AMERICANS FOR FINANCIAL REFORM

**THIS WEEK IN WALL STREET REFORM**
**MAY 3 – MAY 9, 2014**

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## CONSUMER FINANCE AND CFPB

**Cordray: CFPB Naming Bank Employees in Lawsuits**
**Kate Davidson, PoliticoPro, 5/9/14**
**"**CFPB Director Richard Cordray today touted the bureau's efforts to hold accountable not only financial firms but the individuals who work there — an issue at the center of the debate over how to deter misconduct in the banking industry. Speaking at a conference at the Federal Reserve Bank of Chicago, Cordray said CFPB has named individuals as parties in a variety of lawsuits, including decision-makers as well as the people who carried out the decisions or were party to the consumer transactions.

"They've been required to provide restitution to consumers, in some cases have been barred from offering certain kinds of products or services and have also been referred to the Justice Department for criminal prosecution, he said. The right response depends on the circumstances and different thresholds may apply to each of these accountability measures, Cordray said. But they are important supplements to simply imposing all legal responsibility on the company itself."

**No, Obama Isn't Forcing Us to Close Porn Stars' Accounts: Bank Insider**
**Dana Liebelson, Mother Jones, 5/8/14**
**"**Last month, porn star Teagan Presley told *Vice* that JPMorgan Chase & Co. closed her account because the bank considered her 'high-risk.' Then, on Wednesday, porn director David Lord told the *Daily Beast* that Chase sent him a letter notifying him that the bank was going to close his account on May 11. The *Beast* and *Vice* suggested that a secretive Justice Department program, 'Operation Choke Point,' was behind the account closures. But a Chase insider familiar with the matter says that the initiative has nothing to do with the termination of these accounts…

"The porn stars' allegations play into a narrative—pushed by banks and congressional Republicans—that the Obama administration is overstretching its authority by forcing banks to police the free market… Banks, payday lenders, gun owners, conservatives, and some Democrats have expressed opposition to the program."

## DERIVATIVES, COMMODITIES & THE CFTC

**Wall Street Embraces a Rule It Hates**
**Peter Eavis, New York Times, 5/2/14**
"The regulation in question is something called the swaps push-out rule, a part of the Dodd-Frank Act.. Banks can make more money from derivatives trading by doing it in their insured subsidiaries. These subsidiaries usually have higher credit ratings than other parts of the bank, in part because of their implied government support. And the higher ratings enable the banks to get better terms in the derivatives bets they make with their trading partners, bolstering the banks' profits…

"Though the banks have long had a strong aversion to the idea of pushing out derivatives, something appears to be changing. In recent days, financial media have reported that banks have started to shift substantial amounts of derivatives trades into offshore affiliates that the parent banks do not guarantee. In other words, Wall Street is now actively pushing out swaps. It is not clear whether these moved swaps would originally have been done within the banks' insured subsidiaries. But still, the banks are moving them into affiliates that have less support, which is exactly the sort of shift the push-out rule envisions."

**Banks Set for Reprieve as EU Delays U.S. Swaps Decision**
**Jim Brunsden, Bloomsberg, 5/8/14**
"Banks using U.S.-based clearinghouses to handle their swaps trades are set to win a reprieve from tougher capital rules as the European Union said it will take more time to assess whether American regulations are strict enough.

"Michel Barnier, the bloc's financial-services chief, will seek permission from the 28 EU governments to postpone by six months a deadline to decide on whether U.S. rules for clearing of swaps are as tough as EU standards. Under the current timetable, the European Commission must take a positive decision by June 15 or banks would have to back swap trades cleared through U.S. platforms with more capital… The European Commission and CFTC have repeatedly clashed over the scope of their rules for the $693 trillion market for swaps and other over-the-counter derivatives, as regulators seek to plug loopholes exposed by the 2008 financial crisis."

**Banks Sued on Claims of Fixing Price of Gold**
**Alan Feuer, New York Times, 5/6/14**
**"**Frustrated traders and offbeat activists have complained for years in whispers and in online screeds that the price of gold has been subject to collusion. On Monday, these accusations of manipulation found a more august arena for expression: the federal courts.

"At a 40-minute hearing, lawyers for more than 20 plaintiffs gathered in Federal District Court in Manhattan to coordinate their linked lawsuits against the five banks [Barclays, Scotiabank, Deutsche Bank, HSBC and Société Générale] that make up what is known as the London gold fix. The suits, filed by hedge funds, private citizens and public investors like the Alaska Electrical Pension Fund, contend that the banks have used their privileged positions as market makers to rig the price of gold to their benefit…"

## ENFORCEMENT

**Seeking Tough Justice, but Settling for Empty Promises**
**Jesse Eisinger, New York Times, 5/7/14**
"The Justice Department is talking tough. In an unusually frank video statement, Attorney General Eric H. Holder Jr. proclaimed that he was personally overseeing major financial investigations and that his department was poised to bring charges against several large institutions. The United States attorney in Manhattan, Preet Bharara, gave a rousing speech several weeks ago, declaring that the era of 'too big to jail' is over…

"As part of its investigation of the rigging of global benchmark interest rates, the Justice Department obtained guilty pleas. But the contrite parties were obscure Japanese subsidiaries of UBS and the Royal Bank of Scotland. Was this likely to deter future bad behavior by executives at those companies or their competitors? Many were skeptical."

**Holder: 'There Is No Such Thing as Too Big To Jail'**
**Steve Benen, MSNBC, 5/6/14**

**Two of the World's Biggest Banks Could Soon Face Federal Charges**
**KP Whaley, Wisconsin Public Radio, 5/7/14**
"Marcus Stanley, policy director of **Americans for Financial Reform**, said he remains to be convinced that any U.S. Bank will be prosecuted. 'We've had many, many opportunities to go after American banks in the years since the financial crisis — not just American banks, but specific individuals within those banks who were involved with what looks like fraudulent behavior, and…. we haven't really seen the government do that,' said Stanley, who is also former senior economist at the U.S. Joint Economic Committee.

"He added: 'It's striking that the high level executives who personally profited from the sale of what later turned out to be toxic assets, that imposed huge losses on investors and the economy, collected payments and bonuses from making those sales and they haven't had to pay any of that back.'"

**Seeking Guilty Pleas From Corporations While Limiting the Fallout**
**Peter J. Henning, New York Times, 5/6/14**
"Since the demise of Arthur Andersen, prosecutors have used deferred-prosecution agreements, like the one JPMorgan Chase entered into over its failure to detect Bernard L. Madoff's huge Ponzi scheme. Although companies admit to misconduct, there is no criminal conviction entered against them, allowing them to avoid most of the consequences of a finding of guilt.

"Even with a more aggressive stance requiring a guilty plea, the Justice Department appears to be trying to minimize the collateral consequences of a conviction. As DealBook has reported, prosecutors have met with federal and state regulators to gauge whether they would revoke licenses that allow BNP Paribas and Credit Suisse to operate in the United States if the parent companies enter guilty pleas."

**Lopsided Approach to Wall Street Fraud Undermines the Law**
**Ted Kaufman, New York Times, 5/8/14**
"Today, Justice Department and bank regulators are wrestling with the question of whether the government can criminally indict a foreign bank, to show that no bank is

immune from prosecution. In my view, this question has taken the Justice Department down a rabbit hole.

"The department first strayed from the correct path when it began years ago to resort to nonprosecution and deferred prosecution agreements with banks, focusing on enhancing bank compliance programs. Instead, it should have stayed focused on investigating senior managers and holding them accountable for lawbreaking, however difficult the consequences may be.

"What's far more troubling, however, is that the recent inspector general's report and accounts from former department insiders show that the Justice Department never made mortgage origination fraud – much less the financial crisis-related investigations of high-level Wall Street executives – a priority."

**Morgan Stanley Fined $5 Million Over I.P.O. Work**
**Rachel Abrams, New York Times, 5/6/14**
"The Financial Industry Regulatory Authority has fined Morgan Stanley $5 million, saying that the firm did not follow proper procedures in the initial public offerings for 83 companies including Facebook and Yelp…

"According to Finra, the issues with Morgan Stanley's advisers stemmed from the bank's acquisition of Smith Barney, the retail brokerage operation it bought from Citigroup in 2012. The deal gave Morgan Stanley a new supply of high-net-worth clients as it shifted away from trading to a more stable asset-management strategy. But the bank also inherited financial advisers who might not have received proper training from their previous employer."

**Credit Suisse Said Near U.S. Tax Deal for Over $1 Billion**
**Tom Schoenberg, David Voreacos and Catherine Bosley, Bloomberg, 5/6/14**
"Credit Suisse Group AG (CSGN), facing a U.S. criminal probe of whether it helped Americans evade taxes, is close to resolving the case with an agreement that may include a penalty of more than $1 billion and a guilty plea, according to a person familiar with the matter…"

**U.S. Seeking Guilty Plea From Credit Suisse Parent**
**Tom Schoenberg, David Voreacos and Greg Farrell, Bloomberg, 5/7/14**

**Citigroup Must Defend Fraud Claim Over $1 Billion in CDOs, N.Y. Court Rules**
**Chris Dolmetsch, Bloomberg, 5/9/14**
"Citigroup Inc. 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 Financing was allowed by a New York appeals court to sue Citigroup for fraud. The appeals panel, partly upholding a lower-court's decision denying the bank's request to throw out the case, ruled today that Loreley can't sue for unjust enrichment. Loreley, a group of nine investment companies based in the Channel Islands, was formed to invest in collateralized-debt obligations."

## EXECUTIVE COMPENSATION

**Hedge Fund Moguls' Pay Has the 1% Looking Up**
**Alexandra Stevenson, New York Times, 5/6/14**
"The 25 highest-earning hedge fund managers in the United States took home a total of $21.15 billion in compensation in 2013, according to an annual ranking published on Tuesday by Institutional Investor's Alpha magazine.

"They earned that hefty sum in a year when most hedge fund managers fell short of the market's returns. The multibillion-dollar payday is the highest since 2010, and it is 50 percent more than in 2012, according to the survey.

David A. Tepper, the 56-year-old founder of Appaloosa Management, maintained his spot atop the list, bringing in $3.5 billion last year, after earning $2.2 billion in 2012. Steven A. Cohen of SAC Capital Advisors ranked No. 2 after pocketing $2.4 billion, while John A. Paulson of Paulson & Company took home $2.3 billion, ranking No. 3."

**Now That's Rich**
**Paul Krugman, New York Times, 5/8/14**
"Once upon a time, you might have been able to argue with a straight face that all this wheeling and dealing was productive, that the financial elite was actually providing services to society commensurate with its rewards. But, at this point, the evidence suggests that hedge funds are a bad deal for everyone except their managers; they don't deliver high enough returns to justify those huge fees, and they're a major source of economic instability.

"More broadly, we're still living in the shadow of a crisis brought on by a runaway financial industry. Total catastrophe was avoided by bailing out banks at taxpayer expense, but we're still nowhere close to making up for job losses in the millions and economic losses in the trillions. Given that history, do you really want to claim that America's top earners — who are mainly either financial managers or executives at big corporations — are economic heroes?"

**Buffett Says Pay-Disclosure Rules Fuel Jealousy, Harm Investors**
**Margaret Collins and Zachary Trace, Bloomberg, 5/3/14**
"Warren Buffett, the billionaire chairman and chief executive officer of Berkshire Hathaway Inc., said shareholders are harmed by rules that force companies to disclose the pay of top managers.

"Executives who find that their colleagues are paid more may become jealous and press for higher awards, Buffett said today at Berkshire's annual meeting in Omaha, Nebraska, where the company is based. 'That's a good reason for us not publishing the salaries of, say, our top 10 managers,' the billionaire said. 'It's very seldom that publishing compensation accomplishes much for the shareholders'."

**Tug-of-War Over Pay Leads to Small Gains, Changing Incentives**
**Susan O'Donnell, American Banker, 5/5/14**
"Bank chief executives had a good but not a great year in 2013, based on an analysis of the pay packages at 35 U.S. banks with assets of $20 billion to $400 billion.

"Total compensation — including base salaries, incentives and equity-based pay— rose 3.2%. Base salaries were flat. Cash payouts, which reward executives for meeting annual objectives, averaged 112% of target, indicating that the rewards were modestly above performance expectations. The value of long-term equity grants rose approximately 5% over 2012 levels…

"The biggest changes are evident in long-term incentive pay, which at many banks constitutes the largest component of compensation. During 2013:

- Stock option values decreased 30%
- Time-based restricted stock values decreased 18%
- Shares awarded on the basis of performance increased 35%"

## FEDERAL RESERVE AND SYSTEMIC RISK

**Fed Proposes Rule Limiting Financial Firms' Consolidation**
**Jesse Hamilton, Bloomberg, 5/8/14**
"The Fed proposal released today would implement a Dodd-Frank Act mandate that would match a nationwide 10 percent cap that already applies to deposits. The central bank is inviting public comments until July 8…

"The measure would bolster an existing industry cap prohibiting mergers that create a bank with more than 10 percent of U.S. deposits, 'because it also takes into account non-deposit liabilities and off-balance sheet exposures,' according to the oversight council's report. It listed companies including Bank of America Corp. (BAC:US), JPMorgan Chase & Co. (JPM:US), Citigroup Inc. (C:US) and Wells Fargo & Co. (WFC:US) as having sufficient liabilities to face restrictions on acquisitions.

"The financial sector's current liabilities stand at about $18 trillion, according to the Fed, meaning a $1.8 trillion maximum for any potential combination of firms."

**Federal Reserve to Bank Giants: Don't Get Bigger**
**Ciaran McEvoy, Investor's Business Daily, 5/8/14**

**A New Fed Thought for 'Too Big to Fail' Banks: Shrink Them**
**Peter Eavis, New York Times, 5/8/14**
"A nagging sense seems to pervade the public's mind that the nation's biggest banks still pose a risk to the wider economy, despite all that has been done since the 2008 financial crisis. It seems that disquiet persists even at the heart of the regulatory establishment. The latest call to action came on Friday from Daniel K. Tarullo, a governor at the Federal Reserve, an agency that plays a crucial role in shaping new banking rules…

"To make the system safer, Mr. Tarullo floated an idea that could affect banks that make heavy use of wholesale markets. His idea is to require such banks to hold extra capital. How much extra would depend on how flush a bank's balance sheet is. Such a program is more aimed at the major Wall Street institutions, while leaving regional lenders and even large consumer-oriented banks like Wells Fargo largely unscathed."

**Regulator Suggests End to Banks' Self-Grading**
**Peter Eavis, NY Times, 5/10/14**
"Self-grading has obvious limitations in education. Now, a senior regulator at the Federal Reserve wants to banish it from bank regulation. Under international banking rules, large banks are allowed to use their own tests to assess the riskiness of their assets and activities. Even after the financial crisis, these internal measurements

play a role in setting capital requirements, the crucial financial buffer that helps a bank withstand losses and disruptions in the markets.

“But in a speech on Thursday, Daniel K. Tarullo, the Fed governor who oversees regulation, said he believed that regulators should consider stopping the banks from using their own estimates. ‘The I.R.B. approach has little useful role to play,’ he said, referring to the internal ratings-based approach, the official term for this self-assessment. This suggestion represents another big shift away from a regulatory regime that left the financial system vulnerable to collapse in the 2008 crisis.”

**[Fed Official Seeks Radical Change in Bank Regulation]**
**Peter Coy, Bloomberg, 5/8/14**
“The Swiss city of Basel is to central bankers what the Vatican is to Roman Catholics. But that didn’t stop Federal Reserve Governor Daniel Tarullo from slamming the Basel approach to bank regulation in a speech today in Chicago. According to [prepared remarks] released by the Fed, Tarullo said the standard designed by the [Basel Committee on Banking Supervision] creates ‘manifold risks of gaming, mistake, and monitoring difficulty.’ The Basel standard, he said, ‘contributes little to market understanding of large banks’ balance sheets and thus fails to strengthen market discipline.’ He even said its ‘relatively short, backward-looking basis for generating risk weights makes the resulting capital standards likely to be excessively pro-cyclical and insufficiently sensitive to tail risk’...

“Speaking at a Federal Reserve Bank of Chicago conference, he summed up by saying, “we should consider discarding” it, which really means ‘we should discard it.’

“There’s a lot of bankerspeak in the above-quoted remarks, but Tarullo’s objection is simple. He doesn’t trust banks to judge their own risk exposure, which is essentially what the Basel rules allow.”

**[Tarullo Calls for Amending Statutes to Fine-Tune Bank Rules]**
**Craig Torres and Kim Chipman, Bloomberg, 5/8/14**

**[U.S. Financial Regulation Must Extend Beyond Banks, Tarullo Says]**
**Pedro Nicolaci da Costa, Wall Street Journal, 5/8/14**

**[Bankruptcy Is Preferred Path for Big-Bank Failures, Hoenig Says]**
**Jesse Hamilton, Bloomberg, 5/7/14**
“Bankruptcy is the preferred path for resolving the largest U.S. banks when they collapse and firms should make fundamental changes to make that possible, Federal Deposit Insurance Corp. Vice Chairman Thomas Hoenig said today.

“Speaking to the Boston Economic Club, Hoenig called on banks and regulators to finish work on Dodd-Frank Act ‘living wills’ to lay out how companies can be shut down under court supervision. Relying on a separate rule that lets the FDIC unwind bank holding companies could lead to taxpayer-funded bailouts, he said.”

**[Banks Face Basel Review of Capital Loophole for Sovereign Debt]**
**Jim Brunsden, Bloomberg, 5/7/14**
“Banks’ ability to escape higher capital requirements when they buy sovereign debt is facing scrutiny from global regulators amid concerns that it undermines attempts to sever links between governments and lenders.

“The Basel Committee on Banking Supervision, a group bringing together regulators from 27 nations, is beginning to study the loophole, which in the European Union has allowed banks to treat any debt issued by the bloc’s governments as risk-free and exempt from usual rules on how banks should fund a portion of their investments through equity rather than debt…”

**Morgan Stanley Raises CLO Forecast as Volcker Headwinds Ignored**
**Christine Idzelis, Bloomberg, 5/7/14**
“Concern that regulatory scrutiny will curb the market for collateralized loan obligations may have been overblown.

“Morgan Stanley raised its forecast for new CLOs in the U.S. this year to as much as $85 billion, at least the third bank since April to boost projections for the biggest buyers of junk loans. JPMorgan Chase & Co. boosted its projection to as much as $100 billion on May 2, while Wells Fargo (WFC:US)& Co. lifted it to as high as $90 billion last month.”

**Yellen: Asset Managers Pose Different Risks Than Banks**
**Ryan Tracy and Pedro Nicolaci da Costa, Wall St. Journal, 5/8/14**
“Federal Reserve Chairwoman Janet Yellen and another top Fed official defended the prospect of stricter regulation for large, nonbank financial firms like asset managers as Washington looks to rein in risks emerging outside the traditional banking sector.

“Ms. Yellen, testifying before a Senate panel on Thursday, said bringing large asset managers in for tougher supervision would be justified if their failure could threaten financial stability… [I]f the failure of one firm could cause a systemwide crisis, ‘that's a reason for them to be designated and subject to risk standards and potentially capital and liquidity standards that would reduce the odds that they could fail,’ Ms. Yellen said.

“Her comments were echoed earlier Thursday by Fed. Gov. Daniel Tarullo, the Fed's regulatory point man… Regulators must look for threats posed by risky financial activities regardless of whether banks are involved, he said.”

**Financial Regulators See Progress and Threats**
**Annie Lowrey, New York Times, 5/7/14**
“Some of the same weaknesses that contributed to the disastrous 2008 financial crisis persist today, the Financial Stability Oversight Council said in its 2014 annual report to Congress… But threats old and new abound, and the annual report acts as a guide to what Washington is worried about when it comes to Wall Street.

“The perception that big, interconnected financial firms might be ‘too big to fail’ persists, the report warns. The markets where many banks look for short-term cash loans remain potential weak spots, too.”

## FINANCIAL TRANSACTION TAX & HIGH-FREQUENCY TRADING

**High-Speed Trades Outpace CFTC's Oversight, O'Malia Says**
**Silla Brush, Bloomberg, 5/7/14**
"The U.S. Commodity Futures Trading Commission isn't keeping up with high-speed derivatives trading and needs to invest in tools to detect manipulative and disruptive practices, said Scott O'Malia, a Republican commissioner.

"The CFTC lacks the technology necessary to routinely oversee the millions of messages traders send every day to futures exchanges operated by CME Group Inc. and IntercontinentalExchange Group Inc., O'Malia said yesterday in a speech prepared for a Tabb Forum conference in Chicago…

"O'Malia said the CFTC needs also to improve coordination with European regulators on oversight of the swaps market. The U.S. and Europe lack an agreement on data-sharing about the $693 trillion global market and risk fragmenting the market between the regions, he said."

**CFTC Preparing Rule For High-Frequency Traders**
**Douwe Miedema, Reuters, 5/7/14**
"The U.S. derivatives markets regulator is preparing a proposed rule for automated trading, a senior regulator said, after earlier asking market participants for insights on a long list of questions.

"'I understand that Commission staff is starting to work on a proposed rule,' Scott O'Malia, a member of the Commodity Futures Trading Commission, said in a speech.

"The CFTC, which regulates futures and swaps markets, in September put out a study - known as a concept release - into computerized trading that was seen as a possible first step toward drawing up formal rules."

**Senate Panel to Hold Hearing On High-Frequency Trading**
**Douwe Miedema, Reuters, 5/6/14**

**Four Years Later: Could Another 'Flash Crash' Roil the Markets?**
**Jennifer Booton, Fox Business, 5/6/14**
"Saluzzi says many of the rules enacted since May 2010 have been 'cosmetic.' Deeper issues such as data feeds, the maker-taker model and obligations of market makers remain outstanding.

"Single stock breakers, for example, which currently halt stocks that move beyond a specific price threshold -- either 5% or 10%, depending on the security – during a five-minute period, wouldn't be enough by themselves to stop a multi-point stock market decline caused by erroneous trades or a glitch."

**Flash Crash: Could It Happen Again?**
**Matt Egan, CNNMoney, 5/6/14**

**NYSE to Curtail Order Types Amid Debate Over Their Fairness**
**Sam Mamudi and Matthew Leising, Bloomberg, 5/9/14**
"The New York Stock Exchange wants to pare back the types of orders customers can place, potentially quieting critics who say their proliferation gives high-frequency traders an unfair edge.

"NYSE staff have identified more than a dozen to abolish, pending regulatory approval, IntercontinentalExchange Group (ICE) Chief Executive Officer Jeffrey Sprecher said today…

"Order types, the software routines used by brokers to pinpoint the price and size of trades they're willing to conduct, have been targeted by critics who argue the U.S. stock market is unfairly structured. Haim Bodek, a former Goldman Sachs Group Inc. programmer who has achieved celebrity in the debate surrounding high-frequency trading, says traders use them to cloak plans to buy or sell shares, giving them an advantage over other investors. Bodek has taken his allegations of wrongdoing fueled by order types to the U.S. Securities and Exchange Commission as a whistle-blower."

**EU Ministers Eye 11-Nation Transaction Tax to Start 2016**
**Rebecca Christie, Gregory Viscusi & Karl Stagno Navarra, Bloomberg, 5/6/14**
"European finance ministers are designing a financial-transaction tax on equities and derivatives that could start in 2016 for the 11 nations that have signed up to participate…

"The participants haven't been able to agree on whether to tax all derivatives, only equity derivatives or none at all. Nations pushing for the levy are also split over who should get to collect it, a trading firm's country of origin or the nation where trading takes place. Smaller countries have generally sought a broader tax that raises more revenue, while bigger nations have been willing to start on a smaller scale."

**EU Watchdog Sounds Warning Over Patchwork Transaction Tax**
**Huw Jones, Reuters, 5/8/15**
"A tax on stock, bond and derivatives transactions in fewer than half of European Union member states would 'not be good' for the bloc's securities market, a top EU regulator said on Wednesday.

"The aim of the tax is to make banks pay back some of the taxpayer money they were given during the 2007-09 financial crisis but the levy is likely to raise only a fraction of the 35 billion euros originally hoped for as splits emerge over what should be taxed… Ten of the countries taking part, which include France, Germany and Italy, but not Britain, the bloc's biggest securities market, issued a declaration on Tuesday."

## INVESTOR PROTECTION AND THE SEC

**Lawmakers' Call for SEC-DOL Fiduciary Collaboration a 'Tactic,' Consumer Groups Say**
**Melanie Waddell, ThinkAdvisor, 5/6/14**
"'It's absurd to suggest that DOL should step aside to wait and see' if the SEC moves forward with its fiduciary rulemaking, said [CFA's Barbara] Roper at [an] event held in Washington called *The Threat to Retirement Security: When Salespeople Call Themselves 'Advisers.'*

"'I'm troubled by suggestions that the DOL needs to wait longer,' agreed Shaun O'Brien, assistant director of public policy for the AFL-CIO, as update of the Employee Retirement Income Security Act is 'long overdue.' ERISA, he said, was created in 1974 and 'falls far short of the authority needed to protect investors' in today's environment.

"Lisa Donner, executive director of **Americans for Financial Reform**, added that Congress' repeated requests for collaboration between the two regulators on their rules "feels like it's a tactic, and is not grounded in either regulatory or statutory sense."

**Sheryl Garrett Scoffs at Argument Against Fiduciary Duty**
**Mark Schoeff, Investment News, 5/6/14**
"One investment adviser is sick and tired of the financial industry's threat that mom-and-pop investors will suffer if investment-advice standards are raised. Sheryl Garrett, founder of the Garrett Planning Network Inc., said that investors with low net worth can be served in a market where all financial advisers must act in their best interests…

"She points to her own network of more than 300 advisers who work on an hourly fee. 'We're actually starting to see that movement grow,' Ms. Garrett said during a media briefing in Washington on Tuesday hosted by the Consumer Federation of America, AARP, the AFL-CIO and **Americans for Financial Reform**. "Can't this middle market be served? Yes, it absolutely can and it should be for the sake of our entire society under a fiduciary standard."

**When Salespeople Call Themselves Advisers**
**Jim Lardner, USNews, 5/6/14**
"When retail investors seek advice from a financial professional, they generally assume that the professional is acting on their behalf. It makes no sense to insist that some professionals live up to that expectation, while letting others exploit it."

**Broker-Dealers Expect Weaker Fiduciary Rule From SEC Than DOL, Advocate Says**
**Ted Knutson, Financial Advisor, 5/6/14**
"Broker-dealers are figuring they can get a weaker fiduciary standard from the Securities and Exchange Commission than the Department of Labor, Consumer Federation of America Director of Investor Protection Barbara Roper said Tuesday.

"Roper said while the specific areas of SEC and DOL rule development of fiduciary standards are different -- the SEC is looking at imposing an investment advisor-like standard on all brokers while the DOL is seeking to update its standard of care guidelines for IRAs and defined contribution plans -- these new rules could add needed protections for retail investors from brokers."

**Broker Role as Order Router Should Be Reviewed, SEC's Stein Says**
**Dave Michaels, Bloomberg, 5/8/14**
"Investors should be given more information about where brokers send a stock order to be filled and whether that decision yielded the best price, a member of the U.S. Securities and Exchange Commission said today.

"Additional disclosure would help investors know whether their broker is serving their best interest or routing orders to avoid fees or capture rebates, Commissioner Kara M. Stein said at a Washington conference sponsored by the Council of Institutional Investors. The SEC is weighing such a plan as part of a review of how stocks are traded, according to three people familiar with the matter.

"The SEC is facing pressure to overhaul trading rules after Michael Lewis's 'Flash Boys' book alleged that high-frequency traders benefited from exchange rules to take advantage of slower investors. The book also lays blame on the SEC for its set of

2007 rules that resulted in fast traders gaining an edge over slower ones and equity markets becoming more complex and interconnected."

See **Commissioner Kara M. Stein's Remarks to the Council of Institutional Investors**.

**Private-Equity Scrutiny Deepens After SEC Finds Illegal Fees**
**Devin Banerjee and Dave Michaels, Bloomberg, 5/7/14**
"Private-equity firms, after decades of operating with limited regulatory scrutiny, are facing possible sanctions and tighter oversight after the Securities and Exchange Commission uncovered improprieties at most firms.

"The SEC found illegal fees or severe compliance shortfalls in more than half of the firms it examined since starting a review of the $3.5 trillion industry two years ago, Drew Bowden, head of the SEC's exam program, said in a speech yesterday. Bowden's remarks foreshadow significant changes in how the industry operates, said Jay Gould, head of the investment-funds team at law firm Pillsbury Winthrop Shaw Pittman LLP in San Francisco.

"'There will be several significant enforcement actions, enough to where the message will be pounded home loud and clear as to what is acceptable and what is not,' Gould said."

**SEC Probing Brokerages Over Handling Of Retail Orders**
**Sarah N. Lynch and Emily Flitter, Reuters, 5/6/14**
"The SEC's enforcement division is investigating whether retail customers are receiving the best price and the most efficient execution for their trades, these people said. The regulator is also asking about the payments that some retail brokers receive from exchanges and trading firms in exchange for directing customer orders to those platforms…

"The SEC's investigation comes as public debate has intensified over rules governing payment-for-order flow and other market structure issues that may favor high-frequency traders over retail investors, spurred in part by Michael Lewis's 'Flash Boys, a book that explores the rise and potential abuses of computer-driven high-speed trading."

## MORTGAGES, FORECLOSURES & HOUSING

**What Housing Recovery?**
**Peter Dreier, NY Times, 5/9/14**
"Recently, there's been a lot of happy talk about the nation's housing recovery. Frequent reports about rising prices suggest that the tens of millions of people whose homes lost value just have to wait until the recovery reaches their neighborhood to lift them out of crisis. But this supposed housing recovery is bypassing many of our cities and towns.

"The total value of America's owner-occupied housing remains $3.2 trillion below 2006 levels. According to Zillow, a real estate database, 9.8 million households still owe more on their mortgages than the market value of their homes. That's one-fifth of all mortgaged homes. Without government intervention, many of them are at risk of joining the almost five million households that have already suffered through foreclosure since the housing bubble burst in 2007."

See Haas Institute report: ***[Underwater America: How the So-Called Housing 'Recovery' is Bypassing Many Communities]()*.**

**[Underwater America: Where the Share of Underwater Mortgages is Highest]()**
**Rebecca Thiess, AFR Blog, 5/8/14**
"A new report from UC Berkeley's Haas Institute challenges the notion of a national housing recovery. While overall rates of foreclosure and mortgage delinquency have fallen since the height of the housing crisis, many areas of the country have yet to see much improvement, according to *Underwater America: How the So-Called Housing 'Recovery' is Bypassing Many Communities*."

**[Warren and Allies Said to Reject Fannie Mae Overhaul Bill]()**
**Cheyenne Hopkins, Bloomberg, 5/9/14**
"The Senate Banking Committee is preparing to vote next week on a plan to replace government-owned mortgage firms Fannie Mae (FNMA) and Freddie Mac (FMCC) as fading Democratic backing for the measure dims its chances of becoming law. Six Democrats whose support is crucial agreed in a private meeting yesterday that they wouldn't vote for the bipartisan proposal to replace the finance companies with a government re-insurer, according to three people familiar with the meeting.

"The six senators -- Elizabeth Warren of Massachusetts, Charles Schumer of New York, Sherrod Brown of Ohio, Jeff Merkley of Oregon, Robert Menendez of New Jersey and Jack Reed of Rhode Island -- agreed that the measure needed major revisions: The structure of the re-insurer seemed unworkable and the bill lacked sufficient support for affordable housing goals. Changing the bill to address those concerns could weaken Republican support for the bill."

**[How to Fix the Mortgage Market]()**
**Editorial, NY Times, 5/9/14**
"At its most basic, the bill would end Fannie Mae and Freddie Mac — with their implicit government guarantees and confusing ownership status — but would continue vital federal support for mortgages through a new entity, the Federal Mortgage Insurance Corporation. The idea is to ensure that mortgage loans are broadly available, while giving taxpayers a housing market that serves the long-term interests of families and the broader economy.

"For all of its positive attributes, however, the Senate bill is fatally marred by two provisions buried in the text…"

**[Housing Finance Reform Bill on the Agenda for Next Week]()**
**Vicki Needham, The Hill, 5/6/14**
"The Senate Banking Committee is expected to resume consideration next week of a measure to overhaul the mortgage finance system, a panel aide said Tuesday.

"The markup was delayed a week ago as panel leaders sought more Democratic votes for a bill that would eliminate government-controlled mortgage giants Fannie Mae and Freddie Mac over five years and shift more of the mortgage risk to the private sector…"

**[Wells Fargo Moves Annual Meeting to Texas, But Protesters Follow]()**
**E. Scott Reckard, Los Angeles Times, 4/29/14**
"You can move your shareholder meeting out of California, but you can't stop protesters from following. Joining ordinary Wells Fargo shareholders, demonstrators planned to air their grievances Tuesday in San Antonio, site of this year's annual

meeting. Some protesters purchased a share of stock, entitling them to enter the meeting and speak for two minutes.

“The issues included Wells Fargo's foreclosure practices, its ties to private prison companies, and complaints that front-line branch employees were driven to unethical behavior by the bank's never-ending demands to increase sales of accounts and add-ons.”

**Wells Fargo Blasted For “Predatory Lending”**
**Patrick Danner, San Antonio Express-News, 4/29/14**
“The bank's top brass were in San Antonio on Tuesday for the company's annual meeting, and although the event went smoothly, Wells Fargo still faced sharp questions over its mortgage practices. About 40 people picketed outside a Wells Fargo branch a few miles away from the annual meeting. ‘Banks got bailed out; we got sold out,’ they chanted, holding ‘Stop Foreclosures’ and ‘End Predatory Lending’ signs...

“At the annual meeting, CEO John Stumpf defended Wells Fargo's track record in helping homeowners. Over the last five years, the bank has helped 728,000 homeowners with mortgage modifications and reduced the principal on home loans by $8 billion. ‘No other bank has forgiven $8 billion,’ said Stumpf, who received $19.3 million in compensation last year.”

**Mortgage Complaints Overrun Wells Fargo Shareholder Meeting**
**Saabira Chaudhuri, Wall Street Journal, 4/29/14**

**More Grief In Mortgage Debacle**
**Darrell Delamaide, USA Today, 5/7/14**
“One of the enduring scandals of the 2008 financial crisis was the government's half-hearted effort to provide relief to distressed homeowners while generously bailing out banks and allowing those who presided over the disaster to collect multimillion-dollar bonuses.

“Now, a new report adds another grievance to this catalog of woe. The Government Accountability Office last week detailed how federal regulators botched an effort to rectify the sloppy and sometimes fraudulent foreclosures by the banks, which drove millions of families from their homes.

“In cutting short an Independent Foreclosure Review before it was completed, the GAO found, bank regulators may have underestimated the extent of errors, so that the $3.9 billion in cash compensation the banks were ordered to pay to homeowners was lower than it might have been.”

**Fannie Mae And Freddie Mac Sending Treasury $10.2 Billion After Posting First Quarter Profits**
**Maggie McGrath, Forbes, 5/8/14**
“Fannie Mae posted $5.3 billion in net income for the first quarter of 2014 and comprehensive income of $5.7 billion, the company’s ninth consecutive quarterly profit though a notable downturn from the $58.7 billion reported as net income in the year-ago period. The difference is largely attributable to a one-time accounting move that allowed Fannie Mae to apply losses from delinquent mortgages, though Fannie Mae CEO Tim Mayopoulos said in a Thursday morning conference call that the first quarter’s results were pressured by home prices…

“Fannie Mae (and sibling Freddie Mac) has operated under the conservatorship of the Federal Housing Finance Agency (FHFA) since September 6, 2008, and as such will pay the U.S. Treasury the entirety of its $5.7 billion comprehensive income. The payment will be made via dividends in June and will bring Fannie’s payback total to $126.8 billion, a figure that surpasses its $116.1 billion drawdown requests. Fannie’s agreement with Uncle Sam also contains a stipulation that does not permit it to build a capital reserve, and Mayopoulos noted that his company’s existing $2.4 billion capital reserve will be reduced by $600 million each year until it reaches zero. This, however, leaves the company with very little room for operating error.”

**JPMorgan Joins Wells Fargo in Rolling Out Jumbo Offerings**
**Alexis Leondis, Bloomberg, 5/9/14**
“Jumbos, or loans of at least $417,000 in most areas, are one of the few thriving pieces of an otherwise shrinking mortgage market. The biggest banks, including San Francisco-based Wells Fargo, JPMorgan Chase & Co. and Bank of America Corp., are ratcheting up efforts to win wealthier borrowers while keeping credit tight for almost everyone else. Lenders are allowing assets in accounts to serve as collateral in lieu of down payments, cutting rates if customers have or set up investment accounts, rolling out new adjustable-rate jumbo mortgages, and accepting lower down payments…”

**Some Investors Bet on Return to Reverse Mortgages**
**Matthew Goldstein, New York Times, 5/7/14**
“Some private investors are betting that reverse mortgages, an investment product aimed at older people in need of cash, will make a resurgence as more homeowners reach retirement age in the coming years.

“A reverse mortgage start-up based in New Jersey has raised about $230 million in a private offering managed by the investment banking boutique FBR Capital Markets. Investors in the private sale of shares of Reverse Mortgage Investment Trust included hedge funds, wealthy individual investors and customers of the investment firm…

“The industry has historically drawn its fair share of scorn for using older Hollywood actors to hawk their product on late-night television advertisements. Some consumer advocates have complained that the reverse mortgage business preys on the financially ill-informed, who might be better off simply selling their homes and banking the cash than entering into a transaction that pays a premium to a lender.”

## STUDENT LOANS AND FOR-PROFIT COLLEGES

**Strayer Education Is Making Tough Choices in a Tough Market**
**Andrew Sebastian, Motley Fool, 5/7/14**
“For-profit education companies have come under scrutiny over the past couple of years due to their low graduation rates and students being unable to find gainful employment upon graduating. In response, the government is trying to implement the ‘gainful employment’ rule.

“The rule would effectively cease government money to for-profit education companies if their graduates finished their programs having high percentages of student loan debt compared to their incomes. Thankfully for the education companies, the implementation of the rule has faced hurdles and was blocked in 2012 by a lawsuit from the for-profit education industry…”

**Complaint Filed Against For-Profit College Chain**
**Magic Valley (Idaho) Times-News, 5/9/14**
**"**A complaint has been filed against Stevens-Henager College and its owner for illegally compensating recruiters, the U.S. Department of Justice announced Thursday. Stevens-Henager operates a chain of for-profit colleges in Idaho and Utah. It's owned by The Center for Excellence in Higher Education.

"'Congress has made clear that colleges should not pay improper incentives to admissions recruiters,' said Stuart Delery, assistant attorney general for the civil division of the Department of Justice. 'The Department of Justice and the Department of Education are working together to combat abusive recruitment practices that can harm students and result in the waste of taxpayer funds.'"

**Goldman School Unit Seen Swapping Debt**
**Sridhar Natarajan and John Lauerman, Bloomberg, 5/8/14**
"Education Management Corp.'s loans are dropping the most in the U.S. market this month as signs emerge that the for-profit college operator with declining enrollments will seek to swap its debt for equity.

"The company, partly owned by Goldman Sachs Group Inc. and Providence Equity Partners LLC, will 'likely not satisfy' terms of its credit accord this quarter and has hired a financial adviser for discussions with lenders, Chief Financial Officer Mick Beekhuizen said during a May 1 earnings call with investors and analysts."

## OTHER TOPICS

**Geithner in Book Says U.S. Considered Nationalizing Banks**
**Ian Katz, Bloomberg, 5/8/14**
"Geithner disagreed when Lawrence Summers, then head of the White House's National Economic Council, suggested to President Barack Obama that the administration 'pre-emptively nationalize' banks including Citigroup and Bank of America Corp., or try to embarrass them into changing their pay structures, according to the Times. The article includes quotes from the book, 'Stress Test: Reflections on Financial Crises,' and interviews with Geithner…

"'I did not view Wall Street as a cabal of idiots or crooks,' Geithner wrote. 'My jobs mostly exposed me to talented senior bankers, and selection bias probably gave me an impression that the U.S. financial sector was more capable and ethical than it really was'."

**Five Takeaways From Magazine Article on Geithner and the Financial Crisis**
**Andrew Ross Sorkin, New York Times, 5/8/14**
"Mr. Geithner said that he had many regrets. 'It's clear we didn't do enough,' he writes. 'Before the crisis, I didn't push for the Fed in Washington to strengthen the safeguards for banks, nor did I push for legislation in Congress to extend the safeguards to nonbanks,' he writes. 'I wish I had figured out a way to respond more aggressively to the initial panic, and to sustain the initial power of our fiscal stimulus. I wish we had expanded our housing programs earlier, to relieve more pain for homeowners.'

"Mr. Geithner's critics may latch on to this anecdote: He says he felt uncomfortable deriding Wall Street, so much so that when he was handed talking points for a press statement he was supposed to make while sitting next to President Obama in the

White House to express outrage at banker bonuses, he refused. 'I skimmed the outrage I was expected to express. I'm not very convincing as any angry populist, and I thought the artifice would look ridiculous. "I'm not doing this",' he wrote. 'Instead, I sat uncomfortably next to the president while he expressed outrage.' He later explained. 'I feared that the tougher we talked about the bonuses, the more we would own them,' Mr. Geithner writes, 'fueling unrealistic expectations about our ability to eradicate extravagance in the financial industry.'

"Mr. Geithner spent much of his time in the Treasury Department talking tough about ending 'too big too fail' — eradicating the possibility of bank bailouts in the future — but he said he never believed it was a practical goal to eliminate it completely. 'Does it still exist?' he said. 'Yeah, of course it does.' Ending 'too big to fail' was 'like Moby Dick for economists or regulators. It's not just quixotic, it's misguided'.''

**What Tim Geithner Got Right**

**Jennifer Taub, New York Times, 5/6/14**

"Mr. Geithner is right when he notes that the 2008 crisis rescue presented an 'extreme real-time challenge.' But it would be wrong to assume that means the government had no models. With the stock market crash of 1929 and the subsequent Great Depression, Franklin D. Roosevelt's administration managed a rescue and reform that was (in comparison with the Bush administration and later, the Obama Administration) far tougher on failing banks and easier on struggling homeowners. The Home Owners Loan Corporation that was established in 1933, for example, refinanced more than a million (or 20 percent of all) home mortgages in the country. Some borrowers defaulted again, but 80 percent saved their homes, and the agency later returned a surplus to the government…

"I do concur that the country is indebted — not *to* Mr. Geithner, but perhaps *because of* him. Consider the more than nine million homeowners who still owe more on their mortgages than their property is worth. This collective negative equity still holds back the economy and housing market. Under Mr. Geithner's leadership, the Treasury Department did not support the legislation that would have restored the rights of borrowers to use bankruptcy courts to reduce principal and help save their homes. This legislation, which passed in the House, but failed in the Senate in 2009, would have cost the taxpayers nothing and more than a million homeowners would have benefited, according to the Congressional Budget Office.

"Banks and investment firms, on the other hand, more clearly owe the former Treasury secretary for his central role in securing their solvency. Based on the sizable speaking fees — $400,000 for just three appearances in 2013, plus a plum position he has secured in private equity — some financiers appear to be making good on that debt."

**Bank of America Shareholders Press Officials After $4 Billion Error**

**Michael Corkery, New York Times, 5/8/14**

"Despite hundreds of new regulations intended to reduce the threats that large financial institutions pose to the global economy, the biggest banks are facing new questions about their size and complexity.

"The error stemmed from how Bank of America accounted for certain losses on bonds that it acquired when it bought Merrill Lynch in the depth of the financial crisis. The miscalculation had gone undetected for several years.

"As a result of the error, Bank of America has $4 billion less capital than it had represented to the Federal Reserve on this year's stress test. The bank's shares are down nearly 5 percent so far this year."

**Low Bank Teller Pay Comes Under Fire**
**Sarah Todd, American Banker, 5/5/14**
"Big banks have faced heated public criticism for paying chief executives multimillion-dollar salaries and flush bonuses since the financial crisis. But little attention has been paid to wages for workers at the other end of the industry's spectrum — even as many tellers reportedly struggle to make ends meet.

"The issue of bank teller pay is starting to attract public scrutiny. A report released late last year by the Committee for Better Banks, a coalition of community labor groups, made waves with the finding that almost a third of tellers and their families nationwide are on public assistance. With median pay for bank tellers hovering around $25,000 annually in 2012 and cost-conscious banks slashing tellers' hours or replacing them with ATMs, economists and labor advocates say it's hardly surprising these workers are having trouble paying the bills…

"'We have to ask those who are running the banks why they feel they deserve to have such an excessive salary and bonus structure versus the workers who are doing everyday work to make banks run,' Flaherty says. She points out that JPMorgan Chase (JPM) chief Jamie Dimon, who earned nearly $19 million in 2013, could earn the annual salary that a teller makes at his company — $22,886 — in two hours. Bank of America (BAC) head Brian Moynihan, who made about $13 million last year, would take four hours to rake in the $23,054 salary his company pays tellers."

**Three Signs the Best Days of Private Equity Are Over**
**Sheelah Kolhatkar, Blooomberg, 5/8/14**

**JPMorgan Shuts Foreign Diplomats' Accounts**
**Tom Braithwaite, John Paul Rathbone and Gina Chon, Financial Times, 5/6/14**
"JPMorgan Chase is closing the accounts of current and former foreign government officials, sparking an angry reaction to its drive to avoid penalties for anti-money laundering violations. JPMorgan said it was closing the Chase accounts and stopping the credit cards of all current and former non-US senior government officials because of increased compliance costs. Banks are obliged to subject the accounts of such 'politically exposed persons' to added scrutiny. The ban affects 3,500 accounts…

"Fines for any anti-money laundering violations have increased dramatically and JPMorgan has paid billions of dollars for a variety of transgressions in the past year. As a result, the bank is engaged in a simplification drive, cutting riskier business lines and customers, including stopping serving embassies."

**Barclays to Cut 7,000 Jobs in Investment Bank, Create Internal 'Bad Bank'**
**Chad Bray, New York Times, 5/8/14**
"Barclays said on Thursday that it planned to cut 7,000 jobs from its investment bank in the next three years and create an internal 'bad bank' to house businesses and classes of assets it is getting out of as part of an overhaul of its operations…

"Under the strategy introduced on Thursday, the bank will be streamlined within four core businesses: retail and corporate banking in Britain, the Barclaycard credit card business, banking in Africa and investment banking.

“The British lender also plans to accelerate its cost-cutting plans. Barclays had previously announced plans to cut its work force of 140,000 by about 8 percent, or 12,000 jobs, this year. It now plans to cut 14,000 positions across the business this year.”

**Banking's Diversity Problems**
**Video, American Banker, 5/5/14**