AFR Americans for Financial Reform

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THE TRUMP ADMINISTRATION, CONGRESS AND WALL STREET

How the banks won over Washington again I PoliticoPro
Less than a decade after being blamed for fueling the worst financial crisis since the Great Depression, banks are winning again in Washington. The rebound for the lenders has been so remarkable that Republicans and Democrats in Congress are pushing to scale back financial regulations imposed in the wake of the meltdown - one of the few areas where the two parties agree…

Lawmakers and regulators are rethinking policies including loosening mortgage protections, curtailing so-called stress tests that gauge how banks would fare during economic turmoil, and simplifying capital requirements for smaller lenders. Many of the proposals are targeted rollbacks rather than a wholesale repeal of regulations, but they would have a meaningful impact on the industry.

Wall Street Super Watchdog Now a Forum to Cut Rules Under Trump I Credit Union Times
In its annual report released Thursday, the Financial Stability Oversight Council for the first time advised agencies to address outdated and overlapping rules that could subject the industry to "increased compliance costs and regulatory burdens." The language is a notable inclusion in a document that's known for flagging risks such as cyberattacks and the financial sector's reliance on short-term funding.

FSOC, which is made up of more than a dozen regulators and led by Treasury Secretary Steven Mnuchin, was formed after the 2008 financial crisis to monitor threats that could lead to another crash. It's gotten a makeover in recent months as agency heads installed by Trump increasingly make up its members.

OCC's Otting to Make Simplifying Bank Rules One of Top Priorities I Wall St. Journal

OCC's Otting sees future for fintech charter, CRA reform I American Banker

Fed's Quarles to recuse himself from Wells Fargo matters I Reuters

Senate confirms droves of Trump nominees I Politico

Confirmations include Hester Peirce and Robert Jackson to be members of the Securities and Exchange Commission; Preston Rutledge was confirmed as assistant secretary of the Employee Benefits Security Administration.

Senate Confirms Robert Jackson, Hester Peirce to Join SEC I Wall St. Journal

CFPB SUCCESSION AND FUTURE

Credit union regulator McWatters on shortlist to head CFPB I American Banker

McWatters Under Serious Consideration for CFPB Director I LA Times
McWatters would likely be closely aligned with the Trump Administration's regulatory regime. He is a former counsel to House Financial Services Chairman Jeb Hensarling (R-Texas), a longtime opponent of the CFPB's aggressive enforcement under Cordray's leadership.

McWatters is already on the record as opposing some CFPB rules.

In a May letter to Cordray, McWatters asked the agency to issue clear guidance to credit unions concerning the CFPB's use of its powers to take enforcement actions based on Unfair, Deceptive or Abusive Acts or Practices and to use its exemption powers to exempt credit unions from certain rules.

Trump's Wells Fargo tweet cited in court hearing as reason to remove Mulvaney as CFPB acting chief I LA Times
A recent tweet by President Trump about possible penalties against Wells Fargo & Co. was cited during a court hearing Friday as a reason for removing White House official Mick Mulvaney as acting director of the Consumer Financial Protection Bureau.

The attorney for Leandra English — the bureau's deputy director who has said she is the rightful acting head — said Trump's tweet showed he was trying to exercise improper influence over the independent consumer watchdog.

"I think that [tweet] shows you this isn't just some hypothetical concern," the attorney, Deepak Gupta, told Judge Timothy J. Kelly of the U.S. District Court for the District of Columbia during a nearly two-hour hearing.

Judge casts doubt on CFPB deputy's claim to head agency I American Banker

The Internal Divide Behind Trump's Takeover of Consumer Watchdog I Wall St. Journal
The Trump administration's move to put its budget chief in charge of the Consumer Financial Protection Bureau exposed a divide between a White House faction and the Treasury Department over just what the role of the consumer watchdog should be...

Companies have invested billions of dollars in complying with the agency's rules since it began operating six years ago. What's more, many in the mortgage and financial-technology industries see some rules as necessary to help ensure a stable market for securities such as those formed when mortgages are packaged and sold off.

They saw an ally in Treasury Secretary Steven Mnuchin, a former mortgage banker, who interviewed several candidates to run the CFPB, including candidates recommended by the financial industry. The White House, however, was conducting its own search.

Can CFPB's Mulvaney bring politicos to independent agency? Absolutely I American Banker

Consumer bureau to revise mortgage, prepaid card rules from Cordray era I The Hill
The Consumer Financial Protection Bureau (CFPB) said Thursday the agency will review and reconsider aspects of two rules issued by its former director, Richard Cordray. Under acting Director Mick Mulvaney, the CFPB announced plans to revise rules issued by Cordray regarding mortgage data collection and prepaid credit cards. One of the revisions: The bureau will no longer assess penalties against mortgage lenders and banks for errors collected in data next year that is subject to the Home Mortgage Disclosure Act (HMDA). The bureau also won't ask for lenders to resubmit such data if errors aren't "material" to the information provided. The CFPB also said it would begin the process of making a rule to revise parts of the CFPB's 2015 rule regarding the HMDA.

The Late Justice Joseph Story Trumps Louis Brandeis in CFPB Honors Program I National Law Journal
As a possible sign of the new leadership at the Consumer Financial Protection Bureau, an honors program named after Louis Brandeis—known as "the people's attorney"—has been renamed after a different famous Supreme Court justice: Joseph Story, a strong property rights advocate.

CONSUMER FINANCE AND THE CFPB

Is Congress expanding credit for the poor or enabling high-interest lenders? I Center for Public Integrity (Jared Bennett)
[I]n 2008, federal regulators ordered First Delaware to stop working with payday lenders — including ThinkCash — so Rees changed his company's name to Think Finance and started striking deals with Native American tribes, which, as sovereign entities, are also exempt from state usury laws. Think Finance denies that the order applied to their relationship with First Delaware.

In 2014, the state of Pennsylvania filed a still-pending lawsuit claiming Think Finance used the tribes as a front to make deceptive loans. Think Finance denies the charges and Rees started a new company, Elevate Credit, which operates from the same building in Fort Worth, Texas. Elevate deals in online installment loans, a cousin to payday loans, and partners with a Kentucky-based bank to offer lines of credit with effective annual interest rates much higher than would otherwise be allowed in some states.

Critics say this arrangement has all the hallmarks of a rent-a-bank relationship that effectively evades state laws limiting payday loans, but the existing rules regarding such rent-a-bank partnerships are murky at best and only intermittently enforced. Now Congress, in trying to help expand credit for poor people, may be inadvertently codifying the rent-a-bank partnerships that allow payday and high-interest lenders legally avoid state usury laws, according to those critics.

Congress: Hands Off New Rule Protecting Families from Payday Lenders I Durham Herald (Jennifer Copeland & Larry Hall)
Ignoring the voices of families and communities who have worked for many years for relief from the harms of predatory payday lending, a handful of members of Congress have introduced legislation that would nullify the Consumer Financial Protection Bureau's national rule to rein in payday lending abuses. Their legislation uses Congressional Review Act authority to repeal the rule and prevent the Consumer Bureau from issuing a similar rule in the future, giving predatory payday and car title lenders a free pass.

This legislation, introduced by Rep. Dennis Ross (R-Fla.) and co-sponsored by Rep. Alcee Hastings (D-Fla.), Tom Graves (R-Ga.), Henry Cuellar (D-Texas), Steve Stivers (R-Ohio), and Collin Peterson (D-Minn.), would kill the first ever national payday rule that requires payday and car title lenders to make a loan only after they have determined that the borrower can afford to pay it back. It is a commonsense measure designed to protect people from being trapped for months and sometimes years in triple-digit payday and car title loans. Congress should leave it alone.

CFPB's payday rule will hurt consumers. Congress must stop it. Bank Think (Drew J. Breakspear)

Next up for GOP: Predatory lending for everyone I Lehigh Valley Express-Times (editorial)
In October, after months of public comment and testimony, the CFPB adopted a rule requiring lenders to make sure borrowers can afford to pay back their loans. The rule limits to three the number of payday and auto-title loans that can be made back-to-back, but puts no restrictions on interest rates.

This is a step in the right direction, but the CFPB's actions -- which included helping people caught up in Wells Fargo's phony bank account scandal -- are under attack in Washington, along with its existence. House and Senate Republicans are looking to castrate the CFPB's payday-protection rule, including Sen. Pat Toomey, R-Pa., a co-sponsor of the woefully misnamed Protecting Consumers' Access to Credit Act...

Payday lenders -- often viewed by the public as small-time cash-checkers -- are drawing investment interest from banks and private equity firms to expand their services. A report by **Americans for Financial Reform** and the Private Equity Stakeholder Project outlines the potential deals being eyed between short-term lenders and Wall Street investors.

We must stop predatory lending I Lakeland Fla. Ledger (letter to the editor)
Congressman Dennis Ross, R-Lakeland, along with Congressman Alcee Hastings, D-Fort Lauderdale, recently introduced a resolution to repeal the Consumer Financial Protection Bureau's Small Dollar Loan Rule...

While we respect Congressmen Ross' and Hastings' positions, we must oppose any effort to protect a predatory industry that leads people into a cycle of debt.

See CFPB report on the state of the credit card market

Advocates Urge CFPB to Move Forward With Santander Lawsuit I Auto Finance News

Equifax: The company that screwed consumers the most in 2017 I Yahoo Finance
A hack this bad would be enough to top the other hacking scandals of 2017… But the company's response made it even worse from a consumer point of view. Immediately following the public disclosure, Equifax sent consumers to a sketchy-looking website, "Equifaxsecurity2017.com," that asked consumers to put in their SSN to check if they were hacked. It didn't work for many consumers. The company also offered free-for-now credit monitoring but required consumers to consent to forced-arbitration, voiding their rights to sue. Though the company maintained that this forced-arbitration was not connected to this monitoring product, Equifax's acting CEO later told Congress that the company still may block consumers' rights to sue.

How Confidential Are Arbitration Proceedings Anyway? I Legal Intelligencer

ENFORCEMENT

JPMorgan pays $2.8 million fine over improper safeguards for customers I Reuters

INVESTOR PROTECTION AND THE SEC

SEC nominees must not grant companies 'safe harbor' with buyback rule I The Hill
Last week, two nominees went before the Banking Committee to get their chance to become the next commissioners of the Securities and Exchange Commission.

During the hearing, Sen. Brian Schatz (D-Hawaii) asked the nominees if they would reconsider a specific rule that, in his words, "precipitated a golden age of buybacks:" the stock buyback "safe harbor," Rule 10b-18. This rule, which the SEC put in place in 1982, protects companies from insider trading when it repurchases its shares, as long as repurchases on any given day is less than 25 percent of the stock's average daily trading volume over the previous four weeks. Fortunately, both nominees agreed to take a fresh look at this troubling rule if confirmed.

Apple Loses Bid to Block Investor Push for Human Rights Panel I Bloomberg Government

Defying Trump, New York proposes fiduciary rule for brokers I PoliticoPro

Interview with SEC investor advocate Rick Fleming I PoliticoPro

Citi to pay FINRA $11.5M for bogus stock ratings I PoliticoPro

SEC gives companies up to one year to comply with tax law changes **I PoliticoPro**

SEC charges Wall Street broker for IPO kickbacks to trader linked to insider ring **I Reuters**

MORTGAGES AND HOUSING

The Next Crisis for Puerto Rico: A Crush of Foreclosures I NY Times
Puerto Rico is bracing for another blow: a housing meltdown that could far surpass the worst of the foreclosure crisis that devastated Phoenix, Las Vegas, Southern California and South Florida in the past decade. If the current numbers hold, Puerto Rico is headed for a foreclosure epidemic that could rival what happened in Detroit, where abandoned homes became almost as plentiful as occupied ones.

About one-third of the island's 425,000 homeowners are behind on their mortgage payments to banks and Wall Street firms that previously bought up distressed mortgages. Tens of thousands have not made payments for months. Some 90,000 borrowers became delinquent as a consequence of Hurricane Maria, according to Black Knight Inc., a data firm formerly known as Black Knight Financial Services.

Puerto Rico's 35 percent foreclosure and delinquency rate is more than double the 14.4 percent national rate during the depths of the housing implosion in January 2010.

Puerto Rico Homeowners Brace for Another Disaster I Intercept (David Dayen)
Lenders to Puerto Rican homeowners have kicked foreclosures into high gear in the aftermath of Hurricane Maria, skirting local and federal borrower protections. According to attorneys and experts, lenders have ignored federal moratoria on foreclosures; placed notices of default in newspapers where they're unlikely to be seen; sent files to homeowners in English rather than Spanish; and required residents to complete tasks that are borderline impossible without electrical power yet fully restored, among other abuses.

Puerto Rico seeks aid for tens of thousands of squatters I PoliticoPro

They Lost Their Homes. Now A Reality TV Star Is Selling Them. I BuzzFeed
Ryan Serhant, New York City's self-described "#1 Broker," is on a roll. Since we left him at the end of last year's season, the star of the hit reality TV show Million Dollar Listing New York got married on a Greek island. He landed a new show, Sell It Like Serhant, in which Bravo promises he will transform floundering brokers into selling sharks. And he opened a new Nest Seekers office in Brooklyn's Bedford-Stuyvesant neighborhood, planting his flag in one of the hottest housing markets in the country. He announced his arrival on social media with a photo of himself alongside Bed-Stuy–born rapper Biggie Smalls. Thanking his Brooklyn team and the "rich kids and their parents" that helped get him here, he cribbed a line from "Juicy," Biggie's ode to his own meteoric rise: "When I was dead broke, MAN I couldn't picture this."

Fannie and Freddie will keep $3B as Treasury, Watt make deal I PoliticoPro

CFPB will revisit anti-discrimination housing rules I PoliticoPro

PRIVATE FUNDS

Saving the Free Press From Private Equity I American Prospect (Robert Kuttner & Hildy Zenger)
Private equity has been gobbling up newspapers across the country and systematically squeezing the life out of them to produce windfall profits, while the papers last. The cost to democracy is incalculable. Robust civic life depends on good local newspapers. Without the informed dialogue that a newspaper enables, the public business is the private province of the local commercial elite, voters are uninformed, and elected officials are unaccountable.

Companies with names like Alden Capital, Digital First Media, Citadel, Fortress, GateHouse, and many others that you've never heard of have purchased more than 1,500 small-city dailies and weeklies.

REGULATION IN GENERAL

OIRA's Rao Aims for More Deregulation, Transparently Done I Bloomberg BNA
Next year will see three times as much deregulation as regulation, but just as important will be transparency, notice, and public input into the rulemaking process, the nation's chief regulatory officer told Bloomberg Government in an interview Dec. 14. Neomi Rao is the administrator of the Office of Information and Regulatory Affairs, an agency within the White House Office of Management and Budget that reviews all significant federal regulations. Rao plays a key role in setting regulatory policy for the administration. Agencies are moving forward with what they think are important regulatory priorities, consistent with the president's priorities to reduce any overall burdens, Rao said, downplaying any chilling effect that the president has had on agency actions.

GOP states want Trump to rein in independent agencies I E&E News

RETIREMENT INVESTMENT AND DOL FIDUCIARY RULE

What to Watch on the Fiduciary Front in 2018 I Wall St. Journal
As of June 9, stewards of retirement savings have been required to put clients' interests before their own. But while the best-interest standard went into effect, the delay in key provisions of the rule—including a best-interest contract and certain client disclosures—effectively makes it unenforceable.

"It's the rule of law, but it's very hard for plaintiffs' lawyers to even bring a lawsuit" without those provisions, said Erin Sweeney, an attorney at Miller & Chevalier Chartered who counsels firms regarding fiduciary obligations.

Even so, many firms have made changes to how they do business in order to more easily comply with the new rule… So far, adherence is proving lucrative as firms push customers toward accounts that charge a steady, annual fee on their assets, rather than variable commissions that can violate the rule and fluctuate along with market activity. Executives in recent quarters have credited the fiduciary rule for pushing up revenue.

Even In Limbo, The DOL Rule Drives Brokerage Attrition I Financial Advisor

Senate Approves Rutledge as Asst. Labor Secretary to Oversee Fiduciary Rule I Financial Advisor

How Merrill Lynch 'shot to hell' the RIA fiduciary citadel by casting its $7.5-billion 401(k) unit as smaller, purer and more future-minded on paper I RIA Biz
In decades of competing against wirehouse brokers, owners of registered investment advisors have always found comfort in one thought: Morgan Stanley, UBS, Merrill Lynch and Wells Fargo may blur meanings and provide pseudo-advice offerings but they'll never really try to out-RIA RIAs by going to greater lengths to remove conflicts and put client interests first.

Yet Merrill Lynch has, of late, begun to do precisely that -- a surprising phenomenon underscored by new revelations about its 401(k) push and in defiance of experts in remaining under the Broker Protocol.

New DOL, SEC officials help advance fiduciary rule work I Investment News

Fiduciary Rule May Take on SEC Influence // Insurance News

STUDENT LOANS AND FOR-PROFIT COLLEGES

DeVos to reduce loan forgiveness for some defrauded students I The Hill
The Department of Education on Wednesday announced new rules for providing aid to students claiming they were defrauded by their colleges that limits some student loan refunds according to income. Education Secretary Betsy DeVos said the new system "protects taxpayers from being forced to shoulder massive costs that may be unjustified." Under the new process, students' loan forgiveness will be determined by their income. Those making less than half of what their peers earn will receive full relief, the department said. The new policy is a departure from Obama-era rules, which provided full loan forgiveness to defrauded students.

See statement by Americans for Financial Reform

DeVos on GOP's Higher Education Act Rewrite I Inside Higher Ed

State AGs Sue Education Department Over Loan Forgiveness Delays I Wall St. Journal

Republicans Are Trying to Roll Back Rules That Stopped For-Profit Colleges From Exploiting Students I Mother Jones
Late Tuesday evening, the House Education and Workforce Committee finalized a sweeping bill that would have far-reaching consequences on how American colleges and universities are held accountable. Among the biggest winners in the proposed legislation? For-profit colleges, which have long been accused of engaging in deceptive practices and saddling vulnerable students with both meaningless degrees and crushing debt.

In what would be the first comprehensive rewrite of the Higher Education Act since 2008, the "Promoting Real Opportunity, Success, and Prosperity through Education Reform" (PROSPER) Act would roll back much of the regulatory framework the Obama administration put in place to protect students from predatory colleges.

Defrauded student loan borrowers may end up with little debt relief I Consumer Action

SYSTEMIC RISK

House Passes Bill to Revamp Criteria for 'Systemically Important' Banks I Wall St. Journal
Regulators would have more discretion to decide which banks to target for stricter oversight under bipartisan legislation that House lawmakers approved Tuesday, the latest front in a broad push to ease postcrisis regulations. The bill by Rep. Blaine Luetkemeyer (R., Mo.) would scrap the current threshold for heightened supervision—institutions with $50 billion or more in assets—and instead rely on a formula the Federal Reserve already uses to determine the amount of extra capital the biggest banks need to hold. The vote was 288-130. Pending Senate legislation takes a different approach for altering the postcrisis rulebook. The Senate bill, which is expected to come to the floor of that chamber in early 2018 and also has bipartisan support, would simply raise the regulatory threshold in question to $250 billion from $50 billion. It's unclear how lawmakers will seek to reconcile the two competing provisions.

See AFR letter and statement by Rep. Maxine Waters.

Federal regulators approve 'living wills' for 8 big banks I Washington Post
Federal regulators on Tuesday announced they had approved the disaster plans for the nation's eight largest and most complex banks outlining the strategies they would deploy if they fell into bankruptcy. The announcement Tuesday by the Federal Reserve and the Federal Deposit Insurance Corp. came after the two agencies in April 2016 deemed that the plans of five of the eight banks were deficient. Congress imposed the requirement to write the plans, dubbed "living wills," in the 2010 Dodd-Frank financial overhaul legislation that sought to avoid a repeat of the 2008 financial crisis. The aim was to force each of the nation's biggest banks to describe their plans to implement a rapid and orderly winding down under bankruptcy in the event that the institution came under severe financial distress. While approving the plans of all eight banks, the regulators found in their latest review that the plans of four — Bank of America, Goldman Sachs, Morgan Stanley and Wells Fargo — had shortcomings that will need attention in the next round of review.

Eleven lessons from financial crisis: FDIC review looks at red flags I Reuters
The report, "Crisis and Response: An FDIC History, 2008–2013" was issued with comments from FDIC Chairman Martin J. Gruenberg, one of the last remaining holdovers among Obama-era appointees in a key agency position whose term expired in November. The chairman called the report issued Dec. 18 a "guidepost for future policymakers," but the FDIC risk's warning could also be viewed as addressing at present efforts by the Trump administration to roll back post-financial crisis risk protection. In order to avoid history repeating itself, the FDIC listed items that should not be forgotten: Lesson 1: "Prosperous times can mask the building up of risks."

See FDIC report, Crisis and Response: An FDIC History, 2008–2013

The Obama appointee at the center of the bank deregulation debate I PoliticoPro
When Daniel Tarullo served as the Federal Reserve's top regulatory official, he was dubbed the most powerful man in the banking world. Eight months after his resignation, he's still at the center of the debate over financial rules.

Tarullo, former President Barack Obama's first appointee to the Fed board in 2009, spent eight years at the central bank after the financial crisis, imposing tough regulations designed to reduce banks' reliance on debt and increase their cash-on-hand. An abrasive and determined academic, he quickly became one of Wall Street's least favorite people.

So it was surprising that, when he stepped down as the Fed's regulatory czar in April, his farewell speech laid out ways that regulators could ease some of the very rules he helped to write.

Tarullo's to-do list has continued to influence how policymakers — and Democrats in particular — view proposals to rewrite post-crisis financial rules.

Fed, FDIC give passing grade to all megabank living wills I PoliticoPro

Basel Committee issues amendment to net stable funding ratio I PoliticoPro

TAX BILL AND TAX ISSUES

Corporate America pledges to share tax gains with staff I Financial Times
Republicans seized on the moves as evidence that Main Street will get a boost from the most sweeping tax overhaul in decades, which President Trump characterised as an early Christmas present for the middle classes. Democrats have slammed the reforms as a giveaway to the rich while critics — including union leaders — said the handouts companies promised on Wednesday did little or nothing to assuage their concerns.

The Communications Workers of America described AT&T's planned bonus as a "drop in the bucket". The dollars going to workers are very few compared to the many billions in tax breaks they lobbied Congress for and won. Lisa Donner, executive director of Americans for Financial Reform, added: "It is good news that these big banks are responding to sustained public pressure and workers are getting an overdue raise. But the dollars going to workers are very few compared to the many billions in tax breaks they lobbied Congress for and won."

See AFR briefing paper, "**Wall Street and the Tax Bill**"

OTHER TOPICS

Hugh McColl's last great investment I PoliticoPro
Hugh McColl wielded more influence than any banker in the country during the last quarter of the 20th century, turning a small North Carolina bank into Bank of America, a financial colossus

that transformed the nation's financial landscape as much as it did the city's skyline. After McColl retired in 2001, he remained a prominent figure in Charlotte. But he often reminded people in speeches and interviews that he wasn't going to live forever, that new leaders needed to emerge. In recent years, around the time of his 80th birthday in 2015, McColl made a decision with his family that he would devote his remaining years to Charlotte's black community and west-side neighborhoods, investing time and money in early-childhood education buildings, affordable-housing projects and job programs. He had helped make Charlotte a capital of the New South, but he was galled by a 2014 study that ranked Charlotte last among the country's 50 largest cities in terms of upward mobility. To oversimplify, he knew that under the surface of this sparkling city, the distance was growing between people who looked like him and the mostly black people he saw protesting. What he was watching on television that night from his Little Rock, Ark., hotel room was a reckoning.

"You ask yourself, 'How as a society did we treat people so badly?'" McColl told me recently. "We're guilty as charged."

ICOs, under scrutiny from SEC, get lift from former regulator I PoliticoPro
Bart Chilton, a onetime Democratic member of the CFTC, is part of a team developing "OilCoin," which plans to have an initial coin offering in early 2018. These tokens will be backed by barrels of oil, making this the first digital currency based upon a physical asset.