AFR Americans for Financial Reform

This Week in Wall Street Reform | June 10—16, 2017

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TRUMP ADMINISTRATION, CONGRESS, AND WALL STREET

Trump Administration Says Financial Watchdog Agency Should Be Defanged | NY Times
The Trump administration called for the neutering of many of the central provisions of the Dodd-Frank Act as it offered its most detailed plans to date for the unraveling of the financial regulations put in place after the 2008 financial crisis...

"The financial crisis had devastating costs for families and communities, and everyday abuses in financial markets cost people tens of billions of dollars a year," said Lisa Donner, executive director of **Americans for Financial Reform**. "Financial reform has made the system safer, and the C.F.P.B. is returning billions of dollars to consumers facing industry tricks and traps."

Treasury takes up big-bank priorities | NY Times (editorial)
Dodd-Frank is not perfect. For one thing, it is overly complex. And there are worthy reform alternatives that have been put forward that rely less on specific regulations and more on increased capital requirements and structural changes to separate traditional banking from speculative investing. These include a plan by Thomas Hoenig, the vice chairman of the Federal Deposit Insurance Corporation, and one by Neel Kashkari, the president of the Federal Reserve Bank of Minneapolis.

The Treasury report has none of those proposals' analytical rigor. Rather, it is designed to please the banks. **Americans for Financial Reform**, a watchdog group, plans to release a paper showing that the Treasury review endorses almost two-thirds of specific deregulatory requests submitted to the Treasury in May by the Clearing House Association, a big bank lobby.

Trump Team Proposes Broad Rethink of Financial Rulebook | Wall St. Journal
Marcus Stanley, policy director for the advocacy group **Americans for Financial Reform**, which represents unions and consumer groups, said "every recommendation" in the report "weakens systemic or consumer protections."

"This would take things that have already been weakened by industry lobbying and dilute them away to nothing," he said.

[US Treasury unveils financial reforms, critics attack](#) | Reuters
Democratic Senator Elizabeth Warren, a critic of Wall Street, said it would "make it easier for big banks to cheat their customers and spark another financial meltdown." Her Democratic colleague Senator Sherrod Brown noted that Treasury consulted with industry groups more than consumer groups, by a ratio of 17-to-1, while developing its report.

"The Treasury proposal advances ideas that have been pushed by industry lobbyists since Dodd-Frank was passed," said Lisa Donner, executive director of **Americans for Financial Reform**. "We need more effective regulation and enforcement, not rollbacks driven by Wall Street and predatory lenders."

Trump gives banks (a lot of) what they want | CNN Money
"Treasury proposal advances ideas that have been pushed by industry lobbyists since Dodd-Frank was passed," said Lisa Donner, executive director for **Americans for Financial Reform**, a group that has fought to protect Obama-era rules.

Mnuchin Calls for Major Rollbacks of Dodd-Frank Financial Reforms | LA Times
In a 149-page report ordered by President Trump, Mnuchin also recommended reducing oversight of large financial institutions, providing even more regulatory relief for smaller banks and loosening new mortgage restrictions designed to prevent a repeat of the subprime meltdown…

“We need more effective regulation and enforcement, not rollbacks driven by Wall Street and predatory lenders," said Lisa Donner, executive director of **Americans for Financial Reform**, a group advocating tougher oversight of the financial system.

Trump's Treasury Department calls for rollback of Obama-era bank rules | Washington Examiner
Conversely, the executive director of **Americans for Financial Reform**, a group that advocates tighter rules on Wall Street, reacted critically to the report. It "advances ideas that have been pushed by industry lobbyists since Dodd-Frank was passed," said Lisa Donner. "We need more effective regulation and enforcement, not rollbacks driven by Wall Street and predatory lenders."

Treasury Aims to Take a Scalpel to ‘Too Complicated’ Bank Rules | Politico Pro
The Treasury Department believes bank rules are too complicated and that regulators need to be more accountable, said the official who spearheaded the Trump administration's sweeping report on financial oversight released Monday.

Craig Phillips, counselor to Treasury Secretary Steven Mnuchin, said that to reduce complexity, financial agencies must regulate themselves better. He said the report's recommendation that the Financial Stability Oversight Council play a greater role in coordinating agencies is geared toward that goal.

Administration Looks to Curb CFPB Powers, Change Bank Rules | Washington Post

Report Calls for Thorough Revamp of Obama-era Financial Regulations | Financial Times
[S]ome of the more sweeping measures — including the curbs on the CFPB — could be difficult to pass in the Senate, where Republicans are reliant on Democratic support. But Mr Mnuchin, a former Goldman Sachs partner who drew up the report with the assistance of his counsellor Craig Phillips, formerly of BlackRock, said that he and his team hoped to achieve many of the reforms through tweaks to supervisory frameworks.

On the Volcker ban on banks making speculative bets with their own capital, for example, the Treasury Department has not recommended repeal of the rule but advocates that agencies interpret it more liberally, to allow banks more latitude in hedging risks and making markets for clients. And on the annual stress tests, Treasury recommends that the Federal Reserve consider switching to a two-year cycle, while opening its models and risk scenarios to public notice and comment.

“That is like giving the test to the students the night before,” said Marcus Stanley, policy director at **Americans for Financial Reform**, a left-leaning coalition of consumer, labour and community groups. “You see a 150-page document where every single recommendation goes towards peeling back protections against systemic risk and protections for consumers,” he said.

Trump Treasury Department Wants to Depower CFPB | Pymnts

Why Reopening Wall Street ‘Casino' Wrong Choice for Main Street | Morning Call (Rep. Matt Cartwright)
Now, the Republican-controlled Congress is rolling out its Financial Choice Act — we're calling it the Wrong Choice Act — that takes us back to the times of unfettered Wall Street gambling with the American checkbook.

The Wall Street Rules Trump Could Overhaul Without Congress | Thompson Reuters
U.S. President Donald Trump will be able to overhaul many of the Wall Street reforms put in place after the 2007-2009 financial crisis without the blessing of Congress, where Senate Democrats could throw up procedural roadblocks. The Treasury Department on Monday released a long list of suggested changes to banking rules, and said most of them could be carried out by agencies now, or soon to be, headed by Trump appointees.

Wall Street Overhaul Lacking Agency Chiefs to Implement It | Thompson Reuters
The Trump administration has said the bulk of its plan for overhauling bank regulation can be done via executive order and through regulators, rather than requiring legislation from Congress. But Trump is months away from installing top officials at key regulatory posts to carry out his agenda.

The Trump Administration Just Released Their Road Map to Deregulate Wall Street | Other98 (Adam Fofana)

See AFR statement.

Acting U.S. Bank Regulator Is Recused from Decisions on Many Banks | Wall St. Journal
The acting head of a top U.S. banking regulator has temporarily recused himself from matters involving 80 banks, law firms and other entities, according to documents made public Friday. The recusal list for Keith Noreika, a former banking lawyer who the Trump administration named acting Comptroller of the Currency in early May, includes J.P. Morgan Chase & Co. to Bank of America Corp. and other large banks the agency oversees.

Meet Trump's 2nd Choice for Deputy Treasury Sec'y: "Foreclosure Prince" Brian Brooks | Trump Transparency

McConnell: Senate to Go Ahead with Spending Bills at 'Last Year's Levels' | Politico Pro

Elizabeth Warren Calls for Targeted Deregulation of Community Banks | Wall St. Journal
Sen. Elizabeth Warren said Tuesday that Senate Democrats are willing to pursue targeted changes for regulations affecting community banks and credit unions as Congress moves to review postcrisis financial regulations.

But the Massachusetts Democrat, Congress's leading critic of Wall Street, said she would stand fast against changing laws to roll back consumer protection or to help big banks.

Senator Brown 'Optimistic' on Regional Bank Regulatory Reform | Politico Pro
Brown, of Ohio, said at a hearing, "I am optimistic that there is room for agreement on a modified regime for overseeing regional banks.

House Wants to Deregulate Big Banks Again | **Pekin TImes (Bill Knight)**
"This legislation takes the worst ideas concocted by Wall Street and predatory lenders, and combines them into one toxic package," [Lisa Donner, director of **Americans for Financial Reform]** said. "The bill is crammed with deregulatory gifts to the entire industry, including megabanks that want to return to the excessive borrowing and risky practices that led to the financial crisis."

Sanders and Mnuchin clash over Glass-Steagall | The Hill

Senate Panel Advances Hassett, Patenaude Nominations | Politico Pro

Trump taps House staffer as FDIC chairman | PoliticoPro

CFPB AND CONSUMER FINANCE

Consumer Financial Watchdog Accuses Congressional Critics of 'Misstatements' | LA Times
Richard Cordray, the bureau's director, wrote to "correct the record" in a letter sent to a congressional panel on Wednesday regarding a recent report critical of the CFPB's work in a high-profile scandal.

The five-page letter took issue with multiple conclusions reached in a report released earlier this month by Republican staff on the House Financial Services Committee.

Wells Fargo Guarantees Settlement Will Repay All Injured Customers | LA Times
As part of a class-action settlement, Wells Fargo & Co. will guarantee that customers harmed by the bank's practice of opening unauthorized accounts will get back any fees they paid and be fully compensated for damage done to their credit scores, according to documents filed early Wednesday.

The guarantee marks the second big change in the deal and the second time Wells Fargo has agreed to significantly sweeten the settlement terms as it seeks to put the lawsuits and sham accounts scandal behind it.

Free-Market Failure: The Wells Fargo Arbitration Clause Example | Rutgers U. Law Review

Wells Fargo Fake Accounts and Arbitration | CreditSlips (Jeff Sovern)

A Year After CFPB Proposed a Rule for Small Loans, Borrowers Still Await Reform | Pew Trusts

Too Soon to Tell Whether DoD's Lending-Rate Rules Have Helped Troops' Bottom Line | Military Times
It's too early to tell whether rules protecting troops and families from outlandish lending rates have strengthened service members' finances, advocates said, but the new guidelines have drawn increased interest from lenders and borrowers alike.

Chief among the rules, which took effect in October: A maximum of 36 percent annual percentage rate on most consumer loans to active-duty service members and their dependents, to include military installment loans, overdraft lines of credit, deposit advance loans and others. That doesn't include credit cards, but it will as of Oct. 3 this year.

CFPB Proposes Digital Wallet, Other Changes to Prepaid Card Rule | Politico Pro
The Consumer Financial Protection Bureau has proposed amending its prepaid card rule to change the treatment of digital wallets linked to credit cards. The changes would exempt digital wallets linked to traditional, non-prepaid credit cards from a 30-day waiting period proposed under the original rule.

Digital wallet services like Apple Pay, Google Wallet, Samsung Pay, and PayPal link cards to accounts.

Prepaid Power Players to Gather in D.C. | Pay
Prepaid stakeholders from around the U.S.—and beyond—are set to converge on Washington, D.C.'s Mayflower Hotel next week for the NBPCA's sixth annual Power of Prepaid. This year's event comes at a critical time for the industry. The CFPB's final (final) rule on prepaid accounts is still up for grabs, never mind possible arbitration rules. Meanwhile, the House has passed a bill that would roll back many aspects of Dodd-Frank, and providers are facing unprecedented consolidation and significant pressure to innovate.

Treasury Report Recommends Keeping Data From Consumers | Fortune

Mississippi Revoking Licenses of All American Check Cashing | US News

Consumer Bureau Asks for Input on Prepaid Cards | The Hill

DERIVATIVES, COMMODITIES, AND THE CFT

FASB Holds Christmas in June for Derivatives Users | CFO (David M. Katz)
The Financial Accounting Standards Board's ruling on hedge accounting has something for every company that uses derivatives, an EY executive thinks.

EU Targets Derivative-Clearing Giants with Relocation Threat | Chicago Business

EXECUTIVE COMPENSATION

How Companies Actually Decide What to Pay CEOs | The Atlantic (Steven Clifford)
In 2014, 500 of the highest-paid senior executives at U.S. companies made nearly 1,000 times as much money as the average American worker, after taking into account salary, bonuses, and stock-based compensation. That discrepancy is so enormous that it prompts a question: How exactly do companies come up with and calibrate the often-colossal pay packages they give to their leaders?

Shareholder Proposals on Executive Compensation Decrease in 2017 | Lexology

FEDERAL RESERVE

Fed Doesn't Blink | Politico
Despite all the talk about slowing inflation and political turmoil, the Federal Reserve wants to keep on keeping on. Not only did the central bank hike rates Wednesday for the second time since Donald Trump became president, but it also said it's still planning to do so once more this year and three times next year.

INVESTOR PROTECTION AND THE SEC

Financial Sector Oversight Will Be Harmed by New Legislation | Coalition for Sensible Safeguards (Susan Ervin)
[T]he Dodd-Frank Act created an SEC whistleblower program, which has proven to be of immense value to securities law enforcement and the investing public. The program combines protections against retaliation with substantial incentive awards to encourage individuals to bring forward information vital to the prosecution of securities law violations. Described in 2015 by then-SEC Chair Mary Jo White as a "game changer for the agency," the whistleblower program has uncovered information leading to the recovery of hundreds of millions of dollars for investors and the US Treasury since becoming operational in 2011.

This powerful law enforcement weapon has been put at risk, however, by amendments in H.R. 10, The Financial CHOICE Act, approved last week by the full House of Representatives on an almost completely party-line vote, 233-186. Representative Walter Jones (R-NC) was the only member to cross the aisle to vote against this bad piece of legislation. The legislation heads to the Senate next.

Supreme Court Casts Doubt on Potent SEC. Weapon | NY Times
The Securities and Exchange Commission routinely seeks an order in an enforcement action to require a defendant to repay any ill-gotten gains, a remedy called disgorgement.

A recent Supreme Court decision will now require that a case seeking disgorgement be filed within five years of the violation, pushing the regulator to complete its investigation more quickly or risk losing that remedy. More ominously, although disgorgement is so well established that is it rarely challenged, the court raised a question about whether it was even available for a violation of the securities laws, which may lead to reconsideration of one of the Securities and Exchange Commission's most potent weapons.

MORTGAGES AND HOUSING

Bankers Warn of Foreclosure Crisis from House Flood Insurance Proposal | Politico Pro
The American Bankers Association today urged House lawmakers to drop some of their plans to overhaul the National Flood Insurance Program because they would have "dire consequences," including a potential foreclosure crisis.

In a letter to House Financial Services Committee leaders, the group said lawmakers should delete a provision that would eliminate coverage for homes with excessive lifetime claims.

New HMDA Regs Require Banks to Collect Lots of Data...That They Already Have | Credit Slips (Adam Levitin)

Crapo, Brown Close in on Flood Bill as House Talks Continue | Politico Pro

Wells Fargo Is Accused of Making Improper Changes to Mortgages | NY Times
Even as Wells Fargo was reeling from a major scandal in its consumer bank last year, officials in the company's mortgage business were putting through unauthorized changes to home loans held by customers in bankruptcy, a new class action and other lawsuits contend.

Donald Trump Picks Son's Wedding Planner to Run New York Federal Housing Program | The Independent
Lynne Patton is thought to have no experience in housing administration, but she will now be in charge of distributing billions of dollars of funding across the state area as head of the New York branch of the US Department of Housing.

REGULATION IN GENERAL

Why Trump's Quiet Crusade Against Regulations Matters | VICE
Every year, federal agencies agencies issue thousands of rules and regulations governing mundane things that almost no one notices, but which matter a great deal. They run the gamut from guidelines on how to kill chickens to orders on when a single drawbridge should open or close. But this year, the feds will likely issue far fewer of these regulations. While Donald Trump's poor planning and web of scandals have stalled his agenda in Congress, his administration is living up to one of his promises: It's blocking and delaying all the rules and regulations it can.

Two reports out this week, from the moderate conservative American Action Forum (AAF) and Politico show just how drastically Trump and his cabinet and agency heads have slowed the pace of the issuance of new federal rules and regulations. "By virtually any measure, dating back through two Democratic presidents and one Republican president," AAF regulatory expert Sam Batkins wrote in his report, "the lack of regulatory output is historic."

Regulatory 'Reform' That is Anything But | NY Times (William W. Buzbee)
Under these bills, popular protective laws would still exist, but the regulations needed to make their protections real would in many cases be weakened because of the new, pervasive focus on cost. And new rules would seldom emerge from the regulatory morass and litigation minefield created by this "reform..."

Few members of Congress would dare vote directly to eliminate protections like those. But by imposing a byzantine, burdensome process on all agencies, Congress could dodge accountability but nonetheless derail the implementation of popular laws.

RETIREMENT INVESTMENT AND DOL FIDUCIARY RULE

Advisors Weigh in on Personal Meaning of Fiduciary | Financial Advisor IQ
With the phase-in for the Department of Labor's fiduciary rule starting last week, we reached out to financial advisors to discover what, at a gut level, they think it means to be a fiduciary in the first place.

Thanks to the DOL, the fiduciary standard is set to become de rigeur for all FAs, including securities brokers, when dealing with retirement accounts like 401(k)s and IRAs. The standard obliges advisors to act for the primary benefit of their clients. Among other things, this means pricing must be competitive, and conflicts of interest must be avoided when possible — and, when not possible, fully disclosed.

The Government's New Retirement Rule May Not Stop Your Adviser from Giving You Bad Advice | Washington Post
The law of the land now is: If you give retirement investment advice, you are a fiduciary and, as such, you have an obligation to give advice that is in the best interest of your client. This includes considering a client's goals and risk tolerance.

As the fiduciary rule is phased in, be cautious about the advice you'll receive. Some confused or unscrupulous advisers may still try to steer you wrong…

I wanted a second opinion, so I asked Barbara Roper, director of investor protection for the Consumer Federation of America. "The rule does not in any way limit what people can choose to do with their money," she said.

New Fiduciary Rule for Financial Advisors Moves the Needle, But in Which Direction? | Forbes

State Insurance Regulators Look to DOL Fiduciary Rule as They Mull Changes to Annuity Sales Standard | Investment News
The DOL rule, part of which was implemented last week, requires advisers to act in the best interests of their clients in retirement accounts. Annuity sales are governed by a suitability standard that has been adopted by almost every state.

Recently, the National Association of Insurance Commissioners formed a working group to take a fresh look at annuity suitability and consider making it a best-interests standard.

Beyond the Fiduciary Rule: Workers not saving enough for retirement | The Hill (Larry Edward Penley)
New guidelines on fiduciary rights and responsibilities went into effect Friday, but the U.S. Department of Labor will continue to review the policy. That may put to rest for now an extended debate on the meaning of the term "fiduciary," the responsibilities of investment professionals and the rights of consumers.

Many Americans continue to make only incremental progress in adopting savings and investment behavior for their long-term needs. More urgent, immediate necessities, lifestyle choices, investment losses and existing debt all crowd out resources for saving.

Why the Fiduciary Rule Alone Is Not Enough to Protect Investors | The Hill (Jay Shah & Luis Aguilar)
The fiduciary rule is a major step in the right direction when it comes to protecting investors, but the rule won't solve these problems on its own. For starters, the rule comes with plenty of loopholes, as it only applies to retirement accounts, not all investment accounts. It also won't be fully implemented until Jan. 1, 2018, which means you can expect hordes of lobbyists to spend the rest of the year trying to weaken it.

Nevada Makes Its Own Fiduciary Rule | Financial Advisor IQ

Pennsylvania Treasurer Torsella Leads Bipartisan Effort on Fiduciary Standard Rule | PR Newswire
Pennsylvania Treasurer Joe Torsella today announced that he has led a bipartisan coalition of State Treasurers that has mailed a joint letter to the U.S. Department of Labor (DOL) urging the agency to not revise the Fiduciary Standard Rule.

See PA Treasurer Torsella's **letter** to the Department of Labor Advocating for the Fiduciary Rule

STUDENT LOANS AND FOR-PROFIT SCHOOLS

DeVos Will Delay and Rewrite Key Obama-era Higher Education Policies | Politico Pro
The Trump administration announced plans on Wednesday to rewrite two signature Obama-era regulations aimed at making it easier for defrauded student borrowers to have their loans canceled and cutting off federal aid to low-performing career college programs.

Education Secretary Betsy DeVos said she will postpone implementation of the student loan debt relief rules, which had been slated to take effect on July 1. The delay includes other provisions of the "borrower defense to repayment" package, including a ban on mandatory arbitration clauses in college enrollment agreements and new powers for Education Department regulators to take action against troubled colleges.

In a statement, DeVos said the Obama-era regulation created "a muddled process that's unfair to students and schools, and puts taxpayers on the hook for significant costs."

Reset of Rules Aimed at For-Profits Begins | Inside Higher Ed

Betsy DeVos Moves to Help For-Profit Schools Defraud Students | The Nation
Alexis Goldstein, senior policy analyst at **Americans for Financial Reform**, called the action "a slap in

the face to defrauded Americans," and accused DeVos's agency of placing "the interests of wealthy for-profit college executives ahead of students striving for a better life."

See **AFR statement**

Advocacy Groups Pan DeVos Rollback of For-Profit College Regulation | Diverse Education

For Student Advocates, a Worrying Week of Departures from Obama-Era Policy | Chronicle of Higher Education

Feds Point Fingers as 'Debt Relief' Companies Prey on Students | Washington Post
A team of NerdWallet researchers and reporters examined the student debt relief industry, conducting a federal and 50-state review of court records and other public documents.

The records show that a handful of aggressive attorneys general — notably, those in Washington and Illinois — have shut down the largest number of student-debt companies barred from doing business in individual states.

"There's definitely a Whac-A-Mole problem, which is why the servicer element is so important," said Lisa Donner, executive director of **Americans for Financial Reform**.

Navient: 'Nine Times out of 10' Robocalls Help Borrowers | Politico Pro
The student loan servicer Navient says its robocalls, which have drawn complaints to both the CFPB and the FCC, help student borrowers avoid default "nine times out of 10."

"Navient has a well-established, positive track record of supporting student loan borrowers to succeed in repayment, and we respect our customers' communications preferences," Nikki Lavoie, a Navient spokeswoman, said.

Calif. AG: If Trump Won't Protect Students from Unscrupulous For-Profit Schools, I Will | YubaNet
California Attorney General Xavier Becerra is taking action to protect students defrauded by for-profit colleges and universities and to prevent other students from facing similar circumstances. Attorney General Becerra and eight attorneys general filed a motion to intervene in a lawsuit to defend key new rules aimed at protecting students from deceptive practices and fraud.

Healey, Democratic attorneys general defend student loan protections | Boston Globe
Massachusetts Attorney General Maura Healey announced Wednesday that she intends to sue US Education Secretary Betsy DeVos and the federal agency over the decision to halt student loan borrower protections put in place late in the Obama administration.

Former For-Profit Students Intervene in Borrower Defense Lawsuit | Inside Higher Ed

Same Program, Different Results: Why The Gainful Employment Rule Is Needed | TICAS Blog

See statement by **American Federation of Teachers** on Education Department's Delay of "Borrower Defense" Rule

See letter from **National Consumer Law Center** to Federal Communications Commission calling for enforcement action against Navient Inc.

SYSTEMIC RISK

Treasury Calls for Risk Designation Leader at FSOC, Volcker Changes | Pensions and Investments
Marcus Stanley, policy director at advocacy group **Americans for Financial Reform**, characterized the proposed changes as "a death by a thousand cuts." Mr. Stanley, who said the ideas advanced in the report "have been pushed by industry lobbyists since Dodd-Frank was passed," warned that most of the changes can be made by administrative action. "The Trump administration could unilaterally introduce major additional risks to our financial system," Mr. Stanley said in a statement.

Trump Wall Street Deregulation Risks Another Lehman Crisis | Business Insider (Pedro Nicolasi da Costa)
Donald Trump and the Republican Party's efforts to dissolve many of the new regulations imposed on major Wall Street banks in the wake of the worst financial crisis are most stunning because they ignore such glaring and recent lessons.

These include: 1. bank self-regulation ends in tears since the crisis was caused by a lax enforcement of rules, not an excess of them; and 2. bankers will push financial risk to the limit if they know taxpayers will bail them out regardless.

Axing Dodd-Frank Could Put the Entire Financial System At Risk | NBC News
Consumer advocates criticized House Republicans' push to effectively defang the Consumer Financial Protection Bureau with a bill passed late last week, but some observers warn that the bill's biggest threat is that it opens the door to a repeat of the 2008 financial crisis.

"It really undermines supervision and it really destroys a lot of other protections against 'too big to fail,'" said Marcus Stanley, policy director at **Americans for Financial Reform**. "It goes through and comprehensively disempowers regulators and weakens systemic risk regulation in a huge range of areas."

U.S. Plans Threaten to Undermine Global Bank Reforms | NY Times
U.S. plans to delay globally-agreed reforms to make banks safer after the financial crisis will throw a system of international regulatory cooperation into confusion, European Union and Asian regulatory sources said on Tuesday.

But the rollback will be welcomed by global banks as it will allow them to cut back on how much expensive capital they must hold to support their business, the sources said.