AMERICANS FOR FINANCIAL REFORM

This Week in Wall Street Reform – Apr. 11-17, 2015

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Elizabeth Warren's New Agenda for Democrats on Financial Reform
Eric Garcia, National Journal, 4/15/15
… Warren flipped the script to say that supporters of markets should support smart regulation. "The so-called choice gets it wrong. Rules are not the enemy of markets," she said. "Without basic government regulation, financial markets don't work. People get ripped off, risk-taking explodes and the markets blow up."

By saying smart regulation ensures a fair and competitive market, it could be an ideal campaign talking point for Democrats accused of being anti-market or anti-capitalist. "Republicans claim loudly and repeatedly that they support competitive markets, but their approach to financial regulation is pure crony capitalism that helps the rich and the powerful protect and expand their power and leaves everyone else behind," Warren said.

Warren Lays Out Detailed Plan to Take on Wall Street
Victoria Finkle, American Banker, 4/12/15

How Warren's Banking Agenda Could Influence Clinton
Victoria Finkle, American Banker, 4/15/15
[Warren's] ideas are likely to play into the presidential debate, particularly for Clinton, who has traditionally been seen as more pro-Wall Street… Marcus Stanley, policy director at **Americans for Financial Reform**, said Warren's speech lays "down the gauntlet for people in terms of taking specific, strong steps — including steps that go beyond Dodd-Frank — to reform Wall Street."

No More Cheating: Restoring the Rule of Law in Financial Markets
Simon Johnson, Baseline Scenario, 4/15/15
The political debate about finance in the US is often cast as markets versus regulation, as if "more regulation" means the efficiency of private sector decisions will necessarily be impeded or distorted. But this is the wrong way to think about the real policy choices that – like it or not – are now being made. The question is actually what kind of markets do you want: fair and well-functioning, with widely shared benefits; or deceptive, dangerous, and favoring just a relatively few powerful people?

In a speech on Wednesday, Senator Elizabeth Warren (D., MA) laid out a vision for better financial markets. This is not a left-wing or pro-big government agenda. Senator Warren's proposals are, first and foremost, pro-market. She wants – and we should all want – financial firms and markets that work for customers, that encourage innovation, and that do not build up massive risks which can threaten the financial system and bring down the economy

Democratic Senator Warren pushes bank breakup, tax changes
Emily Stephenson, Reuters/Business Insider, 4/16/15
The Massachusetts Democrat and longtime consumer advocate has sought this year to draw public attention to what she sees as the unfinished job of revamping Wall Street oversight after the 2007-2009 financial crisis.

"We know what changes we need to make financial markets work better," Warren said in a speech at a Washington conference focused on the 2010 Dodd-Frank financial oversight law. "The key steps aren't hard."

Warren takes on Wall Street and "the unfinished business of financial reform"
Kerry Eleveld, DailyKOS, 4/15/15

Warren: We're not done with Wall Street
Peter Schroeder, The Hill, 4/15/15

Elizabeth Warren Takes on the Unfinished Business of Reining In the Banks
Working America blog, 4/16/15

Dodd-Frank 2.0: The Unfinished Business of Financial Reform
Adam Levitin, Credit Slips, 4/16/15

See text and video of Senator Warren's speech and related AFR statement.

Meaningful financial reform
Paul A. Volcker, Washington Post, 4/16/15

Liberal donors look to play catch-up at the state level
Associated Press/Reading Eagle, 4/13/15
A cadre of wealthy liberal donors aims to pour tens of millions of dollars into rebuilding the left's political might in the states, racing to catch up with a decades-old conservative effort that has reshaped statehouses across the country.

In a shift, the alliance is urging its members to invest in a host of groups working on specific policy issues such as the environment, income inequality and campaign finance reform. Among those that got the nod: **Americans for Financial Reform**, the Roosevelt Institute and LeadingGreen, a joint venture of the Natural Resources Defense Council Action Fund and the League of Conservation Voters.

Clinton's populist theme heartens liberal donors
Matea Gold, Washington Post, 4/15/15
That language struck a chord with members of the [Democracy Alliance]… [T]he organization is urging donors to contribute to an expanded suite of advocacy groups and think tanks devoted to economic inequality including **Americans for Financial Reform**, the Economic Policy Institute and the National Employment Law Project. The alliance also plans to convene regular strategy sessions for those organizations with labor unions and top liberal pollsters, aiming to develop a sharper policy framework that can be used on the campaign trail in 2016.

Hillary Clinton Said to Hire Former Wall Street Cop as Campaign CFO
Phil Mattingly & Silla Brush, Bloomberg, 4/1715
Hillary Clinton is planning to name Gary Gensler, a former top federal financial regulator and strong advocate for strict Wall Street rules, as the chief financial officer of her campaign, according to a Democrat familiar with the decision.

Gensler, in his role as chairman of the Commodity Futures Trading Commission, was a leading player in the drafting and then implementation of the Dodd-Frank Act, the financial rules that President Barack Obama signed into law in 2010 in the wake of the worst financial crisis since the Great Depression. Gensler also served in President Bill Clinton's Treasury Department.

Group Spells Out 5-Year Plan to Build Liberal 'Infrastructure'
Nicholas Confessore, NY Times, 4/12/15
The donors, all partners in the Democracy Alliance, held a spring retreat in San Francisco, where the alliance's leaders presented a new five-year plan intended to help stem political and legislative losses faced by Democrats. The alliance will seek to double the amount of money its partners contribute to a portfolio of liberal-leaning "infrastructure"

organizations, said Gara LaMarche, the alliance's president, aiming to push roughly $50 million a year into about 30 think tanks, policy advocacy organizations, and other groups.

While the alliance is avowedly neutral in Democratic primaries, it is adding to the portfolio this year some groups that have been critical of Mrs. Clinton and her husband, and Democrats more broadly, for being too closely tied to Wall Street. They include the Economic Policy Institute and **Americans for Financial Reform**. (The alliance also funds the Center for American Progress, which Mr. Podesta helped found and which is stocked with former and future Clinton aides.)

Don't Expect Hillary Clinton to Stand Up to Wall Street
Danny Vinik, New Republic, 4/10/15

CONSUMER FINANCE & PROTECTION

PayPal Says It May Face U.S. Lawsuit by June
Greg Bensinger, Wall Street Journal, 4/11/15
EBay Inc.'s PayPal payments unit may be sued by a U.S. regulator over allegedly excessive finance charges for a same-day lending service. In a Securities and Exchange Commission filing Thursday, PayPal said the Consumer Financial Protection Bureau indicated it may file a lawsuit against the division as soon as this quarter. Since 2013, the CFPB has been looking into PayPal Credit, a lending service formerly known as Bill Me Later. In Thursday's filing, eBay said the probe includes "online credit products, advertising, loan origination, customer acquisition, servicing, debt collection and complaints handling practices."

CFPB and Navajo Nation Take Action to Stop an Illegal Tax-Refund Scheme
Press Release, Consumer Financial Protection Bureau, 4/14/15

Apple Pay Is Just a Big Giveaway to Credit Card Companies
Juan Pablo Vazquez Sampere, Harvard Business Review, 4/14/15

ABA seeks changes to CFPB complaint portal and database
Barbara Mishkin, CFPB Monitor, 4/14/15

How Hackers Can Cash In on Your Online Payday Loans
Jordan Robertson, Bloomberg Business, 4/16/15

Warren says auto lending reminds her of pre-crisis housing days
Steve Goldstein, MarketWatch, 4/15/15

ENFORCEMENT

Elizabeth Warren has a game-changing idea that doesn't require Congress
Matthew Yglesias, Vox, 4/15/15
"No firm should be allowed to enter into a deferred prosecution or nonprosecution agreement if it is already operating under such an agreement — period," she says.

In typical Warren fashion, she lays out this idea like folksy common sense. But to understand what a powerful weapon this could be, you have to understand why officials in both the Bush and Obama administrations haven't used it against big banks.

EXECUTIVE COMPENSATION

Clinton's Executive Pay Comments Show We're Still Too Focused on Fairness
Susan Holmberg, Next New Deal, 4/17/15

[US CEO pay rose nearly 13% in 2014: Report]
CNBC/Reuters, 4/14/15

INVESTOR RIGHTS & SEC

[U.S. Plans Stiffer Rules Protecting Retiree Cash]
Tara Siegel Bernard, NY Times, 4/14/15
The financial services industry can be a minefield for [ordinary investors], who often cannot tell whether their advisers are putting the investors' interests first; the legal term for this is fiduciary duty. The rules, proposed by the Labor Department, which oversees retirement accounts, are part of the Obama administration's declared mission to support the middle class.

The [proposed rules] would eliminate some of the loopholes that allow brokers to avoid acting as fiduciaries when providing advice on retirement money held inside accounts like [401(k)'s] and in [individual retirement accounts], which hold roughly $7 trillion, as estimated by the [Federal Reserve.] The effort is expected to save investors $40 billion over 10 years, and that estimate takes into account only some of the conflicts that plague the financial services industry, according to the regulators.

[U.S. Tightens Broker Standards for Retirement Advice]
Andrew Ackerman, Wall Street Journal, 4/14/15
The [Obama] administration proposed long-expected rules toughening oversight of financial professionals paid to give retirement advice. The move is likely to intensify pushback from Wall Street groups, who have said the rules' costs could reduce options for mom-and-pop investors.

Under the proposal, released by the Labor Department on Tuesday, brokers would have to put clients' interests ahead of personal gain when they make recommendations for retirement accounts. At present, brokers' recommendations only have to be "suitable," a weaker standard that critics have said permits products with high fees that slowly erode returns.

[DOL Issues Proposed Fiduciary Rule, 2015 Version]
Ashlea Ebeling, Forbes, 4/14/15
Is this the same as the 2010 proposed rule that the DOL dropped amidst industry furor? No. The goal is the same—requiring more [retirement] investment advice to be in the clients' best interest—but the method is different. This time, the proposed rule would require a "best interest standard" across a broad range of retirement advice, basically expanding the types of retirement advice covered by fiduciary protections. So any advisor getting paid to provide individualized advice (what assets to purchase or sell, or whether to roll over a 401(k) plan balance into an Individual Retirement Account, for example), would be a fiduciary and have to put clients' interests first.

[Reaction to retirement advisor conflict-of-interest rule is muted, but fight looms]
Dean Starkman, Los Angeles Times, 4/15/15
A newly proposed rule to ban retirement planners from creating conflicts of interest with their customers might appear to put an end to the years-long policy fight over the issue.

Don't bet the retirement on it. The battle is just beginning, proponents of the rule said. The regulation requiring advisors to put clients' interests first is designed to halt planners from, among other things, steering unknowing customers into high-cost, poorly performing investments that pay planners more but cost investors dearly.

[Successful Investing for the Long Haul]
Editorial, NY Times, 4/8/15
If all advisers had a fiduciary duty to their clients, stock recommendations would focus mostly if not entirely on low-cost index funds, which don't try to beat the market but merely to match it. Index funds are not lucrative for commission-based advisers to recommend because they don't generate the fees and commissions associated with active trading. But they would be better for investors who would be zeroing in on the best long-term return they can reasonably expect at the lowest possible cost.

Even if index investing became the norm, many people would still need advice on, say, budgeting and goal setting, allocating their holdings among different asset classes, choosing funds and handling specific financial challenges. Such services, delivered by advisers who have a duty to act in investors' best interests, would clearly be valuable — and an improvement over current practices that all too often steer investors to high-cost products and strategies when lower-cost ones offer a better deal.

Rules on Investor Advice

Kathleen McBride, Letter to the Editor, NY Times, 4/15/15

The White House should move quickly to eliminate biased advice and the harm it causes investors and their retirement accounts. That will mean fending off a well-financed misinformation campaign by Wall Street. One example: Opponents on Wall Street assert without any evidence that the new rules would reduce the availability of investor services and increase their cost. A survey we recently released of more than 600 brokers and investment advisers overseeing at least $80 billion in client accounts shows that is simply not the case. In the survey, 83 percent of these professionals said the fiduciary standard would not price investors out of the market for advice, and 91 percent agreed that the fiduciary standard should apply to advice to investors on rollovers from 401(k)'s to Individual Retirement Accounts. The professionals working with clients every day are in favor of the fiduciary standard even if Wall Street higher-ups are not."

Game Changer: A First Look At The DOL's 2015 Conflict of Interest Proposal,

Pete Swisher, National Association of Plan Advisors, 4/15/15

This is an ambitious proposal that makes a genuine attempt to eliminate or mitigate the effects of conflicts of interest in ALL retirement plans, including IRAs. It is too soon to tell if the proposal, in its current form, will actually accomplish this goal, or what the intended and unintended consequences might be, but clearly the folks at the Department of Labor have poured their hearts into the effort and delivered a thoughtful, well-written proposal.

Labor Department Proposes Rule to Save Retirees Billions

AARP blog, 4/15/15

New York City Comptroller Wants to Make Fiduciary Status Clear

US News and World Report, 4/16/15

See joint statement by AFR and 40 advocacy organizations.

MORTGAGES AND HOUSING

U.S. House OKs cutting safeguards for mobile-home buyers

Daniel Wagner, Seattle Times, 4/14/15

The bill passed with strong support from Republicans, helped by a handful of Democrats. Other House Democrats objected vigorously, with several citing the findings of a recent investigation by The Seattle Times and The Center for Public Integrity.

The bill's sponsor, Rep. Stephen Fincher, R-Tenn…. received more campaign money from Clayton employees than any other candidate in the 2014 election cycle: $15,150. Clayton was his fourth-biggest financial backer, according to the Center for Responsive Politics, a nonprofit tracker of political money... Clayton also donated $8,750 to Rep. Jeb Hensarling, R-Texas. Hensarling chairs the House committee that delivered Fincher's bill to the floor.

House Republicans Hand Warren Buffett Big Win On Expensive Loans To The Poor

Zach Carter, Huffington Post, 4/14/15

House Republicans approved a set of lucrative perks for Warren Buffett on Tuesday, passing legislation to help his mobile home empire secure government protections on high-interest loans to poor people.

Buffett, the world's third-richest man, is by far the biggest operator in the mobile home industry. His Clayton Homes company sells more mobile homes, also known as "manufactured housing," than any other company. The two largest mobile home lenders are both Buffett companies -- Vanderbilt Mortgage and 21st Mortgage and Finance.

The industry targets the poor. More than 84 percent of the industry's customers earn less than the median household income.

House approves bill to change mortgage rules

Melissa Nann Burke, Detroit News, 4/14/15

House lawmakers approved legislation by Rep. Bill Huizenga, R-Zeeland, late Tuesday that would adjust the regulatory definition of a “qualified mortgage” to exclude certain title insurance-related points and fees, even when the lender or its affiliates receives the fees.

Huizenga said the bill, which passed by a 286-140 vote with the support of 45 Democrats in the GOP-controlled House, would improve lower-income consumers’ access to credit. “A qualified mortgage is the gold standard of home loans,” Huizenga said. “Hard-working families should not be denied access to a qualified mortgage because of technicalities that are largely out of their control.”
Rep. Maxine Waters, D-California, spoke against the measure, saying it would roll back protections for homebuyers and undermine recent reforms. The Mortgage Choice Act “would affect choice but in the wrong way” and “ironically ensure fewer choices for consumers,” Waters said.

Why You Should Be Worried about The Mortgage Choice Act

Letter to the Editor, The Chattanoogan, 4/15/15

Honestly, it doesn’t surprise that U.S. Rep. Tom Graves, R-Georgia., would support the Preserving Access to Manufactured Housing Act (H.R. 650) and the Mortgage Choice Act (H.R. 685) bills. What surprises me he is that he has the audacity to boast about the legislation, noting that it expands access to mortgages and home ownership. It doesn’t. It only benefits the mortgage industry by getting rid of caps on how much they can charge. It doesn't benefit you and me…

Are H.R. 685 and H.R. 650 the solution to the limited credit availability? No. They can do better. We deserve better because the path we’re headed on now is one that leads straight to the fiery gates of another recession.

See joint letters of opposition to HR 650 and HR 685 from AFR and allies. See also letter opposing both bills from the Leadership Conference on Civil and Human Rights.

Kaptur Votes To Protect Homeowners From Predatory Lending, Unfair Interest Rates

RealEstateRama, 4/16/15

See statement on both bills by Rep. Maxine Waters and White House statements opposing HR 650 and HR 685.

POLITICAL INFLUENCE OF WALL STREET & REVOLVING DOOR

Ben Bernanke deserves his Wall Street payday, but we still don’t have to like it

Matt O’Brien, Washington Post, 4/17/15

Now he's putting that expertise to the best possible financial use by signing on to advise the $25 billion hedge fund Citadel. Now Bernanke hasn't disclosed the terms of his compensation, but it's safe to say that if hedge funders are willing to pay him $200,000 just to dispense his wisdom over dinner, they'd be willing to pay him a lot more to do so on a regular basis. It's yet another example of the revolving door between Wall Street and Washington.

Studies show, Congress Favors the Rich

Bud Meyers, Economic Populist, 4/17/15

From the latest report by **Americans for Financial Reform**, Wall Street banks and financial interests spent $1.4 billion over the two-year course of the 2014 election cycle. That total amounts to over $1.9 million per day — “or an average expenditure of about $2.6 million to elect or influence each of the 535 members of the Senate and House of Representatives.” Nearly 350 financial firms and trade associations spent at least $500,000 in the lead-in to last November’s congressional elections.

PRIVATE EQUITY

IRS Should Crack Down on Private Equity's Abusive Tax Alchemy

Eileen Appelbaum, Huffington Post, 4/15/15

As Warren Buffet famously observed, "...while most Americans struggle to make ends meet, we mega-rich continue to get our extraordinary tax breaks." He was referring to the fact that capital gains earned by wealthy investors are taxed at a much lower rate than wages earned by workers. And while commissions paid to shoe salesmen and bonuses paid to bankers are taxed as ordinary income, the performance pay earned by private equity firm partners for managing an investment fund -- so-called carried interest -- is also taxed at the lower capital gains rate. This may be outrageous, but at least it's legal.

The same cannot be said for the tax dodge used by private equity firm partners to convert the ordinary income they receive from their fixed management fees into additional capital gains. The partners at Bain Capital famously waived over $1 billion of management fees over a 10-year period, saving these partners, at a single firm, over $250 million of taxes on what was, essentially, their salary income.

This tax scam is known as a management fee waiver. In simplest terms, the PE firm "waives" the fee that investors in PE funds pay for management services -- typically 2 percent of capital committed to the fund by the investor. In exchange, the PE fund investment manager gets a priority claim on profits (typically capital gains) earned by the fund. This sleight of hand, it is claimed, turns the ordinary income the manager would have realized had it received the management fee in cash into capital gains, the tax equivalent of turning water into wine.

New Push for Private Equity Transparency

Vic Fleischer and Eileen Applebaum, FundFire, 4/16/15

Bonanza for the Superrich: The Fund Managers' Tax Break

Dean Baker, Truthout, 4/15/15

STUDENT LOANS

Help for Victims of Crooked Schools

Editorial, NY Times, 4/17/15

Over the last 20 years, the Department of Education has received only a handful of requests from borrowers seeking to escape repayment on grounds of wrongdoing by schools. Evaluating many such requests will be difficult. But the evidence shows that such a system is needed and that relief is long overdue.

The Education Department Is Working On A Process For Forgiving Student Loans

Molly Hensley-Clancy, Buzzfeed, 4/15/15

A crackdown on for-profit colleges makes sense

Editorial, San Francisco Chronicle, 4/15/15

Transparent Oversight of Troubled Colleges Can Help Students Make Informed Choices

Elizabeth Baylor, Center for American Progress, 4/16/15

SYSTEMIC RISK

Unsafe and Unsound Banks

Editorial Board, NY Times, 4/11/15

After the latest round of bank stress tests last month, the Federal Reserve announced that, by and large, the nation's biggest banks would all be able to withstand another crisis without requiring bailouts. This month, Thomas Hoenig, vice chairman of the Federal Deposit Insurance Corporation, released data that contradict the Fed's conclusions…

History favors Mr. Hoenig's approach. Gains and losses on derivatives may be offsetting when the economy is stable, but in the financial crisis American taxpayers were forced to hand the banks tens of billions of dollars to make good on derivative bets gone bad. In a healthy system, the banks would hold enough capital to ensure that doesn't happen again. Do they now? Fed officials seem to think so. They should think again.

Public Citizen's Bartlett Naylor on Too Big to Fail and Too Big to Jail

Editor, Corporate Crime Reporter, 4/14/15

According to Naylor, there are two main issues today in DC concerning Wall Street and the Big Banks — too big to fail and too big to jail. And there is a solution — bring back Glass Steagall and impose a hard cap on the size of banks.

During the debate over Dodd-Frank — that proposal, in the form of the Brown-Kaufman legislation — actually came to a vote on the Senate floor in 2010 and garnered 33 yes votes.

Goldman Sachs' big quarter affirms Wall Street's comeback

Dean Starkman, LA Times, 4/16/15

Citigroup: Systemic Risk and Moral Hazard

John Harrington, HuffPost, 4/15/15

SEC's Aguilar warns about complex securities

Patrick Temple-West, Politico Pro (paywalled), 4/14/15

The SEC and state regulators should do more to shed light on complex financial securities in addition to 'structured notes,' which are typically bonds and derivatives combined to mimic an index or other asset, and are becoming increasingly popular with retail investors, the agency's senior Democrat said today.

With interest rates low, retail investors have been putting money in higher-yielding assets that can be opaque and complex, making them "easy prey" for fraudsters, said SEC Commissioner Luis Aguilar in a speech before a conference of the National American Securities Administrators Association (NASAA) in Washington. The variety of structured note offerings includes principal protected notes, reverse convertible notes, enhanced participation or leveraged notes and hybrid notes — all of which can be riskier investment products than traditional stocks and bonds, Aguilar said. For example, Lehman Brothers sold unsecured "principal protected notes" that became worthless when the company went bankrupt in 2008.

OTHER ISSUES

Regulatory reform bills clear House panel

Tim Devaney, The Hill, 4/15/15

The House Judiciary Committee approved the Regulations from the Executive in Need of Scrutiny (REINS) Act by a vote of 15-10. The controversial act, introduced by Rep. Todd Young (R-Ind.), would give Congress more authority to reject regulations. Federal agencies would be required to submit major rules to Congress for approval before they go into effect.

Fast track trade authority is a mistake for most businesses

David Levine, The Hill, 4/15/15

U.S. Senate Banking panel launches new investigative team

Sarah N. Lynch, Reuters, 4/14/15

The U.S. Senate Banking Committee has set up an investigative team in recent weeks that will probe issues ranging from financial regulation to insurance fraud, part of a drive by its new chairman to beef up the panel's oversight function. Senate Banking Chairman Richard Shelby, who took the top post this year after Republicans gained control of the Senate, had pushed for the committee to establish an investigation team throughout the 2007-2009 financial crisis, while the panel was controlled by Democrats.