AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
NOV. 22 – Dec. 5, 2014

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CONSUMER FINANCE & CFPB

Behind 700% Loans, Profits Flow Through Red Rock to Wall Street

Zeke Faux, Bloomberg, 11/24/14

Joshua Wrenn needed money to make the January payment for his Jeep Cherokee. The truck driver and aspiring country singer in Madison, North Carolina, got $800 within minutes from a website he found on his phone. When he called to check his balance a few weeks later, he was told he had electronically signed a contract to pay back $3,920 to a company owned by an American Indian tribe…

American Web Loan, Wrenn's payday lender, is one of the biggest in the U.S. Its offices are in four double-wide trailers, behind the Otoe-Missouria tribe's 7 Clans Paradise Casino in Red Rock, Oklahoma, off a two-lane highway lined with wheat fields. John Shotton, chairman of the Otoe-Missouria, says his impoverished tribe needs the profits to fund affordable housing and after-school programs.

It turns out other people are profiting from the business inside the trailers. Revenue from American Web Loan flows through the tribe to a firm owned by Mark Curry, according to a presentation his company gave to potential private-equity investors last year. Curry, whose payday-loan websites have been sanctioned by state regulators for the past seven years, is in turn backed by a New York hedge fund, Medley Opportunity Fund II LP.

Does this Postal Chairman's Lobbying History Pose a Conflict of Interest?

Josh Hicks, Washington Post, 11/4/14

The U.S. Postal Service is in a position to earn billions of dollars a year by entering the payday-loan business, but former banking lobbyist Mickey Barnett could block its path. Barnett now chairs the USPS Board of Governors. He previously represented the interests of payday lenders, the very folks who stand to lose out if the Postal Service grabs a share of the small-loan market.

By venturing into the loan business, the Postal Service could experience an influx of new revenue after eight straight years of multibillion-dollar losses. Would Barnett support such a move, or would he oppose it because of his old ties to the banking industry?

Either way, the Leadership Conference on Human and Civil Rights sees a potential conflict of interest. The group issued a letter to all members of the Senate this week urging the lawmakers not to confirm Barnett for another term until he thoroughly explains his positions on payday lending.

“As a past lobbyist for the payday-lending industry, Mr. Barnett has demonstrated a willingness to ignore the public interest in favor of the pecuniary interests of his clients,” the letter said. “He must give assurances that he would not use his position to promote the practices of the industry he previously represented.”

Payday Loans: Help in a Pinch, or Preying on the Poor?
Brooke Lennington, Kansas First News, 11/24/14

There Are More Payday Lenders in U.S. Than McDonald's
Jeff Cox, NBC News, 11/24/14

Subprime Is Back!
Annie Lowrey, New York Magazine, 11/24/14
For houses and credit cards, lenders remain hesitant to push money out, and credit remains tight. But when it comes to auto loans, it feels like the go-go years of the mid-2000s all over again. According to statistics from the New York Fed, American consumers took out more than $100 billion in new car loans in the second quarter of 2014, the most since 2006, and outstanding balances on all car loans climbed to a record high of nearly $1 trillion.

Companies are feverishly competing to bring in buyers, extending the length of loans and providing ample cash to less-than-ideal borrowers. Auto loans for individuals with credit scores below 620 have grown faster than those for any other group, the Fed found. And alternative auto-financing companies, not banks or credit unions, have seen the biggest surge on their books.

Justice Department's Controversial Probe Hits Its Own Choke Point
Kevin Wack, American Banker, 12/3/14
Twenty-one months ago, the Justice Department launched an unprecedented investigation designed to enlist banks in law enforcement's fight against consumer scams.

The probe, colorfully named Operation Choke Point, was quickly embroiled in controversy. Its critics, chiefly financial industry lobbyists, payday lenders and congressional Republicans, cast it as a symbol of government overreach. They focused mostly on Choke Point's side effects — specifically, whether it discouraged banks from doing business with lawfully operating but stigmatized industries, including state-licensed payday lenders, check cashers and ammunition dealers.

Luetkemeyer Introduces Legislation to Protect Customers from Operation Choke Point
Office of Rep. Blaine Luetkemeyer, Press Release, 11/20/14

CFPB Takes Action Against Debt-Settlement Firm
Consumer Financial Protection Bureau, 12/4/14

CFPB Issues Proposed Rule to Regulate Prepaid Products
National Law Review, 11/24/14

CFPB Delays Proposals on Overdraft, Payday Lending and Debt Collection
Rachel Witowski, American Banker, 11/25/14

Black Friday, Cyber Monday And Data Breaches
Ed Mierzwinski, U.S. PIRG Blog, 11/28/14

Reed, Durbin Lead 40 U.S. Senators in Backing DOD Plan to Better Protect Military Families from Abusive Financial Practices
Office of Sen. Jack Reed, Statement, 11/24/14

DERIVATIVES, COMMODITIES & THE CFTC

Wall Street Demands Derivatives Deregulation in Government Shutdown Bill
Zach Carter, Huffington Post, 12/4/14
Wall Street lobbyists are trying to secure taxpayer backing for many derivatives trades as part of budget talks to avert a government shutdown. According to multiple Democratic sources, banks are pushing hard to include the controversial provision in funding legislation that would keep the government operating after Dec. 11.,,

The bank perks are not a traditional budget item. They would allow financial institutions to trade certain financial derivatives from subsidiaries that are insured by the Federal Deposit Insurance Corp. -- potentially putting taxpayers on the hook for losses caused by the risky contracts. Big Wall Street banks had typically traded derivatives from these FDIC-backed units, but the 2010 Dodd-Frank financial reform law required them to move many of the transactions to other subsidiaries that are not insured by taxpayers.

Sherrod Brown Opposes Spending Bill Provision to Delay Derivatives Regulation
Statement, Office of Sen. Sherrod Brown, 12/5/14

Massad's CFTC Purse Softer Tone as Battles With Industry Fade
Silla Brush, Bloomberg, 11/25/14

See **AFR Letter** opposing derivatives-regulation delay.

Wall Street Manipulates Main Street, Again
Steve Suppan, Institute for Agriculture and Trade Policy Blog, 11/26/14
During the fight to pass and implement the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010, a favorite Wall Street lobbyist tactic was to organize small and large non-financial business owners to talk with members of Congress about the "unintended consequences" for Main Street of regulating Wall Street. Wall Street didn't want to be seen as directly lobbying for continuing the regulatory exemptions that lead to the big bank bankruptcies and multi-billion dollar bailouts of 2007–2009.

Wall Street's Taxpayer Scam: How Local Governments Get Fleeced — And So Do You
Elias Isquith, Salon, 11/24/14
The news was buried somewhat by all the hubbub over President Obama's executive orders and the (manufactured) scandal over Jonathan Gruber (aka, History's Greatest Monster) but earlier this week, a movement to rein in Wall Street took a step activists hope is just the first of many. Galvanized in part by a recent blockbuster investigation on the damage done by a series of loans taken from Wall Street by Chicago Public Schools — which have not panned out and which Mayor Rahm Emanuel is trying to disown — opponents of Wall Street's "predatory loans" demanded action, using a new report from the Roosevelt Institute as a guide.

Wall Street Eyes Dodd-Frank Changes
Patrick Temple-West, PoliticoPro (paywalled), 12/4/14
Officials for Wall Street's biggest lobbying group today presented a wish list of changes to the 2010 Dodd-Frank law they said Congress could pass with bipartisan support. An overhaul to the law could include rewriting the Dodd-Frank swaps "pushout" rule, which requires banks to spin off derivatives trading businesses that are in federally insured divisions, said the officials with the Securities Industry and Financial Markets Association. Fed officials have previously expressed concerns about the requirements of this rule but some Democrats support the restrictions.

Additionally, there is bipartisan support for revisiting the treatment of collateralized loan obligations as they are treated under the law's Volcker Rule, SIFMA said. And the rule for advisors working on state and local governments' municipal bond offerings should also be rewritten, they said.

CFTC Delays Rules for Agricultural Traders
Tim Devaney, The Hill, 12/3/14
The Commodity Futures Trading Commission (CFTC) is delaying new hedging rules for agricultural commodity traders. Commodity traders are facing new speculative position limits for 28 agricultural commodity futures and options contracts that previously had been exempt from the rules.

The rules would address companies that hedge physical commodities and the process by which the agency would set monthly spot limits.

ENFORCEMENT

SEC's Stein Says Bank of America Waiver Policy is "Breakthrough"
Sarah N. Lynch, Reuters, 12/4/14
A top U.S. regulator praised the structure of a regulatory waiver granted last month to Bank of America Corp, saying the tougher conditions imposed on the bank may help deter repeat offenses.

Securities and Exchange Commission Democratic member Kara Stein said such conditions as requiring the bank to hire an independent compliance consultant if it wants to keep selling shares in private deals will help "focus and empower" company management to change the corporate culture.

"This approach represents a breakthrough in the commission's method of handling waivers, and I hope to see more of this and other thoughtful approaches in the future," Stein said.

See speech by Kara Stein at Consumer Federation of America conference.

Two Northern California Real Estate Investors Agree to Plead Guilty to Bid Rigging and Fraud at Public Foreclosure Auctions
Office of Public Affairs, Department of Justice, 11/24/14

Emails About Loans Plague Credit Suisse
Joseph Checkler, Patrick Fitzgerald, Wall Street Journal, 12/2/14
Old emails may be coming back to haunt Credit Suisse over real-estate deals done before the financial crisis. The emails, which were turned over to firms suing the bank but haven't been

made public, include discussions of an appraisal method Credit Suisse used to value a dozen luxury properties such as golf communities and ski resorts during the mid-2000s.

Attention Insider Traders: These Wall Street Vets May Have the Tech to Nail You

Richard Behar, Forbes, 12/02/14

In sentencing [Matthew Martoma of SAC Capital] in September, the judge called his illegal trading edge "deeply corrosive to our markets," and noted that "the conduct was well-planned and Mr. Martoma knew the amount of avoided losses or profits were likely to be staggering."

But what if the S.E.C. and FBI had been able to utilize cutting-edge software that could have detected illegal trading at the company as it was starting to materialize in 2008? For one thing, Martoma wasn't alone. Former S.A.C. trader Michael Steinberg was also convicted for inside trading, and the firm itself pled guilty and paid a $1.8 billion penalty for failing to prevent its employees from engaging in the illegal activity. Could all of this skulduggery have been spotted sooner?

Wall Street Needs a Lesson from the DMV

Richard Cohen, Washington Post, 12/1/14

[C]riminal prosecutions, while immensely satisfying, have their downside… In the first place, [the penalties] are paid not by the miscreants but by the stockholders, many of whom were probably not shareholders when the vile deed was done. In the old days, when most financial firms were partnerships, a penalty could really hurt. But those days are gone. The firms are publicly traded behemoths, both too big to fail and too big to jail. So, what to do?

To answer that question I refer you to Joseph S. Fichera, the chief executive of the financial firm Saber Partners. In a stunning application of common sense, Fichera suggested in a New York Times essay that the Securities and Exchange Commission operate like any state's motor vehicle department — fines, plus points. This would mean that an infraction would cost the financial firm not only some money but some points as well. At first, the firm would not sweat it. But as the points accumulate and its trading license (like your driver's license) would be on the line, it would start to slow down, obey all regulations and oversee the corner-cutters *because so much would be at stake*. The board of directors might even take an interest in how the firm is managed and not just the bottom line.

EXECUTIVE COMPENSATION

Morgan Stanley to Pay More of Bonuses Upfront

Nathaniel Popper, 12/5/14

Morgan Stanley employees will be getting more of their cash bonuses up front this year, in the latest sign of the Wall Street firm's recovery from the financial crisis. The bank will defer only about 50 percent of its cash bonuses for employees this year, down from the 80 percent that it deferred last year…

Deferring pay has broadly been lauded as a healthy way to bolster accountability at Wall Street banks. When bankers are not paid up front, their employers have more leverage to punish them for any bad behavior and unnecessarily risky bets. James Gorman, the chief executive of Morgan Stanley, had previously said that the firm's large amount of deferred pay was something that he hoped other firms would follow.

[The Boss Makes How Much More Than You?]
Joann S. Lublin, Wall Street Journal, 11/25/14

[GOP Lawmakers Tell SEC To Delay Pay Rule]
Andrew Ackerman, Wall Street Journal, 11/24/14
A trio of key Republican lawmakers are urging the Securities and Exchange Commission to drop its plans to soon require companies to disclose the pay gap between chief executives and their employees, warning it would be unduly costly and detract from more important SEC priorities.

[Forget Wall Street - These Chicago Exchange Guys Know How to Party]
Dan Freed, TheStreet, 11/25/14

FINANCIAL TRANSACTION TAX

[New York Already has a Financial Transaction Tax on the Books - It's Time to Start Collecting It]
Lenore Palladino & Sean McElwee, VOX, 11/20/14

HOUSING AND MORTGAGES

[Using Bankruptcy to Reduce Foreclosures: Does Strip-Down of Mortgages Affect the Supply of Mortgage Credit?]
Wenli LI, Ishani Tewari, Michelle White, Federal Reserve Bank of Philadelphia, Dec. 14
We assess the credit market impact of mortgage "strip-down" — reducing the principal of underwater residential mortgages to the current market value of the property for homeowners in Chapter 7 or Chapter 13 bankruptcy. Strip-down of mortgages in bankruptcy was proposed as a means of reducing foreclosures during the recent mortgage crisis but was blocked by lenders.

Our goal is to determine whether allowing bankruptcy judges to modify mortgages would have a large adverse impact on new mortgage applicants.

[FHFA Directs Fannie Mae and Freddie Mac to Change Requirement Relating to Sales of Existing REO]
Federal Housing Finance Agency, 11/25/14

[Putting a Stop to Foreclosure Rescue Scams]
Christie Peale, Huffington Post. 11/24/14

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[Treasury and HUD Announce Enhancements to Housing Program]
Press Release, Department of Treasury, 12/4/14

[103-Year-Old Texas Woman Fights to Keep Her House]
Jack Douglas Jr., CBS/DFW, 11/21/14

INVESTOR RIGHTS AND THE SEC

Wall Street Is Taking Over America's Pension Plans
Murtaza Hussain, Intercept First Look, 11/20/14
Coverage of the midterm elections has, understandably, focused on the shift in political power from Democrats toward Republicans. But behind the scenes, another major story has been playing out. Wall Street spent upwards of $300M to influence the election results. And a key part of its agenda has been a plan to move more and more of the $3 trillion dollars in unguarded government pension funds into privately managed, high-fee investments — a shift that may well constitute the biggest financial story of our generation that you've never heard of.

POLITICAL INFLUENCE OF WALL STREET AND REVOLVING DOOR

Want $20 Million to Work for the Government? Just Quit a Wall Street Job First
Chris Frates, CNN, 12/5/14
If investment banker Antonio Weiss wins Senate confirmation as a Treasury under secretary, he'll walk away with a parting payment of up to $21 million…

The practice of Wall Street executives cashing out early when they take government jobs drew criticism during last year's confirmation hearings for the man who might be Weiss' new boss, Treasury Secretary Jack Lew. When Lew left Citigroup in 2008 and later joined the State Department, he made somewhere between $250,000 and $500,000 in early stock payouts. Deferred compensation and vested stock options were originally designed to keep talented employees from jumping ship. That's left people like Heather Slavkin Corzo of the AFL-CIO asking, "Why are we paying these people to leave?"

"Unless it's just a backdoor way to pay off newly minted government regulators," she added, "it's hard to see how it's in shareholders' interest."

Obama's Treasury Pick Is Another Bank Watchdog Straight from Wall Street
Sheila Bair, Fortune, 12/5/14
I am hardly one to think that people who work on Wall Street should be disqualified from government jobs. Earlier in my career, I spent seven years working at the New York Stock Exchange. The understanding of equity markets and securities regulation which I obtained in that job were highly valuable to me in later positions as Assistant Secretary for Financial Institutions at the U.S. Treasury Department and Chair of the Federal Deposit Insurance Corporation (FDIC). Obviously, we do not want to bar people from government just because they worked in the financial sector. But that is not the argument of Weiss' critics.

The real question is greater diversity in Obama's appointments because it sure seems like the Wall Street Democrats are in charge. Let's face it, most of this Administration's financial appointments have not pushed for fundamental change in the way Wall Street operates. And the few that have — notably the CFTC's Gary Gensler — have been unceremoniously escorted to the door when their terms were up. Indeed, two of the most reform-minded of all the sitting regulators are Tom Hoenig and Jeremiah Norton, who serve, respectively, as Vice-Chair and board member of the FDIC. Hoenig and Norton are known for their tough positions against too-big-to-fail and higher capital requirements for big Wall Street institutions. Ironically, they were proposed to the Administration by the Senate Republican Leadership.

An Obama Nominee Falls Prey to a Populist Witch Hunt
Editorial, Washington Post, 11/29/14

Senator Elizabeth Warren's Misplaced Rage at Obama's Treasury Nominee
Andrew Ross Sorkin, NY Times, 11/24/14

Elizabeth Warren Spars with Wall Street over Antonio Weiss
Ryan Grim, Jennifer Bendery, Huffington Post, 11/25/14
Andrew Ross Sorkin has found the problem: there are too few bankers working in government. He has also found the reason there are so few: the senior senator from Massachusetts, Elizabeth Warren, is too rough on them.

STUDENT LOANS

For-Profit Colleges Fight New Federal Rule

Bill Theobald, USA Today, 11/29/14
For-profit schools are fighting an Obama administration regulation that could threaten financial aid for hundreds of thousands of their students.

The Department of Education's plan to tighten control over for-profit, post-secondary institutions is the most recent clash between those who believe many for-profit schools exploit students and leave them heavily in debt, and those who argue the schools are over-regulated and treated unfairly compared with public and private non-profit schools.

Regulation for Profit
The Wall Street Journal, 11/30/14

Future Uncertain For Students Caught Up In Corinthian's Collapse
Chris Kirkham, LA Times, 11/25/14
Tiffany Johnson wishes that she could put Heald College behind her and get a fresh start elsewhere. But as one of tens of thousands of students caught up in the collapse of Corinthian Colleges Inc., her options are bleak: Continue pursuing what she believes will be a worthless credential, or drop out with nearly $26,000 in debt.

"I feel like I'm just stuck," said Johnson, 26, a medical assisting student at Heald College-Hayward in the East Bay. "I have no choice. I'm going to have to finish."

Why The Government Supports Everest University's Controversial Sale
Moll Hensley-Clancy, Buzz Feed, 11/24/14
The Department of Education has landed in hot water among critics for its enthusiastic endorsement of the sale of a group of for-profit college campuses to a controversial student loan agency.

The Department of Education reached an agreement to essentially shut down Corinthian Colleges, one of the country's largest for-profit college operators, forcing the company to sell off or close all of its campuses nationwide. A BuzzFeed News investigation this month showed Corinthian, owner of the Everest University chain, to be one of the worst actors in a controversial industry, using aggressive and deceptive sales tactics to lure poor and minority students into overpriced degree programs.

Why is the U.S. Helping to Bail Out a For-Profit University
Steven Salzberg, Forbes, 12/01/14
Talk about trying to fly under the radar: announcing a deal during Thanksgiving week is a sure sign that someone—in this case the U.S. Department of Education—doesn't want you to notice. In the deal announced on November 20, a student debt collection company, ECMC Group, will buy 56 college campuses from Corinthian Colleges Inc., a for-profit university. Corinthian runs these campuses in 17 states under the names Everest College, Everest Institute, and Wyotech.

CFPB Official Speaks Loudly on Student Loans
Annamaria Andriotus, Alan Zibel, Wall Street Journal, 12/3/14
Rohit Chopra, the nation's student-loan watchdog, delivers his message to lenders through blog posts, letters and public reports. And that isn't sitting well with the industry.

Mr. Chopra, the 32-year-old student-loan ombudsman for the Consumer Financial Protection Bureau, is using his public stage to push student-loan companies into improving their treatment of borrowers.

OTHER TOPICS

The GOP's Strategy to Block Obama's Regs
Tim Devaney and Lydia Wheeler, The Hill, 11/30/14
Republicans see value in moving ahead, under the auspices of regulatory reform, with a series of bills that passed the House the current Congress, only to stall in the Democratic-controlled Senate. Among them is the Regulations from the Executive in Need of Scrutiny (REINS) Act, which would require Congress to approve a regulation before it can go into effect, rather than requiring lawmakers to disapprove a rule in order to do away with it.

"No regulation would ever take effect under this legislation," said Ed Mierzwinski, spokesman for U.S. PIRG. "It's a recipe for gridlock."