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## AMERICANS FOR FINANCIAL REFORM

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THIS WEEK IN WALL STREET REFORM  
MAY 10 – MAY 16, 2014

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### CONSUMER FINANCE AND CFPB

#### [Payday Lending Regulation Can Help Narrow the Wealth Gap](#)

**Wade Henderson, Spotlight on Poverty and Opportunity, 5/12/14**

“This broadening wealth gap can be attributed in no small part to predatory payday lending activity that disproportionately – and aggressively – targets minority communities. Payday loans alluringly, and often deceptively, provide a quick route to credit for consumers who might not qualify otherwise. However, they must be fully repaid in a very short period of time—often on the borrower’s next payday. This repayment structure and the lack of underwriting for affordability for the loan contributes to a hopeless cycle of indebtedness, causing borrowers to pay more in fees alone than the amount they borrowed and forcing them into even more dire financial situations. In turn, many payday loan borrowers struggle to afford necessities like food, healthcare, and education—leaving them at risk of bankruptcy and deeper levels of poverty.

“According to the Center for Responsible Lending, payday loan borrowers are [disproportionately African American and Latino](#). For example, a 2009 [study](#) found that California ‘payday lenders are nearly eight times as concentrated in neighborhoods with the largest shares of African Americans and Latinos as compared to white neighborhoods, draining nearly \$247 million in fees per year from these communities.’ Crucially, the resulting wealth gap [preserves inequality](#) for future generations, with powerful implications for economic security and [mobility](#) among people of color.”

#### [Holding Accountable Financial Institutions that Knowingly Participate in Consumer Fraud](#)

**Department of Justice, 5/7/14**

“That’s why we are proud to highlight an important result in one of the first civil cases we have brought against a financial institution for unlawfully facilitating a fraudulent scheme to take money from consumers’ bank accounts. On April 25, 2014, the U.S. District Court for the Eastern District of North Carolina entered a consent order and approved a settlement resolving the department’s complaint against Four Oaks Bank. According to the department’s complaint, Four Oaks unlawfully allowed third party merchants to work through the bank to defraud consumers. Four Oaks’ clients included a Texas-based third-party payment processor – a company that acts as an intermediary between a bank and a merchant in a financial transaction, and often provides access to the national payment system to a wide variety of merchants. At a merchant’s direction, a payment processor will originate a debit transaction against an individual consumer’s bank

account, receive the consumer's money into its own bank account, and transmit the money to its merchant client.”

### **Why Banks at Wal-Mart Are Among America's Top Fee Collectors**

**Mark Maremont & Tom McGinty, Wall St. Journal, 5/11/14**

“Wal-Mart is known as a low-cost retailer, but customers of some of the independent banks inside its outlets are among America's highest payers of bank fees—a large chunk of which come from overdraft charges. A Wall Street Journal analysis of federal filings found that the five banks with the most Wal-Mart branches, including Woodforest, ranked among the top 10 U.S. banks in fee income as a percentage of deposits in 2013. Other banks among the top 10 serve the U.S. military, as the [Journal reported in a January page-one article](#).

“Most U.S. banks earn the bulk of income through lending. Among the 6,766 banks in the Journal's examination, just 15 had fee income higher than loan income—including the five top banks operating at Wal-Mart.”

### **Subpoenaed CFPB Officials to Testify on Discrimination Claims**

**Peter Schroeder, The Hill, 5/15/14**

## **DERIVATIVES, COMMODITIES & THE CFTC**

### **CFTC Reviewing U.S. Banks' Overseas Trading for Possible Evasion**

**Silla Brush, Bloomberg, 5/14/15**

“U.S. banks have taken steps in recent months that allow them to trade with each other or with foreign-based banks outside of Dodd-Frank rules. The largest swap dealers have been removing parent guarantees from affiliates or specific transactions so they can trade in the interdealer market without being subject to rules mandating price competition, three people familiar with the transactions said last month.

“The wrinkle arises from the rules that Dodd-Frank applies to trades in overseas affiliates that operate with the financial guarantee of their parent. Non-guaranteed affiliates are subject to less scrutiny than overseas branches or guaranteed affiliates, the agency said in July guidance. The banks' move is the latest step in [Wall Street](#)'s efforts to curb the reach of CFTC rules designed to have most credit-default, interest-rate and other swaps traded on new platforms called swap-execution facilities.”

### **Derivatives Markets Growing Again, With Few New Protections**

**Mayra Rodríguez Valladares, New York Times, 5/13/14**

“Despite slow economic growth in the United States and most of Europe still in or hovering around recession, global derivatives markets are 20 percent larger than in 2007. The [Bank for International Settlements announced](#) late last week that the global derivatives market is about \$710 trillion. That is not a measurement of credit and market risks, but the figure merits attention from regulators and the public, which continues to suffer the ill effects from weakly managed derivatives portfolios in the global financial crisis. Higher volumes are a strong indication that derivatives players' operational risk is rising...

“Lack of transparency in derivatives markets is not just about how the instruments are priced and how their risks are measured, but also about not being able to see much about where the transactions are recorded. Just because a derivative is bought or sold in New York does not mean that it or its collateral are recorded in New York. Both the derivative and the collateral can be recorded by different entities in different jurisdictions. Because banks can have subsidiaries scattered around the globe, outsiders may not know exactly where derivatives are recorded and whether those entities have good risk management and sufficient liquidity. If a bank in the United States were to fail, its derivatives portfolios would be resolved by the local jurisdiction’s bankruptcy laws, not necessarily United States laws.”

### **[A Fresh Chance for Congress to Do Right by the CFTC](#)**

**Marcus Stanley, AFR Blog, 5/13/14**

“As the appropriations process moves forward this month and next, lawmakers again have a chance to properly fund the Commodity Futures Trading Commission. This is an agency whose responsibilities have far outstripped its resources, as detailed in an [AFR fact sheet](#) and charts of the agency’s [workload versus budget](#) and [workload versus workforce](#).”

## **ENFORCEMENT**

### **[U.S. Asks Stiff Term for Ex-SAC Trader](#)**

**Matthew Goldstein, New York Times, 5/12/14**

“The sentence recommendation by prosecutors with [Preet Bharara](#), the United States attorney for Manhattan, is more than double the two-year sentence requested by Mr. Steinberg’s lawyers. It is also greater than the prison sentences meted out to 50 other former traders and analysts who have either pleaded guilty or were convicted at trial in the federal government’s more than six-year crackdown on insider trading in the hedge fund industry. The sentencing memo for Mr. Steinberg was filed late Friday.

“The request for significant prison time for Mr. Steinberg, [convicted in December](#) of generating \$1.8 million in illegal profits for Mr. Cohen’s firm, is an indication that prosecutors will show no mercy at next month’s sentencing of Mathew Martoma, another former SAC portfolio manager [convicted of insider trading](#). Mr. Martoma, scheduled to be sentenced on June 10, was convicted in February of generating profits and avoiding losses totaling \$275 million for Mr. Cohen’s onetime \$14 billion firm, in what the authorities called one of the biggest insider trading cases ever charged.”

### **[U.S. Seeking More Than \\$3.5 Billion From BNP Paribas](#)**

**Tom Schoenberg, Greg Farrell and Tiffany Kary, Bloomberg, 5/14/14**

“U.S. authorities are seeking more than \$3.5 billion from BNP Paribas SA to settle federal and state investigations into the lender’s dealings with sanctioned countries including Sudan and [Iran](#), according to people familiar with the matter.

“The agreement, which could be the largest penalty for sanctions violations, is still being negotiated and the amount could fluctuate, said four people who asked not to be named because the discussions are private. U.S. prosecutors are also seeking a guilty plea

from BNP, which said last month it may need more than the \$1.1 billion it has set aside to settle the case. The agreement could come in the next month, the people said.

“BNP is one of several banks negotiating multibillion-dollar settlements with U.S. prosecutors, who are trying to counter criticism that they’ve shied away from punishing financial institutions because of their size and influence on the economy. Prosecutors’ push for a guilty plea -- part of the more aggressive approach -- has raised regulatory concerns the punishment could disrupt financial markets.”

### **[BNP Paribas and Credit Suisse Seek Leniency](#)**

**Sydney Ember, New York Times, 5/12/14**

“Facing the threat of criminal charges, BNP Paribas and Credit Suisse are imploring authorities in the United States for leniency, [Ben Protess and Jessica Silver-Greenberg write in DealBook](#). To avoid fallout from pleading guilty, the banks are said to have made last-ditch appeals to prosecutors and regulators in recent weeks.”

### **[Citigroup Must Face Fraud Claim Over \\$1 Billion in CDOs](#)**

**Chris Dolmetsch, Bloomberg, 5/8/14**

“[Citigroup Inc. \(C\)](#) failed to persuade an appeals court to throw out a lawsuit that claims it lied about the riskiness of securities valued at almost \$1 billion, as the world’s biggest banks continue to defend against allegations they misled investors in the run-up to the financial crisis...

“Loreley, a group of nine investment companies based in the [Channel Islands](#), was formed to invest in collateralized-debt obligations. It sued Citigroup Global Markets Inc. in [New York](#) State Supreme Court in [Manhattan](#) in January 2012 claiming the bank secretly chose the riskiest mortgages for sale in CDOs while buying credit default swaps to bet against them. Citigroup used a similar scheme to help clients offload the risks of toxic mortgage-backed securities, Loreley said.”

### **[Convicted of Felonies, Banks Are Allowed to Stay in Business](#)**

**Floyd Norris, New York Times, 5/15/14**

“To put it another way, the Justice Department has gone to great lengths to guarantee that convicted banks will not be treated as criminals. In being treated that way, the banks will receive the same breaks other banks have come to expect when they are caught violating rules or laws.

“Those laws often prohibit violators from taking part in certain businesses or receiving privileges granted to law-abiding companies. But those rules are routinely waived as part of settlements with the [Securities and Exchange Commission](#) and other government agencies...

“The S.E.C. has not appeared to be eager to publicize the waivers. They [are posted on the S.E.C. website](#), but they are not announced at the same time as the settlements and are not included in the court documents describing the settlements. As a result, news articles focus on the penalty being paid, not the penalties the law might have required absent the waivers.”

### [Libor Bros Bro'ed Their Bros](#)

**Matt Levine, Bloomberg View, 5/15/14**

“There keep being Libor settlements, and they keep getting more ungrammatical and postmodern. The latest is London interdealer broker RP Martin settling with the [U.S. Commodity Futures Trading Commission](#) and the [U.K. Financial Conduct Authority](#) over claims that it manipulated yen London interbank offered rates. Here are [some characters that people typed](#), in the order in which they typed them.”

### [RP Martin Fined \\$2.2 Million in Libor Rigging](#)

**Chad Bray, New York Times, 5/15/14**

## **EXECUTIVE COMPENSATION**

### [Big Banks' Annual Meetings Could Be Especially Stormy This Year](#)

**Paul Hodgson, Fortune, 5/13/14**

“Wall Street banks are no strangers to protest, but this year's annual meetings at Morgan Stanley (on May 13), Goldman Sachs (on May 16), and JPMorgan (on May 20) could be especially stormy... Glass, Lewis & Co., a leading proxy-advisory firm, has recommended that shareholders at these big banks vote against management proposals known as ‘say on pay’ -- the advisory vote on executive compensation that all companies are required to hold each year...”

“Glass Lewis has recommended that shareholders vote against the reelection of James A. Johnson, Goldman's compensation committee chairman -- who, incidentally, has sat on Target's board of directors for 18 years and may face challenges there, as well as at Goldman. The proxy advisory firm has also lowered Goldman's pay grade to an F, from the D it received in 2012 and 2013. David Wells, a spokesman for Goldman Sachs ([GS](#)) declined to comment for this story.”

### [Doubling Down on C.E.O. Pay](#)

**David Gelles, New York Times, 5/14/14**

“Chipotle paid its founder and co-chief executive, Steve Eells, \$25.1 million in cash and stock last year. It paid Montgomery F. Moran, the company's other co-chief executive, \$24.4 million. Those figures put the men, college buddies who are now running the country's hottest fast-food chain, near the top of the charts for executive paydays.

“Each man individually made more than the chief executives of larger companies like Ford, [Boeing](#) and AT&T. Together, they made more than all but the highest-paid chief executive among the country's biggest 100 companies, [Lawrence J. Ellison](#) of [Oracle](#).

“But that is not the whole picture. Since 2011, Mr. Eells and Mr. Moran have each made more than \$100 million on top of their salaries through a complex mix of stock awards... And though general managers at Chipotle can earn upward of \$100,000 a year, the average starting salary at one of the company's 1,600 restaurants is about \$21,000 annually. Earning that wage, a Chipotle employee would have to work for more than a thousand years to equal one year of the co-C.E.O.s' pay.”

### [Shareholders Reject Chipotle Exec Compensation Package](#)

**Aldo Svaldi, Denver Post, 5/15/14**

“About 77 percent of shareholders who voted gave a thumbs down to how Chipotle Mexican Grill compensates its top executives. Most ‘say on pay’ votes go in a company’s favor by 95 percent or larger majorities.

“The results of the proxy vote, to the board of directors Thursday during the company’s annual meeting in Denver, was a strong rebuke of the pay package for Chipotle’s co-CEOs, Steve Eells and Montgomery Moran, who last year received \$25.1 million and \$24.4 million, respectively. Since 2011, the pair have received close to \$250 million in stock awards, large blocks of which they have sold off.

“Say on pay votes are non-binding, but shareholders, by a 57 percent majority, also took the unusual move of rejecting a request by the company to add 2.6 million shares to its existing stock-incentive plan.”

### [Chipotle’s Shareholders Slam Executive Pay at Annual Meeting](#)

**Nick Turner, Bloomberg, 5/15/15**

### [How CEOs Became So Obscenely High-Paid \(and How One Retired Tech Founder Wants to Fix That\)](#)

**David Holmes, Pandodaily, 5/14/14**

“So if we believe egregious CEO pay is a problem ([and, to be fair, not everybody does](#)), what should be done about it? A new [proposal](#) introduced in the California State Senate may provide a solution for this growing disparity. And if it passes, it might be good news not only for workers, but for all stakeholders of a corporation.

“Well, except CEOs. California Senate Bill 1372 seeks to tie the corporate income tax rate of publicly-traded companies to each firm’s CEO-to-worker pay ratio. For example, if a CEO at a firm doing business in California makes 100 times more than an average worker at the company, then the tax rate will go down from the current 8.8 percent to 8 percent. If the CEO-to-worker pay ratio is only 25, the rate will go down to 7 percent. In turn, a company with a CEO like Tim Cook, who in 2011 made [6,258 times as much](#) as an average Apple employee, would pay a tax rate as high as 13 percent. The objective is simple: To create a financial disincentive for Boards of Directors who approve obscenely high CEO compensation packages.”

### [Why Hedge Funds Don’t Worry About Carried Interest Tax Rules](#)

**Victor Fleischer, New York Times, 5/14/14**

“Hedge fund managers... have a lot of income to shelter. According to Institutional Investor’s Alpha magazine, the top 25 hedge fund managers collectively earned more than \$21 billion last year. As [noted by the website Vox](#), this sum is more than twice the annual income of all the kindergarten teachers in the United States, combined...”

“To replace the Cayman strategy, many top hedge fund managers have entered the business of reinsurance, using Bermuda-based reinsurance companies as a capital base for investment in their hedge funds. Insurance companies must hold capital in reserve, and there is nothing to stop an insurance company from holding a huge reserve and investing that capital in a hedge fund. By stapling a small reinsurance business onto billions of dollars of hedge fund capital, any profits can be indefinitely deferred from tax

offshore. Better yet, when the fund manager sells an interest in the Bermuda company, the gain may be taxed at the lower long-term capital gains rates.”

## FEDERAL RESERVE

### [Fed Nominees Said Unlikely to Get Senate Confirmation Until June](#)

**Kathleen Hunter and Jeff Kearns, Bloomberg, 5/15/14**

“Three nominees for the seven-member Federal Reserve Board probably won’t be considered for confirmation by the Senate this month even with an impending monetary policy meeting on June 17-18, a Senate aide said.

“Nominees [Stanley Fischer](#), [Lael Brainard](#) and Jerome Powell probably won’t be confirmed this month because of Republican opposition and the limited time before a week-long recess beginning May 26, according to a congressional aide. Republican Senator Rand Paul of Kentucky has threatened to stall the nominations, which were approved by the Senate Banking Committee on April 29. “

### [Paul Threatens to Delay Fed Nominees in Fight Over Audits](#)

**Kathleen Hunter and Jeff Kearns, Bloomberg, 5/14/14**

“U.S. Senator [Rand Paul](#) is threatening to stall three nominations to the Federal Reserve Board unless the chamber gets a chance to vote on his bill calling for public audits of the central bank’s monetary policy. The Kentucky Republican said yesterday in a letter to Majority Leader [Harry Reid](#) that he would object to any move to vote on the people picked by President [Barack Obama](#) to fill three vacancies on the Fed board. Paul, a possible contender for the presidency in 2016, said his measure deserved to be considered alongside the nominees...

“Paul’s threat comes about two weeks before the Fed board will be left with fewer than half its seven seats filled.”

### [The Fed Is the Most Important Actor in the U.S. Economy, But No One Cares](#)

**Danny Vinik, New Republic, 5/14/14**

“Bloomberg’s Nicholas Johnston is [reporting](#) that the Senate is planning to recess next week without voting on any of the three nominees for the Federal Reserve Board of Governors. During that recess—on May 28 to be exact—Governor Jeremy Stein will step down from his position to rejoin the Harvard faculty. With his departure, the Board will have just three governors for the first time in its history. In fact, it would only have two members except for the fact that Governor Jerome Powell has been re-nominated after his position ended last January and is allowed to continue serving in the meantime.

“This is, to put it bluntly, inexcusable. The Federal Reserve is the most important economic actor in the U.S. economy. It has a host of new financial regulatory rules under Dodd-Frank. It is currently winding down its quantitative easing program, in which it bought hundreds of billions of dollars of mortgage-backed securities and Treasuries to spur economic growth. In other words, the Fed is very busy. As Binyamin Appelbaum [noted](#) earlier this week, the Board is already stretched thin with four members and will have trouble functioning with three members.”

### **Fed Isn't Letting Up On Bank Rules**

**Darrell Delamaide, USA Today, 5/13/14**

“Even as the dwindling number of top officials threatens to impair its functioning, the Federal Reserve shows no signs of letting up on new requirements for big banks to build up capital against potential losses if another crisis hits... All this while departures from the Fed's Board of Governors may reduce it from its full complement of seven to an unprecedented three members before the end of this month and the Senate, crippled by politics and its own arcane rules, delays approving pending nominations for two new members.

“But that's not stopping the remaining members — notably Chairman Janet Yellen and Governor Daniel Tarullo — from talking tough about beefing up bank requirements even further.”

### **Obama Shares Blame for Fed's Unfilled Seats**

**Jonathan Bernstein, Bloomberg, 5/14/14**

“He was slow to choose one of the three nominees before the Senate, and he still hasn't forwarded any names for the other two openings. He's done better with judicial nominations recently, but his executive branch nominations still take too long, and he hasn't pushed the Senate to work faster.

“The president should realize that the Senate is never going to care as much about confirming executive branch nominations. If he moves slowly in selecting people and then rarely pushes for prompt action, that's going to send a clear signal that he doesn't care, either. It's not just this president or this Senate. The process is broken, and it's not just a matter of partisan polarization. There's too much detailed vetting on these choices on both sides of Pennsylvania Avenue, and that creates long delays in the process.”

## **FINANCIAL TRANSACTION TAX & HIGH-FREQUENCY TRADING**

### **CFTC Weighs High-Speed Trader Registration for Oversight**

**Silla Brush, Bloomberg, 5/13/14**

“The Commodity Futures Trading Commission, which regulates futures and swaps markets, is considering whether the additional reporting and record-keeping requirements would improve the agency's direct surveillance of trades, Vincent McGonagle, director of the CFTC's market oversight division, told senators today...

“The CFTC last year asked for feedback on possible new regulations for high-speed and automated trading, including whether firms should be required to register. McGonagle said the agency's staff is reviewing the comments and considering whether to recommend additional rules -- including the registration requirement -- to commissioners, who must vote to approve any new requirement...”

“‘It's time for the HFT crowd to stand up and be counted,’ [Bart Chilton](#), a former Democratic CFTC commissioner and senior policy adviser at DLA Piper LLP, said in a statement. ‘Unless HFTs step up to the plate and support thoughtful regulation, there could very well be some moment of negative political and policy inertia which really harms the HFT business’.”

### [Exchange Head Downplays High-Frequency Trading Danger](#)

**Kevin Dugan, New York Post, 5/13/14**

“The head of the world’s largest futures market exchange told lawmakers on Tuesday that high-frequency trading isn’t a big problem — at least not in his neck of the woods. Terrance Duffy, president of CME Group, said the futures market is dominated by one exchange — his — which makes it fundamentally different from the stock markets...

“High-frequency traders in the equities market can essentially use their speed to conduct surveillance on stock exchanges. If an order comes for a block of Apple stock to the New York Stock Exchange, then a high-speed trading firm can bid up the price on the BATS exchange by a penny or two. Firms that do that ‘should be punished,’ Duffy told the Senate Agriculture, Nutrition and Forestry Committee.”

### [CME Softens High-Speed Traders' Edge](#)

**Scott Patterson, Wall Street Journal, 5/13/14**

“CME Group Inc. Chairman Terrence Duffy said in congressional testimony Tuesday that the futures exchange operator has taken steps to reduce delays in the time between when high-speed traders receive market data and when other firms get the same information. Mr. Duffy, testifying before the Senate Agriculture Committee, said CME has addressed such delays ‘across all contracts traded on the exchange...

“Andrei Kirilenko, a finance professor at the Massachusetts Institute of Technology and former chief economist of the Commodity Futures Trading Commission, said such delays should be made public to ensure other traders can compete with high-speed firms. Such advantages have led to a market dominated by ‘a small number of fast, opaque...and aggressive incumbents who earn high and persistent returns,’ he said.”

### [Dems Use Flash Trades to Push Cash for Regulators](#)

**Peter Schroeder, The Hill, 5/13/14**

“Senate Democrats on Tuesday used the first-ever congressional hearing on high-frequency stock trading to push a funding increase for federal regulators. Democrats said federal officials need the tools to keep up with the high-tech, high-speed trading practices that are sweeping Wall Street. Several members of the Senate Agriculture Committee specifically advocated increased funding for the Commodity Futures Trading Commission (CFTC)...

“The CFTC’s budget is currently \$215 million, which is below the \$280 million President Obama requested in his latest budget. The CFTC officials have long pleaded with Congress for boosted funding to buy technology and hire staff that they say is needed to monitor the derivatives marketplace.”

### [It's Now the Canadian Dream](#)

**Nicholas Kristof, New York Times, 5/14/14**

“Yet today the American dream has derailed, partly because of growing inequality. Or maybe the American dream has just swapped citizenship, for now it is more likely to be found in Canada or Europe — and a central issue in this year’s political campaigns should be how to repatriate it...”

“We could stop subsidizing private jets and too-big-to-fail banks, and direct those funds to early education programs that help break the cycle of poverty. We can invest less in

prisons and more in schools. We can impose a financial transactions tax and use the proceeds to broaden jobs programs like the earned-income tax credit and career academies...”

## INVESTOR PROTECTION AND THE SEC

### [Securities Industry Scare Tactics Designed to Serve Industry, Not Retirement Investors](#)

**Micah Hauptman, The Hill, 5/15/14**

“Millions of American investors put their trust in financial professionals every day to help them plan for retirement and other major life events. But when investors depend on financial professionals for their investment needs, they often don’t realize that those professionals may not be serving their best interests. That is because regulatory loopholes allow salespeople to pass themselves off as trusted advisers, without being subject to the appropriate standards to which those who provide money management or advisory services are traditionally held.

“Not being subject to the appropriate professional standards that accompany a position of trust allows these salespeople masquerading as advisers to serve their own interests at their clients’ expense. In practical terms, they can engage in self-dealing transactions, steering their clients into investments that maximize their own profits with little regard for whether they carry higher costs, more risk, and poorer performance for their clients than available alternatives. The financial consequences of this harm can be significant, as seemingly small cost increases compounded over a thirty- or forty-year horizon can decrease a portfolio’s value by tens or even hundreds of thousands of dollars. For middle-income Americans, the slow and steady siphoning of their nest eggs can be devastating.

“Both the Department of Labor (DOL) and Securities and Exchange Commission (SEC) are working to close the regulatory loopholes that exist so that investors are adequately protected from these types of harm. Each agency is working in its respective area of jurisdiction—the DOL in the employment-related retirement context and the SEC in the securities context.”

### [Don't Hurt Americans Who Need Retirement Advice](#)

**Kenneth E. Bentsen, Jr., US News, 5/12/14**

“I am writing in response to Jim Lardner’s May 6, 2014 op-ed entitled "[When Salespeople Call Themselves Advisors](#)" in order to address some of the misconceptions and inaccuracies regarding the industry’s position.

“When helping Americans save for retirement, investment professionals work hard every day to serve in their client’s best interest. In return, their clients trust them to act on their behalf in a way that is suitable for their individual retirement needs. Each day, millions of Americans rely on broker-dealers to help them save for their future. Studies have shown that investors who work with an investment professional save more and are better prepared for retirement.

“We think everyone agrees that helping Americans get ready for retirement is critical. Unfortunately, a new proposal being drafted by the Department of Labor could have an

unintended negative impact that would make it harder for Americans to meet their retirement goals.”

(See [responses](#) from Barbara Roper and Jim Lardner)

### **Mary Jo White Doesn't Scare Anybody**

**Alec MacGillis, New Republic, 5/4/14**

“The line was a reference to White’s decade-long stint as the U.S. Attorney for the Southern District of New York. In that job, she was known for unflinching prosecutions of, among other high-profile defendants, mobster John Gotti and the perpetrators of the 1993 World Trade Center bombing. And, indeed, since moving from prosecutor to regulator, White has sought more admissions of wrongdoing in the agency’s settlements of financial misconduct cases than did Obama’s first SEC chair, Mary Schapiro. In last year’s [case of a money manager who improperly borrowed \\$113 million from a hedge fund to pay his personal taxes](#), White rejected the settlement negotiated by SEC staff because it did not include an admission of wrongdoing, which the commission later obtained.

“Which is why it might seem strange that, one year into White’s tenure in one of the government’s most important regulatory posts, many of those on Wall Street and in corporate corner offices are breathing a sigh of relief. It turns out that [being a tough enforcer of the rules](#) is different from being a hard-minded *conceiver* of the rules—especially when it comes to bringing more transparency and accountability to corporate management, something that may be as important as wringing convictions from bad guys.

“At a time when the country could sorely use big-picture reforms in corporate law, White is largely taking a pass.”

## **MORTGAGES, FORECLOSURES & HOUSING**

### **What Housing Recovery?**

**Peter Dreier, New York Times, 5/8/14**

“How bad is it? More than 10 million Americans, spread across 23 states, live in ZIP codes where between 43 percent and 76 percent of homeowners are under water. The biggest concentrations are in Georgia, Florida, Illinois, Michigan and Ohio. The cities in the worst shape are Las Vegas, Atlanta, Jacksonville, Orlando and Chicago. Places with so many underwater homes are toxic; they depress the value of surrounding homes and undermine local governments’ fiscal health.

“The blame for this tragedy lies mostly with banks’ risky, reckless and sometimes illegal lending practices. The story is a familiar one. In the late 1990s and early 2000s, millions of Americans bought or refinanced homes in an overheated market. Mortgage brokers lied or misled borrowers about the terms of these mortgages, often pushing borrowers into high-interest subprime loans, even when they were eligible for conventional mortgages.

“They particularly targeted minority areas. In 2006, when subprime lending was at its peak, 54 percent of blacks, 47 percent of Latinos and 18 percent of whites received high-priced loans, according to the Federal Reserve Board.”

### **Despite Rebound, Minorities Still Hardest Hit By U.S. Housing Bust**

**Jennifer Chaussee, Reuters, 5/8/14**

“Despite a rebound in the U.S. [housing market](#), African-American and Latino neighborhoods remain disproportionately impacted by the real estate crash, with many minorities still underwater on their mortgages, a report showed on Thursday.

“The city with the highest rate of underwater homeowners - at 56 percent - is Hartford, Connecticut, where 83 percent of the population is Latino or African American, according to the report by the University of California, Berkeley's Haas Institute for a Fair and Inclusive Society.”

### **“Underwater” Homes: A Crisis Persists in Bay Area, Nationwide**

**Dan Brekke, KQED, 5/8/14**

### **Senate Banking Approves Bill to End Fannie Mae, Freddie Mac**

**Jon Prior and MJ Lee, Politico, 5/15/14**

“The Senate Banking Committee on Thursday approved bipartisan legislation that would get rid of mortgage giants Fannie Mae and Freddie Mac and overhaul the housing finance system that provides funding for home loans across the country.

“There is little chance Congress will enact legislation this year determining the future of the mortgage finance market, but the Senate bill and a competing proposal in the House represent the first serious attempts to grapple with the issue since Fannie and Freddie were rescued by taxpayers in 2008...

“Six Democrats on the panel said the bill would make the cost of a mortgage go up too much for middle-income borrowers, doesn't do enough to fund affordable housing in low-income neighborhoods and amounts to too big of an overhaul of the system when changes to the current model may be the best approach. [Senator] Warren said the proposal would shut out one in five borrowers who are able to get Fannie and Freddie loans today.”

### **A Senate Battle Over Mortgage Rules**

**Phillip Swagel, New York Times, 5/15/14**

“The six Democratic senators also wanted to ensure that banks and other mortgage originators didn't make loans only to people with pristine credit histories. Under the ‘[duty to serve](#),’ sought by the Democrats, firms involved in mortgage loans would have an obligation to ensure that mortgages are available to ‘all eligible customers’ including by reaching out to ‘traditionally underserved’ communities.

“Republicans noted that all firms would be subject to anti-discrimination laws, but saw the loose lending standard and duty to serve obligation as both inappropriate interference in business decisions and too far a step back toward the problems that led to the crisis. The policy discussion over housing finance can thus be seen as echoing a larger debate over the role of government — in this case, regarding the extent to which taxpayers should take on risk to support homeownership.”

### **Mass. AG Urges Watt to Offer Principal Reductions**

**Kate Berry, American Banker, 5/15/14**

“Massachusetts Attorney General Martha Coakley reiterated calls Wednesday for the Federal Housing Finance Agency to allow Fannie Mae and Freddie Mac to offer principal reductions to distressed borrowers and to participate in nonprofit home buyback programs.

“Coakley sent a three-page letter to FHFA Director Mel Watt trying to persuade him that principal reductions could be crafted in such a way to prevent abuses, including what she called ‘the abstract fear of waves of strategic defaulters.’

“Coakley and New York Attorney General Eric Schneidermann were among those who lobbied last year to oust former FHFA director Ed DeMarco, who [steadfastly refused to allow](#) the government-sponsored enterprises to offer principal reductions to borrowers.”

### **Fannie, Freddie Regulator Signals Broad Shift in Housing Policy**

**Nick Timiraos and Deborah Solomon, Wall Street Journal, 5/13/14**

“The Obama administration and federal regulators are reversing course on some of the biggest postcrisis efforts to tighten mortgage-lending standards amid concern they could snuff out the fledgling housing rebound and dent the economic recovery.

“On Tuesday, Mel Watt, the newly installed overseer of Fannie Mae and Freddie Mac, said the mortgage giants should direct their focus toward making more credit available to homeowners, a U-turn from previous directives to pull back from the mortgage market.

“In coming weeks, six agencies, including Mr. Watt's, are expected to finalize new rules for mortgages that are packaged into securities by private investors. Those rules largely abandon earlier proposals requiring larger down payments on mortgages in certain types of mortgage-backed securities.”

### **A Major Lift for Fannie and Freddie**

**Annie Lowrey, New York Times, 5/13/14**

“But Mr. Watt’s announcement raises bigger — and divisive — questions about the role of the now-profitable mortgage institutions, which were fully taken over by the federal government during the financial crisis to avoid their bankruptcies. Should they become broader instruments of government housing policy? Or should they winnow their portfolios and allow the private markets to take over?”

### **Big Banks Meet Compliance Standards of Mortgage Settlement**

**Saabira Chaudhuri, Wall Street Journal, 5/14/14**

“Three of the largest U.S. mortgage servicers have rectified failures to comply with parts of a \$25 billion landmark national mortgage settlement, the watchdog overseeing the process said Wednesday.

“[Bank of America](#), [J.P. Morgan Chase](#) and [Citigroup](#) passed all tests reviewing their compliance with the National Mortgage Settlement during the third and fourth quarters of last year, said the monitor for the settlement, Joseph A. Smith. In December, Mr. Smith had released a report saying those banks had each failed at least two of 29 metrics that measure standards over how to provide relief to homeowners under threat of foreclosure. In total, the three banks failed on seven metrics in the first half of 2013.”

## REVOLVING DOOR & POLITICAL POWER OF WALL STREET

### [Obama to Attend Investment Banker's Fund-Raiser](#)

**William Alden, New York Times, 5/14/14**

“The president is expected to attend a fund-raising event Wednesday evening at the Manhattan home of Blair W. Effron, co-founder of the investment bank Centerview Partners. The proceeds will support Senate Democrats heading into elections in November.

“The gathering on the Upper East Side is a short drive from the site of a similar fund-raiser held in March by Hamilton E. James, the president of the Blackstone Group. That event, also to raise money for Democrats in the Senate, attracted a selection of [boldface names](#) in finance.

“Mr. Obama, though [far from beloved](#) on Wall Street, does have powerful friends in that world. Mr. Effron, for his part, [told The New York Times](#) in 2011 that he wanted to ‘get recognition that the administration has led the economy from an unimaginably difficult place to where we are today’.”

### [What Hedge Funds Talk About When They Talk About Money](#)

**Alexandra Stevenson, New York Times, 5/14/14**

“It was a private kickoff for the SkyBridge Alternatives Conference, or SALT, the hedge fund industry’s biggest yearly gathering. Referred to on Wall Street as the industry’s Super Bowl, it brings together headline investors, politicians and entertainers.

“But there was an elephant in the room. Even as the industry gives itself a slap on the back and billionaire investors like David Tepper speak this week about making gigantic profits, the average performance of hedge funds has lagged behind the Standard & Poor’s 500-stock index for five consecutive years despite the fact that money flowing into hedge funds has never been higher.

“So it is up to this year’s speakers — many of whom are not in the industry — to add a little stardust to disappointing performance. They include political figures like Valerie Jarrett, a senior adviser to President Obama; former Prime Minister Tony Blair of Britain; and David H. Petraeus, the retired four-star general and former director of the C.I.A. The entertainment world will be represented by the director Francis Ford Coppola, the actor Kevin Spacey and the musician Lenny Kravitz.”

## STUDENT LOANS AND FOR-PROFIT SCHOOLS

### [Advocates for a Tougher ‘Gainful Employment’ Rule Step Into the Fray](#)

**Goldie Blumenstyk, Chronicle of Higher Education, 5/14/14**

“Organizers from Young Invincibles spent Tuesday visiting with dozens of students at four for-profit colleges in the Washington, D.C., area. ‘There’s a lot of frustration out there’ among students who want more protection from high-cost programs that don’t

prepare graduates for jobs in their field, said Mr. O'Sullivan. The U.S. Department of Education's [draft rule](#), he said, 'is not strong enough to do that.'

'The proposed rule would cut off student aid to career-focused programs at for-profit and nonprofit colleges if the program's student-loan default rate reached 30 percent or if half of its graduates failed two student-loan debt standards. (The complicated particulars of the rule are explained in this [chart](#).)

'With just two weeks to go before the May 27 deadline for the public to submit comments to the department about the rule, Young Invincibles wants to be sure its concerns and those of its allies aren't drowned out by the messages of opposition to the rule from the for-profit-college industry. 'The for-profit colleges, they're very good at this,' Mr. O'Sullivan said."

### **[Banks Say Deals With Colleges Could End If U.S. Rule Adopted](#)**

**Carter Dougherty, Bloomberg, 5/14/14**

"Financial companies say that if the proposal is adopted it could upend the multimillion-dollar marketing deals between universities and firms including [Wells Fargo \(WFC\)](#) & Co., U.S. Bancorp and [Huntington Bancshares Inc. \(HBAN\)](#). Advocacy groups maintain that the banks are deliberately painting a worst-case scenario.

"Under the bank-university arrangements, schools typically sell the right to offer checking accounts and debit cards to enrolled students. While colleges say they and the students benefit, lawmakers and consumer groups have argued for years that the contracts can expose students to unreasonably high fees for activities including cash withdrawals and overdrafts.

"According to a draft distributed by the department, the rule would protect students from 'any costs' associated with opening, maintaining or closing a 'sponsored account,' and would guarantee them at least four free withdrawals a month from any cash machine in the state."

### **[Dems Ready Student Loan Push](#)**

**Peter Schroeder, The Hill, 5/15/15**

"Democrats will push for a vote on legislation to allow people to refinance student loan debt at a lower rate. 'Does Congress work for the rich and the powerful, for those that can hire armies of lobbyists and lawyers?' asked Sen. Elizabeth Warren (D-Mass.), who is leading the effort for Democrats. 'Or does Congress work for the rest of America?..."

"The new bill would allow borrowers to refinance their existing loans at at the rate of 3.86 percent. That's the current rate for new loans under legislation Congress passed last year."

### **[Senate Democrats Join Push for Stronger Gainful Employment Rules](#)**

**Paul Fain, Inside Higher Ed, 5/16/14**

### **[Senate, Young Invincibles Say ED Gainful Employment Rules Not Good Enough](#)**

**John Sandman, MainStreet.com, 5/16/14**

### [Sallie Mae to Pay Fine Over Loans to Troops](#)

**Tara Siegel Bernard, New York Times, 5/13/14**

“Sallie Mae, the giant student lender, and Navient, previously a loan servicing unit of Sallie Mae, have agreed to pay \$97 million to settle allegations by federal regulators that military service members were charged excessive interest and fees on student loans.

“The Justice Department said on Tuesday that beginning in 2005, the companies failed to cap interest on loans to military personnel at 6 percent — a ceiling they are entitled to as part of the Servicemembers Civil Relief Act. The department also asserted that the companies improperly obtained default judgments against service members...

“The F.D.I.C. settlement requires the companies to pay \$6.6 million in civil penalties, as well as \$30 million in restitution to victims. The Justice Department settlement requires the companies to pay \$60 million to about 60,000 service members who were affected, as well as a \$55,000 civil penalty.”

### [Sallie Mae Agrees to \\$97M Settlement Over Servicemembers' Student Loans Interest Rates](#)

**Allie Grasgreen and Nirvi Shah, Politico, 5/13/14**

## **SYSTEMIC RISK**

### [Bill Clinton Fires Back At Critics of His Financial Regulatory Policies](#)

**Kevin Cirilli, The Hill, 5/15/14**

“‘Getting rid of Glass-Steagall didn't have anything to do with the crash,’ Clinton said at the Peter G. Peterson Foundation's 2014 Fiscal Summit in Washington. ‘Everybody acts like I sat in a closet and said, ‘What can I do for Wall Street today?’...’

“Progressives, including Sen. Elizabeth Warren (D-Mass.), have pushed to reinstate Glass-Steagall. Warren introduced an updated version in July 2013, along with Sen. John McCain (R-Ariz.) that hasn't seen any traction in Congress... The former president, though, defended his legacy Wednesday, and blamed what he saw as lax regulatory enforcement after he left office for the financial crisis.”

### [EU Banks Urged to Boost Capital as Stress Test Doubts Voiced](#)

**Jeff Black, Bloomberg, 5/13/14**

“European banks are being urged to boost their ability to withstand losses before the conclusion of a stress test that is drawing criticism for its design.

“Axel Weber, the chairman of Zurich-based UBS AG and a former head of [Germany's](#) Bundesbank, said yesterday that stress-testing banks that have depleted capital is akin to expecting a patient recovering from a heart attack to pass a rigorous physical exam. Moody's Analytics Inc. said last week that the tests aren't internally consistent.”

### [Financial Rule Avalanche Brings Economic Benefit, EU Says](#)

**Jim Brunsten, Bloomberg, 5/15/14**

“A swathe of more than 40 financial-regulation laws prepared by the European Commission in response to the market turmoil unleashed in 2008 will have economic benefits that outweigh the costs, the regulator said.

“The thousands of pages of rule-making -- the European Union’s equivalent of Dodd-Frank in the U.S. -- will have a negative effect on the EU’s economic output of 0.3 percent per year, according to estimates by the commission. This will be more than offset by benefits in the order of 0.6 percent to 1.1 percent of [EU output](#) per year, arising from “reductions in the incidence and costs” of future crises, the commission said in a study published today in Brussels...

“Banks have attacked many parts of the EU’s post-crisis reform agenda, including warnings that curbs on bonuses will harm the competitiveness of the EU’s financial-services industry, and that liquidity rules risk choking lending to businesses.”

### **[Clearing House Said to Work on Volcker Rule-Compliant CLO Plan](#)**

**Kristen Haunss, Bloomberg, 5/13/14**

“Collateralized loan obligations are about to get some help in complying with the Volcker Rule. The Clearing House Association LLC, a trade group representing large U.S. banks, is seeking to develop guidelines that may make it easier for CLO managers to amend existing deals to make them satisfy the regulation, according to two people with knowledge of the matter, who asked not to be identified without authorization to speak publicly...

“[Federal Reserve](#) said it intends to give banks an additional two years to abide by Volcker, pushing the conformance deadline to July 21, 2017...”