This Week in Wall Street Reform | Sept. 24-30, 2016

Please share this weekly compilation with friends and colleagues.
To subscribe, email erin@ourfinancialsecurity.org, with “This Week” in the subject line.
Archive of past issues posted here.

WELLS FARGO CASE

Clinton slams Wells Fargo, says she’ll fight consumer ‘gotchas’ I USA Today 10/3/16
Democratic presidential nominee Hillary Clinton on Monday said she’ll crack down on increasingly common “fine print” consumer agreements that insulate companies such as Wells Fargo from lawsuits related to consumer abuses…

The provisions have become prevalent in contracts consumers sign for car loans and leases, credit cards, retirement accounts, employment and nursing facilities, among others products and services, according to the National Association of Consumer Advocates.

The clauses typically force customers to use the arbitration firm and arbitrator selected by the company, says Amanda Werner, arbitration campaign manager for **Americans for Financial Reform**.

Scott Garrett hits wrong target in Wells Fargo scandal I Newark Star-Ledger (editorial)
Garrett… was soft on CEO John Stumpf during Thursday's hearing before the House Financial Services Committee, landing a few light jabs before hauling off on the CFPB. How could he miss his target so badly?

Could it be because he received $20,250 in campaign funds from Wells and its executives for the last five years, or the $350,000 he took from investment firms in the current election cycle? Is he sincere when he suggests that CFPB regulations "limit Americans' credit choices"? Can he really object to the regulations the Board slapped on the predatory payday loan industry, which deserved a kneecapping? Or did he miss that target because he has received campaign donations from payday lenders?

The non-partisan **Americans for Financial Reform** – a coalition of more than 200 consumer, labor, business and investor groups – noted Garrett's hypocrisy in the Wells Fargo matter: "Rep. Garrett's criticism of the CFPB is hard to take seriously when he has voted repeatedly to undermine its enforcement efforts by eroding its funding, cutting the pay of its bank examiners, and making it easier for banks to thwart its investigations," AFR said.

Lawmakers Ratchet Up Demands for Wells: Break It Up I American Banker
It appeared unlikely the situation could get any worse for Wells Fargo Chief Executive John Stumpf after senators sharply criticized him at a hearing last week, calling on him to return pay and resign. But if anything, Stumpf's appearance before the House Financial Services Committee on Thursday was even more brutal. Lawmakers ratcheted up their demands, moving

beyond just punishing Stumpf and suggesting that Wells Fargo itself was too corrupt to survive. The hearing hit its apex after nearly four hours, when Rep. Maxine Waters, the top Democrat on the panel, said she'd had enough. "I have come to the conclusion that Wells Fargo should be broken up. It is too big to manage," the California Democrat said. "I am moving forward to break up Wells Fargo Bank."

By Taking Back Money, Wells Fargo's Board Seems to Recall Its Role I NY Times (Gretchen Morgenson)
Announcing an investigation into the bank's sales practices, the board said Mr. Stumpf would forfeit approximately $41 million worth of stock awards, forgo his salary during the inquiry and receive no bonus for 2016. The Wells Fargo board also announced the immediate retirement of Carrie L. Tolstedt, the former senior executive vice president of community banking, who ran the unit where the fake accounts were created. She will forfeit $19 million in stock grants, will receive neither a bonus for this year nor a severance, and will be denied certain enhancements in retirement pay, the board said. These actions by the Wells Fargo board, while welcome, were slow in coming.

Wells Fargo CEO to forfeit $45 million in pay over fake-accounts scandal I LA Times

Wells Fargo CEO Should Pay Back All Scam-Inflated Pay I Huffington Post (Sarah Anderson)
After being raked over the coals for one of the biggest scams in Wall Street history, Wells Fargo CEO John Stumpf has agreed to forfeit $41 million in compensation. Astoundingly, this is the first time a Wall Street banker has had to disgorge any of his ill-gotten pay. But don't get out the Kleenex box quite yet. In the past three years, Stumpf pocketed nearly $200 million in compensation. And of this, $165 million was in stock-based pay that was artificially inflated by illegal conduct. Since at least 2011, Wells Fargo employees who were under extreme pressure to meet sales quotas created accounts without customers' consent, making these customers vulnerable to overdraft and other fees. A new Public Citizen report suggests this behavior might've started even earlier, since Wells Fargo's push to boost the number of accounts per customer, called "cross-selling," began as early as the late 1990s.

Wells Fargo Isn't the Only Bank That Draws Cross-Selling Complaints I Wall St. Journal
Problematic sales practices at banks may extend beyond the abuses revealed in this month's $185 million enforcement action against Wells Fargo & Co., according to a new analysis of customer complaints maintained by the U.S. government. While customer complaints don't equal illegal conduct, the complaint database run by the Consumer Financial Protection Bureau shows that Wells Fargo hasn't been much of an outlier when it comes to complaints associated with cross-selling and other sales abuses.
Why Wells Fargo customers won't be able to sue the bank over fake accounts I Washington Post
One major group directly affected by the Wells Fargo scandal — the customers who had fraudulent accounts opened in their names — may have their hands tied. As lawmakers pointed out at congressional hearings Thursday and last week, many Wells Fargo customers are blocked from suing the company because of arbitration clauses, little-known contracts that often ban customers from taking part in class action lawsuits. They are regularly included in the fine print for checking accounts, credit cards and other consumer products. In the case of Wells Fargo, the arbitration clauses that customers agreed to when they opened their real accounts are being used to keep them from suing about the fake accounts opened in their names.

Why L.A. City Atty. Mike Feuer knew the Wells Fargo scandal was going to blow up I LA Times
Q: Sounds like you might be talking about mandatory consumer arbitration clauses, which seem to have helped Wells Fargo keep complaints about fraudulent accounts out of the public eye.
A: You're in the bull's-eye of the one of the things I care about. Arbitration clauses and the negative effects they have on consumer rights are one of the major symptoms of this imbalance of power. If I had my druthers, these contracts that include arbitration clauses wouldn't exist.

Wells Fargo Troubles Mount With Penalty for Soldiers' Loans I Bloomberg
Wells Fargo & Co., reeling from weeks of pummeling over fraudulent customer accounts, was sanctioned by the Justice Department over improperly repossessing cars owned by members of the military.

Federal authorities are punishing the San Francisco-based lender for as many as 413 alleged violations of the Servicemembers Civil Relief Act, according to a statement Thursday from the Justice Department, which said the bank agreed to pay more than $4 million to compensate borrowers involved in unlawful repossessions spread over seven years. The bank's regulator, the Office of the Comptroller of the Currency, also fined the company $20 million for a decade of transgressions, the agency said in a

Wells Fargo Reaches Settlement Over Car Repossessions I Wall St. Journal
Wells Fargo & Co. has reached a settlement with the Justice Department and federal regulators over allegedly improper repossessions of cars belonging to members of the U.S. military, according to people familiar with the deal. The settlement, for about $24 million, comes on the same day the bank's CEO faced tough questions from a congressional committee about its questionable sales practices in signing customers up for bank accounts and credit cards they didn't want or know about. The settlement is being struck with federal prosecutors and the Office of the Comptroller of the Currency, a regulatory agency. The OCC's share of the settlement is about $20 million and the Justice Department's share of the settlement is about $4 million, according to people familiar with the terms.

John Stumpf's Wells Fargo Racket Shows Why Bank Workers Need a Union I Daily Beast

Wells Fargo Faces Grassroots Backlash Via Viral Facebook Campaign I Forbes

US probing possible worker abuse by Wells Fargo I Washington Post
The U.S. Labor Department is investigating possible abuses of employees by Wells Fargo in connection with the bank's alleged efforts to open millions of unauthorized accounts to meet sales goals. A group of Democratic senators last week asked the department to investigate whether Wells Fargo tellers, branch managers and customer service reps were harassed and threatened with termination in the aggressive sales push. A complete review of cases and complaints is needed to determine if the second-largest U.S. bank violated the Fair Labor Standards Act, the senators said. About 5,300 employees have been fired since 2011. In a letter Monday, Labor Secretary Tom Perez said the department takes the senators' concerns seriously and has started a "top-to-bottom" review of labor practices at San Francisco-based Wells Fargo.

Wells Fargo CEO blasted from all sides as House panel steps up pressure I Politico

Nearly 150K Wells Fargo accounts in Texas possibly affected I Washington Post

[Why You Might Not Be Able to Sue Your Bank](#) I Consumer Reports

[What Nursing Homes Have in Common With Wells Fargo](#) I New Republic

[Want to Prevent Another Wells Fargo?](#) I AFR blog (Amanda Werner)
Recently, House Financial Services Committee Chairman Jeb Hensarling (R-Tex.) [suggested](#) that it took the Consumer Financial Protection Bureau (CFPB) too long to find out about the bank's misconduct. Yet Chairman Hensarling's Financial CHOICE Act includes provisions that would make it [harder](#) for the CFPB to learn about future abuses by banks and lenders.

The Financial CHOICE Act would preserve the financial industry's use of forced arbitration, a relatively new phenomenon designed to allow corporations to keep misconduct out of public view, evade the law, and escape accountability. Buried in the fine print, "ripoff clauses" force consumer and worker claims into arbitration – a secretive, rigged system where the corporation gets to pick the arbitration provider and which rules will apply – and bars people harmed in similar ways from joining together in class actions to challenge systemic abuses.

[What Should Be Done to Stop Banks Like Wells Fargo from Scamming Us?](#) I AFR blog (Alexis Goldstein)
As Senator Sherrod Brown (D-OH) pointed out, this is only one of [39 enforcement actions](#) that Wells has faced in the last ten years.

Wells Fargo has racked up [over $10 billion in fines](#) for offenses from [racial discrimination in mortgage lending](#), to [mortgage fraud](#), to [violations](#) of the Americans with Disabilities Act. So what should be done to stop banks from scamming us? **Americans for Financial Reform** has five specific proposals.

[Sandbagging, cross-selling: Keys to Wells Fargo's profits](#) I People's World (Larry Rubin & Sam Pizzigati)
We have no evidence that Stumpf ever ordered any Wells Fargo manager or employee to set up unauthorized accounts for customers. Instead, according to *The Washington Post*, many employees have complained they were "forced into a hypercompetitive environment that led thousands of them to set up the sham accounts to meet aggressive sales targets."

In other words, Stumpf and his fellow execs like Tolstedt fostered a banking culture that actively encouraged managers and employees to sandbag customers.

And so far their punishment has only been light slaps on the wrist. But punishment, notes the advocacy group **Americans for Financial Reform** (AFR), could and should be coming. Federal watchdog agency officials have the legal power to compel banks to "claw back" any executive earnings that fraudulent behaviors have generated.

[Regulators Take Heat Over Wells Fargo](#) I Wall St. Journal

[Regulators Also Take Lumps as Lawmakers Bash Wells Fargo](#) I Bloomberg BNA

[Republicans say there's another villain in the Wells Fargo scandal](#) I LA Times

CONSUMER FINANCE & THE CFPB

Larger financial institutions receive lion's share of complaints I San Diego Reader
In the wake of the housing crisis of the late 2000s, a host of fraud and misconduct charges against big banks alleging everything from illegal manipulation of financial markets to the latest scandal involving customers being charged fees for accounts they never opened, and savings rates returning virtually nothing to depositors, it's little surprise that consumer satisfaction is at an all-time low. In the last five years, according to a study released last week by the consumer research site ValuePenguin, San Diego residents have lodged 2379 complaints with the federal Consumer Financial Protection Bureau, most of them related to mortgages. That number is lower than other areas in the state, which as a whole opened nearly 42,000 cases against banks during that time. Of those, 23 percent were disputed — that is, the consumer ultimately wound up dissatisfied with the resolution offered by the bank. Most often, customers unhappy with their bank wind up with no choice but to accept the bank's judgment.

Google Said It Would Ban All Payday Loan Ads. It Didn't. I The Intercept
[M]onths after the policy was implemented, brokers that connect borrowers to payday lenders still buy Google ads. They appear to have easily sidestepped the company's rules, leaving consumers still vulnerable to high-cost debt traps that can ruin their financial lives.

"While things have improved it looks like some [lead generators] are, predictably, trying to get around the rules," said Gynnie Robnett, Campaign Director for **Americans for Financial Reform**, a coalition of consumer groups.

This is extremely common for the payday lending industry, whose business model is in some part predicated on skirting regulatory barriers to get high-cost loans into customers' hands. Payday lenders have asserted exemptions from state laws because they operate on sovereign tribal land; they've sold online loans inside payday storefronts to get around state interest rate caps. It's only natural that they would use similar tactics to skate past the internal rules of a private-sector company.

Industry, Advocates Scramble for Last Word on Payday Lending I Morning Consult
Advocates of the rule, such as Sen. Jeff Merkley (D-Ore.), say it will tamp down destructive lending that traps low-income borrowers in debt. "It's not a life raft. It's an anchor that drags working families deeper and deeper into a vortex of debt," Merkley said Wednesday on a conference call with reporters hosted by the "Stop the Debt Trap" campaign. "There is no reason we should allow this predatory industry to continue in the fashion that it's been."

Gynnie Robnett, payday lending campaign director at the left-leaning group **Americans for Financial Reform**, said payday lenders make 75 percent of their money from repeat borrowers who take out more than 10 loans a year. The rule aims to prevent borrowers from being overwhelmed in a "debt trap," she said.

AFR and the left-leaning advocacy group People's Action Institute compiled personal stories about this kind of debt spiral in a new report released Wednesday.

Payday critics cry foul on pro-industry comments to agency I Washington Examiner
The **Stop the Debt Trap campaign**, a coalition of consumer groups that favors tough rules on payday lending, said Wednesday that they expect their organizing to result in more than 400,000 comments to be submitted in favor of an aggressive final rule by the Consumer Financial Protection Bureau by Friday's deadline.

Those comments were drummed up through an online portal hosted by the coalition in addition to on-the-ground efforts by the consumer, civil rights, faith and labor groups that make up the coalition, said Gynnie Robnett, a campaign director for **Americans for Financial Reform**.

The coalition expressed hope that their comments would counter and overwhelm the huge number of pro-industry comments, which they said the industry solicited or even coerced from their customers

House Democrats Push CFPB for Stronger Payday Rule I American Banker
More than one hundred House Democrats sent a letter to Consumer Financial Protection Bureau Director Richard Cordray on Wednesday calling for the agency to strengthen its proposal to rein in payday lending.

"Though we applaud the CFPB for taking the necessary first steps to address predatory practices in the small-dollar credit market, we urge you to adopt a final rule with additional protections that will ensure responsible lending," said the letter signed by the House Democrats, including Rep. Maxine Waters, D-Calif., the ranking member of the House Financial Services Committee.

Consumer advocate responds to ethics complaint on payday lending I St. Louis American (Cara Spencer)

End payday loan debt trap I Missoulian

How the Payday Loan Industry is Obstructing Reform I Counter Punch

Regulators crack down on Alphabet-backed payday lender I Washington Post

Payday loan alternative LendUp to pay $6.3 million for misleading customers I Christian Science Monitor

CFPB Orders LendUp to Pay-up $3.63 Million in Refunds & Penalties I CrowdFund Insider

Google-backed LendUp fined by regulators over payday lending practices I LA Times

Can Washington control high-tech lending? I Politico

Small Banks Go All In on Consumer Lending — But Still Feel Squeezed I American Banker

Can AI Be Programmed to Make Fair Lending Decisions? I American Banker

DERIVATIVES, COMMODITIES & THE CFTC

The Fed Begins to Crack Down on Bank Ownership of Commodities I AFR blog (Alexis Goldstein)
On Friday, the Federal Reserve finally responded to years of calls to re-examine the role of big banks in commodity markets. Numerous observers, ranging from Senate investigators to regulators, have found evidence that banks have manipulated these crucial markets. Sherrod Brown, the Ranking Member of the Senate Banking Committee, has been a leader in the effort to control bank commodity activities, holding multiple hearings on the issue and urging the Federal Reserve to implement rules limiting bank commodities activities. Americans for

Financial Reform has also called on the Fed to take strong action to establish firewalls between banking and commodity markets.

FTC to Return Almost $20 Million to Consumers in Credit Monitoring Scheme I FTC.gov

Capital requirements 'top priority' this fall, CFTC chief says I The Hill
Re-proposing its capital requirements rule for swap dealers and major swap participants is the Community Futures Trading Commission's (CFTC) top priority this fall, Chairman Timothy Massad said Tuesday. The original capital requirements rule was proposed in 2011, but never adopted.

THE ELECTION AND WALL STREET

Hillary Clinton Takes Action To Ban Lobbyists From Her Transition Team I Politics USA

If Elected, Clinton Under Pressure to Appoint Tough Wall Street Sheriffs I NY Times
Democratic Party progressives intent on reining in Wall Street are pushing Hillary Clinton to choose people to head the Treasury, SEC and other agencies who will crack down on big banks if she wins the White House on Nov. 8. “Do they have a proven track record of challenging corporate power?” asked Adam Green of the Progressive Change Campaign Committee, a grassroots group aligned with U.S. Senator Elizabeth Warren, the party's liberal firebrand. In meetings with Clinton's team, progressive groups are urging that she break sharply with the centrist, pro-business bent of some of the economic leaders who served her husband, former President Bill Clinton, and President Barack Obama.

Millennials trust Trump more than Clinton on Regulating Wall Street I Washington Post
The damage of the primary may be measured best in the new issue-specific Gallup Poll, released on Monday. Among all voters, Clinton is preferred to Trump on most issues and trails on a few, such as the size of the deficit and the size of government overall. But as first pointed out by YouGov's Will Jordan, Clinton trails Trump on just one measure: Who do voters younger than 35 trust more to handle "government regulation of Wall Street and banks?" When that question is put to them, 44 percent of young voters trust Clinton; 51 percent trust Trump.

EXECUTIVE PAY

Ceo-to-Employee Pay Ratios Lower than Expected, New Mercer Survey Finds I Mercer

FEDERAL RESERVE

Fed finds community banks face challenges after financial crisis I The Hill
Community banks across the country have faced tough business decisions in recent years as they struggle to deal with regulations and low interest rates, a Federal Reserve National Survey of Community Banks found. The report, unveiled at a conference Thursday, cited burdens from complying with rules as the top reason community banks stopped offering specific products or services to customers. Low interest rates and rising costs have also contributed to a challenging environment.

Yellen defends tougher banking regulations I Washington Post
Federal Reserve Chair Janet Yellen says the financial health of the nation's banking system has strengthened considerably since the 2008 financial crisis, in part because of tougher regulations passed by Congress in 2010. Yellen is telling the House Financial Services Committee that the Fed wants to make sure that the new requirements keep the country's largest banks from failing and destabilizing the entire financial system, while avoiding undue burdens on smaller institutions. She says that as part of that effort, the Fed is considering easing requirements for annual stress tests for institutions that have less than $250 billion in assets.

Yellen Calls for Regulatory Relief for Small Banks I Wall Street Journal
Federal Reserve Chairwoman Janet Yellen said Wednesday regulators need to do more to alleviate the regulatory burden on small lenders, a signal the central bank may soon propose easing rules for community banks.

INVESTOR PROTECTION AND THE SEC

Three Senators Ask SEC to Investigate Wells Fargo I Wall Street Journal
Three Democratic senators asked the Securities and Exchange Commission to investigate whether Wells Fargo & Co. misled investors and violated whistleblower protections while allegedly engaging in illegal sales practices. Sens. Jeff Merkley (D., Ore.), Elizabeth Warren (D., Mass.) and Robert Menendez (D., N.J.) wrote a letter to SEC Chairman Mary Jo White urging the regulator to probe further into whether Wells Fargo and its senior officials "violated laws by misleading investors and firing whistleblowers while the bank oversaw the creation of millions of unauthorized, fraudulent accounts."

SEC approves rule to shorten settlement periods I The Hill
The SEC commissioners unanimously approved a recommendation on Wednesday to reduce the time investors have to settle securities transactions with broker-dealers from three days to two. Under the proposed rule, broker-dealers would be prohibited from entering into a contract that allows for an exchange of funds for securities to occur later than two business days after the trade date, colloquially known as "T+2".

SEC Set to Adopt Rules for Clearinghouses Deemed Too Big to Fail I Wall Street Journal
Clearinghouses that guarantee trades in equity, fixed-income and derivatives markets would have to maintain a capital buffer that would allow them to meet their obligations in the case of a failure, under new rules being considered by U.S. securities regulators. The rules, up for a vote Wednesday by the Securities and Exchange Commission, target clearinghouses including the National Securities Clearing Corp., the Fixed Income Clearing Corp., and the Options Clearing Corp., entities that ensure one party to a trade gets paid if the other side defaults. Policy makers mandated wider use of clearing in the wake of the 2008 financial crisis, but centralizing so much risk at clearinghouses has fed worries that one entity's collapse could jolt the stability of the financial system.

MORTGAGES & HOUSING

New HMDA Data Shows Mortgage Market Continues to Exclude Consumers of Color and Low-Wealth Families I Center for Responsible Lending

MUNICIPAL FINANCE

Elizabeth Warren Slams Pat Toomey I Huffington Post

A provision of the Dodd-Frank financial reform law passed in 2010 aimed to protect taxpayers from having to cover local governments' bad bets with Wall Street ever again. That law stated that people who advised local governments on municipal securities had what's called a fiduciary duty — basically, they needed to be able to reasonably defend the advice they gave governments.

Toomey didn't like this change, and pushed hard to gut the new rule. He introduced or co-sponsored bills — backed by the bank lobby — in three consecutive years that would have exempted banks from the requirement that they give local governments advice that is in taxpayers' best interest.

"That's a whopping exemption to drop in there," said Marcus Stanley, the policy director at Americans for Financial Reform, a nonprofit that opposed Toomey's proposal. "It permits them to do all kinds of stuff: Pay-for-play, and to effectively give bad advice that benefits them." Basically, Toomey's bills would have let the banks keep doing what they were doing before the crisis.

STUDENT LOANS & FOR-PROFIT EDUCATION

Education Dept. Is Sued Over Debt Collection From Former Corinthian Students I The Chronicle of Higher Education

Senator: Education Dept. mishandling Corinthian student debt I The Tribune

Warren: Education Dept. Failing Corinthian Students I Inside Higher Ed

Students get notice Regency Beauty Institute immediately closing 79 campuses I Minn. Public Radio

Beauty School Chain Closes Abruptly I Inside Higher Ed

Regency Beauty Institute closes nationwide I St. Cloud Times

Regency Beauty Institute is the latest for-profit school to close, including Tampa location I Tampa Bay Times

Student Loan Default Rates Decline, But A Record Number Of Borrowers Are In Default I Consumerist

Veterans harmed by ITT Tech's closing can't get congressional help yet I Cleveland Plain Dealer

Report Criticizes USA Funds and ECMC I Inside Higher Ed

SYSTEMIC RISK

Why Can't We Get a Vote on the One Thing the Parties Agree on? I AFR blog Alexis Goldstein)

Election day is fast approaching and Congress's approval rating has barely improved from a few years back when it lagged behind root canals. So you'd think agreement on a major policy — particularly one with broad and deep public support — might be occasion for swift enactment of a bi-partisan bill. Indeed, the 21st Century Glass-Steagall Act is championed by both Elizabeth Warren and John McCain, popular leaders in their respective parties. Instead, with Congress set to adjourn this week until after election day, Congressional leaders have yet to take a single step to live up to the words of their platforms.

Organizers of a new campaign to Take on Wall Street decided to do something about it. With strong support from the Daily Kos community and working with allies from labor, netroots, and community partners, we launched a petition to Congressional leaders asking them to back up their rhetoric on Glass Steagall with action.