Americans for Financial Reform

This Week in Wall Street Reform | October 22-28, 2016

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WELLS FARGO CASE

Wells Fargo's PR offensive promises customers much, provides little I LA Times (Michael Hiltzik)
Neither the commercial nor the website address another important issue for affected customers: Wells has insisted that disputes from existing customers about the fake accounts be referred to arbitration, where the bank typically has the upper hand. Judges typically have accepted the bank's position that even the fake accounts stem from legitimate accounts the victims opened, in which they agreed to submit any future disputes with the bank to an arbitrator. Stumpf was pressured during his Capitol Hill appearances to relinquish this strategy, but he refused. The Wells Fargo stagecoach plainly has far to go before many potential customers will feel comfortable climbing aboard.

Workers say Wells Fargo fired them for not opening bogus accounts I The Morning Call

FINRA probes industry cross-selling after Wells Fargo abuses, wants lists of fired staff I Complinet

CONSUMER FINANCE & THE CFPB

CFPB Should Strengthen Its Payday Loan Rules I Credit.com (Sen. Al Franken)
While these rules will be good for consumers overall, it's important to close loopholes that could undermine their effectiveness. For example, in some cases, under the CFPB's proposed rules, payday lenders would be allowed to make up to six loans to a person without having to do a full review of the borrower's ability to repay. In addition, the proposed rules wouldn't apply to some longer-term loans either. So, I've been pushing the CFPB to close these two loopholes before the payday lending rules take effect.

In Congress, I'm also taking on abusive payday lenders. First, I'm fighting for legislation to cap the interest rates that payday lenders can charge. Instead of charging interest rates higher than 300% a year, I think we should set a national cap on how much lenders can charge, just like the 15 states that have already enacted interest rate caps of 36% or lower. And second, I've been pushing for legislation to crack down on online lenders that try to skirt U.S. laws by setting up their computers in foreign countries.

Canada watchdog says use of payday loans has doubled I Reuters

New Report Reveals The Real Story About Payday Lenders I OurFuture.org (Jacob Swenson-Lengyel)

Ethics spat over payday-loan industry in St. Louis takes another turn St. Louis Post-Dispatch

Jane Dueker Totally Took Money from Payday Loan Industry. She Just Forgot. I River Front Times

Texas Cities Cracking Down, Targeting Short-Term Lenders I Weatherford Democrat
Thirty-eight cities in Texas have put restrictions on short-term lending by setting the amount of the loan as a percentage of the borrowers' income, and have restricted the amount of times the borrower can roll over a loan.

"Underbanked" Report Shows Need For Postal Banking l Huffington Post

LendingClub's New Pitch? Refinance Your Pricey Car Loan With Us l Bloomberg

CFPB Now Must Justify Cost of Its Rules l Investopedia
[House Financial Services] Committee Chairman Jeb Hensarling recently issued a warning to Richard Cordray, the director of the CFPB, that his agency is no longer an independent entity and must now adhere to the rules that apply to other types of executive orders. These rules include taking measures to ensure that the measures taken by the agency are greater than the costs that are incurred.

Hensarling told Cordray in a letter that, "These executive orders issued by presidents Clinton and Obama are modest attempts to ensure that executive agencies are accountable to the American people and do not recklessly write regulations that damage our economy. The court's ruling makes clear that the Constitution requires the CFPB to operate as an executive agency, making the Bureau obligated to fully comply with these executive orders…"

However, the **Americans for Financial Reform group** has countered that the CFPB is in fact not subject to the rules that pertain to executive orders because they specifically exclude any entity that is considered to be an independent agency, and these provisions clearly list the CFPB as one of them.

Franken Praises Pledge of FCC Action on Arbitration Clauses l MultiChannel News (Sen. Al Franken)

The Chamber of Litigation l Public Citizen

Post office banking: an old idea getting new life l Market Watch

CFPB seeks to silence investigation targets, drawing fire on free speech l Politico

CFPB Rules Will Take $80M Bite out of NetSpend's Revenue l American Banker

CFPB's Proposal to Silence Companies Under Investigation Draws Criticism l Wall St. Journal
Legal experts warned the Consumer Financial Protection Bureau that its proposal to force companies under investigation to keep quiet about the probe might violate free speech rights. The reactions came during the public comment period for the watchdog agency's proposed regulation, which broadly updates rules and procedures for the confidential treatment of information obtained through the bureau's supervision and enforcement actions, as well as the public's access to information under disclosure rules. Among the 27 comments submitted to the bureau, the American Civil Liberties Union and a group within the American Bar Association criticized a provision within the regulation that would prohibit individuals and companies from disclosing confidential investigative information. Such information includes civil investigative demands—CIDs—or notice and opportunity to respond and advise letters, or NORA.

Regulator expands membership fields for credit unions l FatWallet
The National Credit Union Administration Thursday approved a final rule that would further expand the potential for credit unions to serve a wider population of customers, in a move that is rankling community banks.

DERIVATIVES, COMMODITIES & THE CFTC

US eyes prize in Brexit battle over derivatives l Financial Times
In the post-Brexit vote stand-off between London and Europe one flashpoint is the City's prized swaps business. Faced with a less certain future on both sides of the English Channel, the market is now asking whether the US will ultimately emerge as the prime destination for derivatives.

That's being floated by one leading Wall Street bank with James Gorman, chief executive of Morgan Stanley, questioning whether Europe has the infrastructure required for Wall Street swap dealers. New York could be "the big winner" from a battle between the UK and EU, Mr Gorman reckons.

THE ELECTION AND WALL STREET

Progressive group tries to inject Wells Fargo scandal into House races I Washington Post
The Working Families Party, a progressive organization founded in New York but expanding its reach with every election, is spending in three usually Republican congressional districts in an attempt to nationalize the election around something new: the Wells Fargo scandal. The ad, versions of which are running against Reps. Scott Garrett (R-N.J.), Sean P. Duffy (R-Wis.) and French Hill (R-Ark.), hammers each incumbent for supporting the Financial Choice Act, one of many bills that has slid through the House of Representatives with no chance of making it through the Senate.

Pushed by Rep. Jeb Hensarling (R-Tex.), chairman of the House Financial Services Committee, the bill would scale back the Consumer Financial Protection Bureau, a creation of the Dodd-Frank financial reform act that Republicans have painted as yet another out-of-control bureaucracy. Flipping the script, the Working Families Party portrays the CFPB — correctly — as the organization that exposed a pattern of Wells Fargo employees creating fake bank accounts in customers' names to meet aggressive sales goals.

The Problem With Elizabeth Warren I NY Times (Roger Lowenstein)
Ms. Warren's latest provocation was to send a letter to President Obama this month demanding the removal of Mary Jo White, chairwoman of the Securities and Exchange Commission. Ms. White, she said, had demonstrated her unsuitability for the role by failing to have the S.E.C. draft rules requiring corporations to disclose details of their political spending. Last time I checked, the S.E.C. was a regulatory agency of the executive branch, in which Ms. Warren is not, in fact, employed. President Obama was quick to retort that Ms. White was right for the position. You could imagine him protesting, sotto voce, "Hey, firing agency heads is my job."

Election might decide fate of Wall Street reforms I Rocky Mount (NC) Telegram

Left seeks aggressive 'regulatory czar' for Clinton I Politico

ENFORCEMENT

TARP Official to Congress: Require CEOs to Confirm No Wrongdoing at Their Firms I Wall Street Journal
A senior law-enforcement official on Wednesday asked Congress to require chief executives on Wall Street and elsewhere to certify annually that they found "no criminal conduct or civil fraud in their organization." The proposal could have far-reaching effects if adopted. Under current rules, prosecutors often have a hard time proving intentional wrongdoing on the part of senior officials, who are several layers removed from misconduct of lower-level employees.

"We have faced significant difficulties in proving criminal intent of senior officials in large organizations that are purposely designed to insulate top officials from knowing about crime or civil fraud," said Christy Romero, the special inspector general for the Troubled Asset Relief Program, which was set up in 2008 to stabilize the financial system. Ms. Romero offered the proposal in a quarterly report to Congress.

Ms. Romero said Congress should "remove the insulation around Wall Street CEOs and other high-level officials" and require them to sign an "annual certification" that they have conducted due diligence and confirmed there are no issues of fraud throughout the company.

EXECUTIVE PAY

With Stumpf's Resignation, Sens. Menendez, Baldwin, Franken and Colleagues Ask Feds to Strengthen Accountability Measures for Executive Pay I Office of Senator Bob Menendez

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

Carlyle Group Turns Focus from Hedge Funds to Lending I NY Times
"Prominent public pension funds have turned their backs on hedge funds, and so have a few big insurance companies. Now, one of the world's biggest private equity firms, the Carlyle Group, is walking away, too. Carlyle told investors this week that it was pivoting away from its hedge fund investments, once worth $15 billion.

"Speaking to investors, the Carlyle co-founder William E. Conway Jr. said the firm's performance in hedge funds did not meet the expectations of its investors. 'And when our performance falls short, it is critical for both our fund investors and for the firm that we deal with the consequences,' Mr. Conway said."

INVESTOR PROTECTION AND THE SEC

SEC to Vote on Proposal Easing Path of Dissidents to Corporate Boards I Wall St. Journal
Shareholders would find it easier to choose board nominees, including those running against the company's handpicked candidates, under a proposal being considered Wednesday by the U.S. Securities and Exchange Commission. The proposal would enable companies to mail shareholders a single ballot listing all candidates for the board. Currently, voters receive two sets of ballots, each featuring a rival slate of board candidates. The SEC was scheduled to vote on the proposals at a public meeting in Washington at 10 a.m. On Wednesday, the agency postponed the start of the meeting by an hour without disclosing why.

SEC Probes Whether Companies Are Misusing Adjusted Earnings Metrics I Wall St. Journal

MORTGAGES & HOUSING

CFPB warns 44 institutions of loan reporting violations
Financial regulators sent letters Thursday to 44 mortgage lenders and mortgage brokers warning that they might be in violation of certain loan reporting requirements. Under the Home Mortgage Disclosure Act, the Consumer Financial Protection Bureau (CFPB) said financial institutions are required to collect data about their housing-related lending activity, including home purchase loans, home improvement loans, and re-financings that they originate or purchase, or for which they receive applications. The data must be made public through the federal agencies on an annual basis. The CFPB said it has identified 44 companies that might be in violation, but did not name the companies specifically.

Fannie, Freddie to explore ways to boost minority homeownership I Politico

Prepared Remarks of Melvin L. Watt, Director of FHFA at Mortgage Bankers Association Annual Convention and Expo 2016 I FHFA

POLITICAL INFLUENCE OF WALL STREET

Wall Street spending sets new record in presidential campaign I Marketplace (NPR)
Wall Street has spent $1.4 billion on donations and lobbying this election, more than twice the contributions by any other industry, according to a new study by **Americans for Financial Reform**. The fact that Wall Street has been a kind of boogeyman during parts of this campaign hasn't stopped Wall Street firms and their employees from spending an average of $2.3 million a *day* on national politics.

But it wasn't banks that led the effort, despite the political rhetoric around their role in big-money politics. Within the sector, hedge funds were the biggest spenders on campaign contributions. Perhaps less surprising: 61 percent of financial sector contributions went to Republican candidates, and 39 percent to Democrats.

Hedge Funds Are Spending More Money than Ever to Influence Elections – but not on Trump I Fortune
Wall Street is giving more money than ever to influence the outcome of the 2016 elections—but hardly any of it is going to Donald Trump… The financial sector, in general, has spent nearly $800 million on political campaigns this election season, up about 35% since the 2008 election cycle, and hedge funds have written the

largest checks, according to a new report by the non-profit **Americans for Financial Reform**.

Big-money investors are either throwing their weight behind Democratic nominee Clinton or focusing their efforts on Congressional races rather than the presidential election... And while hedge funds used to lean left in their campaign finance activities, only 42% of their 2016 contributions went to Democrats, while 58% have gone to Republicans. That makes it all the more remarkable that GOP nominee Donald Trump has managed to win so little of them.

Finance industry has given almost $800 million to candidates I Washington Examiner
Banks, hedge funds, insurers and other finance companies have contributed nearly $800 million to federal candidates in the 2016 cycle, according to a new report, already more than they did in 2012.

Individuals and companies associated with finance have given $798.1 million to candidates through Sept. 20, the reform advocate group **Americans for Financial Reform** said in a report released Tuesday, up from about $750 million in 2012 and less than $600 million in 2008. The report used data from the Center for Responsive Politics.

Hedge Fund Political Donations at Highest Levels Ever I Investopedia
While Republic presidential nominee Donald Trump has some vocal and powerful supporters from the Wall Street elite, it turns out that most of the money being donated from investment companies--and there is a huge amount of it--is going in support of Hillary Clinton's campaign. Clinton, the Democratic nominee, has been the direct or indirect recipient of the bulk of the $173 million that hedge funds and their employees have decided to contribute toward influencing the presidential election in 2016. The donations are outstripping any previous election donation figures of this type, in many cases by several times…

Total donations to support political campaigns in general during the 2016 election season have been up for the financial sector as well, with the industry contributing roughly $800 million in campaign funds. This is up by about 35% in comparison with figures from 2008. Hedge funds have by and large been the most active in political donations, according to a report by **Americans for Financial Reform**.

Financial Sector Political Spending Tops $1.4 Billion – $2.3 million a day; Renaissance, Elliott Top List I Value Walk
During the current election cycle, Wall Street banks and financial interests have already reported spending more than $1.4 billion to influence decision-making in Washington, according to a new report released today by **Americans for Financial Reform**. That total (based on data reported between January 1, 2015 and September 20, 2016) works out to more than $2.3 million a day. More than 350 financial sector companies or trade associations spent at least $500,000 each during this period.

Clinton sticks with Obama's strict lobbying rules — for now I Politico

REGULATION IN GENERAL

Courts, Not Congress, Must Repair Regulatory State: says Senator Lankford I Bloomberg BNA
Legislation to slow or stop the perceived onslaught of regulation from "unaccountable" federal agencies over the past eight years has consistently failed, but one Republican senator thinks he knows a better solution. "Obviously the courts have to be the one to do it," Sen. James Lankford (R-Okla.) told Bloomberg BNA. "Now we could do it legislatively, but you tell me which president is willing to sign a [bill] that takes power away from the executive branch."

An analysis by Bloomberg BNA of all legislation introduced by Republicans since the 111th Congress that would alter the rulemaking process for federal agencies shows a total of 163 bills, none of which have been presented to President Barack Obama for his signature.

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

The Fiduciary Rule: A Compliance Outline I Wall St. Journal
With the Labor Department's new federal retirement-savings rule set to take effect in April, efforts to comply with the stepped-up regulation are under way across the adviser world. The rule, unveiled last spring, holds brokers and advisers who work with tax-advantaged retirement savings to a "fiduciary" standard, meaning they must work in the best interest of their clients and generally avoid conflicts, which can come about with commission-based compensation. Previously, such investment professionals were required to offer only "suitable" guidance, a less-rigorous standard. There are several lawsuits moving through the pipeline as some corners of the industry challenge the rule's scope, but experts generally don't predict any meaningful changes to the rule before compliance deadlines kick in.

STUDENT LOANS & FOR-PROFIT EDUCATION

New federal rules could make it easier to have student loans forgiven I Washington Post
"[C]onsumer advocates worry that people already contending with the existing process still face an uphill battle. 'If you do the math, there are well over 80 percent of folks who are eligible that either don't know to apply or have applied and the Education Department hasn't done anything with their application,' said Alexis Goldstein, senior policy analyst at the progressive **Americans for Financial Reform**. 'I don't understand why the department is insisting on doing this person by person, instead of just approving students automatically.'"

See **AFR statement.**

The government is making it easier for students to sue their college I MarketWatch
"How many harmed borrowers will benefit from group discharges and refunds is unclear, since they remain at the Education Department's discretion," Pauline Abernathy, the executive vice president of the Institute for College Access and Success, an organization focused on equality in education, said in a statement.

It's About to Get Harder to Seek Student Debt Relief I Bloomberg
According to a summary of the rule the agency provided late Thursday, borrowers who receive federal student loans starting next July and who subsequently accuse their colleges of misleading them into enrolling will face a narrower path to debt relief than today's borrowers.

If the rule is upheld, defrauded student debtors no longer will be able to get their loans canceled by alleging their schools violated state laws, unless they first successfully sue. Instead, they'll be subject to a new federal standard—one officials say is more efficient but consumer advocates say limits borrowers' ability to file claims.

Education Dept. finalizes rule to protect students' right to sue I The Hill
"For far too long, predatory schools have used fraud as a business model, and they've gotten away with it by shutting the courthouse doors to students and forcing those students into individual, secret arbitrations," Lisa Gilbert, director of Public Citizen's Congress Watch division, said in a statement.

Borrower Defense Rules Finalized I Inside Higher Ed

Polarized Political Clout I Inside Higher Ed

Students Can Now Get Their College Loans Erased When This Happens I Reuters

Taxpayer Cost of Corinthian Collapse Soars to $350 Million I Wall St. Journal

A Conveyor Belt of Dropouts and Debt at For-Profit Colleges I NY Times (Susan Dynarski)

Advocacy Groups Urge Federal Coordination on Student Complaint System I Inside Higher Ed

Tuition bills up, but borrowing down I Politico

Formerly for-profit Community HigherEd adapting to nonprofit landscape I Tulsa World

What the ITT Tech bankruptcy trustee wants I Politico

Progress on free community college I Politico

When For-Profit Colleges Prey on Unsuspecting Students I The Atlantic

Veterans have fewer protections from shady college chains I Marketwatch

Student Debt May Be Contributing to Racial Inequality I Bloomberg

SYSTEMIC RISK

The new rule that could save the US from billions in bailouts I Quartz.com
This month, a new regulation took effect that forces money market funds, those trillion-dollar behemoths that offer savers a better return than a bank account, to plan for a world in which Washington won't ride to the rescue if they run into trouble…

"There was a perception of insurance that was so powerful that the government had to deliver on it," said Marcus Stanley, policy director at **Americans for Financial Reform**, an umbrella group for Wall Street critics. "Now we're being more accurate and honest."

Feds float cybersecurity regs for Wall Street I The Hill
Wall Street is facing new cybersecurity standards. The Federal Reserve, Federal Deposit Insurance Corporation (FDIC), and Comptroller of the Currency are teaming up on new cybersecurity regulations for the nation's largest banks and financial institutions. The cybersecurity standards for banks are in the early stages of development and come in the form of an advanced notice of proposed rulemaking. They were announced last week, but will now be formally published in the Federal Register. The financial regulators are responding to rising concerns over cybersecurity threats. Because banks are "interconnected" with each other, a cyber attack at one could spread to many others and shake the U.S. economy, they warn.

OTHER TOPICS

Mergers Raise Prices, Not Efficiency I Bloomberg (Noah Smith)
Economies need competition to work. Almost all basic economic theories, including supply and demand itself, rely on the assumption that companies lower prices to undercut the competition whenever possible. If sellers can set whatever prices they like, that's a monopoly. And as any good Econ 101 class will teach you, monopolies hold production below its economically efficient level, in order to extract extra profits. Monopolies replace the magic of the invisible hand with a distorting visible one, and the economy shrinks as a result. In the real world, absolute monopolies are very rare. But even if there is more than one company in a given industry, there can be monopoly-like effects if the number of companies is small enough. This is called "oligopoly," "market concentration," or "market power." And it's something that can be measured fairly easily. From a recent report by the Council of Economic Advisors, here is a look at how some major sectors of the U.S. economy have become more concentrated in recent years:

Industry Has Many Irons in the Fire to Fight Robocalls I Morning Consult
The "Robocall Task Force," which was formed two months ago, also announced progress on a 'Do Not Originate' list and authentication standards for a more trustworthy caller ID system. Those efforts are ongoing and will still take time to finalize, group members said.

The task force, led by AT&T Inc.'s Chief Executive Randall Stephenson, has met more than 100 times to develop a response to robocalls, which the FCC says is the top consumer complaint coming into the agency.