AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
January 11 – 17, 2014

We encourage you to forward this weekly compilation to friends and colleagues.
To subscribe, email **erin@ourfinancialsecurity.org**, with "This Week" in the subject line

BUDGET & FUNDING OF FINANCIAL REGULATION

Wall Street Regulators Face Budget Crunch Under New Spending Deal
Sarah N. Lynch, Reuters, 1/14/14
"Two of Wall Street's top regulators are due to receive much smaller increases in their budgets than they requested, potentially hobbling their ability to police the markets for wrongdoing.
"The $1.1 trillion spending bill unveiled by the U.S. House of Representatives and Senate would allot the U.S. Securities and Exchange Commission $1.35 billion for the fiscal year ending September 30, 2014, a figure the agency said 'falls far short of what we need to fulfill our responsibilities.' The Commodity Futures Trading Commission would get $215 million for the remainder of the fiscal year.

"Both budget numbers are well below the funding levels requested by President Barack Obama, and represent very small increases to their current spending levels, despite the new responsibilities each have taken on after the financial crisis…"

Budget Woes Leave U.S. Swaps Agency Outgunned by Wall Street
Robert Schmidt & Silla Brush, Bloomberg, 1/17/14
"When President Barack Obama gave federal workers a 1 percent pay raise at the start of the year, employees at the U.S. Commodity Futures Trading Commission assumed they'd get the boost. They didn't. In a brief e-mail last week, the CFTC said the cost-of- living increase wouldn't kick in until August paychecks. While the agency provided no explanation, employees chalked it up to budget woes that forced the derivatives regulator last week to quietly obtain an emergency infusion of funds just to keep its doors open, according to four people familiar with the situation.

"The escalating budget crisis has spurred unrest within the 700-person agency and hampered its work, the people said. More than a dozen senior employees, many complaining of low pay, have quit for jobs on Wall Street or at law firms. Others at the CFTC's Washington headquarters have discussed joining a labor union, said the people, who asked not to be identified because the friction isn't public."

The Foolproof Way to Achieve Deregulation: Cut the Budget
Michael Hiltzik, Los Angeles Times, 1/14/14
"When all else fails, defund. This technique is spectacularly on display in the $1.1-trillion federal spending bill unveiled by House and Senate negotiators Monday and scheduled for debate this

week. The measure provides $215 million in funding for the Commodity Futures Trading Commission. That's one-third less than the budget the agency requested, and nearly $100 million less than it got a year ago.

"'It's not everything anybody wanted, but we've been working hard at it,' said Sen. Richard Shelby (R-Ala.), a crack deregulator among the negotiators. He said a mouthful. Back in April, when the original agency budget requests were made, CFTC Chairman Gary Gensler observed that his agency's staff was just 7% larger than it was 20 years ago, while the futures markets it was tasked with supervising had grown fivefold, and it had just acquired oversight of the swaps market, which was eight times bigger still and much more complex.

"'Simply put,' Gensler said, 'the CFTC is not the right size for the new and expanded mission Congress has directed it to perform.'"

Budget Deal Puts Squeeze On Financial Regulators
Paul Davidson, USA Today, 1/14/14
"The bipartisan bill provides $215 million to the CFTC, $100 million less than President Obama's budget request and $93 million less than the fiscal 2013 budget, according to the CFTC…

"Lisa Donner, head of **Americans for Financial Reform**, contends the CFTC budget was slashed at the behest of Wall Street lobbyists seeking to undercut the effectiveness of financial reform. The budget savings are so miniscule that 'it's not plausible that the real issue is budget numbers,' she says."

For 2 Wall Street Regulators, More Belt-Tightening
William Alden, NY Times, 1/14/14

Democrats Concede to Curb Funds For Wall Street Regulators in Spending Bill
The Guardian, 1/14/14

CONSUMER FINANCE & CFPB

Hefty Bank Fees Waylay Soldiers
Mark Maremont and Tom McGinty, Wall St. Journal, 1/16/14
"Fort Hood National Bank lets soldiers overdraw their accounts by hundreds of dollars at its seven branches on the Fort Hood U.S. Army base in Texas. It charges them up to $35 for each overdraft. Not long after Samantha Smith started her customer-service job at the bank in 2010, she noticed she spent most of her time on soldiers struggling with those fees.

"The bank disclosed the fees, she says, but many soldiers didn't understand it would charge them $35 repeatedly, even for small debit-card transactions. When their Army paychecks arrived, the bank withheld overdrawn sums and fees, often leaving them short of funds and vulnerable to more overdraft charges, she says. 'They could never catch up. It was awful,' says Ms. Smith, who left the bank a year later. 'These guys are 18 years old and they never really managed money. The bank knows that…'

"The overdraft-fee issue among soldiers isn't unique to Fort Hood. It's the biggest wolf outside the door' financially for many military personnel, says Steve Abbot, a retired admiral who heads the Navy-Marine Corps Relief Society, a nonprofit that helps financially strained personnel."

Regions Financial To End Controversial Consumer-Loan Product

Andrew R. Johnson & Alan Zibel, Wall St. Journal, 1/15/14

"Regions Financial Corp. said Wednesday it will stop offering a short-term consumer-loan product to new customers next week and will discontinue the product, which had attracted regulatory scrutiny, entirely by the end of the year. The Birmingham, Ala.-based firm will stop offering the product, a line of credit called Ready Advance, to new borrowers beginning Jan. 22. Customers who currently have an active credit line will be able to access future advances against their line of credit until the company completes a transition plan.

"Regions is one of handful of banks that offer so-called deposit advance loans that allow consumers to borrow money against future deposits into their checking accounts. The banks that offer them, which also include Wells Fargo & Co., U.S. Bancorp and Fifth Third Bancorp, pitch them as alternatives to payday loans, which are short-term loans offered by nonbank lenders that typically last a couple of weeks. But consumer advocates have complained that the bank-issued loans, like payday loans, carry exorbitant fees and short repayment terms that can cause borrowers to fall into a cycle of debt…"

Regions Bank to End 'Deposit Advance' Loans

Danielle Douglas, Washington Post, 1/15/14

Good News for Consumers: Regions Bank Bows Out of the Payday Loan Business

Americans for Financial Reform, 1/15/14

"Regions bank announced today that it will no longer be offering triple-digit-interest payday-style loans. That's very good news for consumers in the 16 southern and midwestern states where Regions operates. It's one more step towards the end of a type of lending that is no less destructive when it's practiced by a bank instead of a storefront…

"A Regions spokesperson said today's announcement was "based on a number of industry factors that have emerged since we introduced the product in 2011." In late 2014, thousands of people – including grassroots activists from National People's Action and AFR – signed petitions asking Regions to get out of the payday loan business. The petitions were delivered to the bank's Alabama headquarters, while community groups held protest rallies at Regions offices in Illinois, Missouri and Iowa. The petitioners and protestors called on the company to drop its "Ready Advance" loans, which came with a $2 cash advance fee for each $10 borrowed – fees that worked out to the equivalent of more than 300% annual interest for customers who, typically, would roll one loan over into the next over a period of months."

Wells Fargo, U.S. Bank are Latest to Exit Deposit Advance Business

Kevin Wack, American Banker, 1/17/14

Wells Fargo and US Bank Discontinue Payday Loan Products

Center for Responsible Lending, 1/17/14

"More good news: Wells Fargo Bank and US Bank announced this morning that they will discontinue their 225-300% annualized-interest-rate payday loan products. The announcements follow regulatory guidance finalized late last year by the banks' supervisor, the Office of the Comptroller of the Currency (OCC), as well as by the FDIC. The guidance advised banks under those agencies' supervision to ensure they are not making small-dollar loans their customers cannot afford to repay.

"Wells Fargo and US Bank were the largest of a handful of banks making payday loans. Banks have touted the loans as a quick fix to a financial shortfall, but data have consistently shown that, like other payday loans, the banks' products trap customers in extended cycles of high-cost debt. A 2013 Consumer Financial Protection Bureau report found that banks' payday loans keep customers in triple-digit debt during an average of seven months out of the year.

"Today's announcements, along with Regions Bank's similar announcement earlier this week, leave Fifth Third Bank, supervised by the Federal Reserve, as the sole large bank pushing payday loans to its customers."

[Fifth Third Bank Announces Plan to Discontinue Early Access; Wind Down Service for Existing Customers]()
Business Wire, 1/17/14
"Today Fifth Third Bank announced that it will no longer enroll customers in its Early Access deposit advance service after January 31. To help ease customer transition and provide lead time for development of alternatives, Fifth Third will phase out the service to existing customers by year end.

"The Bank has been monitoring industry developments and has proactively engaged with stakeholders as it has looked at the clear and continued need for small dollar, short-term credit solutions for its customers. Fifth Third has conducted extensive research with its customers which indicates that this is an important service to them. Because of that, the Bank is committed to the thoughtful development of alternative solutions and offering services to customers that provide them choices, while ensuring consistency with regulatory viewpoints."

Credit Checks Are Kicking the Jobless When They're Down
Jim Lardner & Chi Chi Wu, USNews.com, 1/13/14
"Most people have figured out that a bad credit report makes it hard to get a loan. What might come as a wider surprise is that, nowadays, bad credit can also keep you from getting a job.

"Credit checks have become a routine part of the hiring process. Nearly half of all companies run them on potential employees, according to the Society for Human Resources Management. One in four Americans say they have been told that they missed out on a job because of their credit history (this from polling cited in a recent report by Demos)."

Could Bad Credit Cost You a Job?
Edd Pritchard, CantonRep.com, 1/14/14

As the CFPB's Database Grows, the Complaint Picture Gets Clearer
Rebecca Thiess, AFR Blog, 1/16/14
"The Dodd-Frank Act charged the Consumer Financial Protection Bureau with protecting consumers, and one piece of this protection involves taking consumer complaints. Thus was born the CFPB consumer complaint system and public database, which takes complaints from the general public on everything from mortgages and debt collection to student loans, money transfers, and more. How is it working so far? U.S. PIRG has issued a series of reports analyzing the complaints submitted to this relatively new database, and their fourth and most recent report is Credit Cards, Consumer Complaints: The CFPB's Consumer Complaint Database Gets Real Results for Credit Card Holders."

(See related items: Yahoo! Finance, Today Money, CNBC, Wall Street Journal, NBC (Atlanta), St. Louis Post-Dispatch, KUHF (Houston), and Pittsburgh Post-Gazette.)

[Auto Loans Bring Growth, and Scrutiny, for Banks]

Rachel Abrams, NY Times, 1/14/14

"… JPMorgan Chase, a leader in auto lending, reported that car loan origination rose 16 percent, to $6.4 billion, in the fourth quarter. It was a bright spot for the bank, whose [earnings slumped 7.3 percent] as it continued to grapple with legal costs associated with various investigations and a sharp decline in mortgage refinancing.

"Wells Fargo, another major auto lender, [reported on Tuesday] that car loan origination was $6.8 billion in the fourth quarter, up 26 percent year over year. Last quarter, the bank made $1.6 billion from mortgage banking, about half of what it reported in the period a year earlier."

[Senator Warner Introduces Prepaid Card Bill]

Barbara S. Mishkin, CFPB Monitor, 1/14/14

"Despite the CFPB's **[plans]** to issue a proposed regulation concerning prepaid cards this spring, Senator Mark Warner has introduced a bill (**[S. 1903]**) that would require new disclosures for prepaid cards. The bill, entitled the 'Prepaid Card Disclosure Act of 2014,' would amend the Electronic Fund Transfer Act to require any person that offers certain prepaid cards to provide a table of card fees with any application, solicitation or offer and, on the card, a toll-free number and website at which the consumer can access a disclosure of card fees.

"The bill would also require the CFPB to issue rules to establish the format for the fee disclosures and give the CFPB authority to require an electronic link to the disclosures in the form of a quick response code, barcode or similar technology on any packaging, card, or other object associated with the account containing the funds accessed by the card. The bill's requirements would not apply to certain cards, such as nonreloadable, general use prepaid cards in an amount that does not exceed $250, general use prepaid cards associated only with certain healthcare plans or accounts, store gift cards and nonreloadable cards labeled as gift cards and marketed solely as gift cards."

[Federal Consumer Agency Ponders Its Next Crusades]

Tara Siegel Bernard, NY Times, 1/11/14

"Yes, there's a new sheriff in town. But the true test of the consumer watchdog's mettle will be in the year ahead, when the agency is set to take on several thorny issues that are likely to draw more resistance from the financial services lobby and give more impetus to Republican opponents in Congress who continue to try to reduce the bureau's power. As recently as November, a House committee passed several bills to do just that…

"Consumer advocates say they will be watching several big issues closely, including something called forced arbitration, which amounts to waiving the right to sue in some kinds of cases, as well as debt collection and overdraft charges."

[A Watchdog Grows Up: The Inside Story of the Consumer Financial Protection Bureau]

Lydia DePillis, Washington Post, 1/11/14

[CA Federal Court Rejects Challenge to CFPB's Constitutionality]

Alan S. Kaplinsky, CFPB Monitor, 1/15/14

DERIVATIVES, COMMODITIES AND THE CFTC

Lawmakers Seek Curbs on Trading Commodities
David Kocieniewski, NY Times, 1/15/14
"Lawmakers pressed the Federal Reserve on Wednesday to act more forcefully, and quickly, to limit banks' involvement in the commodities business, which has been blamed for inflating prices on everyday items like electricity and canned beverages.

"For months, Congress has been evaluating complaints that the huge commodities holdings of investment banks like Goldman Sachs and Morgan Stanley pose a risk to the financial system. Businesses and consumer groups have also expressed concern that the banks' financial heft gives them an unfair advantage over other competitors as well as the ability to manipulate prices for essentials like energy, cotton and food."

Senators Question Fed's Review of U.S. Banks' Commodities Units
Cheyenne Hopkins, Bloomberg, 1/16/14
"U.S. Senate Democrats said the Federal Reserve's decision to weigh further restrictions on banks' trading and warehousing of physical commodities is insufficient and too late. The Fed sought comment on the risks posed by bank ownership and trading of commodities such as oil, gas and aluminum by deposit-taking banks and the possible benefits of imposing additional capital standards.

"The Fed's review, announced Jan. 14, was criticized by Democratic Senators on the Banking Committee yesterday. At a subcommittee hearing on the issue, Senator Sherrod Brown of Ohio and Elizabeth Warren of Massachusetts said the action didn't go far enough."

U.S. Fed Set to Push Ahead on New Commodity Trade Rules
Anna Louie Sussman & Emily Stephenson, MSNMoney, 1/13/14
"The U.S. Federal Reserve is set to take its first formal step toward limiting the role of Wall Street banks in physical commodities markets this week by issuing a notice to seek public comment on the topic, sources familiar with the matter said on Monday. The Fed will publish an 'advance notice of proposed rulemaking' on Tuesday, laying out the issues it is considering, one day before a second Senate banking committee hearing on the matter, the sources said."

Wall Street May Win as Federal Reserve Prepares to Punt on Physical Commodities
Shahien Nasiripour, Huffington Post, 1/13/14
"Big banks are poised to reap a significant victory in their fight to maintain lucrative businesses hoarding, selling and trading physical commodities as the Federal Reserve prepares to punt on the issue, people familiar with the matter said.

"The Fed's move to solicit public input on what it should do, rather than use its authority to regulate the activities of large financial institutions, is expected to be announced by Wednesday afternoon in advance of a Senate Banking Committee hearing on the issue. Some federal financial regulators said the move may be a way for the Federal Reserve's Board of Governors in Washington to evade calls to curb banks' risk-taking."

Senator Seeks Clarity on Bitcoin Plans by U.S. Commodity Agency
Carter Dougherty, Bloomberg, 1/16/14
"U.S. Senator Tom Carper today called on the Commodity Futures Trading Commission to clarify if or how it would regulate the emerging virtual currency business.

“’Given that we read about a new venture in the digital currency space nearly every day, it is important that our government agencies respond appropriately and in a timely manner with thoughtful policy and oversight,’ Carper said in an e-mail. ‘Those willing to take risks and play by the rules should have the opportunity to thrive without the fog of uncertainty.’”

ENFORCEMENT

Wall Street Predicts $50 Billion Bill to Settle U.S. Mortgage Suits
Jessica Silver-Greenberg & Peter Eavis, NY Times, 1/10/14
“Bracing for a potential reckoning, the banks and their outside lawyers are quietly using JPMorgan Chase’s record $13 billion mortgage settlement in November to do the math and determine just how much each bank might have to pay to move beyond the torrent of government mortgage litigation that has dogged them since the financial crisis. Such calculations, people briefed on the matter said, have gained particular urgency among the banks’ board members.

“If the settlements materialize, they could yield, according to the analysis, $15 billion in relief for consumers — a mixture of cash payments and other assistance, like reductions in the size of homeowners’ loan payments. A payment of $50 billion, made up of a string of separate deals, would amount to roughly half the total annual profit of large American banks in 2012. The $50 billion figure does not include JPMorgan’s $13 billion payout, which means the ultimate industry tab could exceed $60 billion, according to the analysis.

“The JPMorgan settlement has stepped up the pressure on other banks to strike their own separate deals in the coming months, some top bank executives say...”

FEDERAL RESERVE

Hensarling Seeks More Constraint on Federal Reserve Emergency Lending Powers
Craig Torres, Business Week, 1/13/14
“Rules written by the Federal Reserve to comply with the Dodd-Frank Act leave the central bank with too much discretion to bail out failing institutions, contrary to the aims of the 2010 law, according to the chairman of the House Financial Services Committee.

“The committee chairman, Texas Republican Jeb Hensarling, outlined objections to the Fed’s proposed regulations in a letter today to Fed Chairman Ben S. Bernanke. Fed officials drew up the rules on its emergency lending power to meet requirements of the Dodd-Frank Act intended to prevent bailouts of individual institutions in danger of failing.

“’Disappointingly, the proposed rule does not provide any real or binding constraints on the Federal Reserve’s discretion to conduct bailouts of failing financial firms,’ Hensarling wrote in today’s letter, according to a copy obtained by Bloomberg News.”

Community Banks Need to Have a Voice on Fed Board
Simon Johnson, MoneyNews, 1/15/14

HIGH-SPEED TRADING

The High-Frequency Trading Arms Race: Frequent Batch Auctions as a Market Design Response
Eric Budish, Peter Cramton & John Shim, U. of Chicago, 12/23/13

INVESTOR PROTECTION & SEC

SEC Extends Deadline for Municipal Advisor Compliance
Securities and Exchange Commission, 1/13/14

SEC Commissioner Gallagher Delivers Speech on the Philosophies of Capital Requirements
Steven Lofchie, Center for Financial Stability, 1/16/14

MORTGAGES / FORECLOSURES / HOUSING

Eminent Domain: A Long Shot Against Blight
Shaila Dewanjan. NY Times, 1/11/14
"Gayle McLaughlin, the mayor of Richmond, Calif… has a plan to help the many Richmond residents who owe more money on their houses than their houses are worth, but it's one that banks like Wells Fargo, large asset managers like Pimco and BlackRock, real estate interests and even Fannie Mae and Freddie Mac, the mortgage finance giants, have tried to quash…

"Opponents have filed federal lawsuits, while real estate interests have made robocalls to residents and sent mass mailers warning that the plan would allow 'slick, politically connected' investors to 'take houses on the cheap.' (The idea is actually to buy mortgages, not houses.)

"Under similar pressures, at least four other cities that considered the eminent domain strategy have backed away, deeming the risks too great. But advocates in Richmond say their city is different."

Wall Street Group Aggressively Lobbied a Federal Agency to Thwart Eminent Domain Plans
Alexis Goldstein, The Nation, 1/17/14
"One might think these small, local efforts shouldn't be of much concern to Wall Street—after all, Richmond's plan affects a mere 624 loans. But one of Wall Street's most powerful trade groups, the Securities Industry and Financial Markets Association (SIFMA), has responded with ferocious urgency. SIFMA is the attack dog the largest Wall Street banks send when they don't want their names attached to politically controversial lobbying efforts or lawsuits. The group does everything from denying that "too big to fail" still exists to drafting lengthy comment letters arguing for weaker financial regulation.

"New e-mails obtained through a Freedom of Information Act request by the Alliance of Californians for Community Empowerment (ACCE) and a coalition of other community groups and shared with *The Nation* reveal the extent to which SIFMA has been spearheading Wall Street's fight against using eminent domain to mitigate the foreclosure crisis. (The complete set of e-mails are available at the website of the ACLU, which sued the FHFA when the original FOIA request was ignored). When Brockton began considering using eminent domain, SIFMA employees traveled there and kept an entire section of its website, complete with an array of resources, to decrying the plans."

New Federal Rule on Appraisals Will Be Useful to Home Buyers
Kenneth R. Harney, Washington Post, 1/17/14
"A new federal rule could give millions of home buyers insights they've never had before about a crucial element of their mortgage application: the appraisal, including the electronic cross-checks and reviews now used by lenders to determine the amount of the loan they'll approve.

"The new rule will also give buyers the time and ammunition to challenge appraisals they suspect contain errors. Starting this weekend, lenders nationwide will be required to inform mortgage applicants that they can receive a free copy of whatever appraisals, reviews, computer valuations and other data are used in the transaction. You'll be entitled to see this material 'promptly' after the appraisal report is completed, or three days before your loan closes, whichever is earlier. The lender will have to inform you of your new rights within three business days after receipt of your mortgage application."

Rockefeller Launches Investigation of Foreclosure Rescue Companies
Senate Democratic Press Office, 1/16/14
"Chairman John D. (Jay) Rockefeller IV today issued letters to request information from 7 companies that offer consumers mortgage modification negotiation services to avoid foreclosure – and that have recently been the subject of a substantial number of consumer complaints.

"'As millions of troubled mortgages remain outstanding and many homeowners continue to struggle to meet monthly mortgage obligations, it is important to understand the nature and extent of foreclosure rescue company practices that may be harmful to consumers during a financially vulnerable time in their lives,' Rockefeller wrote. The Chairman pointed out that despite ongoing vigorous efforts by enforcement agencies in this area, consumer complaints remain high regarding false and deceptive practices by foreclosure rescue companies, and recent reports indicate that companies are engaging in increasingly complex schemes to elude enforcement actions."

New Plan To Wind Down Fannie And Freddie
Gina Chon, Financial Times, 1/16/14
"A group of Democratic congressmen on Thursday unveiled their plan to wind down US mortgage finance giants Fannie Mae and Freddie Mac, pitching it as an attractive alternative that could appeal to both political parties. The proposal by John Delaney, John Carney and Jim Himes substantially winds down Fannie and Freddie over five years, creating a path for their eventual sale. They said the plan provides the ideal private and public sector partnership by maintaining a government guarantee for mortgages, but having the private sector price the risk, which is more disciplined."

"'To ensure a stable housing finance system, we must move past the current state to a new system that engages more private sector capital,'" Mr Delaney said."

CFPB Fines Missouri Lender $81K For Illegal Kickbacks
Brena Swanson, Housing Wire, 1/16/14

New Mortgage Rules Tough But Fair
Michelle Singletary, Washington Post, 1/14/14

U.S. Regulator Asks Consumers About Home Deal Closing Issues
Kenneth R. Harney, Los Angeles Times, 1/12/14

REGULATORY APPOINTMENTS

How the Senate's Filibuster Change Could Protect Dodd-Frank
Victoria Finkle, American Banker, 1/14/14
“Senate Democrats' decision to change filibuster rules has shifted the composition of a powerful federal appeals court, a move that could bolster the banking agencies against future industry challenges to the Dodd-Frank Act. Lawmakers confirmed the last of three judges to the U.S. Court of Appeals for the District of Columbia Circuit late Monday, filling the final vacancy on the 11-seat bench.

“The court, which has tilted conservative in recent years, is a primary battleground for lawsuits against government agency rules, including several recent appeals to the financial reform law. While the inclusion of a few more Democratic-appointed judges does not completely tip the scales on any given case before a randomly selected three-judge panel, the change is expected to have a significant impact.”

Liberal Power Increases Over Financial Nominees
Kevin Cirilli & MJ Lee, Politico, 1/9/14
“In the new filibuster-free world of presidential nominees, when it comes to President Barack Obama’s financial regulators all eyes are on the left. Gone are the days when a Wall Street regulatory pick needed to placate at least a handful of Republicans to be confirmed and Democrats were under pressure to toe the line.

“Now the president doesn’t have to worry about Republican filibusters after a recent Senate rules change, but that also moves to the forefront liberal lawmakers' discontent with whether his administration is effectively policing Wall Street. This dynamic will be on display in the coming weeks as the Senate considers the president’s picks to fill empty seats on the Federal Reserve board, which he announced Friday, and to lead the CFTC, the watchdog for derivatives markets that were a leading cause of the 2008 financial crisis.”

Supreme Court Casts Skeptical Eye on Obama's Appointment Power
Lawrence Hurley, Reuters, 1/13/14
“The U.S. Supreme Court signaled a willingness on Monday to rein in President Barack Obama's power to temporarily fill senior government posts without the Senate's approval, a move that would curb his ability to bypass a gridlocked Congress. Most of the nine justices expressed skepticism, during 90 minutes of oral arguments, about so-called recess appointments Obama made to the National Labor Relations Board (NLRB) in 2012.

“The court is expected to issue a ruling in the case by June that has the potential to shift the balance of power between the White House and the Senate. While both are now controlled by Democrats, Republicans hope to win control of the Senate in congressional mid-term elections in November.”

If Supreme Court Doesn’t Modify Recess Appointments, Senate Should Modify Rules
Editorial, Washington Post, 1/16/14
“… It’s true that the recess-appointment authority probably was intended to allow the

government to function in an era when senators had to travel days or weeks to reach Washington, not as a way around intransigent lawmakers. But the judicial branch ought to show some caution in approaching the balance of power that the other two branches have forged over the subsequent two centuries.

"Late last year, Senate Majority Leader Harry M. Reid (Nev.) and his fellow Democrats eliminated filibusters on presidential nominees who require Senate consent except those to the Supreme Court. That lowers the stakes of a negative court ruling. But when control of the Senate and White House is split, lawmakers might be tempted to nullify laws by refusing to staff agencies they don't like. This is no hypothetical issue; Republicans in 2011 balked at confirming a head of the Consumer Financial Protection Bureau, which needed a chief to operate, because they didn't like the agency.

"The right reaction to Mr. Reid's Senate restructuring, and to the eventual court ruling, is for lawmakers to use their advice-and-consent powers more responsibly. If they had done that in the first place, neither issue would have boiled over."

U.S. Senate Panel Backs Raskin for Treasury Post, Again
Reuters, 1/15/14

STUDENT LOANS

Fed Student-Loan Focus Reveals Recognition of Threat to Economy
Caroline Salas Gage & Janet Lorin, Bloomberg, 1/14/14
"… Outstanding education debt exceeded $1 trillion in the third quarter of 2013, and the share of loans delinquent 90 days or more rose to 11.8 percent, according to the Federal Reserve Bank of New York. By contrast, delinquencies for mortgage, credit-card and auto debt all have declined from their peaks.

"'I'm always made very nervous by a credit market that benefits from government guarantees and is expanding very rapidly,' Jeffrey Lacker, president of the Federal Reserve Bank of Richmond, said in response to audience questions after a speech at a Jan. 10 Greater Raleigh Chamber of Commerce event in North Carolina. 'That's what we're seeing with student loans, and it's what we saw with housing.'"

SYSTEMIC RISK

Basel Regulators Ease Leverage-Ratio Rule for Banks
Jim Brundsden, Bloomberg, 1/13/14
"Global regulators diluted a planned debt limit for banks amid warnings that the rule would penalize low-risk financial activities and curtail lending. The measure, known as a leverage ratio, was adjusted after "thoroughly analyzing bank data," the Basel Committee on Banking Supervision said in a statement following a meeting of regulators in the Swiss city yesterday. The group also modified a liquidity rule to make it easier to count a certain type of central bank loan against regulatory standards. "

Brown, Vitter Urge Regulators to Lead on Capital Requirements After Weakend Basel III Announcement

Press Release, Office of Senator David Vitter, 1/13/14

"U.S. Sens. Sherrod Brown (D-OH) and David Vitter (R-LA) today sent a letter urging the Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) to strengthen their proposed supplementary leverage ratio in order to reduce future government support, eliminating the possibility of 'too big to fail' policies. Their letter comes in response to the weakened leverage ratio announced by the Basel Committee on Banking Supervision this week.

"'The U.S. should lead rather than follow when it comes to protecting the safety and soundness of our financial system. U.S. regulators took an important step in the right direction last year, but they must strengthen leverage ratios to ensure that the largest financial institutions have adequate capital to cover their losses,' Brown said.

'It's a sad but clear fact that Too Big to Fail is alive and well, and the Wall Street megabanks are lobbying to keep it that way,' Vitter said. "Regulators need to stop wasting time and push for a strong increased leverage ratio – which is necessary for the safety of our financial system. They took a positive step this summer, but the Basel recommendation should not give them cover to go backwards on increasing capital."

Missing the Point

James Kwak, Baseline Scenario, 1/14/14

"The Basel Committee's recent decision to change the definition of the leverage ratio is bad news for two reasons. There's the obvious: A smaller denominator means less capital. The leverage ratio requirement says, in principle, that banks must have capital equal to at least X% of their total unweighted assets, where 'assets' is supposed to include anything they hold that could fall in value. Take some bank that has some amount Y of traditional assets and other things that could fall in value, like derivatives positions. Then it has to have capital equal to X * Y / 100. If we take the exact same bank but decide to call Y some smaller number, say Z, then it can get bay with less capital. Less capital = more risk.

"Then there's the slightly less obvious. The whole point of the leverage ratio is to safeguard against the ability of banks to game capital requirements based on risk-weighted assets. Under Basel I and II, banks had to hold capital equal to some percentage of their assets, but those assets were weighted according to their perceived (or politically defined) risk. Most notoriously, all sovereign bonds had a risk weighting of zero, no matter what country issued them, so if all you held was Greek bonds, you didn't need to have any capital. The leverage ratio is supposed to provide a backstop so that no matter how clever the bankers and their lawyers are, the bank still has to hold some capital."

Volcker Rule Curbs on Banks Owning CDOs Eased by U.S. Regulators

Jesse Hamilton & Cheyenne Hopkins, Bloomberg, 1/15/14

"U.S. regulators granted banks an exemption from Volcker Rule limits for collateralized debt obligations composed mostly of small-bank securities, according to a statement from regulators. The adjustment to Volcker answers concerns from smaller U.S. banks that they would have to rush into taking millions in losses on their holdings. Instead, the regulators let banks keep CDOs backed by trust-preferred securities established before May 19, 2010, and obtained by Dec. 10, 2013, five financial agencies said yesterday in a joint news release.

"After regulators approved the Volcker Rule on Dec. 10, the smaller banks said it could force them to take as much as $600 million in losses on certain CDOs held by about 300 firms. U.S. regulators said they would consider exempting the securities and spent more than two weeks hashing out a fix before their self-imposed deadline today."

[Regulators Ease Volcker Rule Provision on Smaller Banks]
Matthew Goldstein, NY Times, 1/4/14

[House Lawmakers Fault SEC on Volcker]
Andrew Ackerman, Wall St. Journal, 1/13/14
"Two key House Republicans said U.S. securities regulators violated federal law by approving the Volcker Rule without a detailed analysis of its economic consequences. House Financial Services Committee Chairman Jeb Hensarling (R., Texas) and Rep. Scott Garrett (R., N.J.) wrote Securities and Exchange Commission Chairman Mary Jo White for an explanation. They cited a recent judicial ruling saying the agency has an obligation to assess the impact of its rules' on market 'efficiency, competition and capital formation…'

"While the SEC and CFTC are required to conduct cost-benefit analyses of the rules they set forth– under the laws that form their respective backbones—the Volcker Rule was adopted under the 1956 Bank Holding Company Act, which has no cost-benefit analysis requirement comparable to those in the SEC and CFTC statutes. Some lawyers expect the lack of economic analysis could help form the basis for a legal challenge of the entire rule."

[Banks Push for More Changes to Volcker Rule Following CDO Fix]
Cheyenne Hopkins & Jesse Hamilton, Bloomberg, 1/16/14
"Representatives of the Securities Industry and Financial Markets Association and other groups joined House Financial Services Committee members in highlighting the 'unintended consequences' of the proprietary-trading rule at a Washington hearing yesterday. Lawmakers and lobbyists alike said the Jan. 14 move to shield some CDOs backed by trust-preferred securities wasn't enough to protect banks and the public from harm.

"'While we welcome the relief provided to certain holders of TruPS CDOs, we believe that regulators must address the larger problem of the inclusion of senior debt securities issued by collateralized loan obligations,' Sifma Chief Executive Officer Kenneth Bentsen said at the hearing. 'If this situation is not remediated, corporate borrowers could face higher credit costs and banks will likely suffer unnecessary losses.'"

[CDO Exemption, EU Speculators, Circuit Breakers]
Carla Main, Bloomberg, 1/16/14

[OCC Ratchets Up Pressure on Big Banks]
Ryan Tracy & Stephanie Armour, Wall St. Journal, 1/16/14
"Regulators took another swing at tamping down the riskiness of big U.S. banks, proposing new requirements for boards and executives and laying the groundwork for swifter enforcement for missteps.

"In guidelines proposed Thursday, the Office of the Comptroller of the Currency detailed risk-management standards for firms with more than $50 billion in assets, putting the onus on board members to ensure the rules are followed and requiring banks have independent audit and risk-management officers who can go straight to the board with concerns…"

[Regulators Are Encouraging Shadow Bankers]
Susanna K. Tisa, American Banker, 1/15/13
"For every action there is an equal and opposite reaction. This is certainly true of banking reform. Like squeezing a water balloon, regulators have pressed hard on traditional banks in the wake of the financial crisis, only to force demand elsewhere. The other side of the balloon is swelling, with all manner of nonbank entities rushing in to offer services that fill the demand – from alternative consumer options like payday loans, online lending and other small-dollar credit to commercial financing provided by business development companies, private investment funds and other shadow bankers.

"While the government and industry remain focused on mopping up the last crisis, are we in fact setting up a new one? Unless we refocus attention on a broader picture that includes all the players, it is only a matter of time before the balloon bursts."

[House Republicans Rip Into Volcker Rule]
Victoria Finkle, American Banker, 1/15/14
"House Republicans were sharply critical Wednesday of regulators' final Volcker Rule, warning that it adds an unnecessary and costly layer of regulation. The banking agencies finalized the ban on proprietary trading last month, more than two years after they issued their initial proposal. During a House Financial Services Committee hearing on the issue, several GOP members slammed the agencies for not undertaking a cost-benefit analysis of the rule as well as raising concerns about how it will impact the international competitiveness of U.S. institutions.

"'Volcker is a solution in search of a problem,' said Rep. Jeb Hensarling, R-Texas, chairman of the banking panel, calling the rule 'compound, complex, confounding, confusing and convoluted.'"

[The Obama Administration's Groundhog Day]
Rep. Steve Scalise and Rep. Ann Wagner, Forbes, 1/17/14

[Rep. Ellison Questions Experts on Volcker Rule]
YouTube, 1/16/14

[Bank Execs Shrug Off Volcker Rule… Even Jamie Dimon]
Maureen Farrell, Wall St. Journal, 1/16/14
"Remember when J.P. Morgan's CEO Jamie Dimon wondered aloud on a conference call whether Dodd-Frank regulations could destroy the health of the capital markets... Mr. Dimon's response to the Volcker Rule and Dodd-Frank regulations overall is much, much more muted now: 'It will probably be okay in total.'

"In fact, no executive at a major bank complained all that much about the Volcker Rule during fourth-quarter conference calls with analysts and journalists. Morgan Stanley will report Friday, so its CEO James Gorman hasn't had his say yet. But his peers at other banks have generally shrugged off questions on whether the Volcker Rule will have any pernicious effects on their bank or the health of the capital markets overall."

[An Occupy Wall Street Offshoot Has Its Day]
Simon Johnson, NY Times, 1/16/14
"There is a tendency in recent American political discourse to use the term "populism" as a form

of putdown. The implication is that that while populists may have some legitimate grievances, they are rebelling in a disorganized and ill-informed way. As President Obama implied in early 2009, the populists have pitchforks, while his administration represented the responsible mainstream.

“This is an inaccurate portrayal of populism in America, both historically and today. Occupy Wall Street is a perfect example. To be sure, part of that 2011 movement was purely about expressing frustration – justified frustration – at how very powerful people in the finance sector had behaved and continue to behave. But the movement also led to an important offshoot or related development, Occupy the S.E.C., which focused on the Securities and Exchange Commission.

“This group wrote a brilliant commentary on the originally proposed Volcker Rule, which is designed to limit proprietary trading and other forms of excessive risk-taking at very large banks. Their comments, along with the work of others who wanted more effective reform, were helpful in pushing officials toward the final Volcker Rule, which was just unveiled.”

OTHER TOPICS

Wells Fargo Is Now No. 1 Bank Profit Maker

Dan Fitzpatrick & Shayndi Raice, Wall St. Journal, 1/14/14

"J.P. Morgan Chase ... relinquished its position as the U.S. bank with the highest annual profit, capping a year marked by a slew of regulatory and legal issues. The New York bank ceded the spot it held since 2010 to Wells Fargo ... after J.P. Morgan reported fourth-quarter earnings of $5.28 billion, down 7.3 percent from a year earlier. At San Francisco-based Wells Fargo, fourth-quarter earnings rose 10 percent to $5.6 billion and full-year earnings rose 16 percent to $21.8 billion. That was enough to surpass J.P. Morgan's $17.9 billion, a figure that was down 16 percent from 2012, as legal costs cut deeply into the bank's bottom line.

"Wells's ascension is largely symbolic - J.P. Morgan would have remained on top had it not been for $11.1 billion in legal expenses - but it does underline the rapid expansion of a West Coast bank that uses a horse-drawn stagecoach as its corporate icon. Results from both banks showed signs of a healthier U.S. economy as J.P. Morgan and Wells made more loans to businesses and fewer of their consumers defaulted on loans, allowing the lenders to set aside less money for future losses. A recent rise in long-term interest rates should also help banks raise prices on new loans."

NAACP Releases New Report on Banking Industry; Finds Much Room for Improvement in Diversity & Inclusion Practices

NAACP, 1/14/14

“Equal opportunity for people of color in the United States remains an unrealized goal,” stated Interim NAACP President and CEO Lorraine Miller. “The banking industry will add nearly 1 million jobs with a living wage and wealth generating opportunities over the next decade and more people of color are graduating with degrees in accounting, finance, IT, MBAs than ever before. We look forward to working with leading banks in strengthening their diversity and inclusion efforts and connecting more members of our communities to these opportunities.”

“The report card, which is based on 2011 data, reveals top management positions remain firmly dominated by white employees, despite the development of programs to increase diversity and inclusion and dramatic increases in the number of minority college graduates entering the workforce over the past 20 years. Information submitted by banks during the survey period indicates that they continue to struggle with diversification in their supplier purchasing. 1.6 percent of banks' supplier budget is the most any bank spent on African American suppliers and 5.3 percent is the most any bank spent on firms owned by people of color.

"During this period of high unemployment and declining wealth, which is even more pronounced for African Americans and other people of color, Americans need living wage jobs with long-term career tracks," stated Dedrick Asante - Muhammad, NAACP Senior Director of Economic Department."

[The City, The Banks and the EU – All In It Together]
Tom Lines, New Internationalist Blog, 1/16/14
"A few times a year – we don't know exactly how often – 52 people meet in a room in London. We think they meet in the Guildhall. While most ordinary people know nothing about these meetings, the British government is fully up to speed. The people who attend these meetings work for organizations from China, France, Germany, Japan, Spain, Switzerland and the US as well as Britain. We can be sure that they are very well paid.

"Collectively, they are known as the Council of the International Regulatory Strategy Group (IRSG). And they matter a lot."

How Washington Beat Wall Street
Ben White, Politico Pro, 1/16/14
"In 2009, Washington went to war against big Wall Street banks hoping to blow up the kind of high-risk, high-reward strategies that helped spark the financial crisis. Five years later, that war is largely over. And Washington won in a blowout.

"You might not know it given continued demands from Democrats — and even some Republicans — to further bust up the nation's largest banks. And the standard media refrain is that Wall Street titans always win, no big bank bosses went to jail and the industry will just find new ways to keep the casino open. But the truth on the ground — at least at this moment in time — is very different.

"Goldman Sachs, the biggest money machine in Wall Street history, is a shell of its former self. Morgan Stanley, Goldman's one-time bitter rival in the swashbuckling world of high-risk trading, is transforming into a staid money management firm with a side business underwriting stocks and offering merger advice."

Wall Street's All-Out War Against Financial Regulation Continues Unabated
Dennis Kelleher, Huffington Post, 1/16/14
"Only in the warped, distorted, Alice-in-Wonderland world of Wall Street would one think 'Washington went to war against big Wall Street banks" or that "Washington won [the war] in a blowout,' as said today in a Politico article entitled 'How Washington beat big Wall Street banks.' The author, Ben White, is a terrific reporter and there's a lot interesting in and right about the article, but I disagree with the premise of it.

"It may be counterintuitive, but the article reflects a fairy tale Wall Street loves to push. Not only that they have been picked on and been under/are under enormous pressure (almost all unfair, undeserved and counterproductive) by US and global regulators, politicians and policy makers, but, hey, they've lost and Washington won, so, ease up. No need to take any further action against the ginormous global too-big-to-fail banks that are bigger, more interconnected and dangerous than they were before the last crisis that they caused. No. Enough's been done…

“Of course, that's ridiculous.”

The Case for Cost-Benefit Analysis of Financial Regulations
Eric A. Posner and E. Glen Weyl, Regulation, Winter 2013