AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM
AUGUST 30 – SEPTEMBER 5, 2014

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CONSUMER FINANCE AND CFPB

Banks' Fee Bonanza Dries Up

James Sterngold, Wall Street Journal, 9/2/14

Banks are making less of their money from customer-account fees than at any time in the past seven decades as strict government rules and changing consumer behavior squeeze a major source of revenue.

After peaking in 2009, the annual account fees collected at U.S. commercial banks have declined markedly, even as the volume of bank deposits has swelled, according to the Federal Deposit Insurance Corp. The fees have dropped nearly 21% to $32.5 billion last year from $41.1 billion in 2009. The total fees had climbed every year since 1942, when the FDIC started collecting the data.

How Banks Are Using Big Data to Set Deposit Rates

Penny Crossman, American Banker, 9/4/14

Worried that the Federal Reserve will start raising interest rates next year, many banks are reconsidering their strategies for attracting and keeping deposits — and turning to analytics software to help.

The software can be fed reams of information about economic conditions, competitors' rates, and individual customer behavior to help calculate rates that institutions should pay for deposits. Bank of the West, Fifth Third and Bank of Montreal are among those that have jumped on the trend, and more are likely to follow.

U.S. Consumers Turn to Auto Loans at Record Rate

Peter Rudegeair, Reuters, 9/3/14

In the second quarter, 85 percent of new car purchases and 53.8 percent of used car purchases were financed, according to data from Experian Plc (EXPN.L), an information provider. That was up 0.5 percentage points and 0.9 percentage points, respectively from the same period in 2013.

Additionally, the size of auto loan amounts and monthly payments continued to rise, especially for used cars.

[Larry King’s High-Interest Small-Business Loans](#)

Patrick Clarke, Bloomberg, 9/2/14

The LendVantage website includes the example of a business called Sally’s Friendly Cafe, which gets a $25,000 advance to build an outdoor patio. Sally’s agrees to repay $33,500 by diverting a portion of daily sales to the lender. LendVantage projects the business will pay $225 each weekday for about 30 weeks. Based on those terms, the cost of capital is equivalent to a loan with an annual interest rate north of 100 percent. The average APR for a business credit card is 16 percent.

[Banking App Helps Customers Avoid Costly Overdraft Fees](#)

James Sterngold, Wall Street Journal, 9/3/14

Because people can now find out their bank balances with a few taps on their phones—just about anywhere, anytime—they overdraw their accounts less frequently, reducing what had been a lucrative source of fees for the banks. Consumer can also have their banks automatically send alerts to their phones when balances drop below certain levels, also preventing overdrafts.

“The whole consumer psyche is changing and their behavior is changing,” said Richard Hunt, president of the Consumer Bankers Association, a trade group. “Consumers are smarter because of the technology.”

[Consumer Bureau Fires Warning Shot at Credit Card Companies](#)

Tim Devaney, The Hill, 9/3/14

“Credit card offers that lure in consumers and then hit them with surprise charges are against the law,” CFPB Director Richard Cordray said in a statement. “Before they sign up, consumers need to understand the true cost of these promotions.

"Today, we are putting credit card companies on notice that we expect them to clearly disclose how these promotional offers apply to consumers, so that they can make informed choices about their credit card use,” he added.

DERIVATIVES, COMMODITIES & THE CFTC

[Loophole? Ring Fence? Regulators, Banks Face Off as Swaps Shift Overseas](#)

Scott Patterson, Wall Street Journal, 9/5/14

Even before the SEC passed its rule, banks had pounced. By removing the guaranty of their U.S. affiliates, or “de-guaranteeing” them, they can slip the U.S. regulatory noose. As The Wall Street Journal reported in April, giant U.S. banks including Bank of America Corp., Citigroup Inc., Goldman Sachs Group Inc., J.P. Morgan Chase & Co. and Morgan Stanley started changing certain swaps deals made by offshore units, mostly based in London, to remove guarantees that the deals are backed by their U.S. parent.

And voila! Big U.S. bank operations could effectively trade swaps with one another oversees outside of U.S. regulatory oversight, evading some of the more onerous aspects of Dodd-Frank, such as requirements to trade certain swaps on new electronic trading platforms. To be sure, they fall under European regulatory oversight. But since many of those rules are still in the works, the trades are effectively taking place in the dark.

CFTC to Scrutinize Banks Shifting Trading Operations Overseas
Andrew Ackerman and Scott Patterson, Wall Street Journal, 9/5/14
The new head of the Commodity Futures Trading Commission said he would work with fellow regulators to scrutinize large banks that are shifting some trading operations overseas to avoid tough U.S. rules. Timothy Massad, in an interview Thursday, said he is concerned about recent moves by several large Wall Street firms to sidestep CFTC oversight by changing the terms of some swap agreements made by their foreign affiliates.

Non-Cleared Swaps Facing Collateral Mandate by U.S. Regulators
Silla Brush, Bloomberg, 9/3/14
The proposal is part of global policymakers' efforts "to reduce systemic risk in derivatives markets," Federal Reserve Chair Janet Yellen said in a statement. Regulators have argued that had the rules been in place in 2008, financial firms would not have amassed large derivatives positions without the necessary collateral.

"Margin is really the first line of defense against a breakdown," Marcus Stanley, policy director for **Americans for Financial Reform**, a coalition including the AFL-CIO labor federation, said in a phone interview.

Federal Agencies Propose Rule to Reduce Risk in Derivatives Market
Zach Warren, Inside Counsel, 9/4/14
"This is a really important rule," Marcus Stanley, policy director at **Americans for Financial Reform**, told the *New York Times*. "Margin is the first line of defense in the derivatives market."

ENFORCEMENT

Finra Fines Brokerage $1M Over Penny-Stock Deals
Mathias Rieker, Wall Street Journal, 9/3/14

EXECUTIVE COMPENSATION

Ex-Goldman Trader Loses in Bid for $5 Million More in Bonus
Christie Smythe, Bloomberg, 9/3/14

INVESTOR PROTECTION AND THE SEC

Credit Rating Reform Comes Up Short
Editorial, New York Times, 9/3/14
The Securities and Exchange Commission recently issued two rules, required by the Dodd-Frank financial reform law, to overhaul this process. Unfortunately, the new rules are only modest improvements to a process that requires substantial reform.

Under one of the rules, sellers of asset-backed securities are required to give investors details about the securities' underlying loans, including the borrowers' credit scores. With that data, investors can presumably make independent judgments about the quality of the securities being offered for sale.

But the rule contains a major loophole: Sellers of asset-backed securities do not have to provide detailed loan-level data in many deals where the buyers are big institutional investors, including

hedge funds, pension funds and insurance companies. Big investors could demand the data, but they didn't ask for it before the financial crisis. Instead, they put their faith in the securities' ratings and reaped the high yields until the whole scam unraveled.

Dissenting Commissioners Decry Changes to New Credit Rating Agency Rules
John Filar Atwood, Securities Regulation Daily, 9/2/14
While the new rules contain numerous provisions, Gallagher and Piwowar objected to two sections in particular. First is the requirement that nationally recognized statistical rating organizations (NRSROs) establish, maintain and enforce an internal control structure. Second is the amendment of 1934 Act Rule 17g-5 to mandate the separation of ratings determinations from NRSRO sales and marketing activities…

Americans for Financial Reform (AFR) said that it is pleased that the rules have been finalized, adding that the rules were improved to contain much stronger language addressing the impact of conflicts of interest and sales considerations on the quality of credit ratings. The group noted that conflicts of interest have been a major contributor to deceptive and misleading ratings.

MORTGAGES, FORECLOSURES & HOUSING

Federal Sale of Troubled Mortgages Draws Criticism From Community Groups
Matthew Goldstein, New York Times, 9/5/14
The Center for American Progress, in a report issued Friday, says the Housing and Urban Development Department needs to give nonprofit organizations a better chance of competing with investment firms in the bidding to buy the delinquent loans. The nonpartisan research group said greater participation of nonprofits might mean a higher percentage of troubled mortgages could be reworked in a way that permits delinquent borrowers to start making payments again and remain in their homes.

Is Housing Such a Bad Investment? Maybe Not...
Adam Levitin, Credit Slips, 9/3/14
One of the post-bubble conventional wisdom stories that has gotten a lot of traction is that housing is a bad investment and that consumers would do better to rent and invest in the stock market… There are two problems with this line of argument.

First, it fails to account for the leveraged nature of housing investment. Most homes are purchased on leverage, and housing is the only leveraged investment broadly available to the middle class. When one factors in leverage, housing massively outperforms stock market mutual funds, making it a pretty sensible investment in most cases.

Second, the simple return comparison fails to account for the indirect benefits of housing, such as school districts, commuting time, quality of life etc.

FHFA Rules Aimed at Kicking REITs Out of Home Loan Banks
Jody Shenn, Bloomberg, 9/2/14

Family Loses Virginia Home as Regulators Target Nonbanks
Kathleen M. Howley, Bloomberg, 9/4/14

Retiring Boomers Still Have Mortgages to Pay Down
Victoria Stillwell, Bloomberg, 9/4/14

Home Buyer Alert: Vet That Mortgage Referral
Mark Greene, Forbes, 9/3/14

REVOLVING DOOR & POLITICAL POWER OF WALL STREET

Elizabeth Warren Slams Eric Cantor's Move to Investment Bank
Alex Lazar, Huffington Post, 9/3/14

STUDENT LOANS AND FOR-PROFIT SCHOOLS

Retirees' Social Security Checks Garnished for Student Loans
Patrick M. Sheridan, CNN Money, 8/24/14
It's a growing national trend. Last year, 156,000 Americans had their Social Security checks garnished because of student loans they had defaulted on. It's tripled in number from 47,500 in 2006, before the Great Recession. That's according to analysis done by the U.S. Treasury for CNNMoney.

Understanding New 'In-State' Tuition Ceiling on GI Bill
Tom Philpott, Stars and Stripes, 9/4/14

The Future for Career Colleges: What We Have to do to Regain Credibility
Raul Valdes Pages, Republic Report, 9/3/14

SYSTEMIC RISK

The Mystery of 'Living Will' Rules for Banks
Hal Scott, New York Times, 9/3/14
Regulators have faulted living wills for not adequately predicting how counterparties—derivatives customers, clearinghouses and hedge fund clients, for example—would respond to a bank nearing insolvency. This criticism borders on the preposterous. It is difficult enough to plan for one's own death. It is impossible for any bank, let alone all banks and their regulators, to determine how others would react to it. In 2008 some banks that weren't directly exposed to the Lehman Brothers failure nonetheless experienced runs that threatened their solvency.

Republicans Cry Foul on Financial Stability Council's Move
Victoria McGrane, Wall Street Journal, 9/2/14
At issue is the Financial Stability Oversight Council's review of companies from both sectors and the threat they pose to the financial system. The council, made up of more than a dozen regulators, is charged with determining if individual firms should be labeled as "systemically important," a designation that subjects a firm to tougher rules and oversight by the Federal Reserve.

"Specifically, we are concerned that the Council has devoted far less effort to empirical analysis, stakeholder outreach, and transparency in its consideration of insurance companies for

designation than it has for asset management firms," the lawmakers wrote in a letter to Mr. Lew dated Sept. 2.

Banks Face More Oversight on Ability to Weather Credit Crunch
Jesse Hamilton, Bloomberg, 9/3/14
The Federal Reserve, Office of the Comptroller of the Currency and Federal Deposit Insurance Corp. are ready to issue a mandate that banks set aside enough easy-to-sell assets to survive a 30-day liquidity drought and wrap up rules on how much loss-absorbing capital must be held against total assets.

Too Big to Fail vs. Too Handcuffed to Act
Peter Coy, Bloomberg, 9/4/14

U.S. Liquidity Rules Aim to Make Banks Boring Again
Ciaran McEvoy, Investor's Business Daily, 9/3/14
In the ongoing effort to make banks safer and — in the minds of some observers — banking more boring, U.S. regulators are approving new liquidity rules to ensure that lenders don't run out of money in the event of another financial crisis…

The liquidity rules, with some tweaks, are largely those first proposed in October 2013. They are in response to banks being caught short of cash when the Great Recession's grip tightened during 2008. They also are an important component of Basel III, an international agreement to ensure the safety of major lenders such as Bank of America, JPMorgan Chase, and Wells Fargo.

Fed Rules Tighten What Counts as an Asset
Floyd Norris, New York Times, 9/4/14
The new rules are aimed at ensuring that the banks have enough ready liquidity to survive a crisis that lasts 30 days. They are said to be permanent, but they will most likely be tweaked soon to make it easier for banks to count some municipal bonds as liquid assets — something that state governments eager to borrow have urged.

Post-Crisis Banking Rules Are Almost Done, But Critics Aren't Happy
Joseph Lawler, Washington Examiner, 9/4/14
Although the process has been slow, many of the significant changes took effect before the rules were officially written, said Marcus Stanley, policy director for **Americans for Financial Reform**. "Certain things happened behind the scenes," Stanley told the *Washington Examiner*, including "regulators twisting banks' arms to improve capital positions. These rules just institutionalize the changes regulators have made banks do behind the scenes."

Nevertheless, Stanley criticized the rules for not going far enough to make banks safer. "Six years after the financial crisis, 'too big to fail,' by the regulators' own admission, has not been solved," Stanley said. He added that the number of rules made so far "certainly represents progress, but I don't think many people would say it represents solving the problems that were present in the financial crisis."

Banks Need More Cash to Avoid Another Crisis
Heather Long, CNN Money, 9/4/14
The rules the Federal Reserve and Office of the Comptroller of the Currency codified on Wednesday require banks keep enough cash -- or assets that are close to cash -- to cover all the institution's activities for a month…

In a statement, **Americans for Financial Reform** said the rule "falls well short," especially when it comes to the middle tier banks, "which are smaller than the largest 'too big to fail' Wall Street banks but are still major banking entities that hold a substantial amount of banking system assets."

Munis May Yet Win Regulatory Approval as Liquid Assets for Banks
Brian Chappatta and Jesse Hamilton, Bloomberg, 9/3/14

'Systemic' Label Proposed for MetLife
Joe Adler, American Banker, 9/4/14

Banks Ordered to Boost Risk Management to Meet OCC Expectations
Jesse Hamilton, Bloomberg, 9/2/14

OTHER TOPICS

Wall Street Has a Conscience. This Professor Is Determined to Find It
Natalie Kitroeff, Bloomberg, 9/2/14
Haidt, a professor of business ethics at New York University's Stern School of Business, founded a nonprofit called Ethical Systems this year. He started Ethical Systems as a research hub to study the best ways to make business people behave ethically.

No one can accuse Haidt of underestimating what's at stake. "If we at Ethical Systems can, over the course of 10 years, improve business ethics by 1 percent, we've justified our life on this planet," he says.

Ex-Fannie-Freddie Overseer DeMarco Joins Milken Institute
Clea Benson, Bloomberg, 9/4/14