Americans for Financial Reform Education Fund

This Week in Wall Street Reform | Jan. 12- Jan. 18

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CONSUMER FINANCE AND THE CFPB

Despite Naysayers, Consumer Finance Panelists are Uniquely Qualified to Tackle Barriers to Financial Inclusion | Competitive Enterprise Institute

Last week, the Consumer Financial Protection (CFPB) announced the membership of the newly created Taskforce on Federal Consumer Financial Law. Members include Professor of Law at George Mason University and CEI Board Member Todd Zywicki, who will serve as chair, as well as Dr. Thomas Durkin, Dr. J. Howard Beales III, and L. Jean Noonan. The task force will work to "harmonize and modernize federal consumer financial laws" and report to the CFPB director with its recommendations on how to improve and strengthen the legal and regulatory regime around consumer finance.

CFPB Appoints Task "Farce" on Consumer Law | U.S. PIRG

Last week, CFPB Director Kathy Kraninger appointed four lawyers and professors to a "Taskforce on Federal Consumer Law." To my knowledge, none have worked for consumer protection organizations yet all have worked as industry lawyers or consultants or been publicly aligned with industry views. All do have previous government experience, primarily at the FTC. However, I am also aware of several distinguished professors, including some with CFPB experience, who were all rejected. Coincidentally, these rejected professors all do have a record of working to defend consumers in the financial marketplace.

What the Visa-Plaid merger means for banks, fintechs | American Banker

Visa's deal to acquire the data aggregator Plaid is likely to have ripple effects throughout the industry, including a possible fresh wave of fintech acquisitions, a reduction in tension with banks over screen scraping and increased momentum for open banking.

Many expect the $5.3 billion deal, one of the most successful fintech exits of all time, to kick off a fintech merger boom.
“Once you get one of these, they tend to come in waves,” said Sam Maule, managing partner for North America.

The fight to protect consumers, at a crossroads | The New York Daily News

As a part of the original team that built the Consumer Financial Protection Bureau (CFPB) in 2010, I know the vital importance of having a federal agency whose sole mission is to safeguard the financial interests of American consumers. As 2020 begins, we are witnessing the concerning convergence of two realities: a federal retreat from enforcing critical rules and laws that protect Americans from predatory and abusive practices in the financial services industry, and an increasingly dire financial outlook faced by too many Americans that demands government action.

The statistics are startling. Student loan debt is reaching record levels; use of aggressive debt collection tactics is on the rise; and American household debt increased to $13.95 trillion in the third quarter of 2019, the 21st consecutive increase. Black and Hispanic Americans are worse off than the overall population: 90% of black students carry student debt, along with default rates that are three times those of their white counterparts. Black and Hispanic Americans are also more likely to be targeted by predatory debt collectors, and are charged higher rates for mortgages.

Brown, Cortez Masto, Colleagues Urge Inspector General to Investigate CFPB Director Kraninger’s Failure to Provide Relief for Defrauded Consumers | U.S. Senate

U.S. Senators Sherrod Brown (D-Ohio) and Catherine Cortez Masto (D-Nev.) led Senators Richard Blumenthal (D-Conn.), Ron Wyden (D-Ore.), Tammy Duckworth (D-Ill.), Cory Booker (D-N.J.), Tina Smith (D-Minn.), Chris Van Hollen (D-Md.), Elizabeth Warren (D-Mass.), Ben Cardin (D-Md.). Ed Markey (D-Mass.), Bernie Sanders (I-Vt.), Jacky Rosen (D-Nev.), Amy Klobuchar (D-Minn.) and Dick Durbin (D-Ill.) in calling on the Inspector General of the Federal Reserve to open an investigation into four recent consumer fraud cases where Consumer Financial Protection Bureau (CFPB) Director Kathleen Kraninger provided no or inadequate restitution to harmed consumers.

“Under Director Kathleen Kraninger, the Bureau appears to be ignoring existing legal authority for calculating restitution in order to reduce the amount of restitution returned to harmed consumers or undercount the consumers who should receive restitution,” the senators wrote in a letter to Inspector General Mark Bialek. “The Bureau’s approach to restitution under Director Kraninger also creates a perverse incentive for companies to violate the law by allowing allow them to retain all or nearly all of the funds they illegally obtain from consumers.”

In rebuke of CFPB, states look to get tough on debt collectors | American Banker

As states flex their regulatory muscle in response to a pullback in enforcement activity by the Consumer Financial Protection Bureau, they are zeroing in on debt collection as an area needing more oversight.

Governors in New York and California both have recently pushed for their states to have more authority over debt collectors. The state proposals come as the CFPB works on instituting regulatory reforms for debt collectors that critics say are a gift to the industry. "Debt collection is one more avenue for states to be exercising oversight and inquiry into a rapidly expanding area, where they might want to ensure things are okay to the general."

Lending change Cap rates, end impasse on payday loans | Fort Wayne (Indiana) Journal-Gazette

For several years, consumer advocates and payday-loan lobbyists have fought to a draw at the legislature. The special interests have been thwarted from adding any more "helpful" products to a system that now allows short-term loans at interest rates equivalent to 391% annually. And a bill that would effectively eliminate payday loans by setting annual interest ceilings of 36% has failed to get traction.

A coalition of religious, social-service and veterans groups is gearing up to fight efforts to expand high-interest loans. But there is also hope that this may be the year legislators agree to rein in existing predatory loans.

Introduced by Sen. Greg Walker, R-Columbus, Senate Bill 26 would limit the amount creditors could charge for short-term loans to the equivalent of 36% annually. Such a limit was imposed by the U.S. Department of Defense to protect service members from being exploited. Rate caps are also the law in 16 states and the District of Columbia.

INVESTOR PROTECTION, SEC, CAPITAL MARKETS

New battleground in the fight over mandatory shareholder arbitration: Intuit's annual meeting | Reuters

When shareholders of the tax and accounting software company Intuit Inc gather for the company's annual meeting on Jan. 23, they will have a chance to vote on a historic proposal to require investors to arbitrate their federal securities claims individually, rather than suing in class actions. Intuit appears to be only the second public company in the U.S. to allow investors to vote on a mandatory shareholder arbitration proposal - Google shareholders voted down a shareholder arbitration proposal in 2012 – and the first to consider such a proposal since the U.S. Supreme Court's pro-arbitration rulings in 2013's American Express v. Italian Colors and 2018's Epic Systems v. Lewis.
The Intuit proposal, as I'll explain, faces a tsunami of opposition. But in the seemingly unlikely event that shareholders adopt the proposal, the company's board will have to consider adopting an unprecedented bylaw requiring investors to surrender their right to go to court to sue as a class. At the moment, no public company in the U.S. forces shareholders to waive class action litigation.

Joint Letter: Coalition Urges Intuit to Reject Proposal on Forced Shareholder Arbitration | Americans for Financial Reform Ed Fund

Many of our organizations represent everyday investors, consumers, and workers, countless numbers of whom turn to our nation's capital markets to save for retirement and other long-term goals. And all of our organizations seek to preserve people's right to seek justice in court. Our constituencies rely on securities laws—and the right to enforce those laws—in order to deter financial fraud, protect the integrity of U.S. markets, and seek accountability when harmed. We write on their behalf in hopes of ensuring that you do not make a major and unprecedented change in your bylaws that would force everyday investors, consumers, or workers into a system that strips them of their fundamental rights to hold Intuit accountable in a court of law for wrongdoing against shareholders and customers. We are deeply concerned about Intuit's decision to include a forced arbitration shareholder proposal on the ballot, and we urge the bylaw's rejection.

How Accountants Took Washington's Revolving Door to a Criminal Extreme | Project On Government Oversight

On a spring day in 2015, his last day on the job at the board that oversees corporate auditors, Brian Sweet stuffed an external hard drive containing confidential board records into his computer bag along with hard copies of other confidential board documents.

Then Sweet said goodbye to his life as a regulator inspecting the big accounting firm KPMG and walked through the revolving door to a new job at KPMG's Park Avenue offices in New York. The partnership at KPMG came with pay of $525,000, more than double the approximately $240,000 he had been getting at the oversight board.

As Sweet would later testify, his bosses at KPMG soon made clear how they expected him to earn it.

KPMG had been performing disastrously on inspections conducted by the Public Company Accounting Oversight Board (PCAOB), and it was under pressure to improve. In the annual inspections, the oversight board scrutinizes a sample of the audits that major accounting firms perform on companies listed on U.S. stock markets. Advance word of which audits the PCAOB planned to inspect would give KPMG an edge.

SEC'S Jackson Leaving Next Month to Return to Teaching at NYU | Bloomberg

Robert Jackson Jr. said he will step down from the U.S. Securities and Exchange Commission next month to return to teaching, leaving Wall Street's main regulator with an open Democratic seat as Republicans push to dial back rules before November's elections.

SEC's top Democrat issues warning ahead of departure next month | Financial Times

The senior Democratic member of the US Securities and Exchange Commission has warned that shareholders' ability to influence corporate boardroom decisions is under threat in comments ahead of his departure next month.

Robert Jackson, whose exit has been expected after his term officially ended in June last year, told the Financial Times that updates to shareholder advisory and voting regulations "could make it harder for investors to speak their mind going forward".

“There is a movement afoot more generally to exclude investors from the ability to talk to the board of directors to determine the future path of American capitalism,” he said in an interview. “I’m hopeful that my colleagues will reconsider.”

The changes, proposed last November by a vote of 3-2 along party lines, have been among the most controversial of Jay Clayton’s tenure as SEC chairman. Mr Jackson’s departure will leave only one Democrat on the commission, giving the Republicans to Mr Clayton’s right greater sway on enforcement matters and business-friendly regulations

Waters and Beatty Blast Lack of Diversity on SEC Advisory Committees | U.S. House

Today, Congresswoman Maxine Waters (D-CA), Chairwoman of the House Financial Services Committee, and Congresswoman Joyce Beatty (D-OH), Chair of the Subcommittee on Diversity and Inclusion, sent a letter to Jay Clayton, Chairman of the Securities and Exchange Commission (SEC), expressing concerns about the ongoing lack of ethnic and racial diversity on the agency’s four advisory committees, including the newest 23-member Asset Management Advisory Committee which includes no Black committee members.

“Advisory committees play an important role across the federal government by providing advice and recommendations to the executive branch,” the lawmakers wrote. “To most effectively articulate industry concerns to the SEC, these committees should represent the diversity of the issue areas as well as reflect the demographic diversity of the businesses and consumers under SEC authority and purview. Unfortunately, the Financial Services Committee review of SEC’s current advisory committee demographics—the Investor Advisory Committee, the Small Business Capital Formation Advisory Committee, the Fixed Income Market Structure Advisory Committee and the newest committee, the Asset Management Advisory Committee 1— reveals that only a limited number of Latinos and Blacks serve as committee members.”

Insurers Worry State Fiduciary Push Will Kill Commission Accounts, Variable Annuities Sales | Financial Advisor

Insurance companies and their trade groups aren’t shy about fighting state conduct standards like the one being pushed in Massachusetts, which would require every agent and broker to become a fiduciary and offer full-service account monitoring.
In fact, a multitude of insurers and their trade groups told Massachusetts Secretary of the Commonwealth William Galvin at a hearing last week that his proposal would in effect force companies to do away with their commission-based brokerage business in the state. They maintain this will hurt smaller investors who don’t have enough assets to hire a fee-based advisor.

PRIVATE FUNDS

6 lawmakers urge ICANN to reject .Org sale | Domain Name Wire

Six U.S. lawmakers have asked (pdf) ICANN to reject the sale of .Org to Ethos Capital, a private equity company.

The lawmakers include presidential candidate Elizabeth Warren, Rony Wyden, Richard Blumenthal, Edward Markey, Anna Eshoo, and Mark Pocan.

In a letter to ICANN, they provide a litany of reasons that ICANN should reject the deal. One is that they believe the new owners will raise prices and cut costs as a way to pay down debt and return funds to investors.

They point out that, even if Ethos raises prices 10% a year on average, this is three times how much PIR has traditionally raised prices.

Private Equity Is a Big Part of a Growing Pool of Risky Companies | Institutional Investor

It's getting harder for companies with weak credit ratings to climb their way out from a vulnerable position — and many are weighed down with buyout debt, according to Moody's Investors Service.

Last year, only 12 percent of companies rated at or below B3 with a "negative" outlook merited upgrades that lifted them from this risky group, Moody's said in a report Thursday. That's down from 20 percent in 2018.

When they do leave the list of speculative-grade companies rated at least six levels below investment grade, it's typically due to default, according to Moody's. The final three months of last year marked the fifth straight quarter in which defaults were mainly responsible for their removal.

The list of companies ranked at or below B3 "negative" rose 10 percent last year, to 205, according to the report. About 80 percent of the borrowers have Caa ratings — at least seven levels below investment grade — and they are mostly owned by private equity firms.

Abu Dhabi Plans to Sell a $2 Billion Slice of Its Private Equity Book | Bloomberg
The Abu Dhabi Investment Authority is preparing to sell around $2 billion of its stakes in private-equity funds, amid an increasing push toward direct investments by the sovereign wealth fund, people familiar with the matter said.

ADIA is working with advisers at PJT Park Hill on the proposed transaction, according to the people, who asked not to be identified because the information is private. It plans to start marketing the deal to potential buyers within weeks, one of the people said.

Large investors like ADIA often end up with a multitude of investments run by different private-equity managers, making them cumbersome to administer. The Gulf fund is following other major investors by taking direct stakes in firms -- eschewing the fees and limitations of managed funds -- to generate returns in a low-interest-rate environment.

Top of the Morning | Axios

Private equity firms will rush the exits if they believe that a Democrat is likely to defeat President Trump, investors tell me.

Each of the four leading Democratic candidates have pledged to eliminate beneficial tax treatment for capital gains among top earners.

Elizabeth Warren has proposed the most dramatic change, raising capital gains rates to all earners and requiring annual, mark-to-market taxes (i.e., not just when an asset is sold).

Bernie Sanders would eliminate the rate differential for households making $250,000 or more. Joe Biden would do it for those making $1 million or more. Pete Buttigieg also has proposed a cap gains rate hike and mark-to-market taxation for the top 1% of earners.

All four also plan to raise ordinary income rates on top earners so, for many private equity investors, this would be a double whammy.

Private Equity Presents Case to the SEC for Opening Buyout Funds | Bloomberg Law

Blackstone Group Inc. and Apollo Global Management Inc. delivered a simple message to Wall Street's top regulator yesterday: Private equity is stomping public markets, meaning mom-and-pop investors will endure inferior returns as long as rules keep them out.

Speaking at a Securities and Exchange Commission event, top executives at the firms stopped short of urging the agency to dial back restrictions. But they came armed with data showing all the ways retail investors have been left behind. Their arguments: private markets are here to stay, less-liquid investments like corporate debt perform much better than stocks and private equity produces bigger returns.

Vanguard weighs its edge in private equity | Pensions & Investments

While private equity has usually served as a "great diversifier" in the investment portfolios of endowments and foundations, there are "tougher" challenges the firm would also have to consider.

"It's really tough to offer some of these alternatives (strategies) in a traditional fund, what we call a 40 Act fund," he said. Additionally, the $6 trillion money manager would "have to be able to add some value from a Vanguard perspective."

"We'd like to be the best in the world at it. We don't want to offer 'me too' products. So, if we're going to offer you access to, whether its private equity or another alternative (product), we've got to make sure that we can give you better pricing than you would get otherwise," Mr. Buckley said.

Pondering DC Plan Access to Private Equity | Plan Adviser

Echoing some of Nelson's comments, Browne says he wonders whether the changing character of companies going through initial public offerings (IPOs) is perhaps even more important than the drop in the total number of IPOs occurring. This is to say that many companies going through IPOs today are doing so later in their startup lifecycle, meaning a lot of the early and most significant growth of what are now major public companies is not accessible by main street investors. He points to the example of WeWork, noting how companies that delivered great returns for private investors can, later in their lifecycle, be rebuffed by the public markets.

Browne says the current system governing the private equity offerings was put in place by the U.S. Securities and Exchange Commission (SEC) to help ensure less wealthy investors do not take excessive risk in complex private markets and do not invest unknowingly in highly illiquid or otherwise restrictive securities. This goal makes sense, Nelson and Browne agree, but at the same time, it is important to acknowledge the difference between DC plan investors, who benefit from fiduciary oversight, and individual retail investors.

David Solomon revealed how Goldman Sachs is rethinking the way it makes private-equity investments with its own money – and one analyst thinks that will be a big driver of its stock price | Business Insider

Goldman Sachs executives took a moment on the company's fourth-quarter earnings call to explain more about their strategy for transitioning the bank's private investing platform to be more reliant on outside money.

Execs including CEO David Solomon have touted the strategy in recent months, saying Goldman is ramping up a fundraising machine to pool billions of dollars in client money and place it into funds making investments in private equity, credit, real estate, and infrastructure. Solomon has restructured the management of the business to bring disparate teams from across the bank under one umbrella, and tapped a new team to coordinate activities across the firm.

But it was Solomon's description of a plank in that strategy that got analysts' attention on Wednesday.

The CEO said that as Goldman Sachs raises more outside money, it will also shift the types of investments it's making with its own money. And in doing so it will free up a scarce resource that has been weighing down its profitability metrics.

Do Private Equity Buyouts Get a Bad Rap? | Harvard Business School

Private equity buyouts are a polarizing financial prospect. One need only look at the name of the recent bill that Senator Elizabeth Warren (D-Mass.) introduced to regulate private equity in the United States—the "Stop Wall Street Looting Act"—to get a sense of the ire they cause.

Private equity firms often hunt for target companies they see as undervalued. By cutting costs or reorganizing, the acquirer can improve productivity and position the firm for profitable operations or a future sale. In some quarters, fears persist that private equity acquires companies for reasons that do not benefit society: asset stripping, short-term profit at the expense of workers, and long-term stability.

"There are certainly a lot of concerns around whether these kind of transactions are indeed fomenting inequality by getting rid of high-quality jobs—and concerns about systemic risk as well," says Josh Lerner, the Jacob H. Schiff Professor of Investment Banking at Harvard Business School, who leads the Entrepreneurial Management Unit.

Resolution Economics acquired by private equity firm | Consulting.US

Resolution Economics, a specialty consulting firm that offers economic and statistical analysis – and expert testimony to law firms and corporations in labor and employment and commercial litigation – has been acquired by private equity firm Levine Leichtman Capital Partners (LLCP). Full terms of the acquisition remain undisclosed ...

Resolution focuses on "highly complex" class-action lawsuits. Its workforce consists of extremely experienced professionals, including 14 with PhDs and 32 whom hold master's degrees. It also employs more than 70 SAS programmers. Seventeen of the firm's consultants have severed as expert witnesses in lawsuits. The firm, which was founded in 1998, is headquartered in Los Angeles, and has offices in Chicago, New York City, and Washington, DC.

Private equity deal-making pulls back amid ‘sky-high’ valuations | Funds Europe

For the fourth year in a row private equity funds raised over half a trillion dollars last year, but deal-making declined as fund managers were concerned about overpaying for acquisitions.

Why private equity might not repeat the last decade's highs | Citywire Selector

The next decade will prove more challenging for private equity to sustain high returns, as 2020 could potentially trigger an unravelling of the sector.

Speaking at the round-table event in London, Mouhammed Choukeir, chief investment officer of Kleinwort Hambros, said, while private equity managers always tell you there is value in individual deals, there is more money than there are investment opportunities.

‘By definition that means that the asset class as a whole is likely to not have as compelling returns that it had over the last 10 years.

‘The lure and the romantic notion of going into illiquid assets shouldn’t be conceded to because you have to look at valuations and they are not that compelling,’ the CIO said.
In its latest outlook, Kleinwort Hambros also highlighted that the success of the asset class over the last 10 years attracted huge inflows, however the consensus is not pricing in potential challenges that the sector faces.

Mass Layoffs Hurt Workers. Shouldn’t Employers Feel Some of the Sting? | The Nation

On Monday, the New Jersey legislature gave final approval to a bill that would make it the first state in the country to guarantee severance pay in the wake of mass layoffs. The bill ensures that workers at big companies have to be paid at least a week’s wages for every year of work. It now sits on the desk of Governor Phil Murphy, who has 30 days to sign or veto it; advocates say the governor has expressed support for it.

The bill is a response to a series of bankruptcies among major employers in the state over the past two years. When Toys “R” Us went bankrupt in 2017, the company had 1,500 employees in New Jersey. At first, it announced that it would let them go without any severance pay at all. Without this new law in place, it was perfectly legal to refuse to give longtime workers any financial cushion in the wake of sudden job loss. So employees came together, with the help of the worker-organizing nonprofit United for Respect (at the time called Rise Up Retail), to demand payment for their years of work at the toy retailer.

Institutions Know They’re Being Hoodwinked by Private Equity | Institutional Investor
Investors have been pouring money into private equity for years chasing outsized returns — even though many allocators believe that widely used performance measures stink.

Institutions are questioning the real value of the internal rate of return (IRR), the most common measure of performance, according to Jos van Gisbergen, who runs private equity at Achmea Investment Management in the Netherlands. IRR measures how a portfolio performs on a dollar-weighted basis and adjusts for cash flows such as capital calls and fund distributions and is the most widely used metric by consultants and industry databases.

Van Gisbergen said private equity firms' increasing use of subscription credit lines, even with today's low interest rates, obscures accurate IRRs. Credit lines are used to finance transactions before funds ask for capital from their investors, which historical allowed firms to do deals more quickly but can also inflate IRR figures.

The Moral Hazard of Dealing with China | The Atlantic

Dozens of Sino-foreign institutes and hundreds of joint educational programs exist in China. Among them, the Schwarzman Scholars program is particularly vulnerable to pressure from the CCP. That's because, unlike other U.S.-China education initiatives, it has no American academic institution as a partner. Its primary institutional tie to the United States is the private education foundation of Stephen Schwarzman, a billionaire with extensive business dealings in China.

In 2007, a year before his private-equity firm, Blackstone, opened an office in Beijing, Schwarzman's firm announced that China Investment Corporation, China's state-investment vehicle, would acquire a $3 billion stake in the company. (China sold the stake in 2018.) Schwarzman Scholars' institutional home, Tsinghua University, is subject to Chinese laws and owes its continued existence and funding to the Chinese government's largesse.

Though the program is staffed with highly respected individuals, it isn't affiliated with any Western-based academic institution that could serve as a moral counterweight, or draw a line in the sand, should the situation in China deteriorate.

MORTGAGES AND HOUSING

Regulators aren't only ones at odds over CRA reform | American Banker

As the effort to modernize the Community Reinvestment Act unfolds, a proposal championed by Comptroller of the Currency Joseph Otting is struggling to win supporters as lawmakers in Congress are divided over the process and community reinvestment advocates have largely assailed the plan.

CRA reform up to now has been driven by the regulatory agencies. But just as the process has divided those agencies, Democrats and Republicans in Congress have vastly different views on the OCC plan. Republicans largely laud the proposal, while Democrats say that it would harm communities and that the lack of consensus among regulators will lead to confusion.

Commentary: Don't allow historic anti-redlining law to be weakened | The Chicago Tribune

As a nation, we have a duty to end the lasting legacy of discrimination in housing and mortgage finance that lies at the core of the staggering and enduring wealth gap between whites and Americans of color. The Community Reinvestment Act, a historic civil rights law enacted in 1977 to stop banks from discriminatory lending practices, is one of our nation's most important tools for fighting such discrimination.

That's why it is so alarming that the Trump administration appears bent on changes that would badly weaken the CRA. The Office of the Comptroller of the Currency at the Treasury Department and the Federal Deposit Insurance Corporation [have proposed a new CRA rule] that would inflict significant harm on communities of color by making it easier for banks to shirk standards intended to undo discrimination in lending.

Adding Underserved Census Tracts As Criterion On CRA Exams | NCRC

Over the years, the National Community Reinvestment Coalition (NCRC) and our members have advocated for the inclusion of race on CRA exams since people of color and communities of color continue to experience a shortage of affordably priced banking products and a disproportionate amount of high-cost and abusive products. The financial crisis stemmed in large part from abusive lenders targeting communities of color that were starved of mainstream banking products.[2] Currently, communities of color still encounter shortages of loans.

The federal bank agencies have not added race as an explicit part of CRA exams, maintaining that Congress would need to amend the statute in order to allow the agencies to do so. CRA exams indirectly address racial disparities in lending with an accompanying fair lending review that is designed to ensure that banks are not engaging in discrimination based on race or other prohibited classes. The public information in the fair lending review on CRA exams has been cursory and has usually consisted of a few sentences stating that no discrimination was found.

U.S. regulator allows Bank of America to fund housing advisers | Reuters

WASHINGTON (Reuters) - Bank of America Corp can fund agencies that advise struggling home buyers under a relaxed regulatory program unveiled in September, the U.S. consumer watchdog said on Friday.

The decision by the Consumer Financial Protection Bureau means Bank of America's mortgage-lending unit will become the first lender to enter into financial relationships with approved housing-counseling agencies without fear of prosecution by the bureau, the agency said in a statement.

Property Assessed Clean Energy (PACE) Program | Federal Housing Finance Agency

The Federal Housing Finance Agency (FHFA), as regulator for Fannie Mae and Freddie Mac as well as the Federal Home Loan Banks, seeks public input on residential energy retrofitting programs financed through special state legislation enabling a ''super-priority lien'' over existing and subsequent first mortgages. In particular, FHFA seeks input on potential changes to its policies for its regulated entities based on safety and soundness concerns. These state programs, termed Property Assessed Clean Energy or PACE, address residential properties and commercial applications. FHFA's primary focus is on residential PACE programs in this Request for Input (RFI).

SMALL-BUSINESS LENDING

Black-owned firms are twice as likely to be rejected for loans. Is this discrimination? | The Guardian

According to data recently made available from the US Federal Reserve, more than half of companies that have black owners were turned down for loans, a rate twice as high as white business owners. The report found that while black-owned firms were the most likely to have applied for bank financing, less than 47% of these applications were fully funded. Even when black business owners get approved, their rate of failure to receive full financing is the highest among all categories by more than 10%.

The bad news doesn't end there. The report also found that black-owned firms were the most likely group to have applied for a credit card and experienced the highest turn-down rate. For those that applied for bank financing, a smaller share of black-owned and Hispanic-owned businesses received loans of $100,000 or more as compared to other ethnic groups.

Is this discrimination?

Absolutely. Galen Gondolfi, a senior loan counselor at a not-for-profit that helps small-business owners build credit, recently told NPR's St Louis Public Radio: "St Louis's seemingly provincial lending struggles not only with entrepreneurs that don't historically 'look like them', but [also] the types of businesses that are unique to these populations."

STUDENT LOANS AND FOR-PROFIT SCHOOLS

House votes to overturn Trump rule that makes loan forgiveness harder; Senate fight looms | The Washington Post

The House voted Thursday to overturn a Trump administration policy that makes it more difficult for students who say they were defrauded by colleges to have their federal education loans canceled, setting the stage for a fight in the Senate.

The 231-to-180 vote fell largely along party lines, with six Republicans endorsing a resolution to scrap the administration's overhaul of a 1995 law known as "borrower defense to repayment." The law gives the Education Department authority to cancel the federal debt of students whose colleges misled them about graduation or job placement rates to get them to enroll.

Democrats vote to overturn Betsy DeVos rules on student debt | Yahoo Finance

The House Labor and Education Committee voted on legislation Thursday that would overturn Education Secretary Betsy DeVos' new policy on student debt discharge that goes into effect on July 1st, 2020.

The Democrats' legislation would reinstate Obama-era rules, which provided relief for students who were defrauded by for-profit colleges and ended up bearing student loans to that school. Since assuming her position, Secretary DeVos has "openly refused to implement the Borrower Defense rule, which has left hundreds of thousands of defrauded borrowers waiting for relief," the Democrats stated.

While it's unlikely that Democrats' legislation will become law — after it passes the House, it needs to pass the Senate and be signed into law by the President, which has already been dismissed by the White House — House Education and Labor Chairman Bobby Scott said it is ultimately a meaningful exercise: “It is a statement, and it gives opportunity to debate the regulation in a way that ... people don’t know about it.”

Legislators are trying to block Devos’ rule on student loan forgiveness - here’s what you need to know | Newsweek

The House of Representatives will vote on a resolution that could stop Education Secretary Betsy DeVos' borrower defense rule from going into effect, and supporters of the measure say it's time for legislators to choose a side.

"Senators will now have a chance to go on the record: Are you with the students or the predatory industry that defrauded them with worthless degrees and a lifetime of debt?" Senator Dick Durbin said in a statement introducing the resolution in September.

Joint resolutions operate largely the same way as bills do, and if the measure isn't blocked in Congress or by presidential veto, it will bar DeVos' rule from going into effect on July 1. DeVos' regulation would alter the requirements for students filing claims and how relief is rewarded, changes that critics see as raising the bar for students' claims in an effort to benefit colleges.

On Monday, the Democratic-majority House's Committee on Rules voted in favor of the House considering the resolution against DeVos' rule. Votes fell along party lines, with eight Democrats voting in favor and three Republicans opposing.

AG Herring joins coalition to reject borrower defense rule that would 'hurt students' | ABC 13 New

Attorney General Mark R. Herring has joined a coalition of states in supporting Congressional efforts to reject the U.S. Department of Education's 2019 Borrower Defense Rule.

In a letter to Congress, Herring and his colleagues says the Borrower Defense Rule would "hurt students."

Previously, Herring won a victory in federal court after he challenged the U.S. Department of Education’s plan to abruptly rescind the 2016 Borrower Defense Rule.

“Time and again the Trump Administration has shown that it favors protecting for-profit colleges over protecting student borrowers,” said Herring. “This new Borrower Defense Rule will hurt student borrowers and leave them without options to discharge their loans if they have been defrauded by one of these for-profit schools. I will continue to fight to make sure that for-profit colleges are held accountable and student borrowers are afforded the protections they deserve.”

AFR Statement: AFR Welcomes passage of H.J. Res. 76 to roll back DeVos attack on scammed students | Americans for Financial Reform

Americans for Financial Reform welcomes the passage of H.J. Res. 76 to roll back Education Secretary Betsy DeVos’ devastating attempt to make debt cancellation for scammed students nearly impossible. The resolution passed 231 to 180 with bipartisan support; 6 Republicans and all Democrats voted yes, with 19 members not voting.

The DeVos update to the Borrower Defense to Repayment rule creates a standard that almost no student will be able to meet. By the Department's own estimates, with the DeVos rule in place, when a loan is incurred due to wrongdoing by a school, borrowers will still pay for 97% of the loan. The DeVos Administration estimates that the school, on the other hand, will only repay about 1% of loan amounts stemming from misconduct. This is in spite of the fact that the Department expects substantial illegal activity by schools. They estimated that in 2021 alone, nearly 200,000 borrowers will be subject to colleges' illegal conduct.

DeVos also removed important protections, such as the prohibition on the use of forced arbitration and class action bans by schools. These "ripoff clauses" prevent students from going to court or joining together to sue schools that engage in repeated wrongdoing.

Advocates Applaud U.S. House Vote to Restore Rule to Protect Borrowers from School Fraud and Closures | National Consumer Law Center

The National Consumer Law Center advocates applauded the U.S. House of Representatives' use of the Congressional Review Act to overturn the 2019 Borrower Defense to Repayment rule issued by the U.S. Department of Education last September.

"The House correctly recognized that Department of Education's attempt to prop up for-profit schools that cheat and harm students runs counter to the goals of the Higher Education Act and would hurt students and taxpayers," said National Consumer Law Center attorney Abby Shafroth. "If the Department was serious about deterring illegal school misconduct, it would put its efforts into implementing the original 2016 Student Borrower Defense rule and resolving the hundreds of thousands of outstanding applications for relief from students who were preyed upon by schools more interested in profits than education."

Last December, a broad coalition of 57 organizations sent a letter to original sponsors Representative Susie Lee and Senator Dick Durbin, supporting their use of the CRA to keep the new rule from becoming law, noting that if it goes into effect the rule would only provide relief to about 3% of student borrowers who were victims of fraud and other illegal school conduct, and that only 1% of schools that defrauded students would have to reimburse taxpayers. The rule would therefore green light school misconduct while making relief for defrauded borrowers all but impossible.

Elizabeth Warren wants to cancel student debt — without Congress. Can she do that? | NBC News

Massachusetts Democratic Sen. Elizabeth Warren made a policy splash ahead of Tuesday night's debate, announcing that she would cancel hundreds of billions of dollars of student debt as president — without approval from Congress.
In this case, it's a new wrinkle on an old plan. Warren had already put out a proposal to cancel up to $50,000 in debt for individuals with incomes up to $250,000, financed by a proposed wealth tax on fortunes over $50 million.

"I will start to use existing laws on day one of my presidency to implement my student loan debt cancellation plan that offers relief to 42 million Americans," Warren said in a letter announcing her plan.

AFR Statement: The Department of Education has the Authority to Cancel Federal Student Loans. It should. | Americans for Financial Reform

Today's proposal that administrative authority be used to cancel student debt, and the affirmation of the legality of such a step by the Project on Predatory Student Lending at Harvard Law School are important positive possibilities for student borrowers and their families and communities.

AFR has long called on the Department of Education to use its existing legal authority to cancel the federal debts of wronged students of for-profit colleges without individual application – as have former Corinthian students, advocates, lawmakers, and law enforcement officials.

A group of thirteen Senators wrote a letter in 2014 calling on the Department to use its authority to discharge the debt of former students of the now-bankrupt Corinthian College, a chain of for-profit colleges with endemic fraud.

This call was joined by Rep. Maxine Waters and the co-chairs of the Congressional Progressive Caucus in the House. In 2015, AFR together with dozens of other organizations filed a petition to the Department of Education led by the National Consumer Law Center outlined the Department's legal authority to compromise and modify student loans.

Statement from the project on predatory student lending on senator Warren's plan for student debt cancellation | Harvard Project on Predatory Student Lending

Today, Senator Elizabeth Warren announced her plan to "cancel student debt on day one" of a Warren presidency, citing a Project on Predatory Student Lending legal analysis which outlines the President's legal authority to direct the Secretary of Education to cancel student loan debt.

The following is a statement from Eileen Connor, Legal Director of the Project on Predatory Student Lending.

"Eliminating the debts of millions of former students is imperative for America's economy and our future, and we commend Senator Warren for her continued leadership on this issue. The next President absolutely has the power and authority to cancel all student debts – and should start with the most egregious types of student loan debt: the debt held by hundreds of thousands of students cheated by predatory for-profit colleges. We encourage all presidential candidates to pledge to cancel this illegitimate debt on day one of taking office. These students have been cheated by their schools and are legally entitled to relief. They should not have to wait another day for justice."

Former Students of Defunct ITT Tech Receive $95.1 Million Loan Relief | The Wall Street Journal

The Education Department is providing loan relief to some 7,800 former students of the ITT Technical Institute, with debts totaling $95.1 million being forgiven by the government years after the giant for-profit school chain closed.

The department said that it has identified 7,878 former students of ITT Tech as eligible for a program in which loans are discharged automatically within three years of a school closure.

Of those borrowers who attended the school, 7,697 had received loan forgiveness as of Jan. 3.

For-profit film school turned their Hollywood dreams into student debt nightmares | Los Angeles Times

Only two months into pursuing his dream to be a sound engineer, David Gross knew he'd made a mistake.

The single father in 2013 signed up at a for-profit college in Burbank that convinced him it was his path to a Hollywood job. But after two classes, he realized it was "definitely not what I was promised," he said.

Gross took a leave of absence. But before he decided whether to return, the U.S. Department of Education forced the school, Video Symphony EnterTraining, to close after an investigation found altered records and thousands of dollars in missing financial aid money.

Five years later, Video Symphony, now transformed into a debt holding company, took aim at Gross. It sued him for $14,000 — the amount covering almost eight months of the program that it says Gross attended, and including federal loan amounts the government refused to give the school after the allegations of misconduct.

Defrauded college students will no longer be taxed on their canceled loans | The Washington Post

Student loan borrowers whose education debt has been canceled because their college closed or engaged in fraud will no longer face a tax bill, relief that arrives as applications for forgiveness continue to grow.

On Wednesday, the Internal Revenue Service issued guidance shielding borrowers from having their discharged federal and private loans treated as taxable income. The measure is effective for education loans canceled on or after Jan. 1, 2016. Anyone affected by the new policy may claim a credit or refund for an overpayment of taxes.

"Though it took far too long, I'm glad that the IRS and Treasury Department took this step to protect these defrauded student loan borrowers from paying yet another unnecessary bill," Sen. Patty Murray (D-Wash.) said. "This is welcome news for those who have received a loan discharge, but there are still far too many cheated students stuck with a worthless degree still waiting for relief."

Murray, alongside Democratic Sens. Richard J. Durbin of Illinois and Ron Wyden of Oregon, wrote the IRS and Treasury in September 2018 urging them to clarify that former students of ITT Technical Institute would not be taxed on canceled federal loans. Murray and Wyden requested similar guidance in July of that year for former Corinthian Colleges students whose private loans were canceled.

Lawmakers question DeVos, accreditor on fake University of Farmington sting | The Detroit News

Democratic U.S. Reps. Andy Levin and Susan Davis, as well as Democratic presidential hopeful Elizabeth Warren are questioning the U.S. Education Department and the accreditor of a fake university about their roles in using the school to entrap foreign-national students.

The lawmakers sent letters Thursday to Education Secretary Betsy DeVos and the Accrediting Commission of Career Schools and Colleges regarding their roles in the fake university set up by the U.S. Department of Homeland Security.

The undercover sting, dubbed "Operation Paper Chase," targeted an immigration fraud scheme that involved at least 600 people who collectively paid recruiters more than $250,000 to stay in the United States, according to prosecutors.

Homeland Security agents used "the University of Farmington," which had no staff, instructors, curriculum or classes, to arrest eight recruiters accused of visa fraud conspiracy and harboring aliens for profit, according to federal grand jury indictments.

DeVos and Education Dept. could face new sanctions for violating a court order | The Washington Post

A federal judge is weighing higher fines for the Education Department after the federal agency disclosed that it pursued scores of additional borrowers for debt collection — violating a court order.
Magistrate Judge Sallie Kim of the U.S. District Court in San Francisco agreed this week to consider a request by former Corinthian Colleges students to increase the $100,000 fine she levied against the department in October. The judge imposed those sanctions and held Education Secretary Betsy DeVos in contempt for pursuing loans owed by 16,000 students from the defunct for-profit chain despite a May 2018 order halting collections.

SYSTEMIC RISK

Quarles draws bipartisan fire as Fed winds down deregulation drive | Politico

The Federal Reserve’s top regulator, Randal Quarles, is facing heat from both sides of the aisle as his two-year campaign to pare down the massive, post-crisis rulebook for the nation's banks draws to a close.

Democrats say Quarles, an appointee of President Donald Trump, has gone too far in rolling back important regulations designed to prevent a repeat of the 2008 financial meltdown; Republicans argue that he hasn’t done enough to clear away cumbersome provisions that they say are stifling growth.

Fed's Quarles details his ideal approach to bank supervision | American Banker

Federal Reserve Vice Chairman for Supervision Randal Quarles laid out a comprehensive set of proposals to update how the agency supervises the nation’s banks on an ongoing basis, with the overall goal of bringing more transparency to the existing regime.

“I don’t believe the Federal Reserve has communicated as clearly as it could with the banks we supervise,” Quarles said at an event Friday held by the American Bar Association. “More transparency and more clarity about what we want to achieve as supervisors and how we approach our work will improve supervision.”

New York Fed Paper Warns a Cyberattack on Banks Could Cause Major Disruption | The Wall Street Journal

A well-planned cyberattack on the U.S. banking system could have a devastating effect on U.S. financial stability, according to new research from the Federal Reserve Bank of New York.

In a paper termed a "pre-mortem analysis" that was released Monday, bank analysts Thomas Eisenbach, Anna Kovner, and Michael Junho Lee looked at how banks would react to cyberattacks that impaired their ability to process payments between banks.

"If a cyber attack were to compromise the integrity of banks' systems, the reconciliation and recuperation process would be an unprecedented task," the authors wrote. "This could have severe implications on the stability of the broader financial system vis-à-vis spillovers to investors, creditors, and other financial market participants."

The paper examined what would happen if there was an attack that affected the five biggest banks involved in the payments system.

"A cyber attack on any of the most active U.S. banks that impairs any of those banks' ability to send payments would likely be amplified to affect the liquidity of many other banks in the system," the authors wrote. "The extent of the amplification would be even greater if banks respond strategically, which they are likely to do if there is uncertainty about the attack."

TAXES

AFR Twitter Video Thread from House Financial Services Committee hearing on homelessness, with comments by Reps. Rashida Tlaib and Alexandria Ocasio-Cortez on opportunity zone tax giveaways.

Trump Tax Cut Hands $32 Billion Windfall to America's Top Banks | Bloomberg

Savings for the top six U.S. banks from President Donald Trump's signature tax overhaul accelerated last year, now topping $32 billion as the lenders curbed new borrowing, pared jobs and ramped up payouts to shareholders.

JPMorgan Chase & Co., Bank of America Corp., Citigroup Inc., Wells Fargo & Co., Goldman Sachs Group Inc. and Morgan Stanley posted earnings this week showing they saved $18 billion in 2019, more than the prior year, as their average effective tax rate fell to 18% from 20%. Bloomberg News calculated the haul by comparing the lower tax rates to what they paid before the law took effect, which averaged 30%.

ELECTIONS, MONEY, AND POLITICS

Private Documents Reveal What Wall Street Really Thinks About Elizabeth Warren | Mother Jones

A major bank that Elizabeth Warren once sharply criticized has some stark warnings for Wall Street investors about her potential presidency. Warren's corporate tax plan, according to one memo the bank circulated, would “directly impact corporate earnings.” Her nine-point eligibility test for international trading partners—which requires a commitment to protect religious freedom and labor rights—“would disrupt global supply chains.” And her proposed 2 percent tax on personal wealth greater than $50 million “would likely crimp investment in the economy.”

OTHER TOPICS

Building the People’s Banks | The American Prospects

After Democrats swept into control of the House of Representatives in the 2018 midterms, something unusual happened: almost no incoming freshmen sought a seat on the House Financial Services Committee. Not only is the panel one of the most important and wide-ranging in Congress—with jurisdiction over banking regulations, the affordable housing crisis, economic discrimination, retirement security, and the macro economy—it’s historically been a landing spot for swing-state Democrats looking for a fertile source of campaign fund-raising from deep-pocketed financiers. Yet the centrist Democrats saw more peril than promise in accepting Wall Street donations.

This practically unprecedented situation created an opportunity for progressives who were unable to secure spots on other exclusive committees to jump onto Financial Services, like superstar congresswoman Alexandria Ocasio-Cortez. But overseeing the financial sector is anything but a consolation prize; as Occupy Wall Street taught us, the industry is right at the heart of why the economy no longer works for most Americans.

Statement of Commissioner Rohit Chopra Regarding the Request for Comment on Vertical Merger Guidelines | Federal Trade Commission

Today’s economy is also more financialized, leading managers of both small and large enterprises to be more responsive to incentives driven by Wall Street and the capital markets. This has significant implications, since large firms are increasingly optimizing for return on invested capital, rather than overall profits. Indeed, companies often shut down profitable business segments for this reason.

Economic activity and wealth are more closely concentrated in a smaller set of firms across and within sectors and geographic areas. Corporate profits as a percent of our nation’s economic output have risen, since new entry has not competed these profits away. Despite our perception of the U.S. as an entrepreneurial nation, new business starts have been on the decline for decades, with firm deaths actually eclipsing new businesses a decade ago. Outsourcing and reduction of employee bargaining power has reshaped the competitive landscape of our labor markets.

All of these changes raise questions about whether our existing approach to competition policy and antitrust law have kept up with the times. As our economy has evolved, so too has the business rationale for mergers, acquisitions, and other transactions. Today, many mergers are motivated by a thirst for data. But deals animated by the acquisition and combination of different data streams are often difficult to characterize within the traditional boundaries of “horizontal” or “vertical” integration.

Outside of data, the methods for corporate control are now murkier, given the spread of new ownership structures and financial instruments that allow a firm to exert power over another. In particular, private pools of capital, including private equity, hedge funds, and venture capital firms have created new vehicles for control and reshaped the incentives for how managers operate assets they acquire.

New Report: A 50-State Review Finds Many States Lacking Hospital Financial Assistance Programs | National Consumer Law Center

With more than 27 million Americans lacking health insurance and almost 50% of nonelderly adults with inadequate insurance that includes high deductibles and significant out-of-pocket costs, an increasing number of families are burdened with medical debt. A new 50-state review by the National Consumer Law Center examines hospital financial assistance plans for each state and the District of Columbia, and looks at the level of financial assistance mandated, or not, in each jurisdiction.

“Medical debt burdens tens of millions of consumers, with low-income families hit the hardest,” said author Andrea Bopp Stark, a staff attorney at the National Consumer Law Center. “At a minimum, states should mandate that all hospitals create a comprehensive financial assistance policy addressing free and discount care, and include clear minimum eligibility criteria for both uninsured and underinsured patients as detailed in NCLC’s Model Medical Debt Protection Act.”

World's Largest Asset Manager Puts Climate At The Center Of Its Investment Strategy | NPR

BlackRock, the world's largest asset manager, says that it will now make climate change central to its investment considerations. And not just for environmental reasons — but because it believes that climate change is reshaping the world's financial system.
That was the message in BlackRock Chairman and CEO Larry Fink's annual letter to CEOs published on Tuesday.

"The evidence on climate risk is compelling investors to reassess core assumptions about modern finance," he wrote, explaining that climate change is the top concern that investors raise with BlackRock. "In the near future — and sooner than most anticipate — there will be a significant reallocation of capital."