AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
SEPTEMBER 13 – 19, 2014

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CONSUMER FINANCE AND CFPB

Lobbyist Pawlenty Runs Afoul of Banks in Consumer Bureau Battle
Carter Dougherty, Bloomberg, 9/15/14
Tim Pawlenty, the former Minnesota governor turned bank lobbyist, is backing down from an election-style campaign against the U.S. Consumer Financial Protection Bureau after complaints from the firms he represents.

Pawlenty's group, the Financial Services Roundtable, started a website and bought ads on billboards and social media, attacking a website the regulators uses to collect complaints about banks and other financial-services providers.

CFPB Responds to Criticisms of Consumer Complaint Database
Trey Garrison, HousingWire.com, 9/12/14

New Rules Target Money Transfer Companies
Tim Devaney, The Hill, 9/12/14

Old Debts, Fresh Pain: Weak Laws Offer Debtors Little Protection
Paul Kiel, ProPublica and Chris Arnold, NPR, 9/16/14

Financial Industry Players Enable Each Others' Bad Practices
Lisa Gilbert and Christine Hines, The Hill, 9/16/14
Payday loans — the short-term, high-interest cash loans — are under fire, and justifiably so. The deceptive loans often come with extortionate interest rates that trap unwitting borrowers in a cycle of debt. Some states have outright banned the short-term funds, but still, the lenders, and now especially the banks accused of enabling the lenders to make the illegal loans, continue to find their way around the rules and avoid answering the borrowers' charges that laws were violated.

Then there is the underbelly of the payday loan machine: the banks that assist illegal payday lenders by granting them access to borrowers' debit bank accounts and helping them to process payments.

Consumer Finance Agency Seeks to Broaden Oversight of Auto Loans
Michael Corkery & Jessica Silver-Greenberg, NY Times, 9/18/14
In a proposal, released on Wednesday, the fledgling agency said the move would extend its authority to include 38 lenders that provided financing to 6.8 million consumers last year. Until now, those non-bank auto lenders, which included the so-called captive finance arms of car manufacturers, like Honda and Toyota, were not supervised at the federal level.

"Many people depend on auto financing to pay for the car they need to get to work," Richard Cordray, director of the Consumer Financial Bureau, said in a statement. "Nonbank auto finance companies extend hundreds of billions of dollars in credit to American consumers, yet they have never been supervised at the federal level."

Auto Lenders Face More Scrutiny as U.S. Move on Loan Bias Stalls
Carter Dougherty, Bloomberg, 9/16/14
During its four-year existence, the (Consumer Financial Protection Bureau) has changed industry practices in mortgage lending, credit cards and other products through a mixture of supervision and regulation. In all, the agency said yesterday, it has recovered about $4.7 billion in relief for more than 15 million consumers harmed by illegal practices.

The bureau has been less successful in auto finance, an industry it targeted in March 2013. It has issued guidelines, demanded data from banks and filed an enforcement action to alter a system officials say lets auto dealers charge higher rates to minority buyers.

The CFPB Finds a Way to Regulate Car Loans
Karen Weise, Bloomberg Businessweek, 9/18/14
The CFPB began focusing on regulating auto loans last March, when it said it would look at the loans funded by banks the agency already supervises. But banks make up only part of the market. Nonbank lenders, including "captive lenders" owned by carmakers and independent finance companies, account for more than 40 percent of the market, according to data (PDF) from Experian. The nonbank lenders also have higher delinquency rates, Experian data show.

Republicans Contest CFPB Auto Lending Rules
Tim Devaney, The Hill, 9/18/14

Consumer Groups Applaud CFPB's Efforts to Provide More Oversight of Abusive Auto Lending
Press Release, National Association of Consumer Advocates, 9/18/14

This Law Would Immediately Improve Your Credit Score
Martha C. White, Time, 9/16/14

Feds Tackle Banking Loan Scams
Tim Devaney, The Hill, 9/17/14

U.S. Courts Close 2 Payday Lenders Accused of Fraud
Ann Carrns, NY Times, 9/17/14

DERIVATIVES, COMMODITIES & THE CFTC

Court Dismisses Lawsuit Against CFTC Over Cross-Border Swaps Rule
Andrew Ackerman, Wall Street Journal, 9/16/14
A federal judge affirmed the Commodity Futures Trading Commission's ability to impose its postcrisis rules overseas, handing a win to the agency as it tries to apply its swaps rules both inside and outside the U.S.

U.S. District Court for the District of Columbia Judge Paul Friedman dismissed arguments by three Wall Street trade groups that the CFTC overstepped its authority in issuing new rules and guidance related to overseas swaps transactions. The groups filed the suit in December after the CFTC said overseas affiliates of U.S. banks should have to follow the agency's rules if they use U.S.-located personnel to arrange, execute or negotiate the transaction.

Wall Street Defeat Strengthens Swap Rules Overseas
Silla Brush, Andrew Zajac & Robert Schmidt, Bloomberg, 9/17/14
Marcus Stanley, policy director for **Americans for Financial Reform**, a coalition including the AFL-CIO labor federation, said the decision should bolster the agency's efforts to curb recent steps by Wall Street to escape Dodd-Frank by shifting their overseas trading operations.

"I really hope that this decision is going to stiffen the CFTC's backbone," Stanley said in a phone interview.

Statement of CFTC Chairman Tim Massad on the Dismissal of the Cross Border Lawsuit
Tim Massad, CFTC Chairman, 9/16/14
"I am pleased the court upheld the Commission's July 2013 policy statement on the cross-border application of Title VII swaps provisions, and rejected a sweeping injunction of the rules that are at the heart of Dodd-Frank's overhaul of the swaps markets. I am committed to continuing our efforts to reform the swaps markets, including addressing Congress's concerns that risks undertaken abroad might threaten the health of the U.S. economy."

Dems Push Funding Bill for CFTC
Rebecca Shabad, The Hill, 9/16/14

ENFORCEMENT

Eric Holder to Call for Bigger Wall Street Whistleblower Rewards
Jon Prior, Politico, 9/17/14
Many of the Justice settlements have been brought under the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA), which currently caps payments to whistleblowers at $1.6 million.

Holder called the amount "a paltry sum" in an industry that provided a combined $26 billion in bonuses last year and where the typical executive earns $15 million per year. Holder said that $1.6 million is not enough to lure Wall Street executives to risk their careers by coming forward.

33 Insiders, Companies Settle Late Reporting Allegations in SEC Sweep
Richard Hill, Bloomberg, 9/10/14

Tower Unit Fined $16 Million Over Insufficient Capital
David McLaughlin, Bloomberg, 9/17/14

DOJ Preparing Criminal Charges Against Wall Street Executives
Danielle Douglas, Washington Post, 9/17/14

SEC's Poor Collection Rate May Impede Whistleblowers
Rachel Louise Ensign, Wall St. Journal, 9/18/14

U.S.: BofA Bid to Void $1.27 Billion Fraud Verdict Defies Common Sense
Reuters, 9/19/14

EXECUTIVE COMPENSATION

Wall Street Watchdog Slams SEC over CEO pay disclosure rule
Tim Devaney, The Hill, 9/19/14
A Wall Street watchdog is calling for federal regulators to finalize a rule that discloses how much money top executives make compared to their employees. Americans for Financial Reform (AFR) **slammed** the Securities and Exchange Commission (SEC) on Friday for dragging its feet on the CEO pay disclosure rule amid pressure from business groups to scrap it.

"One year ago, the Securities and Exchange Commission proposed a rule to implement a provision of the Dodd-Frank Act requiring companies to disclose the ratio of their chief executive's pay to that of their median employee," AFR noted.

"Despite this overwhelming expression of support for pay ratio disclosure, the SEC still has not issued a final rule implementing the provision," the group added.

AFR, Public Citizen Urge SEC to Finalize CEO-to-Worker Pay Ratio Disclosure Rule
Press Release, AFR and Public Citizen, 9/19/14

FEDERAL RESERVE

Federal Reserve Makes "Effort" to Rein in Big Banks
Interview with Gerald Epstein, Real News, 9/17/14
[W]hat happened just last week is Daniel Tarullo, who is on the Federal Reserve Board of Governors, who's been spearheading these issues from the point of view of the Federal Reserve--and he's actually a pretty decent person. He's a good guy. He's dealt with **Americans for Financial Reform**, and he's open to try to deal with these problems. Well, he gave testimony before the Senate and talked about two aspects of this. One is dealing with the liquidity problem by enforcing a liquidity rule. I'll explain what that is in the second. And the second is dealing with the leverage problem, with the banks taking on too much debt.

The bottom line is that while these initiatives are important if you're going to adopt this approach of trying to chip away piece by piece, once again they've been gamed by the banks. There are a lot of holes in these. I'm afraid this kind of piecemeal approach isn't really going to solve the problem.

Ron Paul Legacy Lives on as House Passes Fed Audit Bill

Pedro Nicolaci Da Costa, Wall St. Journal, 9/18/14

The legislation would direct the Government Accountability Office to conduct a "full audit" of the Fed's operations and report back to Congress. Currently, the GAO reviews the central bank's financial operations, but not its policy decisions or agreements with foreign governments and central banks. An outside firm audits the Fed's financial operations and its findings are published in the central bank's annual report.

Known to some on Capitol Hill as the "Audit the Fed" bill, it passed the Republican-controlled House Wednesday on a 333-92 vote, with support from 106 Democrats. However it would likely face more opposition in the Senate, which is controlled by Democrats.

INVESTOR PROTECTION AND SEC

Testimony of John C. Bogle Before the Finance Committee of the United States Senate

John C. Bogle, 9/16/14

The failure of our retirement system is pervasive. These retirement systems constitute, if you will, a three-legged stool, and all three legs are faltering…

The system I'd like to see may not be—indeed, it is not—a system free of flaws. But it is a radical improvement, born of common sense and elemental arithmetic, over the present system, which is driven by the interests of Wall Street rather than Main Street. With the creation of an independent Federal Retirement Board, we have the flexibility to correct flaws that may develop over time, and assure that the interests of workers and their retirement security remain paramount. But the central principle remains: minimize the impact of all of the various forms of speculation that plague our complex present-day national retirement plan system, vastly simplify it, slash the costs of it, assure its fairness to society, and maximize its focus on long-term investment.

Oxfam Sues SEC Over Delay in Oil and Gas Payment Disclosure Rules

Gina Chon, Financial Times, 9/18/14

Payday Surprises and Broker Lawsuits

Matt Levine, Bloomberg, 9/18/14

The story here is that some people buy risky private placements that go bad, and then they sue their brokers for recommending unsuitable investments, and then the brokers countersue for legal fees because the private placement agreements contain indemnification provisions and representations that the investors are sophisticated and able to handle the risks. There's a part of me that sympathizes with the brokers here; like, *I* want to sue the guy who bought a private placement that he found on "the convention floor of the annual World Money Show in Orlando, Fla." Just index, bro![1] But I cannot get behind this logic.

MORTGAGES, FORECLOSURES & HOUSING

Pundits Are Trying to Bring Back Sub-Prime Mortgages. Don't Let Them

David Dayen, Guardian, 9/16/14

Mortgages are hard to get, with demands for high credit scores and a perfect lending history, so some say it's time to bring back subprime mortgage lending.

This is, obviously, a bad idea. The financial industry has plenty of reasons to offer the same high-risk, high-return loans that made so many bankers rich during the housing bubble before everything crashed. But it's less clear why any sensible commentator wants to cheer the industry on.

Story after story lately follows the same flawed logic: the shoddy lending that caused the financial crisis has now swung too far in the other direction, preventing deserving people from getting mortgages. The poor or middle class can't access credit, which is the fault of "over-regulation" of banks.

A Simple Plan to Stop the Next Financial Crisis

Pat Regnier, Time, 9/15/14

Here's one thing every homeowner knows: The less equity you have in your house, the more likely you are to get in financial trouble.

This was easy to forget for a time in the mid-2000s, when house prices were climbing. But when real estate prices reversed, many borrowers who had put little or no money down quickly found themselves "underwater," owing more on their houses than they could sell them for. People who had stuck to the old-fashioned 20% down-payment rule of thumb, on the other hand, had a cushion. Their house had to lose at least 20% of its value before they were stuck in a mortgage they couldn't get out of.

Castro Pushes for Housing Finance Reform Legislation

Vicki Needham, The Hill, 9/16/14

REVOLVING DOOR & POLITICAL POWER OF WALL STREET

House Votes to Audit The Fed... and Deregulate Wall Street

Zach Carter, Huffington Post, 9/17/14

Although the GOP is eager to expose the Fed's dealings with big banks, it is equally anxious to dole out favors to financial operators… One deregulation bill, H.R. 5405, would exempt a significant swath of the market for derivatives -- the complex financial products at the heart of the 2008 meltdown -- from Dodd-Frank's new trading rules.

Americans for Financial Reform, the leading voice for Wall Street accountability on Capitol Hill, came out strong against H.R. 5405 and the other deregulation bill, H.R. 5461.

Banking Industry Donates Heavily to U.S. Rep. Andy Barr as He Champions Deregulation Bills

John Cheves, Lexington Herald, 9/13/14

"Being on the Financial Services Committee is widely known as a good way for congressmen to raise a lot of money from the banks, and it looks like Mr. Barr is doing just that," said economist Marcus Stanley, policy director at **Americans for Financial Reform**, a nonprofit in Washington that opposes Barr's bank deregulation bills.

"There is literally an army of banking lobbyists in Washington who are billing $1.5 million a day when Congress is in session, knocking as many holes as they can in the restrictions on how banks can make money. The Financial Services Committee is where a lot of that happens," Stanley said.

Wall Street's Civil Rights Disgrace: Inside a Quiet, Evil Lobbying Effort
Larry Schwartztol, Salon, 9/12/14
After lobbying furiously against financial reform, the financial industry has worked to defang the new regulatory regimes where it can. For the most part, this response has aimed at rolling back reforms put in place following the 2008 financial crisis. But the backlash against regulation has not been limited to attacking new financial reforms.

Over the last several years, Wall Street has joined a coalition of groups in a litigation campaign to dismantle a crucial regulatory bulwark: federal civil rights protections against discriminatory lending. Pressing this litigation effort is a good investment for Wall Street. It provides a low-profile path to advance its deregulatory agenda. Under the guise of a technical debate over legal doctrine, this litigation campaign aims to radically roll back an indispensable legal constraint on reckless financial practices. In the process, it would tear down a vital pillar of civil rights law, making it much harder to mount legal challenges to discrimination throughout the housing and lending markets.

A Thousand-Dollar Bill
Usha Rodrigues, Slate, 9/15/14
In *McCutcheon v. FEC,* Chief Justice John Roberts made an assumption about the relationship between money and politics. He contended that a $5,200 contribution by a donor to a candidate is simply not enough money to create a “cognizable risk” of corruption. Yet my research into an obscure area of securities law has uncovered a case in which a mere $1,000 donation appears to have triggered a legislator to introduce a bill favorable to that donor…

Prior to the 2012 Jumpstart Our Business Startups, or JOBS, Act, Section 12(g) of the Securities and Exchange Act of 1934 required firms with more than 499 shareholders to make public disclosures to the SEC (the “500-shareholder rule”). Effectively, Section 12(g) said to corporations with 500-plus shareholders: Even if you want to stay private, you still need to make annual and quarterly filings as if you were a public company…

[M]ost companies go public with far fewer than 500 shareholders… But in 2012 Congress changed the rule anyway, amending Section 12(g) to raise the limit to 2,000 shareholders (as long as they’re accredited investors, i.e., **wealthy**) and to exclude from the count employee shareholders and crowdfunding investors…Why did Congress raise the 500-shareholder threshold in 2012 if there wasn’t a problem? The answer: follow the money.

STUDENT LOANS & FOR-PROFIT SCHOOLS

Bill Maher, John Oliver Slam Predatory For-Profit Colleges
David Halperin, Republic Report, 9/15/14

CFPB Sues For-Profit Corinthian Colleges for Predatory Lending Scheme
Press Release, Consumer Financial Protection Bureau, 9/16/14

Student Loan Relief Available for Veterans
Jesse Longbrake, NAAG, 9/16/14

Shame to Outrage: Group Takes Action Against Student Debt Crisis
Nona Willis Aronowitz, NBCNews, 9/16/14

[SEC May Take Enforcement Action Against ITT]
Associated Press, 9/19/14

[How One Student Got Burned By a For-profit College And Bailed Out By Occupy Wall Street]
Lydia DePilis, Washington Post, 9/17/14

[Struggling ITT Educational Faces Scrutiny on Multiple Fronts]
Michael Calia, Wall St. Journal, 9/19/14

[CFPB Sues For-profit College Company for $569 Million]
Consumers Digest, 9/18/14

[For-profit Schools Now Responsible for Students After Graduation, Too?]
Interview with Kaplan CEO Tom Leppert, Fox Business, 9/18/14

SYSTEMIC RISK

[Uh Oh, the Credit Rating Agencies are Up to Their Old Tricks Again]
Matt O'Brien, Washington Post, 9/16/14
[The credit rating agencies] made their money rating bonds, and only rating bonds. If it turned out their ratings were garbage, and contributed to a once-in-three-generations crisis—well, oops. But thanks for all the fees…!

There are three major credit rating agencies, but Wall Street only needs one of them to rate a bond. So a bank can ask all of them what rating they would give a bond, and then go with the one that rates it highest. This "ratings shopping," of course, gives credit rating agencies good reason—i.e., their bottom lines—to give banks the ratings they want. There's no point being Cassandra if it drives you out of business.

Dodd-Frank didn't fix this, and now it's coming back. Tracy Alloway of the Financial Times reports that banks are once again asking around to get AAA ratings on dubious bonds. One way to tell is that Fitch has only "been hired for four of the 29 subprime auto ABS deals this year, after telling issuers that the vast majority of bonds did not deserve AAA ratings."

[New Dodd-Frank Fix Runs Risk of Lehman-esque Meltdown]
Eileen Applebaum, The Hill, 9/19/14
To understand what's at stake, it is necessary to understand CLOs. In a CLO, large high-risk business loans are pooled together and then securitized. The loan pool is sliced up and the slices sold to different groups of investors, with the riskiest slice — the one to take the hit first if one of the loans in the pool stops paying — yielding the highest rate of interest. The underlying loans are multimillion-dollar loans made by banks — usually to private-equity funds which borrow this money to acquire companies. The company's assets are used as collateral for the loan — hence the designation as "collateralized loan obligations." These are high-risk or "leveraged" loans that burden the company acquired in a "leveraged buyout" (LBO) with high levels of debt. The loans are below investment grade — essentially junk bonds. The bank that originates these business loans quickly sells the majority of the CLOs to new owners; however, it retains a part of the original bundle of loans.

In Bank Rules Debate, Capital Matters—and Words, Too
Peter Coy, Bloomberg Businessweek, 9/18/14
Regulators don't want banks to go bust in the next financial crisis, or even come close. So they're requiring them to carry thicker safety cushions of "capital," that miraculous loss-absorbing material.

So what exactly is capital? Sometimes it's described as a rainy-day fund, which is wrong. More often it's characterized as something banks "hold," which can make it sound like a pile of money that has to be set aside so it can't be lent out for a profit. That's not right either.

Put simply, capital is nothing more than the difference between what banks own (assets) and what they owe (liabilities).

U.S. Banks Facing Shift in Which Capital Mandate Reigns Supreme
Jesse Hamilton and Craig Torres, Bloomberg, 9/15/14

Post-Lehman, Money Market Fund Protections Still Weak
Jennifer Taub, New York Times, 9/17/14
Giant banks and broker dealers are still vulnerable to the sudden withdrawal of short-term financing by money market funds and other wholesale lenders. And despite two sets of new rules by the Securities and Exchange Commission — one in 2010 and the other in 2014 — investors in money market funds still have reasons to run with their cash at the first hint of trouble.

OTHER TOPICS

The Trauma of Economic Meltdown Is Still Felt
Gregory Bresiger, NY Post, 9/21/14
Possibly the most important aspect of the financial crisis and its after-effects is what happened to the average American, according to a paper by **Americans for Financial Reform** (AFR). "The income of the typical American household fell by 8.3 percent between 2007 and 2012, to a level of $51,017 (in inflation-adjusted 2012 dollars). This is easily the largest sustained decline in income since WWII," said Marcus Stanley, policy director of AFR, a financial watchdog organization backed by public interest and labor union groups.

See AFR's updated **Cost of the Crisis report.**

Did Senator Orrin Hatch Just Censor Testimony on the Retirement Crisis?
Pam Martens and Russ Martens, Wall Street on Parade, 9/18/14
Senator Orrin Hatch, Republican from Utah, is not the Chairman of the Senate Finance Committee. That post is held by Democrat Ron Wyden – whose party currently holds the majority of seats in the Senate. But this Tuesday, in a hearing that he was not even chairing, Senator Hatch appeared to be attempting to censor the speech of the witnesses before they testified by admonishing them not to use a list of specific words and phrases.

It's Time to Rein in Shady Small Business Loan Brokers
Brayden McCarthy, Forbes, 9/17/14