AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
OCTOBER 25 – 31, 2014

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CONSUMER FINANCE & CFPB

Banks, Taking Hint from Regulators, Overhaul Overdrafts
Andy Peters, American Banker, 10/18
Regulators are turning up the heat on overdraft fees and, increasingly, so are banks. Long a staple of banks' noninterest income, overdraft fees are more controversial than ever. The Consumer Financial Protection Bureau on Monday gave strong indications that it views overdraft fees as a form of short-term credit, and thus will place tough restrictions on overdrafts in upcoming new rules.

Banks are taking the hint. The $119 billion-asset Regions Financial, in Birmingham, Ala., last week announced that it is voluntarily making changes to its overdraft program that will cut its yearly fee income by at least $40 million. Regions will stop using the process of high-to-low reordering of processing withdrawals, a technique designed to maximize the overdraft fees collected from consumers.

Elizabeth Warren on Predatory Lending to Military Families
Patrick Murphy, MSNBC, 10/26/14
"When these financial predators come after them, I feel ashamed for the rest of us," Sen. Warren told former Rep. Patrick Murphy. She went on to praise the Defense Department's new Military Lending Act rules, the CFPB's Office of Servicemember Affairs, and (responding to a comment by Murphy) **Americans for Financial Reform**. "Yes, they've been terrific.

Credit Card Debt in the Latino Community (report)
Demos and National Council of La Raza, 10/27/14

FDIC Releases National Survey of Unbanked and Underbanked
Federal Deposit Insurance Corporation, 10/29/14
The Federal Deposit Insurance Corporation (FDIC) today released the results of the 2013 FDIC National Survey of Unbanked and Underbanked Households, the most comprehensive survey on the subject in the United States. The survey indicates that the proportion of unbanked households declined from 8.2 percent in 2011 to 7.7 percent in 2013, while the share of underbanked households remained essentially unchanged at 20.0 percent. The decrease in the proportion of the unbanked can be explained by improving economic conditions and the changing demographic composition of households.

The survey, conducted every two years by the FDIC in partnership with the U.S. Bureau of the Census, provides the banking industry and policy makers with insights and guidance on the demographics and needs of the unbanked and underbanked.

CFPB: Loan Servicers Employing Illegal Tactics
Benjamin Goad, The Hill, 10/28/14

ELECTION CAMPAIGN

GOP Senate Won't End Bank Reform
Darrell Delamaide, USA Today, 10/28/14
For one thing, any actions perceived as favoring banks would be unpopular with voters and Republican lawmakers need to keep the 2016 presidential race in mind if they want their party to recapture the White House.

For another, [potential Senate Banking chair Richard] Shelby himself, though more sympathetic to banks than many of his Democratic colleagues, has expressed concern about too-big-to fail- and other issues that Dodd-Frank is designed to remedy.

The likeliest result would be a sharper tone at hearings, which would focus on holding regulators to account for excessive regulatory burdens on banks. This might intimidate the agencies, and (further) slow down rulemaking, but without a change in the law, could not stop regulators from eventually following through on the mandated reforms.

Republicans might be able to expand loopholes on things like proprietary trading, but substantial changes, like dismantling the Consumer Financial Protection Bureau, would be a no-go. Other tweaks, such as raising the threshold size for certain regulations, would probably find bipartisan support in any case.

How 'Dodd-Frank' Is Becoming the New 'Obamacare'
Philip Bump, Washington Post, 10/30/14
If you don't know what the Dodd-Frank Act is, Rep. Paul Ryan (R-Wis.) told an audience last weekend, "it's Obamacare for banks." Ryan, outgoing chairman of the House Budget Committee, was echoing Senate Minority Leader Mitch McConnell (R-Ky.), who's been using that expression since at least April (and he used it again Wednesday night). Expect to hear the expression more, particularly once a new, probably-Republican-led Senate takes over on Capitol Hill in January…

The origin of the newly in-vogue phrase appears to be a April 2012 Weekly Standard piece by Peter Wallison. "The best way to understand the Dodd-Frank Act," Wallison wrote, "is to think of it as Obamacare for the financial industry. Like its health care counterpart, it leaves the members of the massive financial services industry as privately-owned firms, but blankets them with so much regulation that they are no longer really independent operators."

4 Big Money Issues You'll Find on Tuesday's Ballot
Jacob Davidson, Money Magazine, 10/30/14

ENFORCEMENT

Prosecutors Suspect Repeat Offenses on Wall Street

Ben Protess and Jessica Silver-Greenberg, NY Times, 10/31/14

The reopening of these cases represents a shift for the government, the first acknowledgment that prosecutors are coming to terms with the limitations of how they punish bank misdeeds. Typically, when banks have repeatedly run afoul of the law, they have returned to business as usual with little or no additional penalty — a stark contrast to how prosecutors mete out justice for the average criminal.

When punishing banks, prosecutors have favored so-called deferred-prosecution agreements, which suspend charges in exchange for the bank's paying a fine and promising to behave. Several giant banks have reached multiple deferred or nonprosecution agreements in a short span, fueling concerns that the deals amount to little more than a slap on the wrist and enable a pattern of Wall Street recidivism.

BofA Mortgage Settlement Stalls Over SEC Political Fight

Dave Michaels, Robert Schmidt and Keri Geiger, Bloomberg, 10/27/14

The agreement with the bank, announced in August, has stalled as the agency's commissioners wage a behind-the-scenes battle over waiving a series of additional sanctions that will kick in when the settlement is entered in court. Getting a pass on the penalties, which can affect a lender's asset-management business and ability to raise capital easily, had once been routine. It's now a flashpoint, according to the people.

In the Bank of America case, two Democratic commissioners are balking at granting the firm's request for relief, said the people, who asked not to be named because SEC negotiations with companies aren't public. SEC Chair Mary Jo White, the swing vote, isn't participating in the discussions due to a conflict, they said. With the two Republicans on the other side, the commission is locked in a stalemate.

Big Banks' Stunning Setback: Meet Two Officials Saying No To Bank Of America

David Dayen, Salon, 10/28/14

Too Big to Tax: Settlements Are Tax Write-Offs for Banks

Lynnley Browning, Newsweek, 10/27/14

Buried deep in the announcements of the astronomical sums that Wall Street banks are being forced to pay is a dirty secret: A big chunk of the hundreds of billions of dollars banks have paid in settlements to various federal agencies and regulators since 2010 is deductible from the taxes banks and lenders pay…

"When people hear that this stuff is deductible, it just feels like adding insult to injury," says Phineas Baxandall, a senior policy analyst and tax specialist at U.S. PIRG, a left-leaning consumer protection research group that has written reports on the tax deductions. "And when it's not transparent, it's shady."

EXECUTIVE COMPENSATION

The London Whale-Sized Loopholes in Wall Street Pay Reform

Sarah Anderson, Fortune, 10/27/14

The 2010 Dodd-Frank Act includes a ban on banker pay that "encourages inappropriate risks." But federal regulators still haven't finalized the enforcement rules that will put the ban into effect.

Earlier this month, the President summoned financial regulators to the White House to prod them to get the job done.

The regulators, unfortunately, haven't just been dragging their feet. The only proposal they've advanced so far turns out to be incredibly wimpy.

FEDERAL RESERVE

Something Is Dangerously Wrong at the New York Fed

David Dayen, Fiscal Times, 10/24/14

In response to the Segarra tapes, Sens. Elizabeth Warren (D-MA) and Sherrod Brown (D-OH) called for Banking Committee hearings and an investigation into the New York Fed, and House Democrats have made formal requests as well. So far, committee chairs have given no final word, according to Senate sources. The White House has said nothing. Now, **Americans for Financial Reform** (AFR), the umbrella organization of progressive and labor groups on this issue, has gotten involved in demanding hearings. It's a problem when the "key on-the-ground supervisor for Wall Street banks," as AFR puts it, cannot be trusted to carry out its functions.

Perhaps a bigger question is: Who is protecting the New York Fed, in the same way that they've protected Wall Street through their unwillingness to act? Why shouldn't they have to answer for their lapses in supervising the same banks that helped generate the financial crisis?

Senate Critics to Examine if Regulators are Too Cozy With Banks

Joseph Lawler, Washington Examiner, 10/31/14

Sen. Sherrod Brown, the populist Ohio Democrat, is planning a hearing to look into the latest financial controversy, namely secretly recorded tapes that bank critics fear revealed a culture of deference and timidity at the Federal Reserve Bank of New York…

Marcus Stanley, the policy director of **Americans for Financial Reform**, said hearings on the New York Fed recordings could be an opportunity to examine the longer-running problems surrounding enforcement of regulations. "I don't think these hearings should be a witch hunt around these particular transactions," Stanley said. "I think they should aim to answer whether this supervision process has been reformed from the problems they had before the crisis."

INVESTOR RIGHTS AND THE SEC

Fast Traders Are Getting Data From SEC Seconds Early

Ryan Tracy and Scott Patterson, Wall St. Journal, 10/29/14

Hedge funds and other rapid-fire investors can get access to market-moving documents ahead of other users of the Securities and Exchange Commission's system for distributing company filings, giving them a potential edge on the rest of the market.

Two separate groups of academic researchers have documented a lag time between the moment paying subscribers, including trading firms, newswires and others, receive the filings via a direct feed from an SEC contractor and when the documents are publicly available on the agency's website.

High-Speed Traders Avoid Low-Speed Website

Matt Levine, Bloomberg, 10/29/14

Shareholders, Disarmed by a Delaware Court
Gretchen Morgenson, NY Times, 10/25/14
Hoping to achieve greater accountability, wronged investors have filed many cases against top corporate officials, accusing them of breaching fiduciary duties and of other misdeeds. But even this enforcement mechanism is under attack, thanks to a recent decision by the Delaware Supreme Court.

In a proceeding last May, the court ruled that a company can adopt, without shareholder approval, bylaws requiring investors who file lawsuits against it to pay the company's legal fees if the suit is unsuccessful. The court went so far as to say that a company's "intent to deter litigation" might be a proper purpose for shifting legal fees to a plaintiff.

John Bogle on Why Your Retirement Plan Stinks
Mitch Tuchman, MarketWatch, 10/31/14
How important are fees to your retirement plan's success? As Vanguard founder John Bogle pointed out in a recent discussion with analysts, it's really all that matters.
Fees easily wipe out a huge portion of the yield on stocks, he said, more than 63% for your money.

That's the real danger to retirement savers, especially folks over 45. With fewer years of work ahead to save and compound, every penny counts. Fees are fixed costs that are consciously structured to suck money from your accounts, regardless of performance.

MORTGAGES AND HOUSING

Foreclosures Are Making Americans Sick
Antwan Jones and Gregory Squires, American Banker, 10/31/14
Researchers with the Century Foundation and Rutgers University found that areas of concentrated poverty — census tracts in which the poverty rate is 20% or greater — have increased by over 40% since 2000. And the Federal Reserve reported in September that the income of the wealthiest 10% of Americans grew by 2% between 2010 and 2013, while the income of the bottom 60% actually declined.

These statistics clearly show that seven years after the housing bust began, millions of Americans are still suffering. And suffering is the operative word — because both foreclosures and economic inequality impact people's health.

In 2011, the National Bureau of Economic Research reported that people living in areas with high levels of foreclosures are far more likely to experience physical and mental health problems than those in stronger housing markets. Our own research, forthcoming in the *Journal of Urban Affairs,* has found new connections between foreclosures and health, with economic inequality playing a critical role.

How the Seattle City Council Could Help Underwater Homeowners
LeeAnn Hall and Will Pittz, Seattle Times, 10/30/14
While the recession officially ended in 2009, there are still more than 9 million households across the country with homes worth less than the value of their mortgage. There are still neighborhoods in Seattle where more than 20 percent of homes are underwater.

How many more Seattle families need to lose their homes in the foreclosure crisis that continues year after year? There are solutions, but they need champions and leadership — both locally and nationally.

Advocates are pushing the Seattle City Council to pursue a local principal reduction program to reset the value of mortgages based on their current market value. That local action could help thousands of homeowners in Seattle, but it must include strong buy-in from the City Council and include mechanisms to encourage big banks to participate. Proposals are outlined in a recent report by Reset Seattle and the Alliance for a Just Society.

A Loan to Help Homeowners Build Equity Fast
Paul H. Kupiec and Stephen D. Oliner, American Enterprise Institute, 10/28/14

Federal Rules are Deterring Banks from Approving More Home Loans
Tim Logan, Los Angeles Times, 10/28/14

MUNICIPAL FINANCE

L.A. City Workers Rally Over Bank Deals as Bargaining Continues
Emily Alpert Reyes & **Soumya Karlamangla, Los Angeles Times, 10/28/14**
The protest comes as bargaining drags on between employee unions and Los Angeles. Fliers urging workers to attend the march and rally declared, "The city wants you to pay $1,690 or more a year for health insurance!" and "Stand up for yourself and your family…!"

"We got the solution to fix L.A.," said the Rev. William Smart Jr., head of the Los Angeles chapter of the Southern Christian Leadership Conference, on stage during the rally. "The solution is: Get the money from the banks – they ripped us off."

POLITICAL INFLUENCE OF WALL STREET

Banking on Influence
Alison Fitzgerald, Slate, 10/31/14
"Rep. Shelley Moore Capito wants West Virginians to know she's a defender of community banks… Capito is part of the "Congressional Banking Caucus," a group of lawmakers identified by the Center for Public Integrity as especially solicitous to the banking industry. They are all members of the House Financial Services Committee and have been the recipients of generous campaign support from financial services company employees and political action committees. The other members of the group are Financial Services Committee Chairman and Texas Republican Rep. Jeb Hensarling, New Jersey Republican Rep. Scott Garrett, Wisconsin Republican Rep. Sean Duffy, Connecticut Democratic Rep. Jim Himes, Missouri Republican Rep. Blaine Luetkemeyer, New York Democratic Rep. Gregory Meeks, California Republican Rep. Ed Royce, Georgia Democratic Rep. David Scott, Ohio Republican Rep. Steve Stivers, and Missouri Republican Rep. Ann Wagner.

The group has been central to efforts led by Hensarling to undo many of the financial reforms enacted in the Dodd-Frank law of 2010.

Capito, who chairs the subcommittee that oversees consumer lending and finance companies, is married to a banker who has worked for Wells Fargo and Citigroup. 'One characteristic of her bills is that they do include community banks, but they would also help much larger banks,' said Marcus Stanley, policy director at **Americans for Financial Reform**…"

[Cornyn Clout Helps Fill Coffers From Range Of Industries]

Todd J. Gillman & Kimberly Railey, Dallas Morning News, 10/27/14
Cornyn has collected $1 million since last year from securities and investment companies. That's more than all but two senators, according to the Center for Responsive Politics… "Those are all things that Wall Street looks at very closely," said Mike Chapman, a partner at D.C. Strategies, a financial services lobbying firm. "It's no surprise that somebody with his seniority and committee assignments would be successful in that area."

Corporate tax reform would affect many businesses. With the issue stalled in a gridlocked Congress, donors may be trying to collect chits for the future.

"There could be some long-term positioning there," said Marcus Stanley, policy director at **Americans for Financial Reform**…

[The Governor of Wall Street]

Jimmy Vielkind, Capital NY, 10/28/14
Overall, Cuomo has done little to rock an industry that, according to recent estimates, accounts for a fifth of the state's tax revenues and employs 162,400 workers with an average salary of nearly $360,000. 'You can be critical of what institutions may have done, but there are a whole lot of babies in that bathwater,' said Tony Fratto, a former assistant treasury secretary and spokesman for George W. Bush ... 'Be careful what you're throwing out. We want this industry, we want it to be safe, and want it to compensate lots of New Yorkers.'"

[Ross Holds Money Lead Over Cohn in House Race]

Eric Pera, Lakeland (Fla.) Ledger, 10/31/14
"After the financial collapse, Congress made great strides in regulating the financial industry so that we reduce the chance of another Great Recession," [candidate Alan] Cohn said in an email. "Ross is using his place on the House Financial Services (Committee) to undo those regulations for financial favors at the expense of the middle class."
Americans for Financial Reform, which tracks Congress members for votes on financial regulation, lists Ross as having often voted along party lines in opposition to reforms that protect consumers.

[Lobbyists, Bearing Gifts, Pursue Attorneys General]

Eric Lipton, NY Times, 10/18/14
Attorneys general are now the object of aggressive pursuit by lobbyists and lawyers who use campaign contributions, personal appeals at lavish corporate-sponsored conferences and other means to push them to drop investigations, change policies, negotiate favorable settlements or pressure federal regulators, an investigation by The New York Times has found…

In Utah, [the attorney general dismissed a case] pending against Bank of America over the objections of his staff after secretly meeting with a former attorney general working as a Bank of America lobbyist.

That Bank of America case [was cited in July] when the two most recent former attorneys general in Utah [were charged] with granting official favors to donors in exchange for golf getaways, rides on private planes and a luxury houseboat.

STUDENT LOANS

[In the Final 'Gainful Employment' Rule, a Key Measure Vanishes]
Kelly Field, Chronicle of Higher Education, 10/30/14
Under the revised rule, programs will no longer be held accountable for their cohort default rates, which describe the percentage of borrowers who are defaulting on their student loans. Instead, the programs will be evaluated based solely on their graduates' debt-to-earnings ratios.

The change is a win for community colleges, which had urged the department to scrap the default-rate metric. But student and consumer advocates say the change weakens the rule, allowing programs to saddle some students with unmanageable debt. And for-profit colleges say it does nothing to fix a proposal they say is "fundamentally flawed."

The elimination of the default measure is expected to spare 500 programs, most of them at for-profit institutions… Even so, the department estimates that 1,400 programs—99 percent of them at for-profit colleges—will fail the rule in the first year. Those programs enroll some 840,000 students—one in five of those attending for-profit institutions. Programs that repeatedly fail the test will become ineligible to award federal student aid.

See Department of Education announcement and statements by Center for Responsible Lending, Leadership Conference on Civil and Human Rights, SEIU, The Institute for College Access & Success (TICAS) and Young Invincibles.

For-Profit College Rules Not as Tough as Proposed
Josh Mitchell, Wall St. Journal, 10/30/14

New Gainful Employment Rule Is Weak, but Predatory For-profit Colleges Remain on the Ropes
David Halperin, Huffington Post, 10/30/14

What the Final Gainful Employment Rule Means for Parasitic Programs
Debbie Cochrane, TICAS Blog, 10/230/14
Based on the data released in conjunction with the draft rule, we identified 114 career education programs where more students default than graduate. In other words, these are programs where students receiving federal aid to attend these programs are more likely to find themselves unable to repay their debt than they are to complete the program. The particularly shocking part was that, under the draft rule, 20% of these programs passed the Department's proposed tests, underscoring the need for the rule to be strengthened.

So, what does final rule, which eliminated the use of program-level cohort default rates, mean for those 114 programs that we called parasitic because of their consumption of resources to the detriment of students and taxpayers? It means that 15 more of them will pass the gainful employment tests (in addition to the 23 that passed the draft rule's tests). Fully one-third (33%) of the 114 parasitic programs would now pass, giving schools no incentive to improve them.

As For-Profit Colleges Fight for Their Right to Abuse Students, It's Obama's Time to Decide
David Halperin, Huffington Post, 10/22/14

[2014 Campaign Shows Growing Public Disdain for Predatory For-Profit Colleges](#)
David Halperin, Huffington Post, 10/27/14

[CFPB Releases Report on Risky Practices in Student Loan Servicing](#)
CFPB, 10/28/14

See [speech by CFPB Director Richard Cordray](#) on student loan servicing.

SYSTEMIC RISK

[Shadow Banking Grows to $75 Trillion Industry, FSB Says](#)

Ben Moshinsky, Bloomberg, 10/31/14
The shadow banking industry grew by $5 trillion to about $75 trillion worldwide last year, driven by lenders seeking to skirt regulations and investors searching for yield amid record low interest rates.

The size of the shadow banking system, which includes hedge funds, real estate investment trusts and off-balance sheet investment vehicles, is about 120 percent of global gross domestic product, or a quarter of total financial assets… Shadow banking "tends to take off when strict banking regulations are in place, when real interest rates and yield spreads are low and investors search for higher returns, and when there is a large institutional demand for assets," according to the report. "The current environment in advanced economies seems conducive to further growth of shadow banking."

While watchdogs have reined in excessive risk-taking by banks in the wake of the collapse of Lehman Brothers Holdings Inc. in 2008, they are concerned that lenders might use shadow banking to evade the clampdown and cause risks to build up out of sight of regulators. The FSB [published guidelines](#) for supervisors last year to keep track of the industry.

[Report: Breaking up Banks Won't Make Them Easier to Resolve](#)
Kate Davidson, Politico, 10/17/14
Breaking up the biggest Wall Street banks would be "challenging, costly and counterproductive," and wouldn't necessarily create institutions that are easier to resolve, according to a [new report](#) from the Bipartisan Policy Center.

Dodd-Frank has already made considerable progress addressing the problem of too big to fail, and breaking up large banks would reduce the value that large firms provide, including economies of scale and scope that contribute to economic growth, the study's authors argue. The paper was co-authored by Martin Baily and Phillip Swagel, the co-chairs of the center's Financial Regulatory Reform Initiative, and Douglas Elliot, a fellow at the Brookings Institution…

Critics have previously pointed out that the center receives funding from the banking industry, including the American Bankers Association and Financial Services Forum.

[Experts Debate Report Opposing Bank Breakup](#)
Eric Garcia, MarketWatch, 10/29/14
Marcus Stanley, policy director for **Americans for Financial Reform**, criticized the report, saying it looked too positively at the effects of Dodd-Frank. "We are some distance from where regulators feel confident," Stanley said, in regards to resolving a bank.

[Banks Face New Funding Rule]

Viktoria Dendrinou, Wall St. Journal, 10/31/14

The rules on the so-called Net Stable Funding Ratio, which were published Friday by the Basel Committee on Banking Supervision, the Switzerland-based group that sets global banking standards, aim at making lenders more resilient by keeping them from relying too heavily on short-term borrowing to fund long-term loans.

OTHER TOPICS

[Deregulating Wall Street Makes Bankers Richer and Hurts Everyone Else]

Alan Pyke, ThingProgress, 10/28/14

The classic argument against regulating Wall Street is all about efficiency. If the government gets too involved in the financial sector, the argument goes, it will keep bankers from efficiently connecting money that would otherwise be idle with people who will instead put that money to a productive use. As a result, [pro-bank politicians argue], regulating Wall Street kills jobs.

But financial regulation doesn't just influence the total size of the rewards. It also helps determine how those rewards are divvied up. In a new paper titled "The Redistributive Effects of Financial Deregulation," Anton Korimek and Jonathan Kreamer skip past the efficiency analysis that underlies anti-regulation arguments and instead analyze the effect of financial deregulation on economic equality. The result is mathematical evidence for a simple and longstanding progressive assertion: deregulating the financial sector hurts workers in the "real economy" where goods and services are produced and exchanged.

One key premise of Korimek's and Kreamer's argument is that bankers and workers have opposing interests when it comes to risky activity in the financial sector. Bankers get rich from high-risk volatility in the financial markets, but workers prosper when conditions are stable.

[Wall Street Not Worried About Lefty Hillary (For Now)]

Ben White, Politico, 10/28/14

Morning Money spent some time on the phone with Wall Streeters on Monday and several said they understand Clinton needs to appease the Elizabeth Warren wing of the party with more fiery, progressive rhetoric even if it rings hollow given her close relationships with bankers and the huge sums she's earned speaking to Goldman Sachs and other groups. The real concern will come if Clinton starts espousing new policies, such as bank break-ups, bank taxes, pay clamp downs or other measures.

One top executive at large Wall Street bank told me: "I'd be shocked if she didn't try to channel Warren occasionally. I would be shocked if she chose to make it personal at any point or if she proposed any significant new policies. Though she could do a bank tax as part of a corporate tax reform proposals and banks could still wind up paying a lower rate than they do now. So some new policy could be fine. But it really depends what it is."

[JPMorgan Chase Drops Plan to Build 2 West Side Towers]

Charles V. Bagli, NY Times, 10/28/14

[What Interests Public Most at SEC, CFTC? More Data Disclosure]

Nancy Watzman and Andrew Pendleton, Sunlight Foundation, 10/30/14