and Wall Street critics, such as U.S. Senator Elizabeth Warren, held the line. Warren said she and other Democrats were ready for any surprises in the spending legislation, while President Barack Obama repeatedly warned this year that he would veto any changes to the 2010 Dodd-Frank Act, the landmark financial regulation bill that toughened oversight of banks.

[Big Spending Bill Omits Many Gifts for Financial Industry]

Ryan Tracy, Wall Street Journal, 12/16

Financial firms didn't get many of the early Christmas gifts they were hoping for fromCongress. A last-minute budget deal released early Wednesday didn't include many of the legislative provisions that banks, insurance firms, and asset managers were pushing for before Congress goes home for the holidays. The outcome is a loss for the industry, and a victory for the Obama administration,the Federal Reserve, and liberal Democrats, all of whom had lobbied hard against changes the industry was pushing.

[Omnibus Offers Little to Love for Wall Street, Financial Industry]

Carter Dougherty, Inside Sources, 12/16

Hours after congressional negotiators finished work on a 2009-page omnibus spending bill to fund the federal government through the current fiscal year, bank lobbyists fumed that Republicans championed no real changes to the 2010 Dodd-Frank law that forced comprehensive rules on the industry following the most serious financial crisis since the Great Depression. "Layers upon layers of ill-fitting regulations have been applied to the whole industry," said Rob Nichols, president of the American Bankers Association. "Failing to pass needed regulatory relief while forcing banks to pay for roads and bridges is unconscionable."

The unpopular banking industry got left behind, as Republicans focused on other priorities including energy and health care. Efforts to strike a bipartisan compromise on changes to financial regulations foundered amid an insistence by Sen. Richard Shelby, the Alabama Republican who chairs the banking committee, that it include provisions beneficial to large and small banks…"Wall Street and the financial industry were pushing once again for major rollbacks of financial regulation, and to block consumer and investor rights," said Lisa Donner, president of **Americans for Financial Reform**, an umbrella group of consumer advocates, civil rights groups and labor unions. "And on this they failed this time, and the rest of us won."

[2,200 pages, $1.8 trillion, dead of night]

Bernie Becker, Politico, 12/16

Banks got a few odds and ends in the omnibus, including a provision that keeps the Securities and Exchange Commission from mandating that companies disclose political donations. But banks and Republicans fell short in efforts to pare back Dodd-Frank regulations and in replacing capital lost in the recent transportation bill. On top of that, there was no serious effort to block the Labor Department from implementing a new fiduciary standard rule for retirement brokers, and efforts to impede Consumer Financial Protection Bureau rules were also brushed aside.

See **[AFR Statement]**, "Wall Street Loses – The Rest of Us Win"

[Left Celebrates]

Ben White, Politico, 12/17

Americans for Financial Reform: "The omnibus government spending bill… did not include the dangerous financial deregulatory riders that Wall Street and its allies had been promoting. That is very good news. Financial industry lobbyists and their friends in Congress pushed hard to use this 'must pass' legislation to achieve a number of unrelated, unpopular, and destructive policy goals.

"Among other things, they sought to block the [CFPB] from regulating the use of forced arbitration in the banking and lending markets; to derail the Department of Labor's efforts to combat the problem of conflicted retirement investment advice; and to significantly weaken regulatory oversight of large banks and giant non-bank financial institutions. They failed."

[Leaders lose out on pet provisions]

Alexander Bolton, The Hill, 12/16

[Don’t Weep for Wall Street: Banks Won More Than They Lost This Week]

David Dayen, Fiscal Times, 12/18

[P]eople are ignoring all the wins in the year-end package for Wall Street. For example, lifting the oil export ban bails out the domestic oil industry… Opening a new revenue source for these companies tosses them a lifeline — as well as their financiers.

Oil exploration company defaults are a big part of the crackup in high-yield junk bonds. “Almost a quarter of that stuff is in the energy sector,” said Marcus Stanley of **Americans for Financial Reform**. While federal regulators did admirable work in forcing banks to stop issuing these risky corporate loans, banks still helped to arrange and distribute the bond deals. They’re part of the underwriting pipeline, and when investors get nervous and pull out, banks can get stuck with some exposure…

There are also gifts for banks in the other half of this year-end deal, the so-called “tax extenders.” That makes permanent something called the “active financing exception,” which allows corporations to avoid taxes on earned financial income, like dividends or interest, if those profits are deemed to be earned offshore. The biggest beneficiaries of this are Wall Street banks, and their accountants have all sorts of tricks to claim that financial profits were earned overseas. This permanent tax break effectively legalizes offshore tax havens.

Omnibus: No Financial Reg Relief, Dangerous GSE Provision, But a Little CFPB Sunshine

John Berlau, Competitive Enterprise Institute, 12/16

ENFORCEMENT

JP Morgan to pay $307 million to settle SEC, CFTC disclosure charges

Sarah N. Lynch, Reuters, 12/18

JP Morgan Chase will pay $307 million to settle two U.S. government cases that charged the bank with failing to disclose certain conflicts of interest to some of its wealth management clients, U.S. regulators said on Friday.

The Securities and Exchange Commission said that two of the bank's wealth management units have agreed to admit to wrongdoing and pay $267 million to settle the charges. The bank will also pay $40 million to settle parallel charges with the Commodity Futures Trading Commission.

“We have always strived for full transparency in client communications, and in the last two years have further enhanced our disclosures in support of that goal,” said Darin Oduyoye, a J.P. Morgan spokesman.

FEDERAL RESERVE

US Federal Reserve raises interest rates

Al Jazeera, 12/16

The US Federal Reserve has raised interest rates for the first time since 2006, ending measures brought in after the global financial crisis in 2007. The increase by 0.25 percent was announced on Wednesday afternoon after a two-day policy meeting between officials with stocks rallying in early trading in Europe and the US. At a press conference after the announcement, Janet Yellen, chair of the Board of Governors of the Federal Reserve, said the decision was taken after an "extraordinary seven year period".

"The economic recovery has clearly come a long way although it is not yet complete, room for further improvement in the labour market remains," Yellen said.

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

Inside the Billion-Dollar Battle for Puerto Rico's Future

Jonathon Mahler, NY Times, 12/20

The money poured in by the millions, then by the hundreds of millions, and finally by the billions. Over weak coffee in a conference room in Midtown Manhattan last year, a half-dozen Puerto Rican officials exhaled: Their cash-starved island had persuaded some of the country's biggest hedge funds to lend them more than $3 billion to keep the government afloat. There were plenty of reasons for the hedge funds to like the deal: They would be earning, in effect, a 20 percent return. And under the island's Constitution, Puerto Rico was required to pay back its debt before almost any other bills, whether for retirees' health care or teachers' salaries.

But within months, Puerto Rico was saying it had run out of money, and the relationship between the impoverished United States territory and its unlikely saviors fell apart, setting up an extraordinary political and financial fight over Puerto Rico's future. On the surface, it is a battle over whether Puerto Rico should be granted bankruptcy protections, putting at risk tens of billions of dollars from investors around the country. But it is also testing the power of an ascendant class of ultrarich Americans to steer the fate of a territory that is home to more than three million fellow citizens.

The investors with a stake in the outcome are some of the wealthiest people in America. Many of them have also taken on an outsize role in financing political campaigns in the aftermath of the Supreme Court's 2010 Citizens United decision. They have put millions of dollars behind candidates of both parties, including Hillary Clinton and Jeb Bush. Some belong to a small circle of 158 families that provided half of the early money for the 2016 presidential race.

Governor of Puerto Rico Warns of Looming Default Without Bankruptcy Plan

Michael Corkery and Mary Williams Walsh, NY Times, 12/16

The governor of Puerto Rico redoubled threats on Wednesday of a major bond default, as an effort to help the struggling commonwealth use bankruptcy to shed debt headed for defeat in Congress. Gov. Alejandro García Padilla warned in a speech at the National Press Club in Washington that Puerto Rico would probably miss debt payments in January or May because its government had run out of cash.

Many Republican leaders are opposed to giving Puerto Rico access to Chapter 9, in part because of concerns that the island would blaze a trail that severely troubled states might try to follow. The proposal was also vehemently opposed by bondholders, including hedge funds, that have bought billions of dollars of Puerto Rico's debt, under the assurance that it could not be cut in bankruptcy.

Katy Perry and Andrea Bocelli; Hedge funds party despite losses

Lawrence Delevingne, Reuters, 12/16

Hedge fund managers faced a tricky question this holiday season: how to thank employees but not offend disappointed clients. Despite a year of heavy losses for some in the industry, anecdotal evidence suggests holiday traditions were upheld and, in some cases, embellished, with guest appearances from pop star Katy Perry, acrobatic entertainers and at least one weekend sojourn to Florida as just some of the treats on offer.

"It's a very difficult and real balancing act," said Adam Herz, who specializes in hedge fund recruiting at Westwood Partners. "You want to recognize people for working hard even without bonuses and at the same time not offend clients when you may have lost money and taken fees."

2016 policy outlook: Hedge funds and private equity in the crosshairs

Mike Geller and Greg Marose, The Hill, 12/14

In appealing to the American electorate's belief in economic fairness and equal opportunity, presidential hopefuls—ranging from Hillary Clinton to Donald Trump—are ramping up critiques of the hedge fund and private equity worlds. Sen. Bernie Sanders (I-Vt.) recently declared in a Huffington Post op-ed that it is "disgraceful that millionaire hedge fund managers are able to pay lower effective tax rates than truck drivers or nurses." Secretary Clinton has also been touting that "we need more accountability, tougher rules and stronger enforcement" on Wall Street.

While candidates are raising their own voices, there is comparable noise inside the Beltway. The College for All Act, which includes a proposed financial transaction tax, and the Carried Interest Fairness Act of 2015 were both introduced during the 114th Congress. The Securities and Exchange Commission also recently reported its FY15 results, which includes more than 800 enforcement cases and a record 507 independent actions for violations of the federal securities laws. This past year's first-of-their-kind cases included action against a private equity advisor for "misallocating broken deal expenses" and the pursuit of violations stemming from "a dark pool's disclosure of order types."

Congress Spikes Handout For Private Equity

Zach Carter, Huffington Post, 12/15

A major gift for big private equity firms has been removed from a must-pass bill to avert a government shutdown, according to sources familiar with the negotiations. The rider would have strengthened the hands of private equity owners to extract concessions from bondholders in troubled companies. The provision carried broad implications for securities markets, but was drafted to aid Apollo Capital Management and TPG Capital, the private equity owners of Caesar's Palace casino empire.

Apollo and TPG took over Caesar's in 2006, in a $30.7 billion leveraged buyout that required Caesar's to take on loads of debt. The deal proved to be a total bust, and Apollo and TPG are now trying to rewrite the terms of that debt in order to keep part of the Caesar's empire out of bankruptcy. A bankruptcy filing would force Apollo and TPG to take heavy losses, and give creditors access to the company's stock or assets in exchange for trading in their debt. It would also significantly increase the market power of private equity firms.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

Trying to Force the S.E.C.'s Hand on High-Speed Trading

Robert Barlett III and Justin McCary, NY Times, 12/18

Brad Katsuyama, the hero of "Flash Boys," has thrown down the gauntlet. "Flash Boys," of course, is Michael Lewis's best-selling book that documents how today's capital markets are "rigged" in favor of high-frequency trading firms. In the book, Mr. Katsuyama fights back by forming the Investors Exchange, or IEX —a "we're not gonna take it anymore" dark pool where investors can trade without high-frequency trading firms preying on their orders.

Like all dark pools, IEX operates as an alternative trading system. In September, Mr. Katsuyama filed an application with the Securities and Exchange Commission to make IEX an official stock exchange. The comment period recently closed, so an action by the agency is expected soon. Although the S.E.C. originally set a deadline of Dec. 21 to act on the application, it recently asked for another 90 days to make a decision.

Why the delay? One reason may be that for the S.E.C. to make a determination, it may first have to take a stand on a form of high-frequency trading known as latency arbitrage, which is a strategy whereby traders use high-speed data feeds from exchanges to profit off investors who use slower feeds. To date, the agency has avoided taking a position on this form of trading, but IEX's application may finally force it to do so.

Junk Bond Chaos Shows The Value Of High Frequency Trading In The Stock Market

Tim Worstall, Forbes, 12/14

High frequency trading is one of those things that all sorts of very serious people, Hillary, Bernie and Elizabeth among them, insist is one of those terrors of Wall Street that all right thinking people agree the poor average investor must be protected from. The reality is of course entirely different: HFT is one of those things that has undoubtedly, no wavering at all here, benefited the average investor. There are people who have lost out, entirely true, but they're some of the denizens of that very Wall Street, not the Mom and Pop investors. And let's be honest about this, if one wing of Wall Street is losing money while another makes it we're not really all that worried: as long as Mom and Pop are fine then we're copacetic.

INVESTOR PROTECTION AND THE SEC

Deal Restricts SEC From Requiring Disclosure of Corporate Political Contributions

Andrew Ackerman, Wall St. Journal, 12/16

A major spending plan unveiled by congressional lawmakers late Tuesday restricts the Securities and Exchange Commission from forcing public companies to disclose their political activities.

The provision, tacked on to a $1.15 trillion spending bill for fiscal year 2016, is a blow to liberal groups and many congressional Democrats who have long pushed—unsuccessfully—for the SEC to advance such rules. It is one of the few Republican-backed measures, known as “riders,” included in the legislation. The legislation needs Democratic votes to clear Congress. Republicans say such requirements are misguided because companies’ political contributions generally don’t affect their financial performances.

Accounting industry and SEC hobble America’s audit watchdog

Charles Levinson, Reuters, 12/16

James Schnurr, just two months into his job as chief accountant at the U.S. Securities and Exchange Commission, stood before a packed ballroom in Washington last December and upbraided a little-known regulator. The Public Company Accounting Oversight Board, or PCAOB, oversees the big firms that sign off on the books of America’s listed companies. And the board was “moving too slowly,” Schnurr said, to address auditing failures that in recent years had shaken public confidence in those firms. These were fighting words in the decorous auditing profession, and they hit their target. PCAOB Chairman James Doty was among those attending the annual accounting-industry gala where Schnurr spoke. And Schnurr was Doty’s new supervisor. “This is going to get ugly,” Doty said to a colleague afterward.

In his new SEC job, Schnurr now had direct authority over the PCAOB – a regulator that just a few years earlier had derailed his C-suite ambitions at Deloitte & Touche. As deputy managing partner at the world’s largest accounting firm, Schnurr had commanded an army of auditors – until a string of damning PCAOB critiques of Deloitte’s audits led to his demotion. Then, in August 2014, SEC Chair Mary Jo White named Schnurr to his SEC post. It was a remarkable instance of Washington’s “revolving door” for professionals moving between government and industry jobs.

Wells Fargo Paying Advisors to Dump Small Clients

Megan Leonhardt, WealthManagement.com, 12/17

[B]eginning in January, advisors who have clients with less than $65,000 in household assets are encouraged to hand them over to a "financial relationship advisor," or FRA. A spokeswoman for the firm said the role is a new one designed for advisor trainees who are looking for opportunities to build client relationships through warm leads.

“By transitioning these smaller accounts, clients receive more attention and advice, while at the same time, freeing up time for more seasoned advisors to focus on larger households,” the firm said. The FRAs are based at the branch, along with their client's assets, at the discretion of the branch manager.

MORTGAGES & HOUSING

Fannie, Freddie rider pushed for spending bill

Jon Prior, Politico, 12/13

A proposal that would prohibit the government from selling its stake in Fannie Mae and Freddie Mac without congressional approval is being negotiated as a possible addition to the year-end spending bill, according to multiple sources familiar with the talks. The potential rider is known as the Jumpstart GSE Reform Act (S.2038), which was co-authored by Republican Sen. Bob Corker and Democratic Sen. Mark Warner. The bill would also prevent Congress from raising the fees charged by both housing giants in order to pay for unrelated government programs.

During the talks, the latest version of the bill would sunset in two years, rather than hold indefinitely, according to a source. This could potentially keep the companies under government control until the end of 2017 as talks continue in Congress on what to do with them. Fannie and Freddie have remained under government control since 2008.

How Fed rate hike affects housing, autos

Paul Davidson, USA Today, 12/16

Perhaps no sector has benefited more from ultra-low rates than housing, which was devastated by the real estate crash. Home sales are expected to total about 5.7 million this year, up from 5.4 million in 2014 and 4.6 million in 2011. The recovery can at least partly be traced to 30-year fixed mortgage rates that remain below 4%, down from about 6% in 2008, keeping borrowing costs low for buyers. But today's housing market is supported by far more than low mortgage rates — namely steady job and economic growth. What's more, 30-year mortgages are priced off 10-year Treasury note yields, which do rise as short-term rates climb, but not as steeply.

Doug Duncan, chief economist of Fannie Mae, the giant government-sponsored funder of mortgages, expects this week's Fed hike of a quarter of a percentage point to have virtually no immediate impact on Treasury or mortgage rates, noting markets already have priced in the move. Assuming the Fed raises its rate by a percentage point over the next year, Duncan expects 30-year mortgage rates to drift from 3.9% to 4.1% during the period. That would boost the monthly cost of a typical $225,000 mortgage by $26 to $1,454 — not enough to deter most buyers

How Have Fannie Mae’s 3% Mortgages Affected Housing?

Peter Ricci, Boston Agent Magazine, 12/14

It was last October when Fannie Mae announced that, in an effort to broaden credit access, it would lower its down-payment threshold and begin guaranteeing mortgages with 3 percent down payments. News of Fannie’s decision inspired strong responses from both sides of the housing aisle. On the advocate side, some (including FHFA Director Mel Watt) argued that lowering the threshold would increase homeownership opportunities for Millennials and first-time homebuyers; on the critical side, others argued that 3-percent down payments would inevitably lead to the same risky mortgages that created the housing bubble.

But now, courtesy of new research from Black Knight, we have an idea of how Fannie’s policy impacted the mortgage markets – and it turns out that both sides were wrong.

POLITICAL INFLUENCE OF WALL STREET

Andrew Cuomo’s Top Aide, A Former Wall Street Lobbyist, Is Being Lobbied By Wall Street

David Sirota, International Business Times, 12/18

Earlier this year, New York Gov. Andrew Cuomo appointed a top Wall Street lobbyist, Bill Mulrow, to serve as his top aide. Now, as a federal corruption probe intensifies questions about influence peddling in Albany, Wall Street has been asking their former compatriot Mulrow for regulatory relief from a Cuomo-controlled agency charged with enforcing the laws governing Wall Street. In a story looking at how the New York State Department of Financial Services (DFS) had become “a fearsome Wall Street regulator,” the Wall Street Journal reported, citing people familiar with the matter, that over the last six months lawyers like H. Rodgin Cohen — senior chairman of Sullivan & Cromwell LLP, which represents many banks before the regulator — called on Mulrow to get the DFS to adopt a softer stance.

The Journal noted that officials from other financial and insurance firms also directed complaints about the DFS' enforcement efforts to Mulrow. The newspaper reported that “there isn’t any indication that Mr. Mulrow has acted on any of the complaints” — but his ties to Wall Street are extensive: he spent 32 years in the financial industry before being appointed Cuomo’s top aide.

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

Lawmakers Don’t Bar New Rule on Financial Advisers

Yuka Hayashi, Wall St. Journal, 12/16

A proposed rule to impose tougher regulations on financial advisers is poised to move forward after opponents failed to persuade lawmakers to derail it. Financial companies and lobbyists had mounted a last-minute battle to attach a provision to Congress’s giant spending bill that would effectively kill the landmark rule. After dodging a congressional blow, the proposed Labor Department rule is widely expected to be adopted before President Barack Obama’s second term ends in January 2017.

Mr. Obama has made updating regulations governing retirement savings a priority. At the core of the fight is a new "fiduciary rule" that would require brokers and financial advisers to act in the "best interest" of retirement savers—a higher standard than current regulations, which only require advice be "suitable." The new rule aims to lower the cost of retirement savings by eliminating potential conflicts of interest between people who offer investment advice and companies that sell financial products. The rules aim to help individual investors who are increasingly responsible for building their own retirement nest eggs through programs like IRAs and 401(k)s that have largely replaced traditional pension funds.

House and Senate pass 2016 spending bill without fiduciary rule rider
Hazel Bradford, Pensions & Investments, 12/18

DOL's Fiduciary Rule Survives Threat in Congress
Alex Padalka, Financial Advisor IQ, 12/18

New bills aim to stop DOL fiduciary rule
Mark Scheoff Jr., InvestmentNews, 12/18
Bipartisan lawmakers introduced bills Friday that would stop a Labor Department proposal to strengthen investment advice rules for retirement accounts and replace it with a standard written by the legislators.

The bills would require financial advisers working with 401(k) and individual retirement accounts to act in their clients' best interests and disclose their compensation and potential conflicts of interest. They also include penalties for advisers who "violate the trust of their clients," according to a statement from the bills' sponsors.

The measures are a congressional response to the DOL rule, which establishes a legally binding requirement for advisers to act in the best interests of their clients.

Snakes and ladders: What to expect in the unexpectedly triumphant final DOL fiduciary rule
Duane Thompson, RIA Biz, 12/17

See also: **Save Our Retirement coalition background paper** on the proposed fiduciary rule delay.

STUDENT LOANS & FOR-PROFIT EDUCATION

Career Ed Closing Down Le Cordon Bleu Operations
Inside Higher Ed, 12/17
Career Education Corporation announced yesterday that it will stop enrolling new students at the Le Cordon Bleu Colleges of Culinary Art after Jan. 4, 2016, and wind down operations. The for-profit company attempted to sell the 16 culinary campuses this year, but negotiations with a potential buyer failed. Le Cordon Bleu was the for-profit company's most well-known brand. The campuses are expected to remain open until September 2017.

"New federal regulations make it difficult to project the future for career schools that have higher operating costs, such as culinary schools that require expensive commercial kitchens and ongoing food costs," said Todd Nelson, president and chief executive officer of Career Ed, in a news release. "Despite our best efforts to find a new caretaker for these well-renowned culinary colleges, we could not reach an agreement that we believe was in the best interests of both our students and our stockholders."

Le Cordon Bleu Will Close All U.S. Schools
Molly Hensley-Clancy, Buzzfeed, 12/16

Classes out for good at Le Cordon Bleu
Steven Strahler, Chicago Business, 12/16

Career Education Corp. Will Close, Not Sell, Culinary-Arts Campuses
Andy Thomason, Chronicle of Higher Education, 12/16

[Modest Increases for Student Aid, Research in Spending Bill](#)

Inside Higher Ed, 12/17

Congressional leaders early Wednesday morning unveiled the details of a government spending bill that would boost some student aid and federal research funding. The spending deal would allow the maximum Pell Grant to increase by $140 to $5,915 for the 2016-17 academic year. Funding for the TRIO program would jump by $60 million to $900 million, and the GEAR UP program would receive $322.8 million, a $21 million boost from the current year. Campus-based aid programs like the Supplemental Educational Opportunity Grants and Federal Work-Study would continue to be funded at their current levels. The legislation boosts spending on the National Institutes of Health by nearly $2 billion, to $32 billion. The National Science Foundation would receive $7.5 billion, a $112 million increase from its current level.

Spending Deal Would Increase NIH Funds and Maximum Pell Grant

Kelly Field, Chronicle of Higher Education, 12/16

OTHER TOPICS

'The Big Short,' Housing Bubbles and Retold Lies

Paul Krugman, NY Times, 12/18

Which brings me to a new movie the enemies of financial regulation really, really don't want you to see.

"The Big Short" is based on the Michael Lewis book of the same name, one of the few real best-sellers to emerge from the financial crisis. I saw an early screening, and I think it does a terrific job of making Wall Street skulduggery entertaining, of exploiting the inherent black humor of how it went down.

The film achieves this feat mainly by personalizing the tale, focusing not on abstractions but on colorful individuals who saw the rot in the system and tried to make money off that realization. Of course, this still requires explaining what it was all about. Yet even the necessary expository set pieces work amazingly well. For example, we learn how dubious loans were repackaged into supposedly safe "collateralized debt obligations" via a segment in which the chef Anthony Bourdain explains how last week's fish can be disguised as seafood stew.

But you don't want me to play film critic; you want to know whether the movie got the underlying economic, financial and political story right. And the answer is yes, in all the ways that matter.

Things to Read After Watching *The Big Short*

Bourree Lam and Gillian White, The Atlantic, 12/17

The financial concepts presented in the movie The Big Short are numerous and complicated. If you walked out of the movie thinking a) I'm not completely sure what happened in the subprime mortgage crisis or b) I want to read more about the crisis and the characters in The Big Short—this reading list is for you.

Michael Burry's 2010 New York Times op-ed describes how he discovered the U.S. housing bubble and the mortgage-market meltdown. He also has some pointed words for former Fed Chairman Alan Greenspan and what he feels the government could have done to minimize the crisis…