Americans for Financial Reform

This Week in Wall Street Reform | Jan. 2–Jan. 8, 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.

CONSUMER FINANCE & THE CFPB

New CFPB attack, with Koch fingerprints?

Isaac Arnsdorf, Politico, 1/4

The Consumer Financial Protection Bureau, in its first five years, has made no shortage of enemies: banks, payday lenders and car dealers among them. A new campaign launching today, called Protect America's Consumers, wants people to tell their senators that the agency "plagued with scandal & corruption" needs to stop its "abusive practices."

The website doesn't have any information about the group's sponsors, because "we don't want this to be seen as a partisan issue," said spokesman Steve Gates. But the organization's Warrenton, Va., address matches that of a lawyer who has registered several Koch-linked or -funded groups, such as Americans for Responsible Leadership and American Future Fund. Gates denied there's any relationship: "In no way, shape or form is this a Koch brothers thing. I'm a registered Democrat all my life." (A Koch spokesman didn't answer a request for comment.)

More anti-CFPB shenanigans

Isaac Arnsdorf, Politico, 1/7

New details have emerged since PI reported Monday on Protect America's Consumers, a new front group taking aim at the Consumer Financial Protection Bureau. This morning the group released three more ads. The organization's website, in a bid to present bipartisan support, displays three quotes from Democratic members of Congress — Reps. Maxine Waters (D-Calif.), Al Green (D-Texas), and Keith Ellison (D-Minn.) — appearing to criticize the CFPB. All three members told PI they were displeased to discover their words taken out of context and used to misrepresent their views on the agency, which they support. The full quotations reveal that all three officials were defending the CFPB from being singled out for criticism.

The organization still won't say who's behind it. The address on its Virginia incorporation record matches the law firm Holtzman Vogel Josefiak Torchinsky, which specializes in untraceable pressure groups for conservative causes and whose clients include Karl Rove's American Crossroads, Sen. Marco Rubio's presidential campaign and the National Republican Congressional Committee. The use of an expensive law firm to set up an anonymous entity suggests this is no small effort. A pre-exisiting anti-CFPB group, the US Consumer Coalition, issued a statement distancing itself from the new website. Curiously, Protect America's Consumers' barely-followed Twitter handle tweeted back, "thank you."

Sen. Brown asks Obama to fund small-dollar loan programs

Jon Prior, Politico, 1/6

The Senate Banking Committee's top Democrat, Sherrod Brown, is asking President Obama to fund small-dollar loan programs that would help low-income borrowers obtain financing from sources other than payday lenders, according to a letter sent to the White House today. The programs were authorized under the 2010 Dodd-Frank law but were never implemented. Brown urged Obama to include funding in the upcoming fiscal 2017 budget proposal.

The programs would help lower-income borrowers secure small-dollar loans from banks, credit unions, special community development firms, nonprofits, along with state and local governments that could partner with the Treasury Department. Many of those living in poorer neighborhoods are turning to more expensive and sometimes predatory alternatives as they remain shut out of the traditional banking system, Brown warned in the letter provided to POLITICO. "The financial system is not working for many Americans," Brown wrote.

[Stop the debt trap]

Gary Kalman, The Hill, 1/4

In a Dec. 17 blog, Jeffrey H. Joseph touts the 'benefits' of payday loans and the supposed dangers of a pending rule from the Consumer Financial Protection Bureau that will limit the ability of these high cost lenders to trap low and moderate income families in debt. He further disparages the organization I work with, the Center for Responsible Lending and Self-Help, an affiliated credit union, for fighting to rein in the abuses. To be clear, we are talking about loans with unconscionable interest rates that typically run 400 percent in the states where abusive lending is still allowed.

The posting completely mischaracterizes the payday lending model, the households that get trapped in a cycle of debt and the pending consumer protection rules to rein in industry abuses. The author describes borrowers as those 'without a checking or savings account.' This is both inaccurate and goes to the fundamental problem with payday loans. One of the few criteria for receiving a payday loan is a bank account. The other is a paycheck. Lenders gain access to the account and, on payday, put themselves first in line to repay themselves, drain the account and leave borrowers without the necessary resources to pay other bills such as food, rent and utilities. The weak underwriting standards for these loans better assess a lender's ability to collect than a borrower's ability to repay the loan.

[Another attempt to rein in loans of last resort]

Dan Schwartz, Santa Fe New Mexican, 1/5

As New Mexico lawmakers prepare to once again take on the storefront loan business in the upcoming legislative session, 2014 data show how the industry's astronomical interest rates can devastate borrowers who often are already financially vulnerable. Many of these borrowers, say supporters of stronger regulations, are low-income people of color. The year that Tichenor began riding Albuquerque's public buses, New Mexico title loan businesses issued more than 41,400 loans with annual interest rates greater than 175 percent, according to numbers from the Financial Institutions Division of the New Mexico Regulation and Licensing Department. But between a third and half of the people who used their automobile titles as collateral to get those loans lost their vehicles, according to estimates from an advocacy group led by former state senator Steve Fischmann of Las Cruces.

[CA federal court refuses to dismiss CFPB lawsuit against payday lending companies alleging UDAAP violations based on state law violations]

James Kim and Jeremy Rosenblum, JDSurpa Business Advisor, 1/6

[Bernie Sanders's Plan to Make Banking Affordable for Average Americans]

Gillian White, The Atlantic, 1/5

Bernie Sanders has made a name for himself by pushing in his presidential campaign for fundamental changes to the way financial institutions operate within the U.S.: He wants to reform the Federal Reserve, make ratings agencies nonprofits, and close the revolving door between Wall Street and government agencies. In a speech on Tuesday, he detailed plans—all of them highly ambitious, and many of them outside the purview of the president—that he hopes would make the banking system much more accessible to average Americans…

Sanders's plans represent an aggressive approach to rampant and growing economic inequality. But if he were elected president, his power to implement them would actually be quite limited. Many financial products are regulated at the state level, and when they aren't, they are often governed by a federal agency such as the Consumer Financial Protection Bureau, notes Mehrsa Baradaran, a law professor at the University of Georgia. "There's not much a president can do for some of these things. As far as tinkering around with those usury rates, that is far outside of the realm of the executive office," she says. Instead, a president would have to push for this agenda and then encourage regulatory agencies to carry out the reforms.

One proposal that is within his power is the creation of a postal-banking system, which would have post offices offer some banking services. This would give Americans excluded from the mainstream consumer-financial system a more affordable option, one that is a safer alternative to payday lenders, which can charge customers interest rates as high as 300 percent.

How new regulations saved consumers billions in credit card fees

Harold Pollack, Vox, 1/8

Millions of Americans, particularly those with modest incomes or those who are just starting out, struggle with their credit cards. My wife and I often had high balances when we lived on one modest income and had two kids in day care. My students often face similar issues. More than a few choose not to reveal their monthly credit card bill to their live-in romantic partners.

My favorite finance paper published last year makes clear that struggling with credit cards is not unusual. The study examined 2008–2012 data from a mammoth database of 160 million credit card accounts at America's eight largest banks to analyze the practical impact of the Credit Card Accountability Responsibility and Disclosure (CARD) Act, which Congress passed in 2009. The authors found that the CARD Act was a triumph of financial regulation.

"The CARD Act did two main things," according to Neale Mahoney, a co-author of the study and my cross-campus colleague at the University of Chicago. "First, it restricted a number of credit card fees. Second, it required credit card issuers to provide information on annual statements that was designed to 'nudge' consumers into making larger monthly payments on their cards."

Mahoney and his co-authors found that the legislation saved consumers $11.9 billion per year, largely by reducing fees imposed on the least sophisticated consumers who have the lowest credit scores.

A $500 Car Repair Bill Would Send Most Americans Scrambling

Eric Morath, Wall St. Journal, 1/6

An unexpected car repair or medical bill would cause the vast majority of Americans to scramble because they lack the needed funds in their savings accounts. Only 37% of adults have the necessary savings to cover a $500 car repair or a $1,000 emergency room bill, according to a survey Bankrate.com released Wednesday. The finding is little changed from last year, when 38% said they didn't have the cash on hand, despite a year of steady job creation and the unemployment rate falling to 5%.

"Most Americans are ill-prepared for life's inevitable curveballs," said Sheyna Steiner, Bankrate.com's senior investing analyst. She said that's a concern because more than 40% of families experienced a similar unexpected cost during the past 12 months.

CFPB names another acting deputy director

Brena Swanson, HousingWire, 1/7

Six months have passed since Steven Antonakes announced he was stepping down as acting director for the Consumer Financial Protection Bureau, and the bureau has yet to find a replacement, announcing it is filling the position with another acting deputy director. In July, the CFPB selected Meredith Fuchs to serve as acting deputy director when Antonakes stepped down at the end of that month. At the time, Fuchs had already announced her intention to step down as General Counsel that same month, but she said she would continue to serve as general counsel and acting deputy director until a permanent replacement was selected for each position. But that time hasn't come, and instead, David Silberman will serve as acting deputy director beginning next week, replacing Meredith Fuchs, who is officially ending her time at the bureau.

DODD-FRANK – IMPLEMENTATION AND ATTACKS

Racing to cement a Wall Street legacy

Lydia Wheeler, The Hill, 1/7

The Obama administration has yet to complete roughly a third of the regulations required under landmark legislation meant to rein in Wall Street, potentially exposing a pillar of the president's legacy to attacks from the financial sector. Of 390 rulemaking mandates contained in the sweeping Dodd-Frank financial reform law enacted more than five years ago, about 70 percent — 267 rules — have been finalized, according to figures kept by the New York-headquartered law firm Davis Polk & Wardwell LLP.

President Obama, who has championed the law as necessary to stave off a repeat of the economic crisis of the late 2000s, has just one year left to either cement the unfinished pieces of Dodd-Frank or risk seeing those regulations die on the vine in a possible Republican administration. In that scenario, industry opponents would almost certainly mount an aggressive campaign to beat back many of the pending rules. "Dodd-Frank was approved by the legislature during a period of crisis," said Rich Foster, senior vice president and senior counsel for regulatory and legal affairs at the Financial Services Roundtable. "There was a lot shoehorned into this statute, and now we've had some time to see how it's working. It's time to consider recalibrating."

Real Financial Reform in 2016

Sam Seder, Majority Report Podcast, 1/7

Alexis Goldstein of **Americans for Financial Reform** in to talk financial reform in 2016. What are the main takeaways of Dodd-Frank, why it was a big victory and why it is a big target for lobbyists. The importance of the CFPB in protecting Americans from fraud. How Dodd-Frank deals with failing banks and opaque derivatives markets, mortgage-backed securities and CDOs. The importance of the Volcker Rule.

EXECUTIVE PAY

Fat Cat Tuesday: A CEO Pay Milestone

Sarah Anderson, Inequality.org, 1/5

In New Orleans, they celebrate Fat Tuesday with raucous parades and bead-throwing. In the UK, they're marking Fat Cat Tuesday with disturbing statistics about runaway CEO pay. By late afternoon on January 5, the second working day of the year, Britain's top bosses had earned more than the average UK worker would earn in the entire year, according to the High Pay Centre, an independent think tank. But American bosses could kick off even earlier in the year and still make as much as an average U.S. worker would in all of 2016. According to the AFL-CIO, CEOs of large U.S. corporations made $13.5 million on average in 2014, while average worker pay stood at $36,134. Using the High Pay Centre's methodology, I calculated that the American bosses would have to work only 11 hours to make the average worker's annual salary, compared to 22 hours for their British counterparts.

FEDERAL RESERVE

What Bernie Sanders Thinks Is Wrong With the Fed

Bourree Lam, The Atlantic, 1/6

Bernie Sanders detailed a number of his financial-policy proposals in New York on Tuesday. Though he's been clear in the past that he thinks America's biggest banks should be broken up, one particularly notable section of his speech on Tuesday was the part outlining how exactly he plans to reform the Federal Reserve, the U.S.'s central bank:

"In my view, it is unacceptable that the Federal Reserve has been hijacked by the very bankers it is in charge of regulating. I think the American people would be shocked to learn that Jamie Dimon, the CEO of JPMorgan Chase, served on the board of the New York Fed at the same time that his bank received a $391 billion bailout from the Federal Reserve. That is a clear conflict of interest that I would ban as president. When I am elected, the foxes will no longer be guarding the henhouse at the Fed. Under my administration, banking industry executives will no longer be allowed to serve on the Fed's boards and handpick its members and staff."

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

A Growing Conflict in Wall St. Buyouts

Andrew Ross Sorkin, NY Times, 1/4

It goes by a rather innocuous-sounding name, the sort of phrase you might breeze past in a loan document: "designated lender counsel." But pay attention, because it's the latest conflict-ridden practice on Wall Street. Over the last several years, a new, insidious relationship has quietly developed between the nation's largest private equity firms, the banks that lend them billions to fund their buyouts and the law firms that advise on these deals. Historically, when a bank, like JPMorgan Chase, made a loan to a private equity firm planning a big acquisition, like the Blackstone Group, the bank would hire an outside law firm to scrutinize the loan and the transaction.

That made a lot of sense: Loans made to finance private equity deals are some of the riskiest because they typically involve a lot of debt. They are called "leveraged buyouts" for a reason. Having a team of lawyers review an often complex loan document could keep a bank from making a deal that might later come back to haunt it. The Federal Reserve, so worried about these kinds of loans, has since the financial crisis sought to make it tougher for big banks to make highly leveraged loans by issuing rules that determine the amount of money they can lend. But neither the Federal Reserve nor any other regulator has addressed this latest private equity maneuver.

Instead of allowing a bank to hire its own lawyers to vet a potential loan, many large private equity firms — Blackstone, Apollo Global Management, Kohlberg Kravis Roberts and Carlyle Group among them — now regularly require the banks to use a specific law firm that they designate, hence the term "designated lender counsel." The private equity firms pay for the law firm's services, too.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

[Wall St. watchdog homes in on high-frequency trades to combat spoofing]

Suzanne Barlyn and Ankit Ajmera, Reuters, 1/5

Wall Street's industry-funded watchdog is ramping up its scrutiny of high-frequency trading firms as efforts to manipulate U.S. markets through the technology grow more sophisticated, the regulator's chief said on Tuesday. The Financial Industry Regulatory Authority will examine how well high-frequency trading firms are protecting their systems from unscrupulous traders who are trying to manipulate markets, according to a list of its 2016 examination priorities for Wall Street firms, published on Tuesday.

High-frequency trading is an automated strategy that can move billions of dollars worth of trades in a fraction of a second. FINRA's heightened focus on controls in place at high-frequency trading firms coincides with the growing prevalence of a new and more complex form of spoofing, a type of manipulation that involves faking orders for a security to deceive the market by creating the illusion of demand, said Richard Ketchum, FINRA's chairman and chief executive, in an interview.

INVESTOR PROTECTION AND THE SEC

[FASB Proposes to Curb What Companies Must Disclose]

Gretchen Morgenson, NY Times, 1/2

Accounting rule makers are not generally known as flame-throwers. But with a new proposal, the Financial Accounting Standards Board has lobbed a miniature Molotov cocktail into the usually staid world of audit standards, upsetting investor groups and experts in the field. The proposal would effectively change the definition of materiality, a mainstay of corporate financial disclosure that determines what a company must tell investors about its operations and results.

On its surface, that sounds tame enough. But bear with me: If you own stock in corporate America in any form, you need to understand what FASB is thinking of doing. For decades information was deemed material if it could influence decisions made by users of financial statements, a.k.a. current and prospective shareholders or lenders.

But now, accounting standard-setters have proposed a new meaning for material information, one that some investors say will give far more discretion to companies in deciding what to disclose in their financial statements. The trouble with more discretion, the critics say, is that it usually means less information.

[Bank Rule Distorting Performance Is Repealed]

Peter Eavis, NY Times, 1/5

An "Alice in Wonderland" accounting rule that allowed stressed banks to book huge gains simply because they were stressed has been overturned. The Financial Accounting Standards Board, which formulates accounting rules, on Tuesday voted to do away with the rule, which took effect as the financial system was starting to crumble in 2007. The change was one of several the board approved Tuesday.

Russell G. Golden, the board's chairman, said the changes were "intended to provide users of financial statements with more useful information on the recognition, measurement, presentation and disclosure of financial instruments." Even though the rule at times enabled struggling Wall Street firms to print magical profits, and even though the financial industry pushed for the rule in the first place, the banks ended up despising it. The rule added confusing noise to banks' earnings statements that distracted from the fundamental performance of the banks' businesses.

Banks Get Relief on Accounting Headache

Michael Rapoport, Wall St. Journal, 1/5

The banking industry's least-favorite accounting rule is being scrapped. Accounting rule-makers on Tuesday changed a provision that in recent years has resulted in huge—and often head-scratching—swings in bank earnings. James Dimon, J.P. Morgan Chase & Co.'s chief executive, has called the rule "one of the more ridiculous concepts that's ever been invented in accounting."

Analysts and accounting experts also have criticized the rule—which requires banks to record big, counterintuitive gains and losses known as "debt-valuation adjustments," or DVAs—for yanking earnings up and down from quarter to quarter regardless of how the banks' operations are performing. They say the result of Tuesday's change will be a cleaner presentation of earnings, possibly as soon as the fourth-quarter reports, which the banks will issue later this month. "It does make the results more understandable," said Mark LaMonte, chief credit officer of the financial institutions group at Moody's Investors Service.

SEC's fund reforms face industry pushback

Patrick Temple-West, Politico, 1/7

SEC Chair Mary Jo White's attempts to regulate the investment fund industry are under attack. The Investment Company Institute, one of the financial industry's biggest lobbying organizations, next week will ask the SEC to rewrite rules for liquidity-risk management proposed for asset managers in September. The SEC's proposal, which its Democrat and Republican commissioners unanimously approved, has already drawn criticism from fund industry giant Vanguard, which has $3.1 trillion of assets under management.

"While academic theories have speculated about the possibility that mutual funds pose significant liquidity or redemption risks, the Commission presents no data to support these theories," Vanguard said in a Jan. 6 letter. Public feedback on the proposal is due Jan. 13. The SEC's proposal was part of a package of reforms White debuted in a December 2014 speech. The goal is to ward off systemic risk so that when investors panic, they do not start a widespread run on the market that could fuel a financial crisis.

Hasty law can't stop SEC rule on political disclosure

Darrell Delamaide, USA Today, 12/29

A bit of last-minute skullduggery in Congress blocking efforts to make companies disclose political contributions may fall short of its goal. Buried in the 2,000 pages of the $1.1 trillion spending bill passed into law this month was one of those nasty little riders that has nothing to do with funding the government but are slipped into a must-pass bill at the last minute.

This one specifically prohibited fiscal 2016 funding for the Securities and Exchange Commission to finalize or implement any rule to force political disclosure. But the wording of the law does not prohibit the SEC from going ahead with the long rulemaking process anyway, according to 94 Democratic lawmakers who sent a letter to SEC Chair Mary Jo White last week, backed up by a legal opinion from a Harvard professor.

"This provision does not bar the SEC from discussing, planning, investigating, or developing plans or possible proposals for a rule or regulation relating to disclosure of political contributions," said the letter, signed by Sens. Chuck Schumer of New York and Elizabeth Warren of Massachusetts, along with 26 other senators and 66 representatives.

Ex-SEC Official Gallagher Joins Regulatory Consultant

Andrew Ackerman, Wall St. Journal, 1/3

MORTGAGES & HOUSING

OCC terminates JPMorgan and EverBank mortgage servicing consent orders

Brena Swanson, HousingWire, 1/5

The Office of the Comptroller of the Currency terminated mortgage servicing-related consent orders against JPMorgan Chase and EverBank because it determined that the institutions now comply with the orders. The OCC also assessed a $48 million civil money penalty against JPMorgan and a $1 million civil money penalty against EverBank.

As a result of the termination, the two banks no longer have business restrictions that were mandated back in June 2015. "Doing what's right for our customers has always been our top priority. Our mortgage employees have worked very hard over the last several years to make changes that will further enhance the customer experience and we're pleased by the outcome of the OCC's assessment of our work," said Elizabeth Seymour, a spokesperson for JPMorgan.

POLITICAL INFLUENCE OF WALL STREET

U.S. Chamber Attacks Council Aimed at Keeping 'Too Big' Institutions From Failing

Public Citizen Press Release, 1/5

The U.S. Chamber of Commerce has strongly opposed centralized oversight of "nonbank" financial companies that precipitated the 2008 financial crisis and has fought to help a major contributor avoid heightened standards, according to a new report (PDF) from Public Citizen's U.S. Chamber Watch. The new report, "Undermining FSOC," examines the Chamber's advocacy regarding the Financial Stability Oversight Council (FSOC), which consists of financial regulators and was created as part of the 2010 Dodd-Frank Wall Street Reform and Consumer Protection Act to identify risks to the financial stability of the United States.

Among the council's duties is to identify financial services firms that are not banks but have the potential to destabilize the economy if they suffer distress. The law permitted the FSOC to designate nonbanks for supervision by the Federal Reserve, which regulates bank holding companies, and to recommend that such institutions be subject to higher fiduciary standards.

President Obama's Top 12 Failures on Money in Politics

Kurt Walters, Medium, 1/7

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

Congressman draws fire for bill that would aid MassMutual

Christopher Rowland, Boston Globe, 1/5

The MassMutual office tower looms large over Springfield, a symbol of the powerful role the insurance company plays in the home district of Representative Richard Neal. Now Neal is coming under fire for sponsoring legislation that would protect MassMutual — which is the veteran lawmaker's biggest source of campaign money — and other insurance and financial services companies from regulations proposed by the Obama administration.

Neal and his cosponsors have introduced a watered-down version of the Obama administration's plan to curb investment industry practices that critics say take an unfair bite out of Americans' retirement nest eggs. The Obama administration is taking aim at a conflict of interest for some brokers, who win hefty commissions to steer people with individual retirement accounts into complex investments with high fees and substandard returns. The White House estimates that Americans collectively lose $17 billion a year because they receive "conflicted advice" and wind up getting about 1 percent less in annual returns in their IRAs than they should.

Wall Street Fine Print: Retirees Want FBI Probe Of Pension Investment Deals

David Sirota, IB Times, 1/6

Diane Bucci and her fellow retired Rhode Island schoolteachers were angry about a deal last year to cut their promised retirement benefits. For 28 years, the elementary school teacher devoted between 7 and 9 percent of her paycheck to the state's pension system. In return, the 72-year-old had been promised a consistent cost-of-living increase to make sure her retirement stipend kept pace with inflation. Now, though, state officials were trimming her check in the name of replenishing the depleted pension fund.There was, however, a sliver of hope — or so it seemed: If the pension system could generate better investment returns and amass 80 percent of the money needed to pay current and future retirees, the annual cost-of-living increases would return.

“There was a lot of unrest and anger among teachers, but at that point we buckled down and focused on how we could get to solvency,” said Bucci, who is on the board of the 700-member Rhode Island Retired Teachers Association. “So even though we aren’t Wall Street experts, we just started to ask questions about how the pension fund was managed, and what it was invested in. That’s when we realized the fees we’ve been paying to the investment companies were the problem.” …The shift by Raimondo, a Democrat who is now governor, has generated big revenues for Wall Street firms, but only middling returns for a $7.6 billion pension fund on which more than 58,000 current and future retirees rely.

When Bucci and the members of her organization began asking questions about those results, they learned of a federal review showing that roughly half of all private equity firms are charging hidden fees, and they saw a hedge fund industry whose returns have failed to keep pace with the stock market. When they dug deeper, they stumbled onto an even more disturbing revelation. What they found, they say, is evidence that some investors can obtain special rights that may let them secretly siphon money from the state pensioners’ retirement savings.

Fiduciary rule could make 2016 good for investors

Mark Miller, Reuters, 1/7

The U.S. stock market may give us a rocky ride in 2016, but the year is shaping up to be a good one for retirement savers. At long last, investment advisers may be required to put your best interests ahead of their own. The U.S. Department of Labor is applying the finishing touches to the so-called fiduciary rule - a geeky-sounding phrase that actually will mean a great deal to anyone with a 401(k) or Individual Retirement Account (IRA).

This rule will reshape the retirement advice business because it will require banks, brokers, mutual fund companies and insurance agents to keep fees low and protect your savings from excessive risk when they advise you, rather than focus on how much they can earn in commissions. Opponents failed to stop the Labor Department last month, when Congress declined to add a rider to the omnibus federal spending bill that would have halted the rulemaking. If they try again, President Barack Obama is ready to veto any subsequent legislation aimed at halting the process.

If you doubt that we need this regulation, consider the case of JPMorgan Chase & Co. Just before the holidays, the largest bank in the United States agreed to pay $307 million to settle accusations by the U.S. Securities and Exchange Commission (SEC) that brokers and advisers in several JPMorgan divisions steered clients into its own, more expensive investment products over other choices without making the required disclosures to clients about conflicts of interest.

DOL finalizes major rules on wages, safety

Brian Mahoney, Politico, 1/4

The Labor Department appears on track to complete three major rulemakings in 2016. The final fiduciary rule, expected in March, would require financial professionals to act only in the best interests of their clients when providing retirement advice...

STUDENT LOANS & FOR-PROFIT EDUCATION

This Map Shows How Student Debt Is Crushing Your Community

Delphine d’Amora, Mother Jones, 1/6

Student debt is an elephant in the room of the American economy. Total educational debt has ballooned from $840 billion in 2010 to more than $1.3 trillion this year, according to the Federal Reserve. And yet the Education Department has been reluctant to share data on the federal government's student loan portfolio, meaning that, until recently, there has been very little detailed information available on the burgeoning crisis.

But now researchers are working to chart the extent of the crisis and its impact on communities around the country. An interactive map created by the Washington Center for Equitable Growth, a nonprofit research organization focusing on economic inequality, offers a glimpse into how the crisis is playing out across the United States. The main takeaway is simple and troubling: The prohibitive cost of higher education hits people of many backgrounds, in every state." Student debt is pervasive, no matter what your educational background is," said Kavya Vaghul, an analyst who worked on the project. "There are effects across multiple groups."

[Ex-Congressman Solicits $80,000 From For-Profit Colleges for Court Paper Aimed at Shielding Fraud]

David Halperin, Huffington Post, 1/6

The Republican ex-congressman who now works as the chief lobbyist for the troubled for-profit college industry has ushered in the new year with an email asking for-profit college owners to finance a legal brief aimed at limiting the legal risk of companies in fraud cases. The amount that Steve Gunderson, CEO of the industry trade group APSCU, says he needs to pay for the single, short brief he proposes to file with the U.S. Supreme Court? $80,000. The email, obtained by Republic Report, opens with a hearty "Happy New Year!" greeting but then gets down to business, with Gunderson describing what's at stake in a case the Supreme Court will consider this term, Universal Health Services v. United States ex rel. Escobar: Basically, whether a company can be held liable for fraud under the federal False Claims Act whenever it submits a bill to the government while in violation of a legal condition for receiving payment.

For-profit colleges have reason to fear a bad result in this case: The industry has been receiving more than $30 billion a year in taxpayer funding to enroll students, and many of the big industry players are under investigation by law enforcement or already have paid fines to settle False Claims Act cases or other claims that they have deceived students and taxpayers. In the face of an adverse ruling, Gunderson warns, big for-profit colleges that violate the law could face "crippling liability."

For-Profit Colleges May Be Down, but Don't Count Them Out

Goldie Blumenstyk, The Chronicle of Higher Education, 1/4

How For-Profit Education Is Now Embedded in Traditional Colleges

Goldie Blumenstyk, The Chronicle of Higher Education, 1/4

SYSTEMIC RISK

Sanders thrusts Wall Street reform to center of Clinton showdown

Gabriel Debenedetti, Politico, 1/5

For months, the question of how to handle Wall Street has sat in the background of the Hillary Clinton vs. Bernie Sanders match-up, animating their debates but never fully driving the contest.

That finally changed on Tuesday, as Sanders tried to burst the issue to the front of the primary electorate's mind with a Manhattan speech meant to kick off his closing argument in the early-voting states of Iowa and New Hampshire, where he's running in tight races with Clinton. Pledging to identify the "too big to fail" banks and insurance companies within his first 100 days in the White House, and to break them up within a year, the Vermont senator fleshed out his long-anticipated Wall Street plan after months of sparring with Clinton and insisting the former New York senator is too close to the banks, pointing to her high level of support from the financial industry.

"Here is a New Year's Resolution that we will keep, and that is: If Wall Street does not end its greed, we will end it for them," Sanders said, also promising to prosecute Wall Street executives, to tax speculators, and to reinstate a version of the Glass-Steagall Act that creates a firewall between commercial and investment banking.

Clinton Camp Hits Sanders on Wall Street Reform

Ben White, Politico, 1/5

The Clinton campaign moved Monday to get out ahead of a speech on Wall Street reform the Vermont senator is giving at Town Hall in NYC today, putting out a statement from former CFTC chair Gary Gensler who is now working on the campaign: "Any plan to further reform our financial system must include strong provisions to tackle risks in the 'shadow banking' sector, which remains a critical source of potential instability in our economy. This includes certain activities of hedge funds, investment banks like the now-defunct Lehman Brothers, and insurance companies like AIG.
Story Continued Below

"Unfortunately, Senator Sanders has so far taken a hands-off approach to some of the riskiest institutions and activities in our economy, which were among the biggest culprits during the 2008 crisis. In his speech … Senator Sanders should go beyond his existing plans for reforming Wall Street and endorse Hillary Clinton's tough, comprehensive proposals to rein in risky behavior within the shadow banking sector."

Bernie Sanders's Plan to Tame Wall Street Riles Clinton Camp
Mary Bottari, Huffington Post, 1/7
Before the plan was even released, the Clinton campaign was worried. Clinton's reform proposal, released online in October, had many positive elements including a limited tax on high speed traders, a risk fee on the biggest banks and greater transparency in the derivatives markets, but it did not go much further than the reforms contained in the 2010 Dodd-Frank bill. It said nothing about restoring Glass-Steagall and did not call for the break up of the nation's dangerous mega banks, whose very size and complexity could bring down the U.S. economy.

This puts Clinton out-of-step with respected reform advocates like Americans for Financial Reform. So before Sanders even rolled out his plan in New York on Tuesday, former CFTC Chair and Clinton advisor Gary Gensler issued a statement slamming it and urging Sanders to "go beyond his existing plans" to break up too-big-to-fail banks and endorse a "risk-based approach that also deals with non-bank financial institutions."

Want killer financial regulation? Just combine Bernie Sanders' plan with Hillary Clinton's.
Ryan Cooper, The Week, 1/8
Bernie Sanders and Hillary Clinton are having, by 2016 standards at least, an intelligent and productive debate about the proper form of financial regulation. Even more astonishing, the proposals are actually complementary rather than exclusive. It's two great bank-smashing tastes that taste great together! Each reform perspective is a rather good encapsulation of the candidate's personality. Clinton's ideas, leveraging her command of the intelligent but timid Democratic Party policy apparatus, focus on a fine-grained understanding of the financial sector and empowering the regulatory apparatus to control it. Sanders mainly wants to bludgeon Wall Street with a cricket bat — crushing Big Finance's political power by slashing bank size and attacking their profitability with deliberately onerous regulation.

Aspects of both proposals will be needed for any comprehensive reform — strong and vigilant regulation, one major task of which is simply capping the power and profitability of finance… I think Clinton's idea to build on Dodd-Frank (which has been an underrated success) is somewhat more grounded and realistic than Sanders'. But where Sanders is unquestionably right is in how that plan must be implemented: with a determination bordering on zealotry. As Haley Sweetland Edwards has explored in depth, any financial reform effort is met with endless legal trench warfare from the big banks.

Clinton and Summers are wrong on Sanders's Glass-Steagall proposal
Robert Hockett, The Hill, 1/5
Sen. Bernie Sanders (I-Vt.), along with Sens. Elizabeth Warren (D-Mass.), John McCain (R-Ariz.) and others, has called for the passage of an updated version of the Glass-Steagall Act in our nation's next round of financial reforms. Sanders's rival for the Democratic nomination, former Secretary of State Hillary Clinton, joined by her husband's former Treasury secretary, Larry Summers, objects to this proposal (although both make constructive proposals of their own). Her professed ground is that the original Glass-Steagall Act wouldn't have prevented our most recent crisis, which was caused mainly by shadow banking. This is a bit like objecting to the iPhone 6s because your flip phone had inadequate functionality. It suggests incomprehension of Sanders's, Warren's and McCain's proposals, for the whole point of these proposals is to regulate 21st-century shadow banking just as the original Glass-Steagall regulated 20th-century shadow banking.

How Sanders and Clinton Each Approach Shadow Banking
Mike Konczal, Roosevelt Institute, 1/7

Should we break up the big banks?
Chris Hayes interviews with Barney Frank and Alexis Goldstein, MSNBC, 1/6
Alexis Goldstein of **Americans for Financial Reform**: "I want to push back on what Barney [Frank] said about, 'Oh, Lehman wasn't so big and they weren't a bank, and so Glass-Steagall wouldn't have made a difference.' Lehman

Brothers did not cause the crisis. Lehman Brothers exposed the crisis. All of the megabanks who were a byproduct of the repeal of Glass-Steagall, which is the Depression-era law separating casino banking from boring banking – they had the same positions, the same garbage subprime mortgages that Lehman Brothers had…

I think you need an all-of-the-above approach: you use the law that bears Barney Frank's name, which requires the breakup of any bank that is too big to fail without harming the economy; you pass new legislation, the 21st Century Glass Steagall Act, which is a bipartisan piece of legislation – Senator Warren's on it, and Senator McCain is on it. And then you need to involve the public and the grass roots in order to build this new voice that's going to hold these people accountable. You can't just do one thing. If Glass-Steagall was repealed by a death by a thousand cuts, you need a hundred small steps to make the financial system safer."

In Wall Street speech, Sanders will pledge to break up big banks within first year in office

John Wagner, Washington Post, 1/4

Presidential hopeful Bernie Sanders will pledge Tuesday that if elected president he would act within his first year to break up banks deemed "too big to fail." The promise is included in a speech that the Vermont senator is scheduled to deliver in Manhattan on Wall Street reform, one of the pillars of his upstart campaign for the Democratic nomination against Hillary Clinton.

In the address, Sanders plans to assert that "a handful of huge financial institutions simply have too much economic and political power over this country." "If a bank is too big to fail, it is too big to exist," Sanders will say, according to excerpts released by his campaign. "When it comes to Wall Street reform, that must be our bottom line."

Warren praises Sanders' Wall St. speech

Nick Gass, Politico, 1/6

Though she has not yet endorsed a presidential candidate, Sen. Elizabeth Warren on Wednesday offered some strong praise for Bernie Sanders. "I'm glad @BernieSanders is out there fighting to hold big banks accountable, make our economy safer, & stop the GOP from rigging the system," she tweeted as part of a series supporting the presidential candidate's proposal, which he announced in a speech the previous day. She invoked her own proposed legislation as an example…

For her part, Hillary Clinton has rejected the notion that a Glass-Steagall replacement is a viable solution for preventing future financial calamity, pointing to the fact that the act would not have limited the "reckless behavior" on the part of large "non-traditional" institutions like Lehman Brothers and AIG.

"Nor would restoring Glass-Steagall help contain other parts of the 'shadow banking' sector, including certain activities of hedge funds, investment banks and other non-bank institutions," she wrote in a December op-ed for The New York Times. "My plan would strengthen oversight of these activities, too — increasing leverage and liquidity requirements for broker-dealers and imposing strict margin requirements on the kinds of short-term borrowing that also played a major role in spurring the financial crisis."

Did Bern Get Glass-Steagall Wrong?

Ben White, Politico, 1/6

A little birdie emails: "In an attempt to connect his cure-all policy proposal of reinstating Glass Steagall to the separate problem of shadow banking, he said this: 'Shadow banks did gamble recklessly, but where did that money come from? It came from the federally-insured bank deposits of big commercial banks — something that would have been banned under the Glass-Steagall Act.' … It is false that Glass Steagall banned commercial banks from lending to investment banks."

Glass Steagall React

Ben White, Politico, 1/7

ICBA's Cam Fine emails re Bernie Sanders' comments: "Your little birdie is correct. Glass-Steagall did not ban commercial banks from lending to investment banks, but I don't think that was Sander's point. The repeal of Glass-Steagall made lending to investment banks moot. The repeal of Glass-Steagall made commercial banks and investment banks one and the same. So all those relatively cheap insured deposits were there for the taking and for use in high risk and speculative trades. Lending became unnecessary."

Marcus Stanley of **Americans for Financial Reform**: "Your 'little birdie' yesterday got it wrong. Big commercial banks like Citibank and JP Morgan provided all kinds of support to shadow banking after the repeal of Glass-Steagall. They had massive exposures to 'toxic assets' and to failing investment banks through the securitization, repo, and derivatives markets, not through conventional lending. Preserving the original Glass-Steagall would have prevented a fair number of those exposures, and the modernized 21st Century Glass-Steagall Act that Sanders has endorsed would ban almost all of them."

Avoiding "The Big Short" Sequel

Josh Hoxie, Inequality.org, 1/6

When you go see the hit new movie "The Big Short", and you should go soon, keep in mind the full title of the book behind the film: The Big Short: Inside the Doomsday Machine. This film does take us inside that machine, using an all-star cast and celebrity cameos to tell, with refreshing clarity and humor, how the subprime mortgage crisis led to the 2008 financial crisis that crippled the entire world economy. Unfortunately, the film does not go the one needed step further and explain how to prevent the next financial crisis — and that's a shame… This film could have delivered more than rage and terror. Director McKay missed a major opportunity to drive home just how much we know about how to prevent the next financial crisis. Had McKay decided to wade into the political waters of prescribing public policy to fix our casino capitalist system, he might have riffed on a few solutions like these:

1. Break up the banks. All of the major financial institutions that contributed to the 2008 crash (that still exist) are larger today than they were then. If they're too big to fail (or to jail), they are too big to exist and should be broken up.

2. Tax Wall Street. A small levy on financial transactions, referred to as the Robin Hood Tax, would cut down on the nefarious and unproductive behavior on Wall Street, like high speed trading, the topic of Michael Lewis' latest book Flash Boys. A financial transaction tax would also raise significant revenue for much needed public programs.

3. Make banking boring. The high stakes gambling that constitutes modern finance does not contribute any meaningful value to the real economy. Everyone acknowledges there's a valuable role for banking in the economy, but there's no reason banking should be anything other than the boring entity it was from the 1940s to the 1970s.

OTHER TOPICS

After Mass Shootings, Some on Wall St. See Gold in Gun Makers

Julie Creswell, NY Times, 1/6

In the days after the Paris terrorist attacks last November, world leaders denounced the shooting massacres. On Wall Street, the money manager Louis Navellier saw a buying opportunity. Shares of the two leading gun manufacturers, Smith & Wesson and Sturm, Ruger & Company, popped onto Mr. Navellier's computer screen. Their stock prices were rising as a result of strong sales. He began accumulating positions in both companies. Two months later, those bets have paid off. The stocks of Smith & Wesson and Sturm, Ruger spiked again after the San Bernardino, Calif., shootings last month. They also moved sharply in advance of President Obama's announcement on Tuesday of measures to curb gun violence.

On Tuesday morning, Mr. Navellier appeared on the business television network CNBC and discussed his winning investment in gun makers. "Mr. Obama is the best gun salesman on the planet," said Mr. Navellier, chairman of the Reno, Nev., investment firm Navellier & Associates, alluding to the notion that the White House's push for stricter gun laws has driven sharp increases in firearm sales.

Bernie spurns Wall Street

Ben White, Politico, 1/6

Bernie Sanders is on the cover of the new Bloomberg Businessweek out Friday (full story available Thursday). From the story by Joel Stein "When Sanders 'was asked, before a speech in Keene, N.H., what he would say to reassure the

Bloomberg Businessweek readers who work on Wall Street, or have millions of dollars, or run a hedge fund, and might be afraid he wants to tax them back to the Carter Age …“'I’m not going to reassure them,' he says. 'Their greed, their recklessness, their illegal behavior has destroyed the lives of millions of Americans. Frankly, if I were a hedge fund manager, I would not vote for Bernie Sanders. And I would contribute money to my opponents to try to defeat him.'"

Taxpayer Advocate Warns of ‘Pay to Play’ I.R.S. System

Patricia Cohen, NY Times, 1/6

Under pressure from Congress to do more with less, the Internal Revenue Service is planning to increase its reliance on technology and tax preparers. But this push threatens to create a “pay to play” system where the only taxpayers who will receive personalized service are those who can afford to pay for it, the agency’s taxpayer advocate warned. The taxpayer advocate issued the warning as part of her annual report released on Wednesday.

The I.R.S. has spent the last 18 months developing a long-term strategy that includes the creation of a system of online taxpayer accounts, and an expanded role for outside tax preparers and software companies. While the overarching goal is worthy, the taxpayer advocate said, it is troubling that the agency intends “to substantially reduce telephone and face-to-face interaction with taxpayers.”

Tax-Trade Mess Lingers at Bank of America

Jenny Strasburg, NY Times, 1/6