AFR Americans for Financial Reform

This Week in Wall Street Reform | Feb 24 – Mar 2

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THE TRUMP ADMINISTRATION, CONGRESS AND WALL STREET

Revenge of the stadium banks | The intercept (David Dayen)
In mid-January, Citigroup executives held a conference call with reporters about the bank’s fourth-quarter 2017 earnings. The discussion turned to an obscure congressional bill, S.2155, pitched by its bipartisan supporters mainly as a vehicle to deliver regulatory relief to community banks and, 10 years after the financial crisis, to make needed technical fixes to the landmark Wall Street reform law, Dodd-Frank.

But Citi’s Chief Financial Officer John Gerspach told the trade reporters he thought that some bigger banks — like, say, Citigroup — should get taken care of in the bill as well. He wanted Congress to loosen rules around how the bank could go about lending and investing. The specific mechanism to do that was to fiddle with what’s known as the supplementary leverage ratio, or SLR, a key capital requirement for the nation’s largest banks. This simple ratio sets how much equity banks must carry compared to total assets like loans.

Kushner is Exhibit A of why banking deregulation may be tough sell | Washington Post
The first son-in-law and his family -- which operate a wide-array of real-estate holdings globally -- have gotten loans from two financial institutions that would benefit from the Senate GOP's push to water down Dodd-Frank. That fact undercuts the idea that Republicans are aiming to help small, community banks which, the argument goes, have had their hands unnecessarily tied by burdensome regulation.

A new poll commissioned by **Americans for Financial Reform**, a leading outside critic of the bill, found two-thirds of voters oppose a central provision: loosening regulations on banks that have between $50 billion and $250 billion in assets.

How Democrats Are Helping Trump Dismantle Dodd-Frank | New Republic
A deregulatory bill, S.2155, introduced by Republican Senator Mike Crapo of Idaho, chairman of the Senate Banking Committee, proposes a major rollback of the 2010 Dodd-Frank Act. Dubbed The Economic Growth, Regulatory Relief, and Consumer Protection Act, it cruised through the committee in January.

Americans for Financial Reform, a group that has been fighting for the strict enforcement of Dodd-Frank since its inception, have characterized those provisions as "tokens" designed to give cover to a bill that is largely made up of financial sector "giveaways."

Is it time to roll back US bank regulation? No. | Financial Times (Lisa Donner)
Pressure is building to water down the Dodd-Frank reforms that Congress passed after the near-disintegration of the financial system in 2008, writes Lisa Donner, executive director of **Americans for Financial Reform**. President Donald Trump's regulatory appointees have signalled plans to reduce capital ratios, revisit measures banning risky trading with taxpayer-backed funds, and reduce consumer protections. And the US Senate will soon take up a new bill on the subject. There's little sound policy basis for this deregulation, but there is a clear explanation. The financial services industry pumped a record $2bn of campaign contributions into the political system in the two years leading up to the 2016 elections. And the flood of cash has continued, with a particular focus on senators whose votes will be decisive.

See AFR letter and compilation of letters and statements by allied organizations.

Bank earnings are soaring, but congress wants to gut post-crisis safeguards | The Intercept (Gary Rivlin and Susan Antilla)
Dick Bove, a high-profile banking analyst, was feeling contrite. For years, Bove, a regular on CNBC, has been arguing for the rollback of regulations imposed after the 2008 financial collapse.

"But lately I've been trying to figure how regulation has hurt the banking industry," Bove confessed in an interview last spring. "And I'm having a lot of trouble coming up with an answer."

Why I would vote 'no' on Senate bill to amend Dodd-Frank | CNBC (Barney Frank)

How the House can still shape reg relief talks | American Banker (Ian Mckendry)
As lawmakers and congressional staff try to move a bipartisan regulatory relief bill to the finish line in the Senate, the House has mostly stood on the sidelines. But no one expects the lower chamber to just rubber-stamp the deal.
Most experts believe a final package will closely resemble the moderate version approved by the Senate Banking Committee in December. That bill, spearheaded by Chairman Mike Crapo, R-Idaho, was tailored to attract support from moderate Democrats. More than 30 amendments were offered to the bill during the panel vote, but the bipartisan coalition

Fed Chairman Weighs in on Financial Deregulation Bill Set for Senate Debate | Roll Call

Dodd-Frank Rewrite Set for Senate Floor Vote Next Week | Bloomberg

Groups Deliver 450,000 Grassroots Actions To Congress Urging Rejection Of "The Bank Lobbyist Act" | Value Walk
One week ahead of expected action on the Senate floor, financial reform and progressive organizations have driven 450,000 petition signatures, phone calls, and other grassroots actions to the Senate in opposition to the Bank Lobbyist Act.

The groups organizing opposition to Sen. Mike Crapo's bill, S.2155, range from Demand Progress, CREDO, RootsAction, American Family Voices, and Democracy for America to Daily Kos, **Americans for Financial Reform** and Public Citizen.

CONSUMER FINANCE AND THE CFPB

Mulvaney unsure of when he will leave consumer bureau | The Hill
Mulvaney said at a U.S. Chamber of Commerce event, "The statute allows me to stay until the end of June, but if the president nominates someone before then, the statute allows me to stay until they're confirmed."

Trump has not nominated a new director for the CFPB, an agency Republicans have indicated they would prefer to eliminate and that Democrats treasured under the control of former chief Richard Cordray. Credit union advocates that met with Trump on Monday said the president told them he was still sorting through candidates.

Mulvaney Takes Another Step Pushing CFPB Toward Light Touch Regulation | Forbes (Ted Knutson)
In the latest of six queries the consumer regulator is sending out for advice on how to potentially change the way it does business, the CFPB request signed by Mulvaney is asking if it harms the transparent and efficient operations of consumer financial products markets to publish the names of the most-complained-about companies.

The Securities and Exchange Commission is charged with promoting "orderly and efficient markets." However, there is nothing in the Dodd-Frank Act, which created the CFPB, that gives the consumer agency a similar responsibility .

The Bureau is also seeking comment on whether the agency should notify businesses with the biggest number of complaints of their inclusion in a CFPB report prior to publication and let them give their takes on the accusations before the report is made public.

CFPB seeks input on consumer complaint portal | American Banker
The CFPB is required by statute to collect, investigate and respond to consumer complaints. The bureau's consumer complaint portal initially included only the name of an institution and the product targeted in the complaint. But the CFPB finalized a policy in 2015 that allowed consumers to publicize a "narrative" of their experiences.

Trump is tearing up the system that protects ordinary Americans from financial scams | Vox (Emily Stewart)
The Consumer Financial Protection Bureau under the guide of interim director Mick Mulvaney has moved to rein in many of the consumer protection and enforcement actions taken by his predecessor, Richard Cordray. The bureau has dropped cases against predatory payday lenders, reportedly rolled back its investigation of the Equifax data breach, and reformulated its mission to scale back its reach. Federal regulators in September released AIG from special government oversight mandated after the financial crisis and set aside a legal fight with MetLife. Enforcement actions at the Securities and Exchange Commission and Commodities Futures Trading Commission, Wall Street's top regulators, have declined, meaning they appear to be

going after fewer bad actors and imposing less fines. Mulvaney over at the CFPB hasn't taken any enforcement actions since taking over at the CFPB in November.

Market regulation advocates see some signs of hope for investor protections, and some are tepidly optimistic about SEC Chairman Jay Clayton. Still, they say regulators under Trump aren't falling over themselves to keep Wall Street in check and Americans' pocketbooks protected, and Mulvaney at the CFPB has been especially aggressive in rolling back oversight and undermining the agency of which he is temporarily the head.

"The effective regulation of the financial system is some mixture of rules, of norms, and of people, and all of those are pulling in the wrong direction right now," Carter Dougherty, communications director of **Americans for Financial Reform**, said.

CFPB invites comments on "usefulness" of consumer complaint database, reports | Housing Wire (Ben Lane)

The Consumer Financial Protection Bureau's consumer complaint database and the reports derived from it have long been a source of consternation for the financial services industry, ever since the bureau decided to make those complaints public over the objections of many industry observers.

But there's a new boss at the CFPB now, and he ain't the same as the old boss. In the last few months, CFPB Acting Director Mick Mulvaney has firmly placed his stamp on the CFPB, even going far as to establish a new mission from the bureau that is far different from the CFPB's mission under former director Richard Cordray.

Any beefs about CFPB complaint system? | Banking Exchange (Steve Cocheo)

With States Stepping Up Enforcement, Mulvaney Offers CFPB's Partnership And Deference | Mondaq News

Consumer Financial Protection Bureau ("CFPB") Director Mick Mulvaney spoke to the National Association of Attorneys General winter meeting in D.C. on February 28, addressing the agency's priorities under his leadership. He emphasized the different role that the CFPB will be playing under the Trump Administration, focusing mostly on targeting clearly illegal acts rather than making new law or policy, and said that he will be relying more on the states to take the lead in enforcement. Several Democratic AGs visibly grimaced during his remarks, particularly when he described the differences between his priorities and those of his predecessor, former CFPB director Richard Cordray, who had served as the Democratic AG of Ohio prior to his CFBP tenure and who brought many staffers to the agency who had previously held career consumer protection positions at various state AG offices.

CFPB should take back seat to bank regulators on supervision: Mulvaney | American Banker (Kate Berry)

Mick Mulvaney, the acting director of the Consumer Financial Protection Bureau, said Thursday the agency may allow prudential regulators to take the lead on more supervisory matters to cut down on duplication and ease the burden of exams on financial firms.

Mulvaney said regulators should strive to avoid overlapping exam processes, suggesting regulators like the Office of the Comptroller of the Currency and the Federal Reserve Board could have a greater supervisory role on consumer compliance matters.

[Citi to Refund $335 Million After Finding Card APRs Too High](#) | Bloomberg
Citigroup Inc., one of the world's largest credit-card issuers, said it will refund $335 million to U.S. customers whose annual percentage rate should have been lower.

The lender determined that a method it was using to calculate APRs didn't properly reflect the full benefit customers should have received for good behavior, such as paying on time, the New York-based bank said Friday in a securities filing that disclosed the issue and the total cost. It's currently reviewing accounts and plans to have refund checks in the mail by the second half of the year.

The Credit Card Accountability Responsibility and Disclosure (CARD) Act of 2009 requires lenders to periodically review accounts whose APR had been raised to see if subsequent good behavior makes them eligible for a rate reduction. From 2011 to 2017, the bank delivered $3 billion in savings through such reviews. That was about 90 percent of what customers should have received.

Marketplace lenders develop new wrinkles to attract more funding | American Banker
Last year, marketplace lenders learned that maintaining diverse sources of funding is just as important as managing the credit risk in their loans.

LendingClub, Marlette Funding and others developed their own securitization platforms, rather than relying on whole-loan sales to large investors. They also invited some of these investors to contribute seasoned loans to collateral pools for these in-house deals.
Mindful of how much this broadened their investor bases, both lenders are looking at additional changes to both their securitization and whole-loan sale programs.

DERIVATIVES, COMMODITIES AND CFTC

CFTC Steps Up Enforcement Against Fraud, Market Manipulation | Wall St. Journal
U.S. derivatives regulators are expected to file "more than 10" fraud and market-manipulation cases in the next weeks as the Commodity Futures Trading Commission chairman implements his back-to-basics approach, according to a person familiar with the CFTC's enforcement operation. The stepped-up enforcement comes after the CFTC recorded a big drop in fines and enforcement actions during the fiscal year that spanned the transition from the Obama administration to the Trump administration. Enforcement has picked up since then. The agency has already filed 11 manipulation-related cases in the current fiscal year, which ends in September, just one shy of its annual record. The person declined to specify how many of the coming cases concern market manipulation as opposed to more conventional retail fraud.

EXECUTIVE COMPENSATION

Trump praised an Ohio bank for hiking wages. Now the bank is making an even bigger payout — to shareholders | Washington Post (Jeff Stein)
On Tuesday, that bank, Fifth Third, said it would buy back as many as 100 million corporate shares, a move that is projected to cost nearly $3 billion.

By reducing the number of shares in circulation and driving up a company's stock value, corporate share buybacks tend to mainly benefit investors who continue to hold the company's shares, as well as company executives whose pay is often tied to the value of their share price. Some economists say gains in the stock market are overwhelmingly concentrated for the rich.

INVESTOR PROTECTION, THE SEC, AND RETIREMENT SAVINGS

Could the SEC secretly abolish investors' right to sue? | Market Watch (Andy Green)
If the Trump administration has its way, large public companies will get a giant gift that would effectively shield them from accountability when they violate the securities laws. The Securities and Exchange Commission (SEC), the independent agency that declares itself the "Investor's Advocate," is at this center of the fight over whether shareholders will be able to recover for harms caused to them. SEC staff have been reportedly seeking out test cases to permit companies to block defrauded shareholders from going to court to recover their losses.

SEC Commissioner Criticizes Idea of Curbing Shareholder Lawsuits | Wall St. Journal
Public companies hoping that regulators will show them a shortcut to stifling shareholder lawsuits should instead have to go through a long slog, a Democratic member of the Securities and Exchange Commission said Monday. The SEC shouldn't let a company doing an initial public offering restrict possible class-action lawsuits by its shareholders, Commissioner Robert Jackson Jr. told a New York investment conference.

SEC, Congress take steps toward cyber accountability and transparency | The Hill (Michael Chertoff, Bill Conner)

Trump's SEC Makes Slow Progress on Trimming Rules | Wall St. Journal
Jay Clayton, President Donald Trump's pick to lead the U.S. Securities and Exchange Commission, can point to a series of small, targeted actions aimed at easing the regulatory burden for companies nearly 10 months into his tenure. The SEC's incremental progress stands in contrast to the early days of the Trump administration, which were punctuated by a swift succession of executive orders aimed squarely at deregulation. One order told regulators that any new rule would require the elimination of two old rules, while another called on the Treasury and Congress to roll back the Dodd-Frank financial overhaul law. However, those early announcements have yielded modest impact in the realm of financial regulation. The most ambitious effort to revoke and replace the Dodd-Frank law— Rep. Jeb Hensarling's (R., Texas) Financial Choice Act—passed the House in June but failed to clear the Senate. The SEC has signaled more gradual action aimed at streamlining regulations for the coming year.

More problems at Wells Fargo: Feds probing sales practice concerns in new area | Charlotte Observer
Federal authorities are looking into Wells Fargo's wealth and investment management business, the bank disclosed Thursday, the latest sales practices problem to emerge at the beleaguered company...

"Lisa Donner, executive director of **Americans for Financial Reform**, used Thursday's disclosures to argue against Trump administration efforts to roll back financial regulations: 'Mounting evidence of just how pervasively and systematically Wells Fargo has abused consumers is a powerful argument for more robust regulation and enforcement to hold big banks accountable.'"

Wells Fargo faces yet another investigation… of wealth management unit | USA Today
Another day, another investigation of Wells Fargo, this time in the U.S. banking giant's wealth management division.

Responding to inquiries from federal agencies, the bank's board is assessing "whether there have been inappropriate referrals or recommendations, including with respect to rollovers for 401(k) plan participants, certain alternative investments, or referrals of brokerage customers to the company's investment and fiduciary services business," Wells Fargo said in a regulatory filing Thursday.

The U.S. Department of Justice instructed the bank to conduct the investigation after whistleblowers at Wells Fargo flagged sales problems to the federal agency, The Wall St. Journal reported, citing unidentified people familiar with the issue.

Kushner's Family Business Received Loans After White House Meetings | NY Times
Early last year, a private equity billionaire started paying regular visits to the White House. Joshua Harris, a founder of Apollo Global Management, was advising Trump administration officials on infrastructure policy. During that period, he met on multiple occasions with Jared Kushner, President Trump's son-in-law and senior adviser, said three people familiar with the meetings. Among other things, the two men discussed a possible White House job for Mr. Harris.

The job never materialized, but in November, Apollo lent $184 million to Mr. Kushner's family real estate firm, Kushner Companies. The loan was to refinance the mortgage on a Chicago skyscraper.

SEC dropped inquiry into private equity firm a month after it made loan to Kushner | Associated Press

MORTGAGES AND HOUSING

Trump and Congress Are Making It Easier for Banks and Companies to Rip Off Black People | Mother Jones
In 2014, the Consumer Financial Protection Bureau (CFPB) started investigating the bank for possible redlining—the practice of excluding minority communities from credit products. To build a case, the bureau's investigators relied on information collected under the Home Mortgage Disclosure Act (HMDA), which requires lenders to report various data points on the mortgages they sell—including the distribution of loans across census tracts, data that helps regulators spot patterns of racial discrimination.

A Dozen Democrats Want To Help Banks Hide Racial Discrimination In Mortgages | HuffPost
It's hard to find a liberal organization that likes anything about the bill. The AFL-CIO, the consumer watchdogs at Public Citizen, the establishment think-tankers at the Center for American Progress, the wonk-activists at Indivisible and the banking experts at **Americans for**

Financial Reform have all weighed in against the legislation, citing harms to consumers and risks to financial stability.

REGULATION IN GENERAL

White House Quietly Releases Report Highlighting Benefits of Regulations | Government Executive
In stark contrast to the Trump administration's denunciations of red tape over the past year, the White House late Friday published a mandatory summary of the overall costs and benefits of regulations—showing that government-wide, the benefits far outweighed the costs. The draft report from the Office of Management and Budget is required annually under the 2000 Regulatory Right to Know Act. It estimated annual monetized benefits of major federal regulations from Oct. 1, 2006, to Sept. 30, 2016, are in the aggregate between $219 billion and $695 billion. In contrast, the estimated annual costs are in the aggregate between $59 billion and $88 billion (reported in 2001 dollars).

Trump Says 'No President Has Ever Cut So Many Regulations.' Not Quite | NY Times (Linda Qiu)
President Trump boasted again on Friday that he has unleashed a roaring American economy by cutting more red tape in the federal bureaucracy than any previous president, the latest attempt to prove he is making good on his campaign pledge to slash industry regulations. "No president has ever cut so many regulations in their entire term, O.K., as we have cut in less than a year," Mr. Trump told the annual Conservative Political Action Conference. "And it is my opinion that the regulations had as big an impact as these massive tax cuts that we have given." Before taking office, Mr. Trump promised to eliminate at least two federal regulations for each new one that is issued during his administration. In dozens of speeches since, the president largely has stuck to two specific claims about his deregulation record. Neither is true, according to analysts who study regulations and former federal workers who have administered them.

Trump is decimating the Consumer Product Safety Commission | The Hill (Ann Brown)
This month, President Trump resubmitted almost a hundred names of people he would like as agency heads. Many of those agencies badly need direction. But of them all, only my old agency works day in day out to save our children. So I admit, when I saw the president's nominee for CPSC Chair, Ann Marie Buerkle, tell a reporter the agency is, "not supposed to be emotional" I got pretty emotional myself. My old agency is not alone. Trump is decimating all the regulatory agencies. He's rescinding regulation — even one that banned the use of a pesticide linked to Parkinson's disease. The argument that emotions should not play a role evokes another emotion — outrage. Does anyone believe we protect children simply by a cold-blooded examination of the data? Ask the families destroyed by just four dangers common in almost any home.

Trump doesn't want you knowing benefits of regulations far outweigh costs | LA Times (David Lazarus)
What Trump's budget office found was that these rules cost up to $4.9 billion to impose on businesses and resulted in up to $27.3 billion in benefits to the American people.

That means taxpayers got nearly six times as much in benefits as was spent regulating businesses. And that, by any yardstick, is a hell of a good investment.

STUDENT LOANS AND FOR-PROFIT COLLEGES

Student debt could hold back economic growth, should be discharged in bankruptcy, Fed chief says | CNBC
Burgeoning levels of student loan debt could slow down economic growth over time, Federal Reserve Chairman Jerome Powell said Thursday. Education debt swelled to nearly $1.38 trillion at the end of 2017, with 11 percent of borrowers 90 days or more delinquent, according to the New York Fed. Policymakers have sought ways to keep the student loan problem from swelling out of control but have struggled to come up with solutions.

SYSTEMIC RISK

JPMorgan urges Fed to loosen capital shackles | Financial Times
JPMorgan Chase has urged the Federal Reserve to loosen capital shackles on the biggest global banks, saying that rigid rules drawn up in the wake of the crisis could become a "barrier to growth" in the world's largest economy.

Since the crisis global regulators have divided big global banks into brackets, according to how much damage their collapse could do; the bigger the impact, the thicker the buffer of equity capital these "systemically important" banks (GSIBs) are required to hold, above minimum levels. In 2015 the Fed went a step further for US banks, adding extra requirements so that the likes of JPMorgan Chase and Goldman Sachs would effectively "self-insure" themselves against severe financial crises.

But on Tuesday morning Marianne Lake, JPMorgan's chief financial officer, complained that it was high time for the Fed to adjust those settings. The bank has made a series of adjustments to its balance sheet and operations to bring down its GSIB score. But Ms Lake noted that at the end of the third quarter last year, it was just a few points off the next higher GSIB "bucket", which would mean moving from a 2.5 per cent capital surcharge to a 3.5 per cent surcharge. Citigroup and Bank of America were also bumping up against limits, she noted.

TAXES

Treasury Issues Tax Guidance Limiting Carried-Interest Provision | Wall St. Journal
Some fund managers were considering using S corporations to avoid the three-year limit. The notice from Treasury and the Internal Revenue Service would prevent that by saying that S corporations can't qualify for the exception from the three-year limit.

Mike Sommers, president and CEO of the American Investment Council, the private-equity industry's trade group, welcomed the notice and said it "correctly clarifies the intent of the law on this tax provision."

[IRS Seeks to Close Hedge-Fund Tax Loophole for Carried Interest](#) | Bloomberg
Some experts question whether the IRS has the authority to put this restriction in place through regulation, given that the tax law doesn't include a limitation on the type of corporations that can access the tax break. "There is no authority going on here," said Steven M. Rosenthal, a senior fellow at the Urban-Brookings Tax Policy Center in Washington. "I don't think the IRS can just read words into the statute the way they want to read them."

Hedge funds appear to be embracing the maneuver, which requires setting up LLCs for managers entitled to share carried-interest payouts. Four LLCs were created under the name of Elliott Management Corp., the hedge-fund giant run by Paul Singer. More than 70 were established under the names of executives at Starwood Capital Group Management, the private-equity shop headed by Barry Sternlicht. (Read more on how hedge funds planned to dodge new tax rules.)

OTHER TOPICS

Are corporate whistleblowers protected under federal law? | The Hill (Leonard Samuels)
Supreme Court Justice Ruth Bader Ginsburg wrote that because the statute explicitly defines whistleblowers as those who provide pertinent information "to the commission," an individual who has not met the SEC reporting requirement is not a whistleblower under Dodd-Frank, and is, therefore, ineligible to receive the statute's protection against retaliation. Ginsburg's majority opinion also gave weight to the statute's legislative history by considering a Senate report supporting the conclusion that the core objective of the Dodd-Frank whistleblower program is to aid SEC enforcement efforts by motivating people who know of securities law violations to tell the commission. The opinion has significant consequences for employees, including auditors, attorneys and other professionals who are required to report misconduct inside companies before making external disclosures. Given the high court ruling, such professionals will now remain ineligible for protection against retaliation under Dodd-Frank until they inform the SEC of the potential securities law violations. If retaliated against before they are able to inform the SEC, such professionals may now have to rely on the anti-retaliation protections in Sarbanes-Oxley and must be mindful of the 180-day deadline for filing their administrative complaint as a necessary step prior to bringing a lawsuit.