Americans for Financial Reform

This Week in Wall Street Reform | Sept 26 – Oct 2, 2015

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CONSUMER FINANCE & THE CFPB

House Democrats Back Away From GOP Attack On Elizabeth Warren's Agency
Zach Carter, Huffington Post, 9/30
Democrats on Wednesday overwhelmingly voted against a bill to hamstring the Consumer Financial Protection Bureau… replacing its director with a bipartisan five-member commission. Reps. David Scott (D-Ga.) and Kyrsten Sinema (D-Ariz.) were the only Democrats voting in favor, joined by every Republican present at the markup. Rep. Brad Sherman (D-Calif.), who had previously spoken in support of the bill, said he was casting "a reluctant no" vote during the roll call…

On Tuesday [when CFPB Director Richard Cordray testified before the House Financial Services Committee], Sherman backed the Republican plan, claiming it would protect the agency from a GOP president seeking to undermine Cordray and Warren's work… "That's a bogus argument for a form of agency leadership that has been shown again and again to produce weak regulation and enforcement at best, and partisan gridlock at worst," said Jim Lardner, spokesman for **Americans for Financial Reform**, a nonprofit Wall Street watchdog group. "The commission idea is being promoted by an alliance of financial industry lobbyists and lawmakers who have been out to undermine the Bureau's effectiveness ever since they failed to block its creation."

Defecting Dems Surface in CFPB Battle
Victoria Finkle, American Banker, 9/30
A handful of moderate Democrats supported a controversial bill to restructure the Consumer Financial Protection Bureau, helping the House Financial Services Committee approve the legislation. The debate highlights a growing divide among some party moderates and more progressive lawmakers who remain opposed to changing core aspects of the Dodd-Frank Act…

Three Democrats, Reps. Kyrsten Sinema of Arizona, David Scott of Georgia and Brad Ashford of Nebraska, are cosponsors on the legislation, along with 45 GOP lawmakers. Scott and Sinema were the only two Democrats to support the bill (Ashford is not on the panel) but several other Democrats suggested the general idea of a commission structure. The White House would almost certainly veto a standalone bill changing the CFPB's structure, though it will be crucial to watch whether the measure slips into a must-pass bill in coming months and becomes part of the yearend debate.

There is no justifiable reason to change the nation's consumer protection bureau
Cynthia Zwick, Arizona Capital Times, 10/1
The very idea of changing the structure of a government agency by adding another layer of red tape and expanding its makeup is both head-scratching and counterproductive. But that's just what H.R. 1266 proposes for the Consumer Financial Protection Bureau (CFPB).

CFPB should be bipartisan commission
Frank Keating, Michelle L. Korsmo, Richard Hunt, Jim Nussle, Camden R. Fine and B. Dan Berger, The Hill, 9/30

The CFPB has established a foundation of consumer protection and has returned money back to consumers harmed by financial products or practices. However, the CFPB's work over the past four years and its mission is in jeopardy if a stable, bipartisan board is not put in place. A bipartisan commission is not only good policy, but it is smart politics. It would ensure the agency is around not only for the next administration, but for the next generation of consumers.

CFPB's Defenders Hold the Line in Financial Services Committee
Americans for Financial Reform, 9/30
When the CFPB was established as part of the Dodd-Frank Act, the idea of a 5-member Commission was debated and ultimately discarded in favor of a single director, with additional oversight from the Financial Stability Oversight Council (FSOC), which has veto power over the agency's rulemaking. Seeking to change the agency's structure now would benefit the powerful special interests looking to slow or limit the CFPB's efforts to protect consumers and make markets work, without increasing the Bureau's accountability. While there are some financial regulatory agencies with single directors and some with commissions, there is certainly no measurable evidence that boards or commissions work better, and we believe strongly that a single director helps the CFPB succeed in its vital consumer protection mission

See **AFR letter** and **AFR statement**.

Democrat Eyeing McCain's Senate Seat Moves from Pagan Socialist to Conservative Blue Dog
Carter Dougherty, Inside Sources, 9/30
[Kyrsten] Sinema's metamorphosis from leftist rabble-rouser to bank-friendly lawmaker has dismayed a good chunk of the liberal Democratic base in Arizona that thought they had elected a kindred spirit to the House of Representatives in 2012. In particular, they are taking issue with Sinema's support for legislation that would restructure the Consumer Financial Protection Bureau, the federal agency created in the post-crisis overhaul of U.S. bank regulation in 2010.

Congress Grills CFPB Director over New Rules, Bureau Methods
Aaron Steinberg, InsideArm, 9/30
Throughout the long (nearly 4-hour) and often contentious hearing, Committee Members pushed Cordray on his agency's rulemaking authority, the efficacy of statistical methods behind enforcement, the agency's lack of transparency and the merit behind newly proposed Bureau rules involving payday lending and auto financing.

CFPB Director Talks Credit Regulation, Lending with Congress
PYMNTS, 9/29

Report: Payday lending bills, letters tied to donations
Jon Prior, PoliticoPro, 9/30
A dozen lawmakers received campaign contributions from payday lenders at around the same time they were introducing bills and writing letters benefiting the high-cost cash-advance industry, according to a **report** Wednesday from liberal advocacy group Allied Progress.

The report, which tracks donations going back to 2011, raises questions about whether the industry was too brazen in its use of political contributions to drum up support. The lawmakers include two Republicans aiming for House leadership positions, Reps. Patrick McHenry of North Carolina and Pete Sessions of Texas…The report focuses on contributions that came at the same time that lawmakers introduced three bills that advocates say would either weaken the CFPB or grant payday lenders the ability to maneuver around tougher rules and oversight.

Study: Payday lenders fill GOP coffers
Tim Devaney, The Hill, 10/1

Report Shows Payday, Car Title Lenders Moving Into Unsafe Installment Loans
Center for Responsible Lending, 10/1
A new policy brief released today by the Center for Responsible Lending provides a state-by-state snapshot showing predatory payday and car title lenders increasingly moving into installment loans. The lenders are continuing to offer

unsafe loans with excessive interest rates, which are carefully designed to trap borrowers in a cycle of debt they cannot escape, and actively seeking to expand into new states. The report highlights that just because lenders are making an installment loan, it is no guarantee that it is a safe loan. The report makes recommendations to regulators and policymakers to protect against harmful debt trap lending.

Payday Lenders: 'We're Not Bottom Feeders!'

Tina Dupuy, Capital & Main, 10/1

"Some call us bottom feeders, loan sharks and parasites, but we're a lawful business!" This was the well-worn message to attendees from various participants. It was less informative than it was an exercise in cognitive dissonance. Group therapy for those cursed with a conscience.

Why are payday lenders hated? Mainly because they've managed to squeeze $46 billion annually out of an anemic class of underrepresented and marginalized human beings. All the world's major religions agree on two things: The Golden Rule is right and usury is wrong. In the modern world we live (and die) on credit, but still are repulsed by predatory lending.

Why payday loans are in consumers' best interests

Rep. Alcee Hastings, Washington Times, 9/28

In March, the Consumer Financial Protection Bureau (CFPB) announced that it intends to implement rules to regulate payday lenders and other forms of short-term credit. The purpose of this regulation, CFPB asserts, is to eliminate "debt traps" by requiring lenders to ensure that customers can repay their loans through a variety of regulations.

While the CFPB has been consistent in its assurance that these new regulations will work in conjunction with existing state laws, the practical effect of such a regulatory framework will almost certainly result in a de facto prohibition on payday loans.

Catholic Church is taking the fight to payday lenders in Arlington

Jim Mitchell, Dallas Morning News, 9/29

Consumer Help for Georgia Military

WRDW TV, Augusta Ga.

FDIC, Fed Must Face Payday Lenders' 'Choke Point' Lawsuit

Andrew M. Harris & Jesse Hamilton, Bloomberg, 9/25

A federal judge on Friday refused to dismiss the suit against the Federal Deposit Insurance Corp., the Federal Reserve and the Office of the Comptroller of Currency. U.S. District Judge Gladys Kessler in Washington threw out some claims while allowing others to go forward.

The lenders group, in a complaint filed last year, said its members had been unfairly targeted in the government's anti-fraud "Operation Choke Point" initiative. The association claims the probe -- also linked to FDIC concerns over banks lending to high-risk businesses, including ammunition dealers, online gambling and pornography merchants -- led regulators to deny payday lenders their constitutional rights to hold bank accounts and pursue their chosen line of business.

With Consumer Lenders Under Regulatory Glare, Big Banks Tighten Purse Strings

Peter Eavis, NY Times, 10/1

Consumer lending firms that focus on borrowers with weak credit have done surprisingly well in the last few years. Many survived the financial crisis of 2008, the Great Recession, and even went on to post strong profits in the face of an onslaught of new regulations. Now, though, these lenders face pressure from an unlikely source: the big Wall Street banks that have long provided the financial underpinnings for their operations.

The banks apparently tightened their terms as a response to the increase in regulation of the consumer lending industry. The new language was introduced as the Consumer Financial Protection Bureau, a federal agency set up after the financial crisis to police consumer lending, has been stepping up its oversight of consumer lenders. The lenders have come under scrutiny for a range of practices that can lead borrowers to believe they are paying far less in interest and fees than they actually are.

Banks Demand More Government Scrutiny of Marketplace Lenders
Kevin Wack, American Banker, 9/30

Hardball debt collectors won't leave the field
Fred Williams, Taking Charge, 10/1

New Book Looks at Why Banks Fail So Many Americans—and a Possible Solution
Press Release, University of Georgia, 9/30
How did affordable banking services become so scarce at the same time that banks have become bigger and more profitable?

[Mehrsa] Baradaran, Associate Professor at the University of Georgia School of Law, traces the history of banking in America to show how trends including deregulation and the consolidation of banks have resulted in a banking system that, while enjoying government support in the form of deposit insurance, interest-free loans, and bailouts, has no incentive to serve Americans who most need small loans. Meanwhile, the organizations originally founded to serve working-class and middle-class Americans—community banks, savings and loans, buildings and loans, credit unions—long ago drifted from their mission of helping small borrowers.

The Return of the Debtors' Prison
Anthony Romeo, Huffington Post, 9/30
The debtors' prison was supposed to be a thing of the past--a relic of the colonial era that was outlawed by the United States government nearly two centuries ago. More recently, the Supreme Court ruled that jailing people who lack the means to pay criminal justice fines or fees--a modern-day form of debtors' prison--is unconstitutional. Ultimately, debtors' prisons are not only illegal, they are counterproductive: incarceration strains limited public resources and can have devastating consequences on the lives of the poor.

Nonetheless, in the wake of the recent economic recession, cash-strapped state and local governments have aggressively targeted poor individuals who have already served their criminal sentences. The March 2015 U.S. Justice Department's report on Ferguson, Missouri, provides a horrifying glimpse of what can happen when governments treat the poor as mere revenue sources.

Obama's Postal Service nominees opposed by labor, civil rights groups
Sean Higgins, Washington Examiner, 10/2
The groups object to [Mickey D.] Barnett, who was renominated by President Obama for a third term, on the grounds that he formerly lobbied for the payday loan industry. Civil rights groups accuse the private industry of preying on low-income individuals and minorities. Unions and civil rights groups have proposed the Postal Service provide an alternative to payday loans as part of an effort to crowd out the private industry. The letter expresses concerns that Barnett might use his position to pervert this goal.

See **joint letter** from 11 groups, including AFR.

DODD-FRANK (AND CONTINUED ATTACKS)

[Three Key Fights to Protect the President's Consumer Protection Agenda]

Jeffrey Zients, White House Blog, 9/30

Today, the House Financial Services Committee is considering several bills designed to undercut critical Wall Street reform and consumer protection efforts…

> *1. Running CFPB by Commission*
> *The Committee is considering a provision to install a commission structure at the CFPB, instead of a Director. Opponents of the CFPB view a commission structure as a maneuver designed to tie the CFPB in knots, limiting the Bureau's effectiveness…*
>
> *2. Blocking a Rule That Protects American Retirement Savers*
> *The second bill would essentially block the Department of Labor's proposed Conflict of Interest Rule from moving forward. At the bidding of the special interests, the bill thwarts a rule that simply requires financial advisers to adhere to a commonsense principle — that they should always, always put their clients' best interest first…*
>
> *3. Rolling Back the CEO Pay Ratio*
> *Importantly, under the final rule issued by the SEC in August, companies are granted substantial flexibility in determining the methods they use to identify median employee compensation. The assertions from industry about the burden of this rule are drastically overstated, and the rule will provide additional transparency for everyday investors. Unfortunately, yet another GOP-led bill being considered today would undo this increased transparency and accountability.*

[Banking Industry Seeks Dodd-Frank Rollbacks In the Form of Year-End Policy Riders]

George Cahlink, Roll Call, 9/29

The banking industry believes it can win more rollbacks of the 2010 Dodd-Frank financial overhaul by having them ride on year-end legislation, a move that will only make politically difficult year-end negotiations that much more treacherous for congressional leaders.

Financial services lobbyists concede that Republican-written bills to make broad changes to the oversight of their industry aren't likely to become law in this Congress, given partisan gridlock and a tight legislative calendar. They say instead that their best chance will be to attach piecemeal Dodd-Frank changes to whatever year-end spending agreement lawmakers conjure up to avert a government shutdown.

[Nobody wants to be known as the Senator from Goldman Sachs]

John Dizard, Financial Times (paywalled), 10/2

[W]ould such a huge, detailed law not have a couple of imperfections that might have some impact on market liquidity, which could have painful effects on the general economy? "Yes, there are a lot of words in it, but the level of regulatory discretion is massive [says Marcus Stanley, policy director of Americans for Financial Reform. "Why are we thinking that the [financial] industry and the industry lobby knows better than the regulators? To say that Dodd-Frank is some straitjacket ignores the [truth] that regulators have lots of chances to adjust [its implementation]."

[Shadow-boxing over Dodd-Frank]

Camden Fine, Washington Times, 9/27

ENFORCEMENT

[Wall Street Banks Finalize $1.86 Billion Credit Swaps Settlement]

Katy Burne, Wall St. Journal, 10/1

Wall Street's biggest banks have agreed to pay $1.86 billion to settle accusations that they conspired to prevent competition in the credit derivatives markets, according to plaintiff lawyers in the private lawsuit. The statement from the plaintiff lawyers called the settlement agreement "one of the largest recoveries ever for plaintiffs in an antitrust class action."

The credit derivatives lawsuit centered on whether the defendants coordinated their efforts to delay or prevent exchanges from trying to put the swaps contracts onto open, regulated platforms where prices would be more transparent. The defendant banks are: Bank of America Corp., Barclays PLC, BNP Paribas SA, Citigroup Inc., Credit Suisse Group AG, Deutsche Bank AG, Goldman Sachs Group Inc., HSBC Holdings PLC, J.P. Morgan Chase Co., Morgan Stanley, Royal Bank of Scotland Group PLC and UBS Group AG.

UBS Unit to Pay $34 Million in Settlements Over Puerto Rico Bond Funds
Mike Cherney, Wall St. Journal, 9/30

FEDERAL RESERVE

Yellen: Banks Need 'Tailored' Regulation
American Bankers Association, 10/1
In her opening remarks for the St. Louis Fed's third annual Community Banking Research and Policy Conference, Federal Reserve Chairman Janet Yellen emphasized the importance of tailored regulation of banks with different asset bases and business models. She said: "When it comes to bank regulation and supervision, one size does not fit all. To effectively promote safety and soundness and ensure consumer compliance without creating undue regulatory burden, rules and supervisory approaches should be tailored to different types of institutions."

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

Support Grows for Baldwin-Levin Tax Reform Legislation
Sen. Tammy Baldwin Press Release, 9/28
U.S. Senator Tammy Baldwin (D-WI) and House Ways and Means Committee Ranking Member Sander Levin (D-MI) today announced growing support for tax reform legislation they have introduced to end the carried interest loophole that has allowed wealthy investors to pay lower interest than average Americans. In June, Senator Baldwin and Ranking Member Levin introduced the Carried Interest Fairness Act of 2015. The legislation would end the carried interest loophole and ensure that income earned managing other people's money is taxed at the same ordinary income tax rates as that of the vast majority of Americans.

Americans for Financial Reform and the AFL-CIO are also calling for Congressional action on the tax reform measure. "It's a matter of basic fairness to end the carried interest loophole and raise revenue by equalizing tax rates between wealthy Wall Street fund managers and ordinary workers. Leaders across the political spectrum have endorsed this change. It's past time for Congress to take action and plug the carried interest loophole," said **Americans for Financial Reform** Policy Director Marcus Stanley.

(See **"Mortgages and Housing"** section for more private equity stories.)

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

A Tax to Curb Excessive Trading Could Be a Boon to Returns
Ron Lieber, NYTimes, 10/2
This is the story of the financial transaction tax that's part of the agenda of Senator Bernie Sanders. Mr. Sanders wants to tax stock trades at 0.5 percent of the value of the transaction, 0.1 percent for bonds and 0.005 percent for derivatives. Individual investors wouldn't pay this tax directly on their own trades in brokerage or retirement accounts; its main target is high-speed traders and hedge funds…. It's not a radical proposal. Depending on the details, financial transaction tax endorsers, according to the Robin Hood Tax, an advocacy group, have included everyone from Bill Gates to Kofi Annan, the former United Nations secretary general, to David Stockman, the former budget director for Ronald Reagan.

[SEC fines high-speed trading firm Latour for rule violations](#)
John McCrank, Reuters, 9/30
The U.S. Securities and Exchange Commission said on Wednesday that Latour Trading LLC would pay more than $8 million to settle charges that the high-frequency trading firm violated rules aimed at ensuring safe and efficient markets. Latour, a unit of Tower Research, sent out millions of non-compliant orders to U.S. stock exchanges, many of which were executed at worse prices than were available elsewhere, between October 2010 through August 2014, the SEC said.

[Modern Markets Asks "Is it Too Easy to Trade?"](#)
John D'Antona Jr., Traders Magazine, 9/29

INVESTOR PROTECTION AND THE SEC

[Arthur Levitt, Former SEC Chief, Blasts Lawmakers Who Attack Regulators](#)
Susan Antilla, The Street, 9/28
Former Securities and Exchange Commission chairman Arthur Levitt blasted Washington politicians in a speech to securities regulators Monday, saying they were "too busy raising funds" to recognize the importance of the work of securities regulators. "When was the last time you saw the Financial Services Committee stand up for investor initiatives?" he asked an audience at the annual meeting of the North American Securities Administrators Association, a network of state regulators. He said he could recall no other time in history when securities regulation "was more under attack."

Levitt, who was chairman of the SEC from 1993 to 2001, said that the work of regulators "is being held to more scrutiny than I think is deserving in Washington" because members of Congress don't see regulations as critical. Congress's Financial Services Committee "is intended to be an oversight committee to protect investors," he said, "but it's become anything but." Instead, it has become "an agent of corporate sponsors of Congress and an enemy of the SEC," he said.

[S.E.C. Turns Its Eye to Hidden Fees in Mutual Funds](#)
Gretchen Morgenson, NYTimes, 9/25
As regulators have ramped up their scrutiny of private equity practices in recent years, investors have learned a lot about hidden — and dubious — fees they are paying. Now it's time for investors in the $16 trillion mutual fund arena to do the same.

On Sept. 21, the Securities and Exchange Commission's enforcement division filed proceedings against First Eagle Investment Management, an asset-management company overseeing $100 billion — mostly in eight stock, bond and multi-asset funds. The S.E.C. said that from January 2008 through March 2014, First Eagle improperly billed its investors $25 million for payments to brokers marketing the funds' shares.

[Don't mess with the SEC's Mary Jo White](#)
Geoff Colvin, Fortune, 9/26
In June liberal Senator Elizabeth Warren sent the 67-year-old White a blistering 13-page letter asserting that her "leadership of the Commission [had] been extremely disappointing." Rep. Elijah Cummings, a Maryland Democrat, likewise asked her to explain what he apparently considers the commission's too-gentle treatment of Citigroup, J.P. Morgan Chase, and other major banks…

With some measure of irony, White can blame her prior record of achievement for much of this criticism: She entered the SEC with a reputation for unrelenting toughness and prosecutorial vigor… After that buildup it was probably inevitable that she would disappoint those who want her to apply the same iron hand to Wall Street. But in some ways she has indeed been more vigorous than her predecessors in pursuing financial wrongdoing.

MORTGAGES & HOUSING

[As Banks Retreat, Private Equity Rushes to Buy Troubled Home Mortgages]

Matthew Goldstein, NYTimes, 9/28

Private equity and hedge fund firms have bought more than 100,000 troubled mortgages at a discount from banks and federal housing agencies, emerging as aggressive liquidators for the remains of the mortgage crisis that erupted nearly a decade ago…Federal housing officials, for the most part, have welcomed the new financial players as being more nimble and creative than banks with terms for delinquent borrowers.

But the firms are now drawing fire. Housing advocates and lawyers for borrowers contend that the private equity firms and hedge funds are too quick to push homes into foreclosure and are even less helpful than the banks had been in negotiating loan modifications with borrowers.

[Hedge Funds: The Ultimate Absentee Landlords]

Peter Dreier and Aditi Sen, American Prospect, 9/29

Nearly eight years after the start of the global financial crisis, some of the same corporate actors that precipitated the housing crash are buying up distressed housing assets in bulk, including delinquent mortgages and vacant houses that are a product of the crash.

Earlier this year, a coalition of consumer, civil-rights, and community groups—Right to the City, **Americans for Financial Reform**, the Center for American Progress, the Center for Popular Democracy, the National Consumer Law Center, the National Community Reinvestment Coalition, National Council of La Raza, the National Association for Latino Community Asset Builders, the National Fair Housing Alliance, the Leadership Conference on Civil and Human Rights, the California Reinvestment Coalition, and the Greenlining Institute—sent a letter to HUD, asking the agency to stop auctioning off the loans until it puts in place rules to limit sales of HUD and FHFA loans and properties to Wall Street speculators; to give priority to nonprofit groups in the disposition of troubled properties; and to require buyers of these loan pools to help homeowners avoid foreclosure.

[Senator Elizabeth Warren to Join Call to Alter Sales of Distressed Loans]

Matthew Goldstein, NY Times, 9/30

Housing advocates have attracted a prominent ally in their push to change the federal government's policy of selling distressed mortgages at a discount to private equity firms and hedge funds.

Senator Elizabeth Warren, Democrat of Massachusetts, joined other lawmakers, advocates and community activists on Wednesday in a Washington rally to oppose the loan sale program. The senator called on the Department of Housing and Urban Development and the Federal Housing Finance Agency, the overseer of Freddie Mac and Fannie Mae, to make it easier for nonprofit organizations to bid for the bundles of distressed mortgages put up for auction.

[Elizabeth Warren takes to the streets against REO, NPL investors]

Trey Garrison, HousingWire, 9/30

[Regulators Will Not Be 'Punitive' in Enforcing New Disclosures, Cordray Says]

Brian Collins, American Banker, 9/29

The Consumer Financial Protection Bureau is working with other regulators on examiner guidance to help ensure that the agencies enforce new mortgage disclosures in a "corrective" manner, not a "punitive" one, Director Richard Cordray said Tuesday.

During a House Financial Services Committee hearing, Cordray said the agencies were poised to release the guidance at any time, hopefully before the new disclosures go into effect on Oct. 3. He pledged that lenders who are making good-faith efforts to implement the disclosures will have "some period of months" to work out any problems.

[Fannie Mae, Freddie Mac: Deregulating The Mortgage Markets]
Value Walk, 10/1

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Is Your Financial Adviser Making Money Off Your Bad Investments?]
Lily Batchelder and Jared Bernstein, NYTimes, 9/29
Earlier this year the Obama administration proposed a “conflict of interest” rule, designed to ensure that when it comes to saving for retirement, financial advisers always put their clients’ interests above their own — instead of, say, nudging their clients into investment products that pay the advisers more for their recommendation, but offer less return for the investors. The administration’s proposal, to be implemented through the Department of Labor, says that advisers who receive side payments like this have to disclose them to clients, and also commit to an enforceable “fiduciary” standard — meaning they have to put their customers’ best interest before their own profits.

Not surprisingly, some financial services companies don’t like this idea, and have been spending millions of dollars lobbying to block the rule. On Wednesday the House Financial Services Committee is scheduled to vote on a bill that would effectively prevent the administration from moving forward with the proposal until the Securities and Exchange Commission issues its own rule on financial advice. This might seem reasonable, but it’s a red herring. The S.E.C. has shown little movement toward acting, while the administration’s proposal is making steady progress toward implementation.

[Wagner Bill Gets It Backwards: SEC Should Follow DOL's Lead on Fiduciary Duty]
Barbara Roper, Huffington Post, 9/29
The House Financial Services Committee has scheduled a markup for tomorrow of Rep. Ann Wagner's bill undercutting Department of Labor efforts to strengthen protections for American workers and retirees who turn to financial professionals for retirement investment advice. The bill (H.R. 1090) would do this first by halting the DOL rulemaking until the Securities and Exchange Commission finalizes its own, long-awaited fiduciary rule and second by erecting additional barriers in the way of SEC rulemaking.

The premise of the Wagner bill is that retirement savers don't need protection, as Rep. Wagner herself recently acknowledged when she called the DOL rule "a solution in search of a problem." Making the Department follow the SEC's lead is just a convenient way to prevent DOL from acting without having to acknowledge that one opposes a best interest standard for retirement investment advice.

[Wagner Bill Halting DOL Fiduciary Rule Passes House Panel]
ThinkAdvisor, 9/30

[The Daily 202: Elizabeth Warren challenges Brookings over research backed by industry]
James Hohmann, Tom Hamburger, and Elise Viebeck, Washington Post, 9/29
Sen. Elizabeth Warren today takes her ongoing crusade against the outsized influence of the financial services industry to one of Washington’s most respected think tanks. The Massachusetts Democrat is questioning the independence of the Brookings Institution and one of its longtime scholars over a study that criticizes a proposed regulation aimed at reining in conflicts of interest among retirement advisers.

Post reporter Tom Hamburger obtained letters that Warren sent this week to Brookings and the Labor Department. The Massachusetts Democrat blasts a report by non-resident scholar, Robert Litan, which predicted high costs for a measure backed strongly by progressives, consumer groups and President Obama. Citing the $85,000 combined fee that Litan and a co-author received from a leading investment firm, Warren calls their report “highly compensated and editorially compromised work on behalf of an industry player seeking a specific conclusion.”

[Top Brookings economist forced out over biz-backed study]
Kevin Cirilli, The Hill, 9/29

[Ousted Brookings economist lashes back at Warren]
Kevin Cirilli, The Hill, 9/30

[In Litan Scandal, It Isn't the Money, It's the Economics]
Barbara Roper, Huffington Post, 10/2
Because what is most shocking about this particular bit of industry funded "research" is just how poor the quality of the analysis is. Really, for $85,000, the Capital Group had a right to expect a more convincing document.

Litan and Singer's argument hinges on two key points: 1) that industry will follow through on its threats to stop serving smaller accounts if the rule is adopted and 2) that investors will lose access to important benefits, which the authors value at roughly $80 billion, as a result of losing access to human advisors. The first point is based on a fundamental error about the rule of such magnitude that it alone is enough to discredit the report. The authors offer theories, but no evidence, to support the second point.

[Elizabeth Warren exposed a shocking instance of how money corrupts DC think tanks]
Matthew Yglesias, Vox, 9/30
The main mechanism cited in Litan and Singer's paper is "market timing," or the tendency of investors to panic and sell when the market is plummeting and buy when it's booming. That results in selling low and buying high, which reduces overall savings compared with doing what you're supposed to and just buying and holding index funds. Human investment advisers, Litan and Singer claim, are effective at persuading people to buy and hold and not panic during market crashes… [But] but a 2009 peer-reviewed article in the Review of Financial Studies (ungated copy here) by Harvard Business School's Daniel Bergstresser (now at Brandeis), University of Oregon's John M.R. Chalmers, and Harvard Business School's Peter Tufano (now at Oxford) found that "the aggregate pattern of investment in broker-sold funds does not demonstrate superior market timing advice by brokers" (emphasis mine)…

Litan and Singer claim that advisers push for diversification. But an experiment conducted by Harvard economist Sendhil Mullainathan, MIT's Antoinette Schoar, and the University of Hamburg's Markus Noeth found that advisers very rarely advised clients to invest in well-diversified, low-fee portfolios, often instead directing them toward returns-chasing behavior and actively managed funds. Advisers don't encourage good investment practice, as Litan and Singer assert (based on evidence provided by … investment advisers); they encourage bad habits.

[A Fiduciary Critic, Representing Whose Interest?]
Barry Ritholtz, Bloomberg, 10/2

[Wonks for Hire]
Helaine Olen, Slate, 10/2
The financial services industry has long sponsored quasi-official academic studies, which it uses to influence both public opinion and politicians in Washington. In 2010, the late magazine Smart Money took the issue on, focusing on David Babbel, a professor at the University of Pennsylvania's Wharton School of Business who took money from New York Life Insurance Company to study annuities. He promptly—with several co-authors—churned out a report recommending said product as the answer for what to do with a lump sum of money at retirement. Do you really need me to tell you which company happens to sell annuities to seniors?

Other financial services firms have even set up their own think tanks, like Allianz Global Investors, which founded the Center for Behavioral Finance in the wake of the financial crisis and promptly began sending its reports to the Labor and Treasury departments.

[Labor Department's Fiduciary Proposal: Key Provisions to Watch]
Anna Prior, Wall St. Journal, 10/1

[Advisers form coalition to oppose DOL fiduciary rule](#)
Mark Schoff Jr., Investment News, 10/2

STUDENT LOANS & FOR-PROFIT EDUCATION

[Speedy Help for Victims of College Fraud](#)
Editorial, NY Times, 9/26
The federal government's decades-long failure to curb predatory behavior by the for-profit college industry has left untold numbers of Americans with crushing debt while providing useless degrees — or no degrees at all — in return. The Obama administration took an important step in the right direction when it created new oversight rules for the industry and stepped up its investigations into companies like Corinthian Colleges — one of the largest operators of for-profit colleges and trade schools in the country until it collapsed last year amid state and federal lawsuits and fraud investigations.

A pending lawsuit brought against Corinthian by the federal Consumer Financial Protection Bureau, drawing on company documents, asserts that among other predatory techniques Corinthian touted bogus job prospects to lure tens of thousands of disadvantaged people into taking out private loans to cover expensive tuition costs.

[Senate Bill Aims to Stop For-Profit College Scams Before They Start](#)
John Sandman, The Street, 9/30
Senators Dick Durbin (D-Ill.) and Chris Murphy (D-Conn.) and Maggie Thompson, campaign manager of Higher Ed, Not Debt at the Center for American Progress, announced on Tuesday the introduction of a bill to protect students from bad actors in the for-profit college sector. The Students Before Profits Act will enable the government to recoup federal dollars from the owners and executives who reap huge profits from failed, fraudulent for-profit institutions.

This legislation comes with teeth that current laws don't have. It would authorize enhanced civil penalties against offending institutions--and their executive officers--if it is determined that a school misrepresented its cost, admission requirements, graduation rates, employment prospects for students and loan default rates.

[CFPB Concerned About Widespread Servicing Failures Reported by Student Loan Borrowers](#)
CFPB Press Release, 9/29
Today, the Consumer Financial Protection Bureau (CFPB) released a report outlining widespread servicing failures reported by both federal and private student loan borrowers. Consumers describe companies using a wide range of sloppy, patchwork practices that can create obstacles to repayment, raise costs, cause distress, and contribute to driving struggling borrowers to default. The Bureau has made it a priority to take action against companies that are engaging in illegal servicing practices, and that ongoing work includes addressing many of the problems outlined in today's report. The Bureau also intends to explore potential industry-wide rules to increase borrower protections.

[Statement on Education Department's Recommendations for Strengthening Student Loan Borrower Protections](#)
Lauren Asher, Institute for College Access & Success, 10/1
Today's report from the U.S. Department of Education takes a comprehensive look at where student loan borrowers need more protection and moves the conversation forward on many important fronts. We strongly support the report's goal of better protecting borrowers with both federal and private loans, through administrative actions when possible and legislative changes when needed.

[House Democrat Group Asks Administration to Forgive Debt of All Corinthian Students](#)
David Halperin, Huffington Post, 9/29
A group of Democratic members of the House of Representatives are sending a letter this morning calling on the Department of Education to "automatically discharge the debt" of all students who attended campuses run by now-bankrupt Corinthian Colleges, one of the worst actors in the scandalized for-profit college sector.

The letter, spearheaded by Reps. Keith Ellison (D-MN) and Janice Hahn (D-CA) and signed by 16 House Democrats, is addressed to Secretary of Education Arne Duncan, Undersecretary Ted Mitchell, and Joseph Smith, the Department's special master for student debt defense claims.

[It's Time for the Government to Help Victims of College Fraud]
Suzanne Martindale, ConsumersUnion, 9/28

[Default Rate Declines, Yet 611,000 Defaulted on Federal Student Loans]
Institute for College Access & Success, 9/30

[Florida lawmaker employed by for-profit college lobbied board]
Michael Vasquez, Miami Herald, 9/26

SYSTEMIC RISK

[Is the Fintech Sector Overheating?]
Penny Crosman, AmericanBanker, 9/28
Some call it "frothy." Some call it "contagious enthusiasm." Some call it "immature." The funding of fintech companies continues to proliferate.

Almost $14 billion has been invested in fintech startups in the past year, a nearly 46% year-over-year growth rate, according to CB Insights. Bankers, investors and analysts stop short of calling the situation a bubble. Many companies in the fintech space, such as online lenders and payments firms, have proven their worth and made their early investors happy — Lending Club's $1 billion IPO being the leading example. But the fintech startup and investor fields are getting crowded, and there's bound to be a culling of the herd.

OTHER TOPICS

[Fairness AND Growth: the Progressive Economic Alternative]
Mike Konczal, American Family Voices (Video), 9/28
So when you talk about the rise of the 1% and the rise of inequality generally, you're talking about a finance story. Finance has skyrocketed, it's doubled its share of the top 1%, it's become much more profitable, a much bigger part of the economy. This huge expanding financial sector has not made our economy more efficient or more innovative. That's why it's essential that wrongdoing is punished and that there are strict rules for growth when it comes to financial sector.

The important thing to remember when people talk about a "free-market" is that's kind of a nonsense term. The economy is always structured by rules, by laws, by people who enforce those rules. There's no way to get around that. Now the question is who those rules work for and if they're structured in a way that's fair and ensures a more equitable economy.

[Former Morgan Stanley Broker Sues Over Arbitration Policy]
Susan Antilla, NYTimes, 10/1
A former broker at Morgan Stanley has filed a class-action race-discrimination complaint against the company, accusing it of making "an end-run around the civil rights laws" with a new policy that bars employee participation in class actions and forces civil rights claims into private arbitration.

Kathy Frazier, who is currently a broker at UBS Financial Services in Honolulu, according to regulatory records, said in her complaint that African-Americans were underrepresented in the ranks of brokers at Morgan Stanley and were paid "substantially less" than their counterparts.

[VW and GM scandals show why regulation matters](#)

Robert Verchick and Rena Steinzor, The Hill, 9/30

Conservatives love to belittle federal regulations — especially the ones designed to keep our air clean, our water drinkable, our workplaces safe, and our financial markets stable. Conservatives, of course, don't oppose any of those things. They just think unregulated markets, left on their own, will keep bad things from happening. Customers will see when a dishonest company is putting Americans at risk; and when they do, they will unleash their fury and incinerate it. Unbridled capitalism is the world's largest self-cleaning oven. Last week's news from the automotive industry should lay such arguments to rest.