AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
OCTOBER 3 – 10, 2014

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Obama Meets Top U.S. Financial Regulators at White House

Victoria McGrane, Wall St. Journal, 10/6/14

President Barack Obama on Monday urged U.S. financial regulators to keep looking for new ways to rein in excessive risk-taking in the financial sector, possibly through compensation and additional capital rules for the biggest financial firms, a White House spokesman said.

In a meeting Monday morning at the White House, Mr. Obama urged regulators “to consider additional ways to prevent excessive risk-taking across the financial system, including as they continue to work on compensation rules and capital standards,” White House press secretary Josh Earnest said… No new initiatives in these areas were considered Monday; rather Mr. Obama and participants discussed the need to finish outstanding compensation rules required by the 2010 Dodd-Frank law and reviewed the current state of capital rules, according to people familiar with the meeting.

Obama Claims Progress on Wall Street Rules

Jim Kuhnhenn, Associated Press, 10/6/14

A year ago, with regulations behind schedule and major pieces of the law not yet in place, Obama voiced concern about the slow pace and urged regulators to exhibit urgency in adopting new rules. At the time, regulators had completed rules on only 40 percent of the nearly 400 regulations required by the law.

So far this year, 55 percent have been finalized and rules have been proposed for 21 percent. Nearly a quarter of the regulations called for in the law have not yet been proposed, according to an analysis by the law firm of Davis Polk, which has been tracking progress on the bill.

Hensarling’s Response

Ben White, Politico, 10/7/14

Per House Financial Services Committee Chairman Jeb Hensarling (R-Tex.): ""Dodd-Frank is every bit as far-reaching in its harmful consequences for struggling Americans as Obamacare. Thanks to Dodd-Frank, it is harder for low and moderate income Americans to buy a home and there are fewer community banks serving the needs of families and small businesses ... Another White House meeting between President Obama and an army of Washington regulators won't do anything to help stressed families"

CONSUMER FINANCE & CFPB

Economic Rights as Civil Rights: The Importance of Fair Lending

Speech by Richard Cordray at Michigan State University, 10/10/14

In another era, more than a century ago, individual workers decided to band together and act collectively. Standing shoulder to shoulder in the workplace, they overcame great resistance to win new rights and protections that translated into economic gains.

Today, the new technology that links people together supplies the same conditions for consumers to "muscle up." Instead of complaining bitterly to nobody in particular, you can now seek out other customers and share your experiences. Social media sites like Facebook and Twitter offer platforms that are almost limitless.

Consumers are no longer alone, confined by physical isolation to begging for fair terms. You can reward and spread the word about the good businesses that treat you well, and you can punish and call out those that do not. The power of social media, as we saw in the political realm with the Arab Spring, is that it can generates mass power by joining human beings together with the greatest of ease. In the economic sphere, the result can be a critical mass of consumer power.

Billions of Dollars at Stake as Dealers, Feds Face Off Over Auto Loan Regulations

Greg Migliore, AutoBlog, 10/8/14

Auto dealers and the federal government are facing off over proposed rules to regulate auto financing, and this week the head of the nation's largest dealer lobby came out strongly against plans to tighten lending practices and extend federal oversight.

"The government is trying to take away the consumer's right to get a discount," said Forrest McConnell, chairman of the National Automobile Dealers Association. Speaking at an Automotive Press Association event in Detroit, McConnell said dealers need the ability to "discount" interest rates for auto loans.

Consumers Warned About Pitfalls of Online Payday Loans

Ann Carrns, NY Times, 10/2/14

Online payday lending has become the Wild West of consumer finance, replete with fraud, threats and unauthorized account withdrawals. That's the picture painted by a report released on Thursday by the Pew Charitable Trusts. The report comes after recent actions by federal regulators against fraudulent online lenders.

Borrowers Report Problems With Online Payday Loans

Annamaria Andriotis, Wall St. Journal, 10/2/14

Card Issuer Tries Early Intervention With Struggling Borrowers

Annamaria Andriotis, Wall St. Journal, 10/8/14

Credit-card issuer Barclaycard, a unit of Barclays, has partnered with a nonprofit credit-counseling group in an attempt to help borrowers and lessen credit-card losses at the institution.

The lender began sending out notices in late September to existing credit-card customers who it believes are at risk of falling behind on payments, informing them of the services offered by the Philadelphia-based Consumer Credit Counseling Service of Delaware Valley, better known as Clarifi.

[Regulator Says Consumers Unfairly Blocked From Checking Accounts]

Alan Zibel, Wall St. Journal, 10/8/14

Consumers are being unfairly blocked from setting up checking accounts because of financial problems they have had in the past, the U.S. consumer-finance regulator said Wednesday.

Consumer Financial Protection Bureau Director Richard Cordray, speaking at a CFPB forum on checking account issues, questioned the industry's use of database systems to screen out riskier customers. He asked banks and credit unions to "move beyond the use of 'crude black lists' where consumers are turned down for an account simply because their name appears on the list."

[A Debt Collector's Day]

Jake Halpern, NY Times, 10/5/14

[Lending Club Besting P2P Borrowing Peers Ahead of IPO]

Ryan Chiles, Time, 10/8/14

DERIVATIVES, COMMODITIES & THE CFTC

[Swaps Said to Lose Special Bankruptcy Status in New Contracts]

Jesse Hamilton and Silla Brush, Bloomberg, 10/3/14

Firms holding swaps contracts with a bank filing for U.S. bankruptcy protection would have to wait at least 24 hours before demanding collateral under new practices that may be adopted by the industry this month.

The revision could make it easier for banks to satisfy government requirements for the "living wills" they must produce to show how they'd unwind their businesses in an orderly fashion if they veered toward collapse.

[Expected Change in Derivatives Aims to Curb Damage From Bank Failure]

Peter Eavis, NY Times, 10/8/14

Six years ago, the $700 trillion derivatives market helped turn Lehman Brothers' collapse into a full-blown global financial crisis. But this weekend, regulators and large banks expect to agree on a change to derivatives that is intended to contain the damage caused by the crash of a large bank, several people briefed on the negotiations said.

Many in the industry are promoting the change as evidence that banks and regulators are substantially reducing the threat that large banks pose to the financial system and the wider economy. While consumer advocates say that they support the change, they also contend that it does not do enough to dislodge the privileged, and potentially precarious, position that they say derivatives still occupy in the financial system.

ENFORCEMENT

[Big Banks Face Another Round of U.S. Charges]
Ben Protess & Jessica Silver-Greenberg, NY Times, 10/6/14
With evidence mounting that a number of foreign and American banks colluded to alter the price of foreign currencies, the largest and least regulated financial market, prosecutors are aiming to file charges against at least one bank by the end of the year, according to interviews with lawyers briefed on the matter. Ultimately, several banks are expected to plead guilty.

The charges will most likely focus on traders and their bosses rather than chief executives. As a result, critics of the Justice Department might view the cases as little more than an exercise in public relations, a final push to shape the legacy of Attorney General Eric H. Holder Jr., who was blamed for a lack of criminal cases against Wall Street executives.

Yet the breadth of the suspected wrongdoing in the currency inquiry — Deutsche Bank, Citigroup, JPMorgan Chase, Barclays and UBS are among the dozen or so banks under investigation — might distinguish it from the piecemeal nature of the crisis-era investigations.

Barclays Agrees to Pay $20 Million to Settle US Class Action Over Libor
Nate Raymond, Evening Standard, 10/9/14

A New Crime With a Catchy Name, 'Spoofing'
Peter J. Henning, NY Times, 10/6/14

EXECUTIVE COMPENSATION

Wells Fargo Employee to CEO: Distribute the Wealth
Molly Young, Oregonian, 10/9/14
[Tyrel Oates] started nearly seven years ago at Wells Fargo's phone bank, hired on at $13 an hour to answer customer questions. His job changed last year. He now makes $15 an hour processing cease-and-desist requests, he said. His salary hasn't been enough to keep up with living expenses, he said.

Financial filings show San Francisco-based Wells Fargo earned $21.9 billion in profits last year, up 16 percent from 2012. [CEO John] Stumpf's pay climbed 8 percent to $19 million. "I love the whole company but seeing our CEO pull in so much money, even the bank pull in so much money, our fellow employees don't even see cost of living raises," Oates said.

FEDERAL RESERVE

Why the Fed Can't Rein in Wall Street
Brian Murphy, Reuters, 10/8/14
[The Segarra tapes] raise deeper structural questions about the Fed's approach to financial regulation. Under the traditional understanding of something called "regulatory capture," one of the top concerns about regulators was that they could be corrupted into aiding the firms they oversee. But the Segarra recordings don't show Fed regulators trying to help Goldman Sachs make money. Instead, they suggest the same deference highlighted in the report David Beim authored in 2009. "Why is the Fed so wimpy?" asked one financial blogger earlier this week.

Inside the NY Federal Reserve
Interview with Marcus Stanley, BBC, 10/7/14
Marcus Stanley is the Policy Director of Americans for Financial Reform, a body that advocates more regulation within the financial sector and that lobbies Congress. "There are really two elements to this story," he says. "One is the internal Federal Reserve self-evaluation… that did say that Federal Reserve supervisors tended to be overly deferential to the banks that they supervise [and] tended to be reluctant to take action and reluctant to raise strong criticisms. And then… you get these tapes made by Carmen Segarra which appear to show… this exact sort of deferential behavior."

Why the Fed is So Wimpy
John Mauldin, The Big Picture, 10/2/14

Carmen Segarra, the Whistleblower of Wall Street
Gary Younge, The Guardian, 10/5/14
Segarra, a former employee of the New York Federal Reserve, was fired after she refused to tone down a scathing report on conflicts of interest within Goldman Sachs. She sued the Fed over her sacking but the case was dismissed by a judge without ruling on the merits because, he said, the facts didn't comply with the statute under which she had filed. Segarra is now appealing.

Before she left she secretly recorded her bosses and colleagues, exposing their "culture of fear" and servility when dealing with the very banks they were supposed to be regulating. The Fed is the government agency charged with overseeing the financial sector – a task it singularly failed to achieve in the run-up to the recent financial crisis. What emerges from Segarra's tapes – released by the investigative website ProPublica – is a supine watchdog wilfully baring its gums before a known burglar so that he may go about his business unperturbed.

This is Elizabeth Warren's Moment
Julian Zelizer, CNN Opinion, 10/6/14
The tapes have shocked many listeners because they reveal how weak the rules are and, even worse, how the regulators don't have much interest in being tough with the banks… As Warren said on an interview with NPR's Morning Edition, when people listen to the tapes "for a moment, [they] get to be the fly on the wall that watches all of it, and there it is to be exposed to everyone: the cozy relationship, the fact that the Fed is more concerned about its relationship with a 'too-big-to-fail' bank than it is with protecting the American public."

HOUSING AND MORTGAGES

Finding Common Ground on HUD's Distressed Asset Sales Program
Biniam Gebre, The Hill, 10/9/14
When the U.S. housing bubble burst in 2007 and 2008, millions of Americans lost their homes to foreclosure. Since that time, the Obama administration has gone to great lengths to get the economy—specifically the housing market—back on track. And we're doing well: [F]oreclosures in August 2014 "fell on a yearly basis to their lowest level since 2007."

But working our way back to prosperity has not been without bumps, bruises, and challenges. One effort managed by HUD—the Distressed Asset Sales Program (DASP)—is something my colleagues and I at the Federal Housing Administration have viewed as a significant step on the road to full recovery… DASP allows pools of mortgages headed for foreclosure to be sold to qualified bidders while encouraging those bidders to help bring the loan out of default. In many cases, it's a less expensive alternative to foreclosure and sale as REO ("real estate owned").

But that doesn't mean we can't improve the program.

Landmark Housing Law Challenged In New Supreme Court Bias Case

Greg Stohr, Bloomberg, 10/3/14

The U.S. Supreme Court agreed to decide whether people suing for housing discrimination must prove they were victims of intentional bias, in a case that may give long-sought protection to the lending industry.

The court will consider jettisoning the disparate-impact theory, which has helped the Obama administration get hundreds of millions of dollars in fair-lending settlements with Bank of America Corp., Wells Fargo & Co. (WFC) and other financial companies.

Homeowners Get OK to Fight Foreclosure Scams

Catherine Curan, New York Post, 10/5/14

American Hope Group and the Donado Law Firm worked hard to sign up Queens homeowner Ana Lopez for their foreclosure rescue services… The assistance turned out to be a scam, Lopez says. She is out $14,000, has not received a modification and fears she will end up on the street.

Now, Lopez is joining a groundbreaking lawsuit brought last year by Queens homeowner Elva Brardo, alleging that Donado and American Hope run a fraudulent foreclosure rescue operation targeting Spanish homeowners.

FHFA Appoints New Chief Of Staff

Brena Swanson, Housing Wire, 10/8/14

INVESTOR RIGHTS AND THE SEC

What Keeps Private Equity Up At Night?

Dawn Lim, Wall Street Journal, 10/6/14

What keeps private equity executives up at night? Plenty, it seems, from examinations from regulators to concern over the handling of fees, according to a survey of 203 firms by trade group Association for Corporate Growth. Also, what does "general solicitation" really mean?

Three quarters of respondents said they were concerned about Securities and Exchange Commission examinations… Andrew Bowden, the director of the SEC's Office of Compliance Inspections and Examinations, said earlier this year that the agency identified "violations of law or material weaknesses in controls" in more than 50% of the 112 examinations where it looked at fees and expenses.

Sixty-four percent of respondents in the ACG survey said they were focused on transaction fees, while 56% said they were zooming in on monitoring fees. Monitoring fees, generally speaking, are payments made by portfolio companies to private equity managers for what may be described as consulting services.

Changes Recommended for SEC Definition of Sophisticated Investors

Patrick Temple-West, PoliticoPro (paywalled), 10/9/14

Beginning last year, as part of the 2012 JOBS Act, the SEC lifted a general solicitation ban for private offerings, allowing businesses to advertise them to the public for the first time and raising the significance of the accredited investor definition. The SEC Investor Advisory Committee — which includes investors, former SEC commissioners and consumer advocates [has recommended] allowing individuals with certain professional licenses to meet the accredited investor definition.

An Open Window for Insider Sales

Gretchen Morgenson, NY Times, 10/4/14

POLITICAL INFLUENCE OF WALL STREET AND REVOLVING DOOR

Tough Talk on Dodd-Frank Rules Misses Relevant Points

Jesse Eisinger. NY Times, 10/8/14

[New Jersey Congressman Scott Garrett claims to hold the pure free-market position — that financial firms that run into trouble should be allowed to fail. The problem with that ideology was evident in 2008, when the Bush Administration allowed Lehman Brothers to go down and it nearly destroyed the global financial markets and economy.

But let's say you took him at his word, that his positions are actually tougher on financial firms than those of the Democrats and the existing Dodd-Frank rules. If that's the case, his campaign contributors have a pretty hazy sense of where he stands. When you look at Mr. Garrett's donors, the top three are the securities industry, insurance companies and commercial banks, in that order.

Ross Rakes in Financial Services Money to Top Cohn in Fund Raising

William March, Tampa Tribune, 10/8/14

In the competition to fund the U.S. House District 15 campaigns, Democrat Alan Cohn is a substantial underdog with less than a third as much money as Republican incumbent Dennis Ross. That's partly because of contributions to Ross from the financial services industry, which Ross helps regulate through his seat on the House Financial Services Committee. He has received six-figure contributions from banks, brokers, insurers and financial advisers over the last two years, while emerging as a reliable vote on the committee against stricter regulation of Wall Street and the financial industry…

[According to] **Americans for Financial Reform**, Ross has repeatedly voted against the interests of consumers and in favor of the industry… Ross voted in the committee and on the floor, for example, for legislation to replace the director of the Consumer Financial Protection Bureau with a five-member committee and to put the bureau more under the control of Congress. He has also objected to limits on the "payday loan" industry; backed eliminating a requirement that stock brokers or dealers have a fiduciary responsibility to put the interests of their customers first, as investment advisors must; and backed legislation requiring the Securities and Exchange Commission to assess the costs and benefits not only of any new rule, but of all available alternatives, before applying the rule.

[Groups Square Off Over Rule Limiting Muni Advisors' Political Contributions]

Cyril Tuohy, InsuranceNewsNet, 10/6/14
A proposal by municipal regulators to limit political contributions and other pay-to-play practices for municipal advisors has pitted groups arguing for First Amendment rights against a coalition of public interest lobbies, a government employees union and a socially conscious investment fund.

[Wall Street Spends $1.5 Million Every Day Influencing Congress]
Represent Us (social media campaign)

STUDENT LOANS

[14 Attorneys General Back Bill to Create For-Profit College Watchdog]
Ashlee Kieler, Consumerist, 10/7/14

[Dems Demand More Regs on For-Profit Colleges]
Ramsey Cox, The Hill, 10/7/14

[In Defense of For-Profit Colleges]
Neal McCluskey, National Review Online, 10/7/14
[H]ere's the thing: Public and not-for-profit private schools also produce atrocious results. This is especially true when you try to pinpoint students with demographics similar to those at for-profit schools: generally older, lower-income people who were less likely to be on a college-prep track in high school.

[Sorting Good From Bad Among For-Profit Colleges]
Editorial, Minneapolis Star Tribune, 10/8/14

[Taxpayer Funds Are Lifeline for More Than 100 For-Profit Schools]
Aaron Glantz, Center for Investigative Reporting, 10/9/14

[5 Flaws in the High-Stakes 'Gainful Employment' Rule]
Kelly Field, Chronicle of Higher Education, 10/9/14

SYSTEMIC RISK

[Metlife to Regulators: We're Unimportant]
Tom Huddleston, Fortune, 10/3/14

[Regulators to Revisit Criteria for 'Systemically Important' Firms]
Kevin Cirilli, The Hill, 10/6/14

[J.P. Morgan's Dimon: Regulators Close to Solving Too-big-to-fail]
Gregg Robb, MarketWatch, 10/10/14

OTHER TOPICS

[A.I.G. Bailout, Revisionists' Version]
Andrew Ross Sorkin, NY Times, 10/6/14
Was the bailout of the American International Group by the government punitive? Was it confiscatory? Of course it was, on both counts. It was supposed to be.

Somehow, Maurice R. Greenberg, A.I.G.'s former chief executive and a large shareholder through his firm Starr International, has spun a ludicrous tale in open court in Washington that the bailout of the insurer was unfair to its investors.

What is more worrying, this lawsuit increasingly appears to be gaining support from a phalanx of Wall Street financiers and commentators, who have managed to use the case to rewrite history so that A.I.G. can be viewed as a sympathetic casualty of the crisis and one that was mistreated by the big bad government, which sought more onerous terms from A.I.G. than it did from many of the banks that also received bailouts.

The Architects of the 2008 Financial Bailouts Have Their Day in Court
Max Ehrenfreund, Washington Post, 10/6/14

Has Goldman Sachs Run out of Moves?
Shawn Tully, Fortune, 10/6/14
[H]ow good, really, is Goldman Sachs? An analysis of its recent performance reveals that, for the present at least, Goldman is nowhere near the champion of old. Its record ranks somewhere between pretty good and mediocre. Its businesses, and the environment in which it operates, have shifted dramatically, and not in Goldman's favor. The kind of adventurous investments that once swelled its earnings are now off-limits.

"In contrast to the past, they're being extremely conservative in the way they're managing, and it will take a couple of years to see how they adapt to the new environment," says Keith Davis, a portfolio manager with Farr, Miller & Washington, which holds $20 million in Goldman shares.

Wall Street's Wild Days Return
Ben White, Politico, 10/9/14
Volatility is back on Wall Street, in a major way… "We suppressed all interest rates to zero worldwide and kept them there for six years and nearly eliminated volatility," said David Kotok, chief investment officer at Cumberland Advisors. "Now we are seeing regime change in rates and markets are anticipating it and therefore volatility is coming back. Throw in an Ebola scare, geopolitical concerns and slower growth and that means volatility will go up. And it will stay up."

The latest lurch came Thursday as the Dow Jones Industrial Average plunged more than 300 points, wiping out big gains from the previous day. Energy shares led the decline as lower crude oil prices and a slowdown in global economic growth threatened industry profits. The Dow closed down 335 points, or nearly 2 percent, at 16,659.

The Dow has now swung up and down by over 200 points on three straight days, harkening back to the last period of major volatility in 2011 when Standard & Poor's dropped the U.S. credit rating for the first time in history.