AMERICANS FOR FINANCIAL REFORM

This Week in Wall Street Reform | June 6 - 12, 2015

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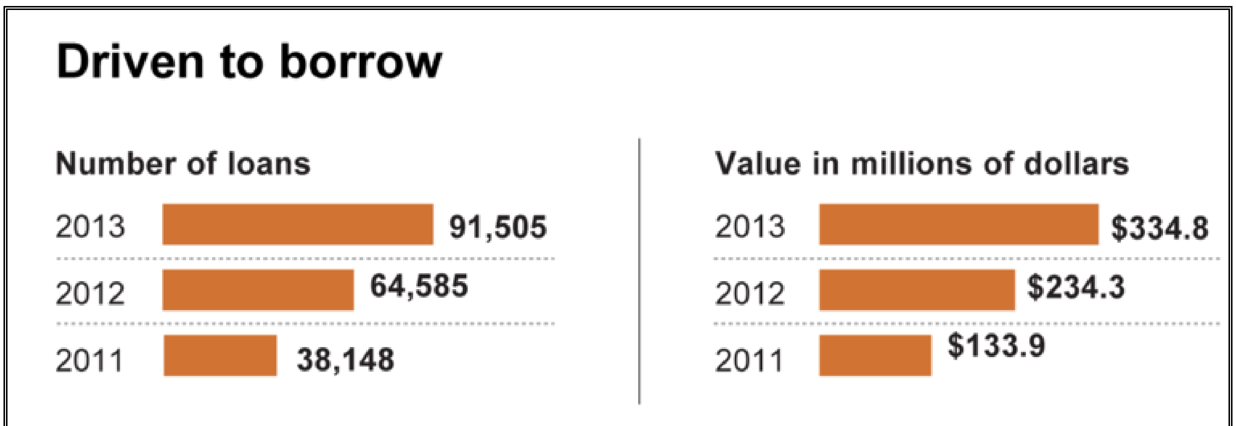
CONSUMER FINANCE & THE CFPB



Los Angeles Times - California Department of Corporations

Auto title lenders are snagging unwary California borrowers in cycle of debt
Jim Puzzanghera, L.A. Times, 6/8
"I look at title lending as legalized car thievery," said Rosemary Shahan, president of Consumers for Auto Reliability and Safety, a Sacramento advocacy group. "What they want to do is get you into a loan where you just keep paying, paying, paying, and at the end of the day, they take your car."

FTC Approves Final Consent Orders with Two Car Title Lenders Charged with Deceptively Advertising Cost of Loans
Cheryl Warner, Federal Trade Commission, 6/10

CFPB to Oversee Non-Bank Auto Financing Companies
Chris Morran, The Consumerist, 6/10
While some folks get their car loans from the bank or credit union, many Americans finance their vehicle purchases through non-bank entities, including auto dealers. But until now, the federal Consumer Financial Protection Bureau only had regulatory authority on car loans issued by financial institutions. A new rule from the CFPB will soon give the agency oversight of the nation’s largest non-bank auto finance operations.

Under the rule, the CFPB will be allowed to supervise auto financing companies that make, acquire, or refinance 10,000 or more loans or leases in a year… CFPB oversight will make these non-bank financing companies accountable for complying with federal consumer financial laws, including the Equal Credit Opportunity Act, the Truth in Lending Act, the Consumer Leasing Act, and the Dodd-Frank Act’s prohibition on unfair, deceptive, or abusive acts or practices.

[Racial Disparities in Auto Loan Markups: State-by-State Data](#)
National Consumer Law Center, 6/10
After the auto lenders offered a rate based on credit risk, the auto dealers had discretion whether and how much to mark up the rate. Actual data from millions of race-coded loans showed that dealers were more likely to markup the loans of African American borrowers or to impose higher markups. The data matched racial information contained in drivers' license records with loans to individual borrowers. The powerful data convinced the courts that "the plaintiffs have proved their case" that permitting discretionary markups led to unacceptable racially disparate impacts.

CFPB Says Processors Ignored Debt Scheme's Red Flags
Emily Field, Law360, 6/8

Payday lenders take aim at grubby end of US debt market
Ben McLannahan, Financial Times, 6/7

Dems Demand 'Strongest Rules Possible' for Payday Lenders
Lydia Wheeler, The Hill, 6/8

CFPB Helps Consumers in Arizona, Nation
Troy Wilde, Public News Service – AZ, 6/10

Bill to Change CFPB Governance Draws Support at House Hearing
Bloomberg BNA (paywalled), 6/11

DERIVATIVES, COMMODITIES & THE CFTC

CFTC's Massad outlines views on margin, 'de-guaranteeing'
Zachary Warmbrodt, Politico, 6/9

House Democrats Asked to Oppose CFTC Bill
Zachary Warmbrodt, Politico, 6/8

ENFORCEMENT

Justice Department Probes Banks for Rigging Treasuries Market
Kevin Dugan, New York Post, 6/8
The Justice Department is looking into possible fraudulent manipulation of the $12.5 trillion Treasurys market, The Post has learned. Government lawyers are said to be in the early stages of a probe and have reached out in recent months to at least three of the 22 financial institutions that act as primary government debt dealers to request information, said a person close to one of the banks who was briefed on the matter.

What Does the Future of Wall Street Regulation Look Like?
Meghan Foley, Cheatsheet.com, 6/8
Benjamin Lawsky, known in the financial industry as the Sheriff of Wall Street… spent his four-year tenure carving out an extensive bailiwick for the department that was created in 2011. But when detailing tasks left unfinished, he told NPR he wished it had focused on individual accountability for white-collar crimes earlier. In his opinion, the problem with the large and often-lauded fines he extracted from banks is that they do not fully address accountability. "Large fines will only get you so far, especially because a lot of that is just being handled by shareholders," he further explained in an interview with CNBC's Squawk Box. "If you hold individuals accountable, I think that is really when you are going to see a change in conduct."

While the billions of dollars' worth of fines regulators have collected from financial institutions like JPMorgan Chase were legendary, it is even more impressive that just a single investment banker (not even a single high-level executive) went to jail for the crimes that precipitated the worst recession since the Great Depression, even though more than 150 people and institutions were charged by the Securities and Exchange Commission.

FTC Staff Provides Annual Financial Acts Enforcement Report to Consumer Financial Protection Bureau
Federal Trade Commission, 6/9

EXECUTIVE COMPENSATION

Remarks Before the Prudential Bank Regulation Conference
Comptroller of the Currency Thomas J. Curry, 6/9
Before finalizing [OCC risk management] guidelines, we accepted comments, and it was interesting to me that a number of commenters not only expressed support for the compensation provisions, but also asked that those provisions be made stronger and more specific. We chose not to do so because we and a number of other federal agencies were at work on an incentive-based compensation regulation required by the Dodd-Frank Act that covers many of the same issues. While the rule is still in process, I want to be clear that we assess compensation structures as part of our ongoing supervision, as well as for the largest banks under our heightened standards.

Let me also be clear that I regard the incentive compensation rule as extremely important. Improperly structured compensation plans were a major factor in the financial crisis. They encouraged inappropriate risk-taking and gave employees incentives to place their own financial well-being above the interests of their firm. This misalignment of interests contributed to the excessive short-term risk-taking that compromised financial stability and threatened the entire financial system. This has been an exceedingly long rulemaking process, even if I understand the reasons, and I am working to see to it that we are nearing the end of the process.

Activist Funds Put Executive Pay Formulas Under Microscope
Liz Hoffman, WSJ, 6/12

INVESTOR PROTECTION & THE SEC

SEC Republicans sharpen opposition to big corporate penalties
Patrick Temple-West, Politico, 6/9

Federal court rules SEC's appointment of in-house judges likely unconstitutional
Patrick Temple-West, Politico, 6/8

SEC Commissioner Stein Says Overlooking Bank Criminal Activity Will Lead To Further Criminal Activity
ValueWalk, 5/22
Stein, a consistent law and order advocate for equal enforcement of regulations, observed that "in the face of the FX criminal action," a majority of the Commission pardoned bank criminal behavior yet again. This will be the 23rd time the SEC has granted waivers to the five banks who admitted criminal guilt in the past nine years. For UBS AG this is the seventh waiver since 2008, JPMorgan Chase & Co. is on strike six while RBS and Barclays PLC have each been given three previous waivers in the recent past.

Former SEC Chiefs Respond to Warren Warren's Criticism of Mary Jo White
David S. Ruder, Harvey L. Pitt, William H. Donaldson, Christopher Cox, Elisse B. Walter, Wall St. Journal, 6/10

The SEC's steady hand
Editorial, Washington Post, 6/8

These Simple Steps Could Prevent Another Financial Crisis
David Dayen, Fiscal Times, 6/5
Warren has many problems with White's stewardship, but the biggest stem from the fact that White has a background as a litigator and not a regulator. The SEC both protects investors through enforcement of the securities laws and writes

new rules and guidelines, so it's impossible for anyone to have the proper profile to run a hybrid agency. That's especially true when White's husband works as a Wall Street lawyer, forcing her to recuse herself from over four dozen investigations. So the SEC gets an inexperienced regulator, and an absentee enforcer.

The good news is that this doesn't happen to be terribly difficult to fix. We can unwind the different agencies that have built up over the years and simplify the regulatory system.

See CREDO Action petition: **Tell President Obama: Time for Mary Jo White to go**

Federal regulators go after crowdfunding scam
Anne Flaherty, AP, 6/11

The SEC's Recruiting Problem: Its Former Officials
Andrew Ackerman and Aruna Viswanatha, WSJ, 6/11
As the Obama administration looks to fill a vacancy on the Securities and Exchange Commission, a potential hurdle has emerged from an unexpected source: former SEC officials who are warning candidates that the agency has become dysfunctional.

MORTGAGES & HOUSING

NFHA Condemns House's Multiple Assaults on Fair Housing
Statement, National Fair Housing Alliance, 6/10
The U.S. House of Representatives narrowly approved a funding bill late Tuesday that will prohibit local fair housing agencies and HUD from effectively enforcing the Fair Housing Act on multiple fronts. Lawmakers approved language that eliminates federal grant funding to local nonprofit fair housing centers making it easier for banks, landlords, and other housing providers to discriminate with impunity. The bill also included language blocking HUD's nearly final Affirmatively Furthering Fair Housing (AFFH) rule, and its disparate impact rule, both of which are important tools to stop illegal housing discrimination and promote safe and stable communities.

HUD chief grilled over housing discrimination rule
Tim Devaney, The Hill, 6/11
"The Department of Housing and Urban Development (HUD) is looking to end decades of deep-rooted segregation around the country, but Republicans are skeptical about the upcoming housing regulations, and some suggested the Obama administration is trying to create an 'unrealistic utopia.'"

Waters Blasts Harmful Housing Funding Bill
House Committee on Financial Services Democrats, 6/5

Homeownership Rate Will Continue Decline into 2030, Study Estimates
Stephanie Riley, DS News, 6/10

Civil rights groups urge Obama administration to settle with Fannie, Freddie shareholders
Jon Prior, Politico, 6/9

Home-Equity Lines of Credit See Jump in Delinquencies
Annamaria Andriotis, Wall Street Journal, 6/8

A Short Window to Save Homes from Foreclosure Include an excerpt from this one
Dan Garodnick, I. Daneek Miller and Donovan Richards, Crain's New York Business, 6/5

Senators Press Watt to Shift More Risk from Fannie, Freddie
Jon Prior, Politico, 6/10

REGULATORY FUNDING DEBATE IN CONGRESS

House targets CFPB in spending bill, keeps SEC budget flat
Zachary Warmbrodt, Politico, 6/9
In addition to taking the funding of the CFPB away from the Federal Reserve, the House Appropriations Committee said the bill also requires "extensive reporting" on the consumer bureau's activities.

The bill falls more than $200 million short of a spending increase that President Barack Obama requested for the SEC. The committee said the bill also has policy provisions that include requiring the administration to report on the cost of the 2010 Dodd-Frank law, prohibiting the SEC from mandating the disclosure of political donations and replacing indemnification agreements with confidentiality agreements for swap data repositories.

House panel approves CFPB, SEC funding measures
Zachary Warmbrodt, Politico, 6/10

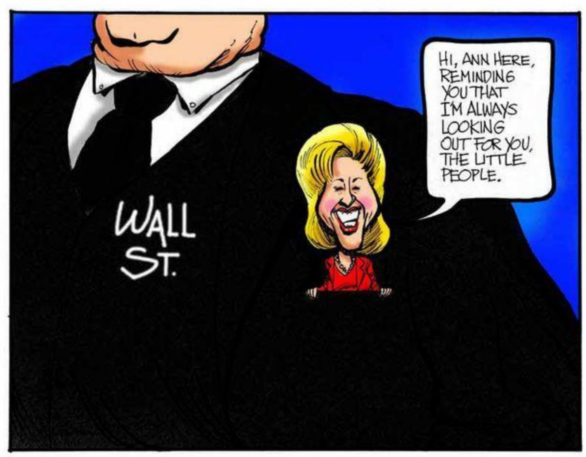
BPC Calls On Congress to Preserve and Strengthen Independent Funding for Financial Regulators
ValueWalk, 6/10

Democrats, SEC chair oppose financial services spending bill
Zachary Warmbrodt, Politico, 6/10

RETIREMENT FUNDS AND DOL FIDUCIARY DUTY RULE

Wagner puts brokers (and contributors) ahead of investors
Editorial, St. Louis Post-Dispatch, 6/10
U.S. Rep. Ann Wagner, R-Ballwin, is a leading opponent to an attempt by the Obama administration to keep financial advisers from pushing high-fee investment plans on small investors. She also gets a great deal of her campaign contributions from the insurance and financial industries.

Ms. Wagner, a darling of those industries' political action committees, raised most of the money for her campaign committee and leadership PAC last year from the securities and investment industry. The insurance industry was second, according to OpenSecrets.org, a website that tracks federal campaign contributions.



The two industries donated more than $500,000 to Ms. Wagner, slightly more than a fifth of all the money she raised for the cycle. This followed her securing a seat as a freshman member of Congress in 2013 on the coveted Financial Services Committee. Why is it coveted? Because committee members pull in more money from PACs than members of any other House committee.

DOL fiduciary proposal feels heat as more industry players pile on
Mark Schoeff Jr., InvestmentNews, 6/9
The leader of a prominent retirement-plan company and a top business trade group both warned Tuesday that a proposed U.S. Department of Labor rule to change investment-advice standards for retirement accounts would hurt small investors and small companies.

Robert Reynolds, president and chief executive of Great-West Financial and Putnam Investments, said the DOL rule, which is designed to reduce conflicts of interest for brokers, would create "red tape and restrictions" that would significantly increase the liability risk and costs for brokers and discourage workplace retirement plans at small employers.

[Business leaders gird for fight against financial adviser rule]
Kevin Cirilli, The Hill, 6/9

[Labor's Perez seeks allies to woo Congress on fiduciary proposal]
Patrick Temple-West, Politico Pro, 6/12

STUDENT LOANS

[Sen. Alexander Vows to Block new Obama Education Regulations]
Sophie Quinton, National Journal, 6/9

[Students victimized by Corinthian Colleges will get debts erased]
Editorial, San Francisco Chronicle, 6/9

[Questions of Cost in Plan to Aid Defrauded Students]
Tamar Lewin, N.Y. Times, 6/8

[An unprecedented number of borrowers could soon qualify for student debt forgiveness]
Danielle Douglas-Gabriel, Washington Post, 6/8
The Obama administration's plan to forgive the federal loans of Corinthian Colleges students could usher in an unprecedented number of debt forgiveness requests from borrowers at other for-profit schools and cost taxpayers hundreds of millions of dollars.

[For-Profit Group Criticizes Education Dept. on Corinthian]
Quick Take, Inside Higher Ed, 6/12

[Class Accuses University of Phoenix of Deceit]
Kevin Lessmiller, Courthouse News Service, 6/11

[Help for Victims of College Fraud]
New York Times Editorial Board, New York Times, 6/10
The flaws in this system have long been clear. For-profit colleges account for only about 12 percent of student enrollment but for nearly half of student loan defaults. In addition, an analysis of federal data by the Institute for College Access and Success, a nonpartisan policy organization, shows that graduates of for-profit schools are much more likely than graduates of other institutions to have debt of $40,000 or more. In other words, the problem of excessive debt goes well beyond schools that may be guilty of fraud.

[TICAS Statement on Education Department Actions to Provide Relief for Corinthian Students]
Pauline Abernathy, The Institute for College Access & Success, 6/8

[The Government Created a Monster in Corinthian Colleges. Now We're Paying for Its Damage.]
Jordan Weissmann, Slate, 6/9
Monday, the Department of Education announced that it would forgive debts belonging to thousands of former students who attended the for-profit education chain, which [tumbled into bankruptcy] last month after a long and predatory run. This is a win for decency. It is also symbolic of Washington's abject failure to regulate the world of higher education during the past decade…

It is unclear, at this point, exactly how many former Corinthian students will ultimately have their debts canceled. The Department of Education said today that if all 350,000 students who attended in the past five years received forgiveness, the tab would amount to $3.5 billion. It seems unlikely it will rise that high. Under federal law, the secretary of education has the right to decide which "acts or omissions of an institution of higher education" are so egregious that a borrower can use them as a legitimate reason to apply for loan forgiveness. But as [Inside Higher Ed] points out, that standard is still very murky.

[Department of Education Makes Corinthian Debt Cancellation as Difficult as Possible]
Alexis Goldstein, Because Finance is Boring,
[I]nstead of using the vast evidence accumulated by multiple state Attorneys General and federal regulators alike that Corinthian defrauded students, the Department of Education is asking that harmed students re-prove they were injured.The list of documents students are told to produce to apply for debt cancellation is exhaustive, and an incredibly high barrier to meet:

It includes citations of "state & applicable law or cause of action" – most borrowers aren't lawyers, and they aren't going to know what to list. It also asks for "transcripts and registration documents indicating your specific program of study and dates of enrollment" – how will students obtain copies of these documents, given that the school is now bankrupt?

When Loan Forgiveness Isn't Enough
Alia Wong, The Atlantic, 6/10

ConnPIRG Hails General Assembly's Passage of First-in-the-Nation Student Loan Bill of Rights, Open Source Pilot Program
Evan Preston, ConnPIRG, 6/5

Elizabeth Warren calls for more oversight of for-profit colleges
Tracy Jan, Boston Globe, 6/10

SYSTEMIC RISK

Big Banks Can't Will This Risk Away
John Carney, Wall Street Journal, 6/9
Banks have until July 1 to submit "living wills" to regulators. These are plans describing how they could be resolved in the event of failure. Until last year, investors and the banks weren't very focused on the wills. That changed in August when the Federal Reserve and Federal Deposit Insurance Corp. unexpectedly gave failing grades to 11 of the biggest U.S. banks.

Now, banks are devoting far more attention to the plans. But the Fed and FDIC themselves are facing pressure over perceived inadequacies of bank resolution plans and may apply more stringent scrutiny to them.

From "Boring" Banking to "Roaring" Banking
Gerald Epstein, TripleCrisis, 6/9
A perhaps surprising group in the bankers' club has been many economists, especially academic economists who work on finance. Some of them take quite a bit of money from financial firms as consulting fees or are on the boards of directors of financial firms. Jessica Carrick-Hagenbarth and I studied this, looking at a group of 19 well-known academic economists who were working with two groups, the Pew Charitable Trusts Financial Reform Project and the Squam Lake Working Group on Financial Regulation, on financial reform issues. And they were coming up with financial reforms that, while some of them were OK, a lot really lacked teeth. We found that many of them, if not most of them, had some kind of association with financial firms, but were not disclosing this when they would write their academic papers speak on the radio or on TV or give testimony…

So there was a united front among the capitalists to oppose strong financial reform. Finance had plenty of money to buy off politicians. And while there was strong and valiant effort on the part of **Americans for Financial Reform**, Better Markets, some academic economists who were opposing what the banks did, and important roles played by Elizabeth Warren and some other senators—it just wasn't enough, given this united front of capitalists, the money machine, and the academic economists who were giving legitimacy to what the banks were doing.

[Sorry, Schwarzman, but greed, not regulation, causes financial crises](#)
David Weidner, MarketWatch, 6/10
Panics, credit and financial crises are always caused by bubbles, excessive risk and ignored warnings. Simply put, they are caused by greed… Now comes Stephen A. Schwarzman, whose Blackstone Group LP's public offering in 2007 was one of the biggest flops of the past decade, to tell us the next one will be different. No, it won't be greed this time around. It will be government meddling.

He writes in a Wall Street Journal op-ed on Tuesday that "regulatory changes may well fuel the next financial crisis as well as slow U.S. economic growth." Then he argues that the 2010 Dodd-Frank Act's prohibition on proprietary trading by banks has eliminated a market participant that could halt or impede a panic.

Can the Financial Sector Promote Growth and Stability?
Richard Berner, Brookings Institution, 6/8

The Quiet Financial Revolution Begins
Mohamed El-Erian, Project Syndicate, 6/8

OTHER TOPICS

Will Dems rescue Obama's trade pact?
Jake Sherman, John Bresnahan, and Lauren French, Politico, 6/12
"Hours before one of the most consequential votes of President Barack Obama's second term — whether to give him fast-track trade powers to clinch a sprawling Pacific Rim trade deal — Democrats and Republicans have no idea whether the votes are there to pass it."

Hatch to introduce bill aimed at costly regs
Lydia Wheeler, The Hill, 6/10

The Birth of Financial Regulation
Interview with Richard Farley (author of "Wall Street Wars"), Wall St. Journal, 6/5