AFR Americans for Financial Reform

This Week in Wall Street Reform | Aug. 29–Sep 11, 2015

Please share this weekly compilation with friends and colleagues.
To subscribe, email erin@ourfinancialsecurity.org, with "This Week" in the subject line.
Archive of past issues posted here.

CONSUMER FINANCE & THE CFPB

CFPB hits nation's two largest debt buyers with $79m penalty
Kevin Wack, American Banker, 9/9
The Consumer Financial Protection Bureau imposed up to $79 million in penalties and refunds Wednesday in enforcement actions against the country's two largest debt buyers.

San Diego-based Encore Capital Group and Norfolk, Va.-based Portfolio Recovery Associates were also ordered to stop reselling debt and stop collecting debts they cannot verify, among other mandated reforms to their business practices. The consumer agency alleges that the two companies attempted to collect debt that was unsubstantiated or inaccurate.

CFPB widens scope of debt collection dragnet
Kevin Wack, American Banker, 9/9

'Zombie Debts' harm Ohioans' credit reports
Highland County Press, 9/6
With thousands of Ohioans impacted by errors on their credit reports, U.S. Sen. Sherrod Brown (D-OH) urged federal regulators to crack down on so-called "zombie debts" that are no longer owed by consumers, but linger on their credit reports or can be sold by banks to debt collectors – who then harass consumers and attempt to illegally collect settled debt.

Brown also outlined legislation he has introduced that would require banks and debt buyers to notify credit reporting agencies when a consumer's debt has been extinguished through bankruptcy. In Ohio alone, there were more than 40,000 bankruptcies last year. Introduced last month, Brown's Consumer Reporting Fairness Act would amend bankruptcy law to require creditors to ensure that a debt discharged in bankruptcy shows a zero balance on the consumer's credit report in an accurate and timely manner. The bill also would permit consumers to take legal action against creditors that fail to report a discharged debt that is no longer owed.

Government agency protects consumer finances
Shay Farley, Montgomery Advertiser, 9/3
Last month marked the fifth anniversary of the law that created the only financial regulatory agency with a mandate to put the interests of consumers first. Since it opened its doors in July 2011, the Consumer Financial Protection Bureau has begun to bring badly needed rules of fair play to mortgages, debit cards and other areas of the financial marketplace, while delivering some $5.5 billion in refunds and restitution to more than 14 million consumers cheated by financial companies big and small.

Now the Bureau has taken the first steps toward issuing rules that could end abuses in payday, car-title, and other high-cost, debt-trap consumer loans – loans that have had devastating effects on countless Alabama families. Unfortunately for the citizens of Alabama, however, Senator Shelby appears to be lining up with the payday lenders and the big banks in their ceaseless efforts to block regulation and undermine the Consumer Bureau's effectiveness.

Parting thoughts: sometimes government actually is the solution

Jeff Gelles, Philadelphia Inquirer, 9/4

When it comes to regulating Wall Street, Dodd-Frank was also a balancing act. Warren and others contend the law didn't go far enough to ward off the kinds of risks taken by huge financial firms that believe they have an implicit guarantee because they're "too big to fail." Short of breaking up the biggest banks, Warren argues persuasively for rebuilding the Glass-Steagall Act's wall between commercial and investment banking, repealed in 1999. But she sees the CFPB's performance as something to cheer.

"The CFPB is the bright spot on the landscape – it's government that works for people," she told me. In their first four years, agency employees have "handled more than 650,000 complaints. They've forced big financial institutions to return more than $10 billion directly to families they cheated. That's government that works for people."

Backdoor legislation should stop

The Daily Progress, 9/11

A coalition of 178 national groups is urging President Obama, as well as members of Congress, to oppose federal appropriations bills that contain extraneous "policy riders…" Among the riders they cite as being pushed through on the backs of other legislation are those that would: "Force the Consumer Financial Protection Bureau to redo a study on forced arbitration, a tactic increasingly used by corporations to deny consumers and or employees access to the courts to settle disputes… "

Ohio makes scant progress in phasing out payday loans

Kevin Williams, Aljazeera America, 9/7

Michael Kendrick spent 12 years mixing bread dough at an Interstate Brands bakery in Cincinnati's West End. He made it through the Great Recession only to find himself unemployed when the company was shuttered in 2012. For seven long months after that, Kendrick, 39, struggled to get by. He ran up thousands of dollars on credit cards and got behind on bills. Soon his credit card company was garnishing his wages and filing suit. A payday loan seemed to offer a financial lifeline to someone drowning in debt. So he took out his first loan, and quickly, he said, "it became like a revolving door. You are getting paid and then giving them all your money."

It was not meant to be this way. Ohioans overwhelmingly voted to put a stop to stories like this when they passed a package of legislative reforms in 2008 meant to rein in payday lenders. But storefront lenders quickly and seamlessly found loopholes in the laws and continued operating as usual.

Payday lenders push back at proposed regulation

Alexandria Burris, Monroe (La.) News Star, 9/5

Consumers could see new payday lending protections

Stephanie Carson, Lebanon Democrat, 9/2

CFPB boss meets with Florida lawmakers to address uproar over payday regulations

Washington Times, Kelly Riddell, 9/10

Snapshot reveals numbers and trends of consumer credit reporting complaints to CFPB

David Gettings, Tim St. George, and David Anthony, Consumer Financial Services, 9/7

According to the snapshot, the CFPB has handled 105,000 credit reporting complaints, making them the third most popular type of complaint received by the CFPB. The CFPB received nearly 7,000 credit reporting complaints in July 2015 alone – the highest number of monthly complaints that the CFPB has received to date.

DODD-FRANK (AND CONTINUED ATTACKS)

Duffy: Financial reforms have failed us

Rep. Sean Duffy, Wausau Daily Herald, 9/9

ENFORCEMENT

Justice Department sets sights on Wall Street executives

Matt Apuzzo and Ben Protess, The New York Times, 9/9

Stung by years of criticism that it has coddled Wall Street criminals, the Justice Department issued new policies on Wednesday that prioritize the prosecution of individual employees — not just their companies — and put pressure on corporations to turn over evidence against their executives.

The memo, a copy of which was provided to The New York Times, tells civil and criminal investigators to focus on individual employees from the beginning. In settlement negotiations, companies will not be able to obtain credit for cooperating with the government unless they identify employees and turn over evidence against them, “regardless of their position, status or seniority.”

Keep waiting for Wall Street crime crackdown

Barry Ritholtz, 9/10, Bloomberg

In a move that can only mean a presidential election campaign is upon us, the Justice Department said it is finally going to pursue individual white-collar criminals. As the New York Times reported, the Justice Department "issued new policies on Wednesday that prioritize the prosecution of individual employees -- not just their companies -- and put pressure on corporations to turn over evidence against their executives." The policies are contained in a memo written by Deputy Attorney General Sally Q. Yates. They will be discussed in greater detail today at the New York University Program on Corporate Compliance and Enforcement.

Pardon my cynicism, but after so much failure to prosecute, I remain doubtful that much if anything has changed. The onus is on the Justice Department to show that it's serious by way of actions, not words in a memo.

DOJ swears it will get tough on the next Wall Street crash

Zach Carter, Huffington Post, 9/10

The Department of Justice is finally drawing the curtain on what may be its defining project of the Obama era: the refusal to prosecute Wall Street crime. Only one investment banker has been jailed over securities infractions tied to the financial crisis. Zero Wall Street executives were put behind bars. More than 1,000 bankers were convicted of crimes after the much smaller savings and loan crisis of the late 1980s and early 1990s. On Thursday, DOJ announced that the white-collar crime free-for-all was over.

"Better late than never, but what an insult to the American people," said Dennis Kelleher, referring to the DOJ memo. Kelleher is president and CEO of Better Markets, a financial reform watchdog.

"With DOJ, words mean nothing," Kelleher warned. "Based on their past dereliction of duty, no one should believe anything DOJ says until they see actual, concrete and repeated prosecution of supervisors and executives at Wall Street's biggest, wealthiest and most politically connected too-big-to-fail banks."

JP Morgan's client 'steering' questioned

Emily Glazer and Jean Eaglesham, Wall St. Journal, 9/8

Greg Burk, a Las Vegas car dealer, says his bankers at J.P. Morgan Chase & Co. flew out to see him last year and offered to put him in what they called "the mother of all hedge funds…"

The Commodity Futures Trading Commission is investigating whether J.P. Morgan made proper disclosures when directing clients to such investments, the people said. The previously unreported inquiry is part of a broader probe by federal and state regulators into the same issue. The CFTC probe includes an examination of Highbridge Capital Management LLC, an investment firm owned by J.P. Morgan… The regulator is looking at why such a high proportion of Highbridge's assets come from J.P. Morgan's private-bank assets, and if that helped stabilize Highbridge during the financial crisis, said the people familiar with the probe.

Wall Street banks to settle CDS lawsuit for $1.87 billion

Bob Van Voris and Jesse Drucker, Bloomberg, 9/11

Some of Wall Street's biggest financial institutions -- including Goldman Sachs Group Inc., JPMorgan Chase & Co., Citigroup Inc. and HSBC Holdings Plc -- have agreed to a $1.87 billion settlement to resolve allegations they conspired to limit competition in the lucrative credit-default swaps market, a lawyer said at a court hearing.
Daniel Brockett, a lawyer for a group of investors including the Los Angeles County Employees Retirement Association, told a U.S. judge in New York on Friday that an agreement in principle has been reached and seven to 10 more days were needed to iron out some details…

The credit default swaps market was worth $16 trillion as of the end of 2014, according to the Bank for International Settlements.

EXECUTIVE PAY

How CEO pay is accelerating climate change

Sarah Anderson, Sam Pizzigati, Chuck Collins, Institute for Policy Studies, 9/2

FEDERAL RESERVE

Federal Reserve needs to worry about inequality, not inflation

Joseph Stiglitz, The Guardian, 9/7

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

Jeb Bush's populist tack on taxes finds echoes in unlikely sources

Jennifer Steinhauer, NY Times, 9/10

What do Jeb Bush, Elizabeth Warren and Donald J. Trump have in common? They would like to raise taxes on "the hedge fund guys." In his speech on tax policy on Wednesday, Mr. Bush, the former governor of Florida who is running for president, cast Republican orthodoxy adrift by proposing to raise taxes on the investment gains of high rollers in the Wall Street world of private equity and hedge funds.

Jeb Bush tax plan hits Wall Street

Brain Faler, Politico, 9/8

New documentary and New York Mayor push for closing hedgefund tax loophole to fund schools

Adam Johnson, AlterNet, 9/10

[Judge's ruling offers peek into private equity's secret world]

Gretchen Morgenson, The New York Times, 9/4

Infiltrating the supersecret world of private equity is difficult, so any glimpse into how these firms operate is worth highlighting.

A recent ruling in a 2014 lawsuit over payouts made to private equity owners of Hellas Telecommunications, once Greece's third-largest mobile phone operator, is a case in point. Even though the lawsuit relates to a transaction that's almost a decade old, its allegations resonate today as securities regulators and the Internal Revenue Service question private equity practices and increase their scrutiny of these firms.

Obscure hedge fund is buying tens of billions of dollars of U.S. Treasurys

Carolyn Cui and Gregory Zuckerman, Wall St. Journal, 9/8

The hedge funds that prospered in market tumult

Amie Tsang, NY Times, 9/3

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

How to avoid another market crash

Douglas Cliggott, Fortune, 9/2

For more than a decade, so-called high-frequency traders have used so-called "latency arbitrage" to take a little bite from hundreds of millions of transactions in U.S. equity markets. While a purchase order is slowly making its way to an exchange (the "latency" part), a trader with higher-speed access to that exchange intercepts the order and pre-emptively buys and marks up the price of the shares, and then sells them back at a higher price to the slower-moving buyer (the "arbitrage").

This activity plays out in milliseconds over and over again, and the victim is unaware of the bite. This transactions "tax" does not do the public a whit of good, but it definitely enriches a handful of traders whose low-percentage, high-volume skimming went, until recently, unnoticed. An explicit transaction tax could transparently and legitimately capture revenue for public purposes and put the high-volume skimmers out of business.

Stock market's volatility is nothing new

Tim Rowland, Hagerstown Herald Mail Media, 8/30

Flash Boys is the term for predatory traders whose computers, in less time than it takes to blink an eye, discover a big brokerage or pension fund about to enter the market and buy the sought-after shares out from under them, reselling them to the buyer a heartbeat later at a slightly higher price.

Millions of trades and millions of shares can add up to billions of dollars in profit for the high-frequency traders, who do nothing for the market except essentially place a surcharge on the price that normal investors pay for shares of stock.

INVESTOR PROTECTION AND THE SEC

SEC: Bankrate to pay $15 million for cooking books

Dunstan Prial, Fox Business, 9/8

Senate Dems shine light on corporate political spending

Tim Devaney, The Hill, 8/31

In a letter to the Securities and Exchange Commission (SEC) sent on Monday, a group of 44 Senate Democrats demand public companies be required to disclose their political spending to shareholders.

MORTGAGES & HOUSING

Fannie Mae revamps mortgage program

Lisa Prevost, NY Times, 9/4

Fannie Mae is overhauling its mortgage program for low- to moderate-income households to better accommodate today's financial and familial realities.

Renamed HomeReady (from MyCommunityMortgage) and set to start in December, the program has revised guidelines to acknowledge that many borrowers share homes — and finances — with extended family. That's the situation for about 19 percent of African-American households and 24 percent of Hispanic households, according to Jonathan Lawless, Fannie Mae's vice president for underwriting and pricing analytics.

Former Nomura traders charged over mortgage-backed securities

Chelsey Dulaney, The Wall Street Journal, 9/8

DOJ, CFPB officials warn more 'redlining' cases on way

Brian Collins, National Mortgages News, 9/3

The Justice Department is continuing to find cases of lenders steering minority borrowers into higher cost loans three years after the agency forced several large banks into landmark settlements cracking down on the practice, according to a top DOJ official.

A.G. Schneiderman secures agreement with Evans Bank ending discriminatory mortgage redlining In Buffalo

New York Attorney General Office, 9/10

POLITICAL INFLUENCE OF WALL STREET

To restore trust in government, slow Wall Street's revolving door

Sen. Tammy Baldwin and Hillary Clinton, Huffington Post, 8/31

Americans' trust in government is eroding. And a big reason for that is the so-called revolving door between government and the private sector. The American people need to be able to trust that every single person in Washington -- from the President of the United States all the way down to agency employees -- is putting the interests of the people first.

We want to do more to make sure that happens. Both of us have a track record of supporting stronger ethics rules. One of us -- Tammy -- has introduced legislation in the Senate to help close that revolving door. The other of us -- Hillary -- strongly supports this bill, and as president would crack down on conflicts of interest in government.

Clinton backs effort to curb 'revolving door' from Wall Street

Peter Schroeder, The Hill, 8/31

Hillary Clinton is backing legislation that would crack down on the "revolving door" between Wall Street and Washington… The legislation has garnered support from several liberal and labor groups, including the AFL-CIO and **Americans for Financial Reform**. Rep. Elijah Cummings (D-Md.) has introduced companion legislation in the House.

In search of excellence: the President's current choices to oversee Wall Street

Bartlett Naylor, CitizenVox, 9/10

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Wall Street opposes White House crackdown on financial advisers]

Wyatt Andrews, CBS Evening News

Ethel Sprouse, 68, says she's devastated by the loss of $400,000 from her retirement account. She blames her stockbroker who invested in high-risk stocks despite her order to play it safe. "I felt like not only had I been betrayed by my broker, I'd been betrayed by the system," said Sprouse. "The system I thought was there to protect me."

To better protect retiree savings, the Obama administration has proposed a new federal rule that sounds simple. It demands that any professional investor handling a retirement account - 401(k) or an IRA - give advice "in the best interests" of that client. Under the current rule, brokers can sell any investment deemed "suitable," but under that standard officials say retirees lose $17 billion a year thanks to hidden fees paid to stockbrokers on investments that make them, not the client, the most money.

See longer DOL interview with Ethel Sprouse.

Is your adviser truly protecting your retirement?

Michelle Singletary, Washington Post, 9/11

There's a discussion going on that is vital to the retirement money you've worked so hard to save. The Labor Department, directed by the Obama administration, is proposing that more advisers, when giving retirement investment advice, put their clients' best interests first. You're probably thinking what I thought after learning about this: Wait, these advisers aren't already required to recommend investment products that are in my best interests? Turns out, not all of them. The difference between who is required to follow that standard and who isn't comes down to language.

An investment adviser who has a "fiduciary duty" must act in the best interests of clients. A broker-dealer is a firm or individual licensed to sell individual securities. These brokers and other investment professionals who are not fiduciaries don't have to act in a client's best interests. Instead, the law says they have to make sure their advice is "suitable" for the client. Seven groups — AARP, AFL-CIO, AFSCME, **Americans for Financial Reform**, Better Markets, the Consumer Federation of America and the Pension Rights Center — advocate a rule change at SaveOurRetirement.com.

Should investment advisers work in your best interest or their own?

Owen Davis, International Business Times, 9/10

The most pitched battle in the world of financial regulation is taking place in an unlikely venue: the U.S. Department of Labor. The banking industry is deploying millions of dollars in lobbying to fend off that agency's proposed regulations, which seek to put the best interests of investors ahead of brokers' personal gains.

The so-called fiduciary standard aims to transform the relationship between millions of ordinary investors and their advisers by mitigating conflicts of interest at brokerage houses. According to a White House economic analysis, the rules would help keep $17 billion a year currently being collected in Wall Street fees in the accounts of American investors, many of whom are middle-class IRA owners. But as Congress holds hearings Thursday and Friday on the rules, the drawn-out battle over the standards faces increasing industry headwinds. Some advocates even worry that the standards, if they pass, might be so diluted with compromises that their proponents could see them as a step backward.

The right question to ask about government

E.J. Dionne Jr., NY Times, 9/6

One of the most fascinating struggles, still ongoing, is over new regulations that the Labor Department is trying to establish to ensure that those who give investment advice to people with 401(k)s and individual retirement accounts base their judgments on the best interests of their clients. Along with defined-contribution retirement plans, they involve some $13 trillion in investments.

The Labor Department proposal would require investment advisers to abide by a "fiduciary" standard — meaning that the best-interest-of-the-client yardstick should be their sole criterion in offering counsel to clients. If this seems obvious, that's not what the current law requires.

Legislators hear arguments about fiduciary reform
Jonathon Manganaro, PlanSponsor, 9/10

See statement by Save Our Retirement coalition.

Fiduciary rule public hearing transcripts posted
Nick Thornton, BenefitsPro, 9/9

STUDENT LOANS & FOR-PROFIT EDUCATION

Soaring student loan debt poses risk to nation's future economic growth
Jim Puzzanghera, LA Times, 9/5
"The impact on future [economic] growth could be quite significant," said Cristian deRitis, who analyzes consumer credit economics for Moody's Analytics. The amount of outstanding student loans has skyrocketed 76% to almost $1.2 trillion since 2009 as college costs have shot up and graduates have had difficulty finding good-paying jobs.

What staggering loan defaults at for-profit schools say about accreditors
Danielle Douglas-Gabriel, Washington Post, 9/8
Accreditors are supposed to conduct in-depth investigations of colleges' facilities, retention rates and teaching quality to make sure taxpayer money is going to quality colleges. But they are falling short, according to the CAP study.

The findings are emblematic of larger problems in college accreditation. There is no uniformity in the way accreditors decide who enters and exits federal student aid programs. And that has led to a system that is at best subjective in the way it assesses quality.

Senator Durbin warns prospective students about deceptive for-profit colleges
eNews Park Forest, 9/3

New loan forgiveness regs
Kimberly Hefling, Politico, 9/10/15

SYSTEMIC RISK

Investment strategies meant as buffers to volatility may have deepened it
Landon Thomas Jr, The New York Times, 9/8
Investment strategies that promise to insulate investors from risk are being seen as actually having contributed to the wild market swings in recent weeks. That seemingly upside-down outcome follows an explosion in investments aimed at avoiding pratfalls in the market, as opposed to making direct bets on a company, asset class or theme, and has become an investment rage in recent years.

Their popularity boomed after global central banks pumped trillions of dollars into asset markets in a bid to spur economic growth. Now, however, some experts warn that the sums that have flowed into so-called risk-parity funds and exchange-traded funds, or E.T.F.s, over the last five years have become so large that the end result has been a riskier, more volatile market.

[Seven years of global financial crisis](#)
Alok Sheel, LiveMint, 9/9

[Risk of financial crisis higher than previously estimated](#)
Phys.org, 9/2

WHISTLEBLOWER PROTECTION

[Appeals Court: Whistleblowers don't have to call the SEC](#)
Jacob Gershman, The Wall Street Journal, 9/10
A federal appeals court on Thursday ruled that corporate whistleblowers who report possible wrongdoing internally to their company before alerting securities regulators are protected by retaliation provisions of the 2010 Dodd-Frank financial reform law.

The 2-1 ruling by the Second U.S. Circuit Court of Appeals reversed a lower court and marked a victory for the U.S. Securities and Exchange Commission, which pushed to expand the scope of protections. The decision was a setback for companies that argued that employees shouldn't qualify for whistleblower protection unless they first report their concerns to the government.

OTHER TOPICS

[How to Talk About Big Data and Lending Discrimination](#)
Cathy O'Neill, American Banker, 9/10
The possibility that lenders could use Facebook to evaluate borrowers also raises concerns about disparate impact, a concept that was beautifully explained in the recent article, "When Big Data Becomes Bad Data." The idea is that when a lender's process favors one group of people over another, it may be illegal — whether or not the discrimination is intentional. There's lots of precedent for this in the courts, and the Supreme Court recently upheld disparate impact as a legitimate argument in Fair Housing Act cases.

[Bank Data on Diversity Can Help Close Racial Wealth Gap](#)
Mark Whitlock and Aubrey Stone, American Banker, 9/2
As national leaders for the Black business and faith-based movements, we believe that the promise and the potential of the civil rights movement has not yet been achieved within the financial services industry. Blacks and most other minorities continue to receive surprisingly few small business loans, high-level employment promotions and business contract opportunities.

In light of this grim progress, Congresswoman Maxine Waters secured in the 2010 Dodd-Frank Act provisions that would require the collection of data by race and gender on three matters of great importance to our nation's 45 million blacks. Federal regulators were meant to collect detailed data on small-business loan recipients, business contracts with minority- and women-owned businesses, and minorities' employment opportunities at financial firms.

But a unique combination of bureaucracy and lack of federal regulatory leadership, rather than any strong opposition from the banking industry, has delayed the collection of small-business lending data. This inertia means that it is equally unlikely we will be able to collect any meaningful data on employment or contracts over the next decade.