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## AMERICANS FOR FINANCIAL REFORM

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### THIS WEEK IN WALL STREET REFORM MAY 16 - 23, 2014

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#### CONSUMER FINANCE AND CFPB

##### [Why CFPB Opponents Have Changed Their Legislative Strategy](#)

**Victoria Finkle, American Banker, 5/22/14**

"House Republicans aren't likely to cease their attacks against the Consumer Financial Protection Bureau anytime soon, but they appear to be swapping playbooks. Opponents lost a big bargaining chip to force structural changes at the agency last summer when the Senate confirmed Director Richard Cordray. But while efforts to replace the director with a commission or to subject the agency to congressional appropriations may be on hold for now, lawmakers continue to push myriad piecemeal changes at the agency.

"Republicans are going through the seven stages of grief before they get to acceptance that the CFPB is going to be sticking around,' said Edward Mills, an analyst at FBR Capital Markets. 'If the agency is not going away, then you try to take a death-by-a-thousand-cuts approach, and that's what we're seeing.'"

##### [Why Are Democrats Joining the Latest Legislative Attack on the CFPB?](#)

**Doug Ryan, The Hill, 5/19/14**

"Two weeks ago a historic event unfolded during a little-noticed House Financial Services Committee markup: the launching of one of the first bipartisan legislative attacks on the Consumer Financial Protection Bureau (CFPB).

"The attack came in the form of a bill developed by the manufactured housing industry, which gave it a remarkably Orwellian name – the 'Preserving Access to Manufactured Housing Act.' In reality, the six-page bill, which was sponsored by Rep. Stephen Fincher (R-Tenn.) with support from Reps. Terri Sewell (D-Ala.) and Maxine Waters (D-Calif.), would roll back new CFPB regulations intended to protect purchasers of manufactured homes from absurdly high-priced loans."

##### [Cleaning up the Credit Card Industry](#)

**Rebecca Thiess, US News, 5/20/14**

"Unsurprisingly, and in spite of industry arguments during the fight over the legislation that it would only shift or increase costs for consumers, changes to the credit card marketplace have saved card users money. A lot of money. The Consumer Financial Protection Bureau found in its [report on the CARD Act](#), which reviewed impacts of the

legislation, that provisions limiting penalty fees have saved consumers \$4 billion annually. Additionally, the report found that the overall cost of credit has fallen by roughly 2 percentage points. An [academic study](#) on the CARD Act found that the legislation's limits on fees reduced borrowing costs to consumers overall by 1.7 percent a year, and had a still more dramatic impact for borrowers with lower credit scores; people with credit scores below 660 saw their borrowing costs go down by 5.5 percent. All in all, this study found an even larger impact than the CFPB report, calculating that fee reductions as a result of the CARD Act have saved consumers a whopping \$12.6 billion per year."

### **[Five Years Later, Banks Come to Terms with CARD Act](#)**

**Kevin Wack, American Banker, 5/22/14**

"Five years after the enactment of major reforms to the U.S. credit-card market, industry opposition has quietly faded into acceptance. Bankers certainly aren't celebrating the 2009 legislation, but they're not condemning it, either.

"The law, widely known as the CARD Act, curtailed a number of practices that lawmakers deemed unfair to consumers: retroactive interest rate hikes on existing card debt, large fees for late payments, shortened billing cycles that made it harder for consumers to pay their bills on time and others... 'There were huge benefits to consumers, and we don't want to lose sight of those,' says Nessa Feddis, senior vice president at the American Bankers Association. 'But there were tradeoffs. There were significant tradeoffs.'"

### **[Protecting Consumers Five Years After Credit Card Reform](#)**

**Joe Valenti, Center for American Progress, 5/22/14**

### **[Regulator: Credit Scores Give Too Much Weight to Medical Debt](#)**

**Alan Zibel, Wall Street Journal, 5/20/14**

"Credit-scoring systems used by the financial industry to evaluate borrowers for loans put too much emphasis on unpaid medical debt, resulting in an overly pessimistic assessment of consumers, a federal regulator says...

"Instead, CFPB officials said their findings suggest medical bills are different than other forms of debt. Unlike an unpaid credit card or cellphone bill, consumers often have little to no knowledge of what they owe to a hospital or another medical provider. 'They may not even know they owe anything, thinking that their insurance will cover the bill,' CFPB Director [Richard Cordray](#) told reporters."

### **[Feds: Medical Debt Ruining Credit Scores](#)**

**Benjamin Goad, The Hill, 5/20/14**

### **[CFPB Study Targets Changes to Credit Scoring for Medical Debt](#)**

**Rachel Witkowski, American Banker, 5/20/14**

### **[CFPB Highlights Unlawful Practices by Consumer Reporting Agencies, Debt Collectors and Payday Lenders](#)**

**Alan S. Kaplinsky, CFPB Monitor, 5/23/14**

"In its Spring 2014 Supervisory Highlights [report](#) issued yesterday, the CFPB highlighted deficiencies and violations it found during examinations of consumer reporting agencies (CRAs), debt collectors and payday lenders. The CFPB has authority to examine

entities that qualify as 'larger participants' under the final rules it adopted to supervise participants in the debt collection and consumer reporting markets and to examine payday lenders regardless of their size.

"The report covers supervision work completed by the CFPB between November 2013 and February 2014. In the report, the CFPB stated that in 2013, it conducted over 100 supervisory activities such as full scope reviews and subsequent follow-up examinations and plans to conduct about 150 of such activities in 2014. It also noted that its "recent supervisory activities" (which included examinations of banks and non-bank entities) have resulted in more than \$70 million in remediation to approximately 775,000 consumers. According to the report, these non-public actions have occurred in areas such as deposits, consumer reporting, credit cards, mortgage origination, and mortgage servicing."

### **[U.S. Regulator Cites Problems Among Payday Lenders, Debt Collectors](#)**

**Alan Zibel, Wall Street Journal, 5/22/14**

"The report singled out short-term 'payday' lenders for criticism, saying examiners found such lenders deceived consumers by making false threats of legal action to delinquent borrowers and offering nonexistent promotions to entice them to return calls..."

"The CFPB said it has cited multiple lenders for calling delinquent borrowers' friends, relatives or other third parties to track them down... The CFPB also found instances in which employees of payday lenders showed up at a customers' place of employment in an effort to collect debt—a practice the regulator says is a violation of federal law."

### **[Disparate Impact of Regulation and President Obama's 'Operation Choke Point'](#)**

**Mario H. Lopez, Fox News Latino, 5/19/14**

"Contrary to the administration's claim that these targeted financial businesses have a "disparate impact" on minorities, the truth is that these heavy-handed regulations will have a disparate impact on the country's minorities, many of which live in communities with limited access to traditional banks. And the answer is not capping rates or creating artificial 'waiting periods' as the controversial Consumer Financial Protection Bureau has considered. Those remedies will ultimately ensure that the companies will stop providing these services since they are no longer profitable."

### **[CFPB Employee Rating Disparities Go Beyond Just Race, Agency Says](#)**

**Rob Blackwell, American Banker, 5/19/14**

"The Consumer Financial Protection Bureau released an internal report on Monday that showed 'statistically significant disparities' in employee evaluations based not just on race, but also age, location, tenure, and whether staffers were part of the agency's union."

"As a result, the CFPB said it was scrapping its current system and would pay most agency employees as if they received the highest rating available at the time of their evaluation. Ultimately, the remediation to its staff is expected to cost between \$5 million to \$5.5 million, a spokesman said. In an e-mail to all employees, CFPB Director Richard Cordray acknowledged the disparities, saying there 'was no single factor that caused this result.'"

[CFPB to Top Up Employees' Pay After Performance Disparities Found](#)  
Alan Zibel, Wall Street Journal, 5/9/14

## DERIVATIVES, COMMODITIES & THE CFTC

[U.S. Senate Eyes Early June Vote on Nominees for Swaps Regulator](#)

Douwe Miedema and Richard Cowan, Reuters, 5/22/14

“The U.S. Senate aims to vote to confirm three candidates to the Commodity Futures Trading Commission in early June, a senior Democratic aide said on Thursday, to fill a leadership gap at the futures and swaps regulator... [T]he normally five-strong commission is down to two members, one Democrat and one Republican, impeding its ability to make major decisions.”

[Senate Expected to Soon Advance CFTC Nominees](#)

Andrew Ackerman and Michael R. Crittenden, Wall Street Journal, 5/22/14

## ENFORCEMENT

[Credit Suisse Pleads Guilty in Felony Case](#)

Ben Protess and Jessica Silver-Greenberg, New York Times, 4/19/14

“Credit Suisse has done what no other bank of its size and significance has done in over two decades: plead guilty to criminal wrongdoing. In a sign that banking giants are [no longer immune from criminal charges](#), despite concerns that financial institutions have grown so large and interconnected that they are too big to jail, federal prosecutors demanded that Credit Suisse’s parent company plead guilty to helping thousands of American account holders [hide their wealth](#).”

“As part of a deal announced on Monday, the Swiss bank met the demands, agreeing to one count of conspiring to aid tax evasion in a scheme that ‘spanned decades.’ Credit Suisse, which has a giant investment bank in New York and whose chief executive is an American, will also pay about \$2.6 billion in penalties and hire an independent monitor for up to two years.”

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

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

“Perhaps the most interesting part of the prolonged and leak-filled dance leading up to the expected criminal charges has been the effort to assure that the banks will stay in business after they plead guilty. Credit Suisse is expected to admit that it helped Americans evade taxes, and BNP Paribas is expected to admit that it did business with countries blacklisted by the United States. Regulators will not enforce statutes that would seem to bar the banks from some activities.

“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.”

### **Mixed Signals in a Corporate Felon's Punishment**

**Peter J. Henning, New York Times, 5/20/14**

“Still, the government went out of its way to make sure the conviction was not too costly for Credit Suisse. Mr. Holder noted that the Justice Department worked ‘[in close coordination with the bank's financial regulators](#)’ because cases ‘involving a financial institution have the potential to trigger serious follow-on actions by regulatory agencies’...

“The government's concern with minimizing the collateral consequences almost gives the impression that this was a guilty plea without all the guilt – the equivalent of a diet in which you don't have to stop eating your favorite foods. And while the conviction is a significant victory for the Justice Department and other authorities, it remains to be seen whether there will be a change in how the government deals with corporate misconduct.”

### **Denied Milder Penalty, Credit Suisse Feels the Force of the Law**

**Ben Protess and Jessica Silver-Greenberg, New York Times, 4/19/14**

### **Credit Suisse Plea Sends Warning to Banks Under Scrutiny**

**Tom Schoenberg and David Voreacos, Bloomberg, 5/19/14**

“To contain fallout from the Credit Suisse plea, prosecutors worked in concert with banking regulators, who moved to reassure some of the largest U.S. financial firms that Credit Suisse's guilty plea won't trigger a crisis, according to a person briefed on the conversations...

“[If] prosecutors were to seek a guilty plea from an American bank, the regulatory hurdles could be more complicated. While Credit Suisse has a license to operate in the state of New York, nationally-chartered banks are overseen by the Office of the Comptroller of the Currency, which would be central to deciding whether the bank could stay in business.

“The Justice Department wants to be perceived as tough as nails while avoiding the collapse of a too-big-to-fail institution and other consequences,’ said [Neil Barofsky](#), a former prosecutor who is now a partner at Jenner & Block LLP.”

### **Credit Suisse Got Off Too Easy: Twitterati**

**Sarah Todd, American Banker, 5/20/14**

### **BNP Falls as U.S. Probe Said to Cost More Than \$5 Billion**

**Greg Farrell and Nicholas Comfort, Bloomberg, 5/21/14**

“The amount sought in the probe of the lender's dealings with countries including Iran and Sudan has escalated, and now far exceeds the \$2.6 billion that [Credit Suisse AG \(CSGN\)](#) agreed to pay in a settlement with the U.S. for helping Americans evade taxes. Discussions are continuing and the final number could change, the person said. Last week, four people with knowledge of the matter said U.S. authorities were asking for at least \$3.5 billion to settle the BNP case.

“A fine of more than \$7 billion would jeopardize BNP's dividend and could prevent the Paris-based lender from keeping its capital ratio, a measure of financial strength, above 10 percent, according to Alain Tchiboza, an analyst at [Mediobanca SpA \(MB\)](#) who has an outperform recommendation on the stock. [Benjamin Lawsky](#), [New York's](#)

Superintendent of Financial Services, has also floated the idea of temporarily banning BNP from transferring money into and out of the U.S...”

### [BNP Paribas Risks Client Flight as Ban on Transfers Looms](#)

Yalman Onaran, Bloomberg, 5/21/14

### [Finra Fines Cost JPMorgan 3 Minutes of Profit](#)

Hugh Son and Lisa Abramowicz, Bloomberg, 5/22/15

### [Ex-Trader at SAC Fund Is Sentenced to 3 Years](#)

Matthew Goldstein, New York Times, 5/16/14

### [European Regulators Accuse 3 More Banks of Manipulating Interest Rates](#)

Chad Bray and James Kanter. New York Times, 5/20/14

### [London FX Investigator-in-Chief Says Nothing Surprises](#)

Suzi Ring, Bloomberg, 5/21/14

“The daughter of a road paver and a primary school teacher, McDermott also spends a lot of time thinking about other people’s guilt. She has to decide whether traders who exchanged messages in chat rooms with names such as ‘The Bandits’ Club’ and ‘The Mafia’ were colluding to manipulate benchmarks in the \$5.3 trillion-a-day currency market.

“‘I’m not sure whether you’re ever surprised any more by anything,’ said McDermott, 45, sitting in a room at the FCA’s London headquarters in Canary Wharf normally used for interviewing witnesses in investigations. ‘I was surprised. I’m no longer surprised.

“McDermott, who took over as enforcement chief in 2011, led the FCA’s investigation into the rigging of the London interbank offered rate, or Libor, resulting in the agency’s largest fine ever, a 160 million-pound (\$269 million) penalty meted out to Zurich-based UBS AG. Now she’s playing a similar role in the burgeoning probe of foreign-exchange traders.”

## **EXECUTIVE COMPENSATION**

### [U.S. Chamber Report Finds SEC Woefully Underestimated Impact of Proposed Pay Ratio Rule](#)

U.S. Chamber of Commerce, 5/22/14

“The U.S. Chamber of Commerce’s Center for Capital Markets Competitiveness (CCMC) released a white paper today examining the Securities and Exchange Commission’s (SEC) Pay Ratio Rule; which requires corporations to calculate the ratio between their CEO’s compensation and that of their median worker. The paper, prepared by Capital Policy Analytics, analyzes survey data from more than 100 companies, and finds there is strong evidence that the current cost-benefit analysis by the SEC woefully underestimated direct costs by 870% and the time that companies will spend complying with the rule by 560%.

“‘The pay ratio is the poster child of ineffective disclosure. We believe it is important for the SEC to get this rule right to ensure investors have access to information that helps

not hinders the investor decision making process,' said Tom Quadman, vice president of CCMC. 'Unfortunately, ratios will vary widely from company to company or industry to industry depending on corporate structures, providing little comparable use to investors but rather adding to the complexity of the decision making process and giving adversaries a new target. Rather than providing useful information to investors, the Pay Ratio will simply be used as a scarlet letter.'

### **[US Chamber \(aka Multinational Front Group\) Opposes Disclosure of Corporate Wage Gap](#)**

#### **Teamster Nation Blog, 5/23/13**

"The Chamber says it will cost too much money. That just isn't true. The fact is that exposing the pay gap can warn investors that a CEO is looting the corporation he's supposed to protect..."

"Teamsters know firsthand what happens when the disparity between worker pay and CEO pay is too great. At McKesson, [CEO John Hammergren took home more than \\$50 million last year](#) and has a pension of \$114 million. All that for steering the company into nearly \$1 billion in legal settlements for price-fixing and Medicaid fraud. Meanwhile, the company is paying its workers so little in its Lakeland, Fla., warehouse that they can't afford health care benefits."

### **[U.S. Chamber of Commerce Issues Yet Another Attack on CEO-to-Worker Pay Ratio Disclosure](#)**

#### **AFL-CIO Statement, 5/23/14**

"Today the U.S. Chamber of Commerce issued yet another bombastic attack on the SEC's pending CEO-to-worker pay ratio disclosure rule. The study cites a U.S. Chamber conducted survey of 118 companies which self-reported that the costs of disclosure to be \$185,600 versus the SEC's cost estimate of \$18,000 per company."

"The U.S. Chamber's cost estimate numbers are easily dismissed as an unscientific study designed to maintain CEO-to-worker pay secrecy. In reality, the SEC's proposed rule gives companies significant flexibility to reduce compliance costs using statistical sampling of their workforce to determine median employee pay. But even if one were to believe the U.S. Chamber's numbers, the cost of disclosure is immaterial. The U.S. Chamber's estimated cost is a mere 1.59% of the average CEO pay of \$11.7 million for S&P 500 companies in 2013, and less than 1 basis point of the average \$1.68 billion in profits earned by those companies last year..."

### **[Help Wanted: Slow and Expensive Accountant](#)**

#### **Sarah Anderson, Huffington Post, 5/23/14**

"The U.S. Chamber of Commerce, a long-time opponent of CEO-worker pay ratio disclosure, has just gone on record estimating that making this ratio calculation will force American businesses to expend a total of \$710.9 million per year. For large companies, the Chamber reports, calculating a CEO-worker pay ratio will take an average of 1,825 number-crunching hours at an average cost of \$311,800."

"Unfortunately, the Chamber's projections have elicited widespread ridicule from independent observers. Given this ridicule, it is imperative that corporations like ours demonstrate that calculating a CEO-worker pay ratio will take the maximum possible amount of time and cost."

### **Goldman Shareholders Give Pay Plan a Thumbs Up**

**Rachel Abrams, New York Times, 5/16/14**

“There’s a difference between lots of disclosure and good disclosure,’ said John Shea, the chief executive of Proxy Mosaic, an independent proxy advisory firm. ‘It’s an attempt to appease the shareholder demand for more transparency while still retaining the discretion to do whatever they want by drowning them in paper...’

“Goldman is a particularly egregious example of a problem that’s pretty broad and consistent,’ Mr. Shea said. ‘It’s not a new problem, but it is a problem that’s slowly getting worse.’”

### **Chase Investors to Dimon: You Deserve the \$20 Million**

**Kevin Dugan, New York Post, 5/20/14**

“Jamie Dimon’s got his groove back. The chief executive of JPMorgan Chase, the biggest bank in the US, won over enough investors on Tuesday to get his \$20 million pay package for 2013 — one year after his bonus was slashed by half.

“Dimon’s 74 percent raise comes after the bank paid \$950 million to end regulator scrutiny over the London Whale fiasco, whereby traders lost more than \$6 billion on the wrong end of a complex derivatives bet.”

### **Shareholders Approve Jamie Dimon’s 74 Percent Raise**

**Jenna McGregor, Washington Post, 5/20/14**

“In January, JPMorgan [said](#) it paid its CEO a \$1.5 million salary and \$18.5 million in restricted stock, resulting in a [\\$20 million](#) payday for Dimon. This compensation was for a year when the company agreed to [\\$20 billion in legal payouts](#), most notably in the form of a [\\$13 billion settlement](#) with the Justice Department over its mortgage lending practices and roughly \$1 billion in fines for its [‘London Whale’](#) trading scandal. The bank also experienced its [first quarterly loss in nearly a decade](#).

“JPMorgan saw these challenges as the grounds for a pay increase, rather than cut. In explaining the rationale behind Dimon’s raise, the JPMorgan [proxy statement](#) pointed to his ‘key role in resolving several outstanding civil and regulatory claims’ that the bank faced last year. It also highlighted his ‘sustained performance’ and the “external market for talent” as other factors behind the increase.”

### **Chipotle’s Executives Make So Much Money, Even Fund Managers Are Upset**

**Max Ehrenfreund, Washington Post, 5/17/14**

“The company’s executives are very well paid, but investors seemed as concerned about the make-up of Eills and Moran’s compensation agreement as they are about the top-line number. Eills and Moran receive new shares of Chipotle stock annually, which they are not required to retain. They’ve sold most of the shares they’ve received for cash, and investors worry that they don’t really have all that much skin in the game.

“These executives own so little equity,’ said Michael Pryce-Jones of CtW Investment Group, which advises pension funds sponsored by unions and has fought aggressively on behalf of shareholders in say-on-pay votes, including Chipotle’s. He explained that as long as Eills and Moran can create movement in the price of the stock, they can find profit on every new batch of shares they receive.”

## FEDERAL RESERVE

### [Senate Backs Fischer for Fed board](#)

**Howard Schneider and Richard Cowan, Reuters, 5/21/14**

“The U.S. Senate on Wednesday approved Stanley Fischer's nomination to the Federal Reserve Board of Governors, adding a potentially influential voice to the developing debate over Fed policy in the post-crisis era. Fischer, 70, was approved on a 68-27 vote, with all the opposition coming from Republicans. A separate vote, still unscheduled, must be held to confirm his appointment as vice chairman of the U.S. central bank.

“The Senate could have considered both nominations back-to-back, but Republicans blocked the more rapid procedure to protest a rules change that allows Democrats to more easily move President Barack Obama's nominees, according to a Senate Democratic aide.”

### [Senate Confirms Fischer To Federal Reserve Board](#)

**Ramsey Cox and Vicki Needham, The Hill, 5/21/14**

## FINANCIAL TRANSACTION TAX & HIGH-FREQUENCY TRADING

### [EU Financial-Transaction Tax Plan Turns to Derivatives Coverage](#)

**Rebecca Christie and Jim Brunsten, Bloomberg, 5/23/14**

“European efforts to build a financial-transaction tax are turning to which derivatives to tax and how to leave room for future expansion, planning documents show. **Greece**, which holds the EU's rotating presidency until July 1, has proposed several options for taking the plan forward, according to the documents prepared for a May 28 working group meeting. One task will be to decide which derivatives to tax, while another will be to choose how the current plan should set the stage for a broader scope later on.

“Efforts to design a tax for 11 interested nations remain stuck over timing and scope, after a May 6 finance ministers' meeting revealed deep rifts among the participants. At that meeting, 10 of the 11 agreed to seek a ‘progressive’ tax on equities and ‘some derivatives’ by Jan. 1, 2016.

“Germany, France, Spain, Italy, Belgium, Austria, Portugal, Greece, Estonia, Slovakia and Slovenia are part of the FTT alliance. All except Slovenia signed the May 6 declaration.”

### [Turf Wars Seen in Response to High-Frequency Trading](#)

**William Alden, New York Times, 5/22/14**

“Attorney General Eric T. Schneiderman of New York has been vocal about his inquiry into aspects of high-frequency trading, which he calls ‘insider trading 2.0.’ But another prominent regulator appears not to embrace that view, [Leah McGrath Goodman writes in a Newsweek article](#) on Thursday. Mary Jo White, the head of the Securities and Exchange Commission, said recently that using computer algorithms to buy and sell stocks ahead of other investors is ‘not unlawful insider trading.’

“This difference of views, while partially a matter of semantics, may be coloring the regulatory response to high-frequency trading, which has been a hot-button issue since the publication in late March of ‘Flash Boys,’ a book by Michael Lewis.”

## INVESTOR PROTECTION AND THE SEC

### [The SEC Has Revealed Astounding Corruption in Private Equity](#)

**Mike Konczal, The New Republic, 5/12/14**

“As a result of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act, private equity firms must register with the Securities and Exchange Commission (SEC). This, in turn, allows the SEC to examine the behavior of private equity firms on behalf of investors. The SEC just completed an initial wave of 150 firms, and what it found is shocking.

“These results were unveiled last week when Andrew Bowden, the director of the SEC’s examinations office, gave a [speech](#) titled “Spreading Sunshine in Private Equity.” The big takeaway: Half of the SEC’s exams find corruption in the way fees and expenses are handled. Or as Bowden forcefully describes it: “When we have examined how fees and expenses are handled by advisers to private equity funds, we have identified what we believe are violations of law or material weaknesses in controls over 50 percent of the time.”

As Bowden notes, the business model of private equity, which manages almost \$3.5 trillion dollars of our nation’s assets, has unique conflicts of interest built into the structure. Private equity firms use their client’s money to do leveraged buyouts of companies. Since this gives them major operating control of both the investment and a pool of other’s investment money, there are significant opportunities to shift costs and otherwise skim off their investors.”

### [SEC Uncovers Improper Fees Charged by Leveraged Buyout Funds](#)

**Heather Slavkin Corzo, Aflcio.org, 5/15/14**

“It seems there is no end to the extremes to which the titans of Wall Street will go to pad their pockets. The latest example came last week when [the head of examinations for the Securities and Exchange Commission revealed that SEC examiners have uncovered rampant fee abuses by leveraged buyout fund \(aka "private equity"\) advisers.](#)

“According to Andrew J. Bowden, SEC director of the Office of Compliance Inspections and Examinations, ‘When we have examined how fees and expenses are handled by advisers to private equity funds, we have identified what we believe are violations of law or material weaknesses in controls over 50% of the time.’

“The SEC’s recent findings officially confirm what we have long suspected—leveraged buyout funds are dangerous not just because they squeeze workers, overcharge pensions for money management and avoid their tax obligations. They are also systematically picking investors’ pockets.”

### **Dark Pools Opening Up Amid Increased Scrutiny**

**Sam Mamudi, Bloomberg, 5/21/14**

“Dark pools, the private trading venues that together host more U.S. equity volume than the New York Stock Exchange, are opening up.

“New rules on [Wall Street](#) this month are forcing dark pool operators to report trading details to regulators. [KCG Holdings \(KCG\)](#) Inc., Liquidnet Holdings Inc. and IEX Group Inc. plan to share the information with the public. KCG and Liquidnet will also join IEX and [Investment Technology Group Inc. \(ITG\)](#) in posting dark pool rule filings, known as Form ATS, on their websites... “

### **Credit Agencies Remain Unaccountable**

**Kathleen Day, USA Today, 5/19/14**

“The Securities and Exchange Commission has kept the credit rating industry — whose dominant members, Standard & Poor's and Moody's, played a notoriously key role in the financial crisis — in legal limbo for four years. And the industry's just fine with that. Apparently so are members of Congress, who have failed to press the SEC to hold credit agencies accountable, as law requires, for the ratings they issue on securities backed by mortgages or other assets.

“The law, part of the Dodd-Frank Act of 2010 that Congress passed in response to the crisis, was intended to fix a main cause of the meltdown: high but highly inaccurate credit ratings that firms, particularly S&P and Moody's, gave to the likes of investment bank Lehman Brothers before it failed, insurance giant AIG before it nearly failed and billions of dollars of subprime mortgage securities that proved worthless.

“‘I'm disappointed,’ says Barney Frank, the now retired congressman from Massachusetts who, as chairman of the House Financial Services Committee, helped craft the act that bears his name.”

### **Industry Protecting Pockets, Not Investors**

**Barbara Roper, WealthManagement.com, 5/22/14**

“ERISA is, admittedly, a blunt instrument to use to try to address these problems of investor abuse. And none of us can know until the DOL repropose its rule whether it will achieve an appropriate balance between strengthening investor protections and providing the flexibility necessary to maintain investor access to beneficial and affordable advisory services. But the industry isn't waiting to see the repropose rule before issuing their dire predictions. Instead, they are doing everything in their power to ensure that the repropose rule never sees the light of day.

“If the industry had factual arguments to use against the DOL rulemaking, presumably they would use them. The fact that they don't suggests, to me at least, that what they are trying to protect is not the retirement security of middle income Americans, but the reliable stream of income they receive in a system that allows them to profit at their customers' expense.”

### **SEC's White Feels BlackRock's Pain Over Systemic Label**

**Dave Michaels and Christopher Condon, Bloomberg, 5/22/14**

“Asset managers trying to forestall stricter U.S. oversight appear to have found an ally in the chairman of the Securities and Exchange Commission.

“SEC Chair Mary Jo White took up their arguments yesterday, lending support to firms including [BlackRock Inc. \(BLK\)](#) and [Fidelity Investments](#) which are fighting efforts to officially label them sources of ‘systemic risk’ to the financial system. ‘I don’t think you are overreacting to the process,’ White told industry executives at a conference sponsored by their trade group, the [Investment Company Institute](#).

“Asset managers sponsor products such as mutual funds and [hedge funds](#) that invest \$53 trillion for individuals saving for retirement and institutions such as pension funds. They argue that some proposals under consideration by the Federal Reserve would make mutual funds more expensive and hurt their ability to make the best decisions for investors.”

## MORTGAGES, FORECLOSURES & HOUSING

### [Bankrupt Housing Policy](#)

**Joe Nocera, New York Times, 5/19/14**

“As the financial crisis heated up during his first presidential run, [then-candidate Obama](#) [said](#) that he favored changing the bankruptcy laws ‘to make it easier for families to stay in their homes.’ But he became convinced that the Democrats should not push for it as part of the controversial bailout legislation, so he backed off, promising to push it once he was in the White House.

“In late April 2009, with a bankruptcy bill having already passed the House, Durbin offered his amendment on the Senate side. The financial services industry pulled out all the stops, arguing that a right of bankruptcy for a homeowner would increase the cost of home loans, undermine the sanctity of contracts and promote (of course!) moral hazard...

“Which leads to one other unanswered question about the financial crisis. Why is it that the fear of moral hazard only applies to homeowners, and not to the banks?”

### [Flaws Seen in ‘Almost Every’ Mortgage Bond as Crash Began](#)

**Jody Shenn, Bloomberg, 5/22/14**

“Investigators probing [mortgage-bond](#) sales in the run-up to the financial crisis are finding improper actions occurred “not only occasionally, but in the end, with almost every” deal examined, a U.S. official said.

“Authorities have uncovered evidence of lenders and bond issuers obscuring risk even more as the market began to crash to limit their own losses, with employees ‘laughing’ about the environment, [Michael P. Stephens](#), the [Federal Housing Finance Agency](#)’s acting inspector general, said.

“They were more concerned about their bonuses than what was going in these pools,’ Stephens said today at a Mortgage Bankers Association conference in [New York](#). ‘At the core of it is greed.’”

### **[Liberals Consider How to Keep Fannie and Freddie Around](#)**

**Jon Prior, PoliticoPro, 5/22/14**

“Liberal senators’ interest in keeping Fannie and Freddie around, in some form, highlights how tough it will be to enact an overhaul of housing finance system. Republicans will almost certainly not support such a plan. The centrist Johnson-Crapo bill is seen by the administration and industry groups as the plan with the most realistic chance of enactment, but Senate leaders are reluctant to embrace it if the party is divided over its approach...

“Consumer groups and some in the lending industry have been hesitant to support plans like Johnson-Crapo that would pull the plug on the two companies because they feel Fannie and Freddie would do a better job of making home loans and affordable housing available in more neighborhoods than private companies would as imagined in an overhaul of the system.

“The Johnson-Crapo bill, which has support from the White House, would set up a new agency in their place that would back some mortgage bonds after private firms took a significant amount of losses first.”

### **[FHFA’s Watt Says He Doesn’t Worry About Fannie Shareholders](#)**

**Clea Benson, Bloomberg, 5/16/14**

“The regulator of [Fannie Mae \(FNMA\)](#) and [Freddie Mac \(FMCC\)](#) said it isn’t his job to worry about the two companies’ shareholders.

“I don’t lay awake at night worrying about what’s fair to the shareholders,’ Melvin L. Watt, director of the [Federal Housing Finance Agency](#), said in an interview taped today for C-SPAN’s ‘Newsmakers’ television program. ‘My responsibility is to think about how can I do what is responsible for the taxpayers.’

“Investors including [Bruce Berkowitz](#)’s Fairholme Capital Management and hedge fund Perry Capital LLC have been pushing the U.S. to return the companies to private ownership. They’ve also challenged an arrangement in which the FHFA and the Treasury Department require the companies to pay 100 percent of their profits to the U.S.”

### **[BlackRock’s Fink Says Housing Structure More Unsound Now](#)**

**Christopher Condon and Mary Childs, 5/20/14**

“[BlackRock Inc. \(BLK\)](#)’s Chief Executive Officer Laurence D. Fink said the U.S. housing market is “structurally more unsound” today than before the financial crisis because it depends more on government-backed mortgage companies such as Fannie Mae and Freddie Mac...”

### **[New York A.G. Renews Fight Against 'Zombie Properties'](#)**

**Kristin Broughton, American Banker, 5/19/14**

“New York Attorney General Eric Schneiderman on Monday renewed calls for the state legislature to address the problem of ‘zombie properties,’ or foreclosed homes that banks have walked away from to avoid the cost of maintenance.”

### **[Will Looser Credit Jump-Start Housing Market or Overheat It?](#)**

**Kate Berry, American Banker, 5/19/14**

## STUDENT LOANS AND FOR-PROFIT SCHOOLS

### [Do Better on Predatory Colleges](#)

**Editorial, New York Times, 5/18/14**

“The Obama administration’s proposed rules that would deny federal aid to career training programs that saddle students with crushing debt and useless credentials are a clear improvement over the disastrous status quo. But they will need to be strengthened to fully protect students and taxpayers from predatory for-profit schools that rely on federal student aid for up to 90 percent of their revenue and are well versed in the art of evading the law...

“[A] striking [analysis](#) released last week by the Institute for College Access and Success, a nonprofit research group, shows that these rules, good as they are, don’t go far enough. Some schools, for instance, could keep drawing federal aid even if more of their students defaulted on loans than earned degrees.

“The group found that of the 4,420 career programs it examined, 114 (all at for-profit institutions) had higher loan default rates than graduation rates — a situation created in part by schools that enroll poorly prepared students who can’t do the work but who borrow to pay tuition before eventually dropping out. And of the 114 programs where defaults outnumbered diplomas, 23 would pass muster under the proposed rules.”

### [Students, Taxpayers Both Deserve Protection](#)

**Editorial, Spokesman-Review, 5/20/14**

“The feds released data in March, along with proposed rules aimed at high loan-default colleges. The numbers show that for-profit colleges are a terrible bargain for students and taxpayers. Students at such institutions comprise 13 percent of all college students, but they account for nearly half of all loan defaults.

“These schools are expensive, so they encourage applicants to apply for federal student loans. But most two-year graduates of these schools leave with debt, which averages more than \$23,000, while most community college students do not. The saddest cases are the students saddled with debt with nothing to show for it. A total of 114 education programs produce more loan defaults than diplomas, and they’re all at for-profit institutions. Most offer two-year degrees.”

### [Lawmakers Seek to Block Gainful Employment Rules](#)

**Inside Higher Ed, 5/23/14**

“A bipartisan group of Congressional lawmakers on Thursday called on their colleagues to insert a provision in the upcoming budget that would block the Obama administration’s efforts to more tightly regulate for-profit colleges.

“In a [letter](#) to the top lawmakers on the House Appropriations Committee, 37 members of Congress -- 19 Republicans and 18 Democrats -- wrote that the proposed “gainful employment” rule would ‘increase costs and federal overreach in the higher education system, reduce data transparency, and limit postsecondary options for low-income students.’ The administration has said the proposed rule is aimed at cutting off federal

aid to low-performing vocational programs, mostly at for-profit colleges, that leave students saddled with high debt and do not lead to good jobs.”

### **[Top Donor for House Education Chair Is For-Profit College Facing Federal and State Fraud Probes](#)**

**David Halperin, Huffington Post, 5/23/14**

“As reported yesterday by [OpenSecrets](#), Representative Virginia Foxx (R-NC) has no serious opposition in her bid for reelection, yet has received more than \$800,000 in campaign contributions. More than half of that money has come from outside North Carolina, much of it from corporate special interests.

“The biggest industry donating to Foxx, who is chair of the House subcommittee on higher education, is the for-profit education industry, which is fighting to stop the Obama administration's "gainful employment" rule. That regulation, for which public comments are due on Tuesday, would hold predatory companies in the career education industry accountable for its heavily-documented waste, fraud, and abuse with federal tax dollars and for the countless students across the country who have been left with worthless degrees and overwhelming debt.”

### **[Rule-Making Panel Fails to Find Consensus on 2 Key Issues](#)**

**Goldie Blumenstyk, Chronicle of Higher Education, 5/21/14**

“The federally appointed negotiators who have been working since February on a package of proposed consumer-protection regulations for the U.S. Department of Education failed to reach consensus on Tuesday, their final day of talks.

“That means any actions on new rules—covering such matters as college-sponsored bank cards, the terms under which PLUS loans can be denied, and requirements for colleges that operate distance-education programs beyond their own state borders to receive specific authorization from other states—will be left to the discretion of the department to develop or not.

“Had the negotiators reached agreement on all of those matters, and three less-controversial issues also discussed during the latest round of negotiated rule-making, the department would have been bound by their agreement.”

### **[The One Percent at State U](#)**

**Andrew Erwin and Marjorie Wood, IPS, 5/21/14**

“Our new report, “[The One Percent at State U](#),” exposes how public university presidents are profiting from rising student debt and low-wage faculty labor. The report — featured in *The New York Times*, *TIME*, *CBS*, *Gawker*, and others — found that the amount of student debt and the number of low-wage faculty are rising faster at the 25 state universities with the highest-paid presidents. “

### **[Student Debt Nearly Destroyed This Family's Finances](#)**

**Mandi Woodruff, Yahoo Finance, 5/24/14**

### **[Watchdog Called in on Private College Use of Student Loans](#)**

**John Morgan, Times Higher Education (UK), 5/22/14**

## SYSTEMIC RISK

### [It's Premature to Label Asset Managers as 'Systemic': Treasury Official](#)

**Donna Borak, American Banker, 5/19/14**

“Mary Miller, a top Treasury official, on Monday sought to dispel the idea that regulators were moving quickly to label asset management firms as systemically important, saying they are still in the early stages of determining the risks posed by the industry.”

### [Big Banks Are Riskier Than Ever, Says FDIC Vice Chair](#)

**Eleanor Bloxham, Fortune, 20/5/14**

“In an interview, Tom Hoenig says that, in many ways, the U.S. financial system has not fully incorporated the lessons of the most recent financial crisis.”

## OTHER TOPICS

### [Geithner Book Reveals Consensus, Not Vision, During Financial Crisis](#)

**Jesse Eisinger, New York Times, 5/21/14**

“These were Mr. Geithner’s failures, but they were more deeply Mr. Obama’s. The flaws we thought we were seeing during Mr. Geithner’s tenure turn out to have replicated themselves in other Obama departments. And they have persisted since Mr. Geithner left. Why, it’s almost as if the Treasury secretary wasn’t the one making decisions and setting the tone after all.

“President Obama’s appointees, [Eric H. Holder Jr.](#) at the Department of Justice and [Mary L. Schapiro](#) at the [Securities and Exchange Commission](#), oversaw the inadequate enforcement response to the crisis. Mr. Obama reappointed [Ben S. Bernanke](#), who focused on monetary policy and didn’t push for more aggressive regulatory and financial reform. Mr. Geithner didn’t run those shops.

“And Geithner-like characters keep popping up, while appointees who are unlike the president get ousted. At the [Federal Deposit Insurance Corporation](#), the outspoken [Sheila C. Bair](#) was replaced with the low-profile Martin J. Gruenberg. [Gary S. Gensler](#), the tough chairman of the [Commodity Futures Trading Commission](#), didn’t get nominated for a second term. In his place, we got a Treasury official whose cipher of a record was almost treated as a virtue by the Obama administration. The new head of the S.E.C., [Mary Jo White](#), has been disappointing on regulatory questions.

“Favored Obama appointees seem to share certain qualities: They work within the system, they don’t like to ruffle feathers or pick fights, and they keep their profiles low. They are technocrats.”

### [It's Geithner vs. Warren in Battle of the Bailout](#)

**Marilyn Geewax, NPR, 5/25/14**

*“Geithner explains the mindset he was in as he headed to Congress to beg for TARP’s passage: ‘The world was burning. What more was there to discuss? ... This was not the time to focus on punishing the arsonists. It was time to focus on putting out the fire. ... As long as TARP could be used to recapitalize the system, I just wanted Congress to pass it as fast as possible.’*

*“Warren says it was wrong to focus on keeping banks whole, rather than on helping the millions of workers losing jobs and homes: ‘As soon as TARP was set up, tens of billions of dollars started flowing to the giant banks ... but that didn't keep credit flowing to the small businesses, and more and more of them were shutting down. At the same time, the tide of foreclosures just kept rising ... TARP seemed to be doing precious little for small businesses or families in trouble.’”*

### **Stress Test: The Indictment of Timothy Geithner**

**Dean Baker, Huffington Post, 5/24/14**

“While Geithner occasionally throws out a line to assure readers that he feels their pain, his bottom line is that we should be thankful that we averted a second Great Depression and also that we made back the money we lent out through the TARP. Both of these assertions deserve nothing but derision...”

“The best route would have been to keep the banks in business but on terms that would require they fundamentally change the way they operate. The Fed and the Treasury held all the cards in dealing with the financial industry. Any firm that was publicly cut off from access to special Fed lending facilities, and denied Treasury, Fed or FDIC loans or guarantees, would have soon been toast in the crisis atmosphere of this period. The condition for staying in business could have been concrete commitments to downsize and become boring banks, brokerage houses, or insurance companies. As a condition of getting support from the government, banks also could have been required to modify underwater mortgages. From reading Geithner's book, no such discussions ever took place at the Fed or Treasury, except to amuse populist sentiments expressed by members of Congress...”

### **Geithner: Financial System Today Is Much More Resilient**

**David Wessel, Wall Street Journal, 5/20/14**

### **Tim's Not Wild About Larry**

**Michael Hirsh, Politico, 5/20/14**

“What is new and startling is the sheer number of the fights that occurred between the administration's two top economic policy-makers, as well as the acerbity of their rivalry. Geithner gives accounts of the chronic policy disagreements between them over the ‘Buffett Rule,’ a proposal to tax very rich individuals, which Geithner supported and Summers thought was ‘gimmicky’; over the ‘Volcker Rule,’ the curb on risky bank trading that Geithner came to warily endorse but Summers thought a ‘stupid and craven concession to populism’; and over nationalizing the banks (Summers thought it wasn't a bad idea, while Geithner hated it).

“What emerges is a portrait of two men struggling for power and influence but also in a state of constant strife over ideas. In general, Summers is more of a progressive about changing Wall Street and tackling health care and other aspects of the ailing economy—one reason he left the administration in 2010 was that he saw Obama bowing to GOP demands for austerity at a time when more stimulus was needed, friends say—while Geithner is more the pure crisis manager, monomaniacally convinced that the economy can come back only if Wall Street does.

“This being Washington, their real falling out (though Geithner's spokeswoman, Jenni LeCompte, insists there was no falling out) may have involved a job: specifically, one

that Summers has wanted his entire career. In what is surely one of the book's most under-discussed disclosures, Geithner gives a fairly detailed account of the day he persuaded the president not to nominate Summers to the latter's dream job, Federal Reserve chairman."

### **[Deutsche Bank Vows to Focus on Clients With a New Culture of Ethics](#)**

**Jack Ewing, New York Times, 5/19/14**

"As the banking sector tries to distance itself from the industry practices that helped plunge the globe into financial crisis, Deutsche Bank is doing its best to show it has learned the lessons of the past..."

"Anshu Jain, the co-chief executive of Deutsche Bank, insists that the bank can still compete in the rough-and-tumble sector of investment banking... At the same time, Mr. Jain said that Deutsche Bank was a much more ethical and responsible institution than in the past. 'Everything has changed,' Mr. Jain said in a conference call with analysts. 'If you take a look at the way we promote people, the way we compensate people, the deals we do, the clients we adopt, there is a meaningful and significant difference between our business model five, six, seven years ago and today.'"

### **[Wall Street Finds New Subprime With 125% Business Loans](#)**

**Zeke Faux, Bloomberg, 5/22/14**

"Subprime business lending -- the industry prefers to be called 'alternative' -- has swelled to more than \$3 billion a year, estimates Marc Glazer, who has researched his competitors as head of Business Financial Services Inc., a lender in Coral Springs, [Florida](#). That's twice the volume of small loans guaranteed by the [Small Business Administration](#)."

### **[Wall Street Washes Traders' Mouths With Soap](#)**

**William Alden, New York Times, 5/16/14**

"Wall Street now has its very own Emily Post. Vulgarities and indiscreet chatter have percolated through Wall Street's trading floors and online chat rooms for many years, and might have stayed there were it not for a string of recent regulatory crackdowns. Now, thanks to investigations that have produced reams of internal communications among traders and brokers, a window has opened onto the predominantly male locker room culture of finance.

"Some banks — anxious to avoid further embarrassments — are taking steps to clean up that culture."

### **[Dodd-Frank's Unbent Foe in Congress Hasn't Won Over Either Party](#)**

**Cheyenne Hopkins, Bloomberg, 5/22/14**

"When Jeb Hensarling took over the congressional panel that spawned the Dodd-Frank Act, he vowed to roll back the landmark Wall Street law and eliminate government programs that backstop private markets.

"More than a year later, the Texas Republican is boxed in. His initiatives to undo banking rules haven't won Democratic support. At the same time, his own party's leaders, backed by industry groups that disagree with Hensarling's purist free-market philosophy, have stymied his plans to abolish Fannie Mae ([FNMA:US](#)) and limit federal flood insurance.

“Now, Hensarling must choose again. His chances of making an impact as chairman of the House Financial Services Committee may turn on whether he loosens his opposition to two programs pushed by business lobbies and top House Republicans: government-backed terrorism insurance and loans for buyers of U.S. exports.”