AFR Americans for Financial Reform

This Week in Wall Street Reform | Jan. 30–Feb. 5, 2016

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CONSUMER FINANCE & THE CFPB

No, You Can't Just Write a Contract that Says No Federal Law Applies
Leah Nicholls, Public Justice, 2/2
When James Hayes took out a loan for $2525 via the Western Sky lending company, he probably expected, like most consumers do, that he would be charged some interest. But by any reasonable standard, the 139.12% rate he was effectively charged—turning his initial $2525 loan into a $14,093 debt—was jaw-dropping. Obviously, such an interest rate is illegal almost everywhere—or, as the Fourth Circuit said today, "No one appears to seriously dispute that Western Sky's payday loans violated a host of state and federal lending laws."

House Clears Anti-Choke Point Bill, But Future Unclear
Ian McKendry, American Banker, 2/5
The House passed a bill Thursday 250-169 that would limit regulators' ability to force banks to cut ties with certain businesses despite Democratic fears that it could hamstring the Justice Department's ability to prosecute bankers responsible for the financial crisis.

See **joint letter of opposition** to HR 766. See **Tweets** and **Facebook posts**.

Republicans Poised to Give Wall Street a "Get out of Jail Free Card"
Rep. Maxine Waters, Medium, 2/3
FIRREA allows the DOJ to investigate misconduct dating back ten years. Ten years from today is 2006–2 years prior to the start of the financial crisis and the ideal period for investigation. Other federal laws only allow the DOJ to investigate wrongdoing dating back five years — well after the financial crisis ended. H.R. 766 would amend FIRREA to prohibit the DOJ from holding banks liable for their bad acts. Instead, FIREEA could only be used to hold individuals liable for misconduct against financial institutions. You read that correctly. House Republicans want to only allow liability for misconduct against a bank — and eliminate liability for misconduct committed by the banks. While the Obama Administration and Democrats in Congress are working to find ways to protect the American consumer, House Republicans are finding new ways to protect big banks.

Why is the UC system investing in a payday lender accused of trapping people in perpetual debt?
David Lazarus, LA Times, 2/2
The University of California makes money when American workers become trapped in endless cycles of high-interest debt. That's because the university has invested millions of dollars in an investment fund that owns one of the country's largest payday lenders, ACE Cash Express, which has branches throughout Southern California.

Fourth Circuit Says Tribal Loan Agreement Subject to Federal Law
Corporate Crime Reporter, 2/3

[As regulators put a price tag — $1.32 billion — on what Scott Tucker's payday-lending enterprises have squeezed out of poor people, a grand jury convenes]
Steve Vockrodt, The Pitch, 2/2

[Gainesville Sun: jeers for Reps on payday]
Editorial, Gainesville Sun, 1/30
Jeer: Nearly all of Florida's congressional delegation, for seeking to block federal efforts to regulate payday lenders.

[Why Is Florida's Congressional Delegation Defending Predatory Lenders?]
Joe Valenti and Alice Vickers, The Nation, 1/26

[These 10 House Democrats Just Voted to Make It Tougher to Investigate & Prosecute Bank Fraud]
Daily Kos, 2/4

[Payday lending limits win Waco council support, 5-1]
Stu Whitney, Sioux Falls Argus Leader, 2/3

[Why one local exec says capping lending interest rates is important for business]
Sal Christ, Albuquerque Business First, 2/3

[New rules for payday lenders may be coming]
Kileen (Tex.) Daily Herald, 2/3

[Professor Falsely Claims Payday Lending Is Not Wildly Profitable]
Allied Progress, 2/2

[CFPB Ignores Complaint Data in Targeting Payday Lenders]
Dennis Shaul, American Banker, 2/4

[Dems introduce bill to restore consumers' right to sue]
Lydia Wheeler, The Hill, 2/4
Senate Democrats unveiled legislation Thursday to protect consumers' right to settle disputes with companies in court. The Restoring Statutory Rights Act, which Sen. Patrick Leahy (D-Vt.) introduced with lead co-sponsor Sen. Al Franken (D-Minn.), would prohibit businesses from using forced arbitration against Americans for disputes arising under civil rights laws.

See **joint letter of support** for the Restoring Statutory Rights Act, and **statement** by Leadership Conference on Civil and Human Rights.

[Banks Are Warned Against Hindering Customers Seeking Accounts]
Ann Carnns, NY Times, 2/5
Banks must do more to make sure they are not unnecessarily thwarting customers who want to open mainstream bank accounts, a federal watchdog agency warned this week. The agency, the Consumer Financial Protection Bureau, told the nation's retail banks and credit unions that they must act to provide accurate information to specialized screening companies, which track a consumer's record of overdrawn and closed checking accounts.

[Toyota to pay $21.9 million for alleged lending discrimination]
Jon Prior, Politico, 2/2
Toyota will pay $21.9 million to minority auto loan borrowers who were allegedly charged higher interest rates than white borrowers without regard to their credit histories, according to the Consumer Financial Protection Bureau and the Justice Department.

[Ally Financial pays $80 million to consumers over discriminatory practices allegations](#)
Mark Iandolo, Legal Newsline, 2/4
The Consumer Financial Protection Bureau has announced $80 million went out to consumers harmed by Ally Financial Inc. and Ally Bank's alleged discriminatory auto loan pricing policies.

[The CFPB Is Right About Overdrafts](#)
Heather Anderson, Credit Union Times, 2/4
On Wednesday, the CFPB took another swing at checking accounts, this time calling on financial institutions to offer more accounts that avoid overdrafts and to improve the accuracy of reporting negative account activity.

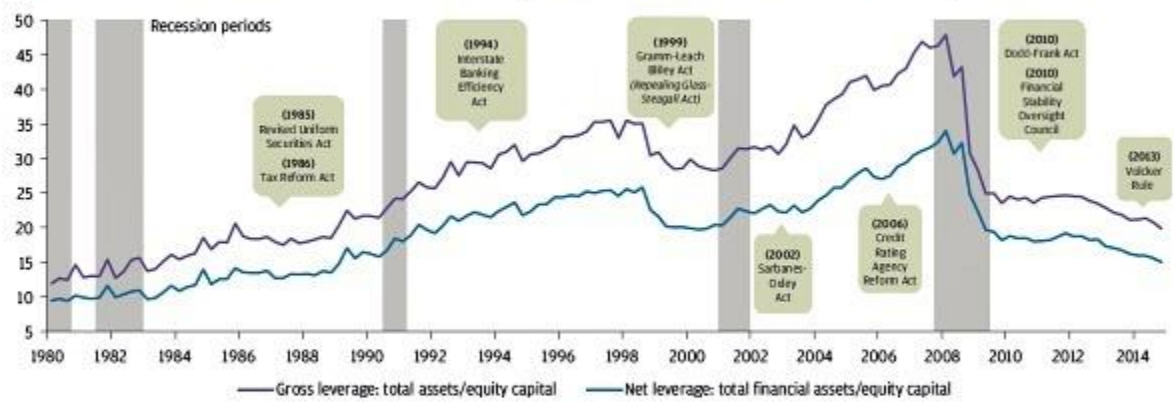
[Credit Unions Warm Up to Subprime Auto Loans](#)
William Atkinson, Credit Union Times, 1/31

[Big U.S. banks will be rolling out ATMs that take smartphones, not cards](#)
James Rufus Koren, LA Times, 1/31

DODD-FRANK (AND CONTINUED ATTACKS)

[Talk about breaking up big banks ignores reforms made since the recession](#)
Editorial, Washington Post, 2/3
Speaking about the banks as though nothing has changed is not only wrong, but may also distract from a more relevant issue: The post-Dodd-Frank crackdown on banks has caused riskier activity to "migrate" into the unregulated "shadow" sector consisting of hedge funds, private equity and the like. At the moment, such firms are financing a minor renaissance in "no-doc" mortgages, according to the Wall Street Journal. Former secretary of state Hillary Clinton's financial reform plan focuses on that, whereas Mr. Sanders mainly cries "break 'em up."

Chart 1: U.S. financial sector leverage over the last few business cycles



Source: JP Morgan Asset Management, Federal Reserve, Haver

...Dodd-Frank increased capital requirements, and, lo and behold, banks are reducing their leverage. Wall Street, in other words, isn't allowed to take as many or as big risks as before.

THE ELECTION AND WALL STREET

[Goldman Sachs chief Lloyd Blankfein: Sanders candidacy a 'dangerous moment'](#)
Eliza Collins, Politico, 2/3
The head of Goldman Sachs said on Wednesday that Bernie Sanders' insurgent candidacy "has the potential to be a dangerous moment." He added that Sanders' attacks on the "billionaire class" and bankers could be dangerous.
"It has the potential to personalize it, it has the potential to be a dangerous moment. Not just for Wall Street not just for the people who are particularly targeted but for anybody who is a little bit out of line," Blankfein said. "It's a liability to

say I'm going to compromise, I'm going to get one millimeter off the extreme position I have and if you do you have to back track and swear to people that you'll never compromise. It's just incredible. It's a moment in history."

Election 2016: Elizabeth Warren Defends Bernie Sanders From Goldman Sachs Criticism
David Sirota and Andrew Perez, IB Times, 2/3
"He thinks it's fine to prosecute small business owners, it's fine to go hard after individuals who have no real resources, but don't criticize companies like Goldman Sachs and their very, very important CEO — that's what he's really saying," Warren told IBT.

"That tells you here we are, seven years after the crisis and these guys still don't get it. Seven years. That crisis cost an estimated $14 trillion, it cost jobs, it cost homes, it cost retirement funds. And Lloyd Blankfein stands up and says 'Don't even criticize me, I ran a company that was right at the heart of some of the biggest financial frauds in history and made money off it, but don't you dare criticize me.' That's his position? That's why we need voters to get really engaged."

We need Bernie Sanders to redefine our politics — just like Ronald Reagan did
Katrina vanden Heuvel, Washington Post, 2/2
One idea with growing momentum is a financial transaction tax, or "Robin Hood tax." By imposing a tiny fee on stock trades and other financial transactions, supporters argue the tax could raise hundreds of billions of dollars with the added benefit of discouraging reckless high-frequency trading on Wall Street. The idea boasts an impressive roster of supporters, including Bill Gates and former Reagan budget director David Stockman. In Congress, Rep. Keith Ellison (D-Minn.) has introduced a financial transaction tax bill in the House, attracting 35 Democratic co-sponsors, while Sanders and Sen. Brian Schatz (D-Hawaii) are sponsoring the Senate version. In the presidential race, Sanders has called for using the revenue from the tax to make college more affordable, providing a concrete example of what can be accomplished through smart tax increases. Meanwhile, Clinton has proposed a more limited tax on high-frequency trading.

What Republicans and Bernie Sanders get wrong about Wall Street
Matt O'Brien, Washington Post, 2/3
If Dodd-Frank hasn't changed Wall Street, somebody forgot to tell Wall Street that. You can see that in the chart below. It shows how much the financial system as a whole has borrowed the past 35 years. The simple story is that the more debt the banks have, the more vulnerable they are to even small losses. Think about it like this: If you have $10 and borrow $90 more, it'd take a 10 percent loss for you to be bankrupt, but if you only have $3 and borrow $97 instead, then it'd just take a 3 percent loss for you to be wiped out. Bankers, though, love leverage, because it supercharges their returns —and, as a result, their bonuses. That's why banks have borrowed more and more and more whenever the economy was good, and sometimes even when it wasn't. Until now, that is.

ENFORCEMENT

Barclays and Credit Suisse to Settle 'Dark Pool' Inquiries
Liz Moyer, NY Times, 1/31
Barclays and Credit Suisse will pay a combined $154.3 million to settle allegations that they misrepresented their private stock trading services. The systems, known as dark pools, are supposed to offer a haven to traditional traders and investors from predatory trading behavior.

EXECUTIVE PAY

Most Americans Can't Guess the Average CEO's Salary. Can You?
Kara Brandeisky, Time, 2/4
Almost three in four Americans believe CEOs are overpaid. Yet at the same time, many vastly underestimate just how much CEOs make, according to a new survey from the Rock Center for Corporate Governance at the Stanford Graduate School of Business. When Americans were asked to guess how much the average CEO in the largest 500 U.S. companies earns every year, the median guess was $1 million. (The average guess, by contrast, was about $9.275 million, a figure inflated by people who gave very high estimates.)

The real answer? The median reported compensation for CEOs of the largest 500 companies in the U.S. is $10.3 million. The average is $12.2 million.

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

More oversight needed to curb abuse, reform hedge-fund industry

Jim Lardner and Michael Kink, Orlanto Sentinel/Inside Sources, 2/4

What is a hedge fund? In theory, it's a way for wealthy and sophisticated investors to place high-risk bets in search of above-market returns. In practice, the hedge fund industry has expanded well beyond that role; it has also exploded in size, from about $200 billion in assets at the turn of the century, to nearly $3 trillion today.

Hedge funds were major traffickers in the toxic securities that brought down the financial system eight years ago. Because many of them now market aggressively to pension funds and institutional investors, ordinary retirement savers can lose big when hedge funds fail to generate returns extravagant enough to justify their extravagant charges. More and more of these funds use stealth tactics to build up potent but undetected market positions, enabling them to aggressively bring about the results they're seeking — results that serve their interests at the consistent expense of workers, communities, and the wider society.

So-called "vulture funds," for example, buy up debts of troubled companies, countries and municipalities at pennies on the dollar, and use their muscle to demand full repayment. Other activist funds acquire large stakes in publicly traded firms and push for mass layoffs, outsourcing deals and other moves calculated to juice up share prices in the short term, usually at a long-term cost to the companies involved.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

CWA launches campaign to take on Wall Street

Mark Gruenberg, Workday Minnesota, 2/4

The CWA, the AFL-CIO, **Americans for Financial Reform**, environmental groups and consumer groups will gather soon in D.C. to build "a major coalition" to take on Wall Street, Larson said. Washington won't move against Wall Street's power without huge grass-roots pressure from the outside, added two other speakers, Reich and Sen. Elizabeth Warren, D-Mass.

The most immediate objective of the anti-Wall Street campaign is to convince Congress to pass a Financial Transactions Tax of 50 cents per $100 value of every transaction. The tax would help curb the speculative high-frequency trading that helped lead to the crash. That tax, long pushed by National Nurses United (link is external), would raise $130 billion yearly, CWA leaders estimated.

INVESTOR PROTECTION AND THE SEC

House bill for private companies draws veto threat

Patrick Temple-West, Politico, 2/3

The White House has threatened to veto a bipartisan bill scheduled for a vote in the House today that Republicans have said would allow employees to invest more in the privately-held companies they work for. Under current law, if a private company sells more than $5 million of securities in a year, the company must provide additional disclosures to investors, such as risk factors, the plans under which offerings are made, and certain financial statements. The bill would require the Securities and Exchange Commission to increase that threshold from $5 million to $10 million and index the amount for inflation every five years.

MORTGAGES & HOUSING

Remember 'Liar Loans'? Wall Street Pushes a Twist on the Crisis-Era Mortgage

Kirsten Grind, Wall St. Journal, 2/1

Wall Street wants to bring back the "low-doc" loan. These mortgages, which are given to borrowers that can't fully document their income, helped fuel a tidal wave of defaults during the housing crisis and subsequently fell out of favor.

Now, big money managers including Neuberger Berman, Pacific Investment Management Co. and an affiliate of Blackstone Group LP are lobbying lenders to make more of these "Alt-A" loans—or even buying loan-origination companies to control more of the supply themselves—according to people familiar with the matter.

Banks Get Concession on Mortgage Fights With Fannie, Freddie

Ian Katz, Bloomberg, 2/2

U.S. banks have complained for years that the risk of having to buy back flawed mortgages has discouraged them from lending. Now a regulator is offering a concession. Under a plan announced Tuesday, mortgage lenders will be able to take disputes over home loans to an independent arbitrator. Fannie Mae and Freddie Mac, the mortgage-finance giants, will allow a third party to decide how grievances should be resolved after other options have been exhausted, the Federal Housing Finance Agency said in a statement.

Calling for Change: Cities Nationwide Protest Agency Distressed Loan Sales Practices

Brian Honea, DS News, 2/4

Elected officials and community leaders in cities all over the country are rallying on Thursday to protest the sales of deeply delinquent mortgage loans by Fannie Mae, Freddie Mac, and HUD to Wall Street investors and speculators.

"We expect our federal housing agencies like Fannie Mae, Freddie Mac, and HUD to be contributing to our efforts to recover and rebuild in neighborhoods that have been hit hard by the housing crisis," said Amy Schur, Campaign Director of ACCE. "Instead, they are undermining local rebuilding efforts and contributing to the displacement of poor and working families, particularly people of color, who are being pushed out of cities in the Bay Area and across the country. These federal agencies have been unwilling to modify loans with principal reduction and help struggling homeowners, and now they are turning around and giving a discount on some of these same troubled mortgages to Wall Street hedge funds and private equity firms. We think that's insane."

Two House Republicans ask about Fannie, Freddie capital levels

Jon Prior, Politico, 2/4

Republican Reps. Stephen Fincher and Mick Mulvaney sent a letter to Treasury Secretary Jack Lew and Federal Housing Finance Agency Director Mel Watt today asking whether they would let government-controlled mortgage giants Fannie Mae and Freddie Mac rebuild their capital levels. "In a post-Dodd-Frank world, Fannie and Freddie will be the only significant financial institutions not voluntarily or mandatorily raising their capital; instead, they are being told to lower their capital - to zero," the lawmakers wrote. "This does not make sense."

What will it take for homeowners to crack open the 'credit box'?

Kenneth Harney, Washington Post, 2/3

Fed Announces $131M Penalty Against HSBC (HSBC) Over RMBS Servicing, Foreclosure Processing Deficiencies

Street Insider, 2/5

Tight credit standards prevented 5.2 million mortgages between 2009 and 2014

Bing Bai, Laurie Goodman, and Jun Zhu, Urban Institute, 1/28

MUNICIPAL FINANCE

[Teachers union yanks funds from bank in protest]

Stefano Esposito, Chicago Sun-Times, 2/3

In a largely symbolic move, the Chicago Teachers Union closed its Bank of America account Wednesday and urged others not to keep funds with an institution the union argues has contributed to Chicago Public Schools' dire financial state.

"We are demanding that Bank of America act as a good corporate citizen and deal fairly with our schools and city, and most importantly, we encourage supporters of public education to take the same action at this bank and other banks profiting from the toxic interest rate swaps," said Michael Brunson, CTU's recording secretary, as he stood outside the Bank of America branch at 135 S. LaSalle in the Loop.

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

Bills to Replace DOL Fiduciary Rule Pass House Panel

Melanie Waddell, ThinkAdvisor, 2/2

The House Committee on Education and the Workforce approved Tuesday two bills that would replace the Department of Labor's rule to amend the definition of fiduciary on retirement advice, which is now being reviewed by the Office of Management and Budget.

Adviser groups step up lobbying as DOL rule nears completion

Mark Scoeff Jr., InvestmentNews, 2/4

A pending Labor Department regulation that would raise investment advice standards for retirement accounts has caused adviser interest groups to step up their spending on lobbying lawmakers.
Last year, groups opposed to the rule invested more in Capitol Hill outreach efforts, as they tried to convince members of Congress to stop the measure.

The Financial Services Institute boosted its lobbying expenditures by 21% — from $685,151 in 2014 to $829,152 in 2015 — according to records filed with the Office of the Clerk in the House of Representatives.

STUDENT LOANS & FOR-PROFIT EDUCATION

For-Profit Colleges Seeking Veterans' GI Bill Dollars Aren't Always The Best Fit

Eric Westervelt, NPR, 1/29

More than 1 million veterans and their families are taking advantage of the Post-9/11 GI Bill to attend college. But thousands are still attracted to for-profit schools. Are they aiming high enough? Are for-profits really the best fit for those who served?

The for-profit sector has marketed aggressively to members of the military and even enrolls them online while they're stationed overseas. A 2014 Senate report shows that eight for-profit college companies got about a quarter of all the funds spent on GI Bill benefits in 2012-2013. The report also says, on average, for-profit schools cost twice as much as educating veterans at public colleges.

Military-Branded Websites Push Veterans to Troubled For-Profit Colleges

David Halperin, Huffington Post, 2/1

For-profit colleges in Maryland are ripping off students, consumer group says

Danielle Douglas-Gabriel, Washington Post, 2/5

[Education Dept. Suspends Student-Aid Eligibility for Dozens of For-Profit Programs]
Courtney Kueppers, Chronicle of Higher Education, 1/1
The U.S. Department of Education has suspended student-aid eligibility at 26 for-profit education programs, in California, Illinois, and Nevada, after an investigation found several rules violations by the programs, the department announced on Monday.

More For-Profits in U.S. Crosshairs
Ashley Smith, Insider Higher Ed, 2/2

SYSTEMIC RISK

AIG Plans to Streamline, but Not Divide, Itself
Liz Moyer, NY Times, 2/1
Last week, the insurance giant, which became a stark example of the concept of "too big to fail" when it had to be rescued by the federal government during the financial crisis, announced that it would slim down to try to be more profitable. A big part of the strategic plan is the promise of at least $25 billion in stock buybacks and dividends, something, it says, that it could not deliver in such a large quantity — if at all — were it to be broken into pieces.

WHISTLEBLOWER PROTECTION

GAP Issues New White Paper – "Why Whistleblowers Wait: Recommendations to Improve the Dodd Frank Law's SEC Whistleblower Awards Program."
Tom Devine, Government Accountability Project, 2/1
Today, the Government Accountability Project released a White Paper prepared for the Securities and Exchange Commission – Why Whistleblowers Wait: Recommendations to Improve the Dodd Frank Law's SEC Whistleblower Awards Program. GAP acted in response to largely unexplained rulings that reduced whistleblower awards due to delays in making their disclosures. In each case, their evidence had been critical for successful government enforcement actions collecting over a million dollars in penalties from corporate fraud and other SEC violations.

GAP's report warns that arbitrary rulings could discourage disclosures by convincing would-be whistleblowers that "the Commission's award system neither offers proportional incentives that overcome the risks of disclosure, nor is grounded in the reality whistleblowers face…"

OTHER TOPICS

"The Big Short's" Big Shortcomings
Peter Dreier, Huffington Post, 2/1
So what's missing from "The Big Short"? For starters: Dodd-Frank, Elizabeth Warren, Occupy Wall Street and Bernie Sanders… several years before any of the characters in the film understood the fragility of the financial system, others were sounding the alarm. Community groups like ACORN and National People's Action learned about the subprime rip-offs from their low-income members and tried to pressure government officials and lenders to end these predatory schemes. Also missing from "The Big Short" are any of the major decisionmakers - in banking or government - who set (and changed) the rules that made it possible for these get-rich-quick brokers, bankers and investors to game the system.

For example, none of the CEOs of the major banks - Goldman Sachs, Bank of America, Citigroup, Wells Fargo, Lehman Brothers and others - whose lobbying efforts led to the deregulation and whose policies triggered the crash, are depicted in the film… The fight over banking reform in Congress was the first battleground in what has become an ongoing war. President Obama inherited the collapsing economy, and the federal bank bailout, from George W. Bush. Feeling the mounting anger, the Obama administration's response to the crisis was to push for stronger regulations on the financial industry, which ultimately led to the Dodd-Frank legislation. The financial industry lobby used its substantial political clout to water down many of its strongest components…

In Washington, D.C., **Americans for Financial Reform**, a coalition of community and consumer groups, unions, and others, serves as a consumer watchdog on Congress and government agencies to make sure that they implement the Dodd-Frank provisions.

The New Inequality Debate

Robert Kuttner, American Prospect, Winter 2016

Since Reagan, America has embraced much of the conservative package. Taxes are lower and less redistributive. Many benefits to the poor have been drastically cut. There is far less regulation, and the regulation that does operate is largely pro-corporate. Global trade is freer than ever and outsourcing easier. However, the basic growth trajectory has not changed and if anything is slightly slower than it was in the postwar decades. Financial deregulation caused growth to take a huge hit beginning in 2007, from which the economy is only now recovering. But inequality has soared. While some of it can be justified as meritocratic, billion-dollar hedge fund managers have few defenders and even some Republican presidential candidates want to increase their taxes.