AFR Americans for Financial Reform

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CONSUMER FINANCE & THE CFPB

After RushCard Fiasco, Consumer Advocates Urge More Oversight of Prepaid Cards
Ashlee Kieler, Consumerist, 10/26
For the better part of two weeks, thousands of unbanked consumers who rely on prepaid RushCards have been unable to access their funds because of a technical glitch. While the company run by Russell Simmons continues to fix the issue, consumer advocates are pointing at the incident as evidence that federal regulators need to do more to protect prepaid cardholders.

A coalition of eleven consumer groups today sent a letter urging the Consumer Financial Protection Bureau, Federal Reserve Board and the Office of the Comptroller of the Currency to increase consumer protections for the country's unbanked, noting that the RushCard incident has raised issues on prepaid card vulnerabilities and a lack of regulatory oversight in the industry.

Should the post office also be a bank?
Joe Davidson, Washington Post, 10/29
If there were more alternatives in neighborhoods lacking banks, payday customers might not be driven to lenders with a reputation for exploiting borrowers with high-interest loans that roll over and over and over. Cue postal banking.

Postal unions and civil rights groups are among other advocacy organizations, along with the U.S. Postal Service inspector general, pushing USPS to expand into banking. Sen. Bernie Sanders (I-Vt.), a Democratic presidential hopeful, agrees. But USPS, which could use the business, has no interest. Providing financial services in post offices "could benefit the 68 million underserved Americans who either do not have a bank account or rely on expensive services like payday lending and check cashing," says an inspector general report issued in May.

Let's make the banks serve us: How the government subsidizes the super-rich, while we pay the overdraft fees
Michael Schulson, Salon, 10/24
"One of the great ironies in American life is that the less money you have, the more you have to pay to use it," writes Mehrsa Baradaran at the beginning of her new book, "How the Other Half Banks." Baradaran, a law professor at the University of Georgia, is keying in on a deep social inequity: for millions of Americans, the main options for basic banking services are payday lenders and check cashers. These services charge exorbitant rates and fees. In many states, they're barely regulated. They form an exploitative shadow market to the brick-and-mortar, federally-subsidized-and-guaranteed banks that serve more affluent Americans.

In "How the Other Half Banks," Baradaran looks for another option — ideally, an institution with a national network of locations already in place and a commitment to public service. If only we had an institution like that! And, of course, we do: the United States Postal Service.

Bernie Sanders has a pretty revolutionary idea to change America's post offices
Max Ehrenfreund, Washington Post, 10/29

Sen. Bernie Sanders (I-Vt.), a candidate for the Democratic presidential nomination, has a big idea for turning post offices back into banks. That's because he sees them as a place where the 68 million low-income Americans who currently rely on payday lenders and costly cash checking services could manage their affairs less expensively. (And banking might help the beleaguered Postal Service's bottom line as well.)

"What people are forced to do is go to payday lenders who charge outrageously high interest rates. You go to check-cashing places, which rip you off," Sanders said recently.

Warren, Cordray Talk Presidential Politics, Post Office Banking
Rachel Witowski, American Banker, 10/28

Payday Loans Cost the Poor Billions, and There's an Easy Fix
Frederick Wherry, NY Times, 10/29
What might start as a $500 lifeline can quickly become a heavy burden. Annual interest rates for payday loans typically run between 391 and 521 percent, according to the Center for Responsible Lending, and most people who use them end up paying more in fees over the course of the year than they originally received in credit. Nationally, borrowers spend roughly $8.7 billion per year on payday-loan fees.

We should change the regulations so that these customers could stay in the financial mainstream and not leave banks where they already have accounts just to go borrow a few hundred dollars. The high rates and aggressive collection practices of payday lenders cause consumers to lose their bank accounts and sometimes to exit the formal banking system entirely. Well-structured small bank loans, repayable in installments, could prevent that…So far policy makers have proposed a much more complex way to address this: Let the Postal Service do it.

Why don't payday lenders give us all the facts?
Bradley Daw, Salt Lake Tribune, 10/27
In a recent Salt Lake Tribune op-ed on payday lending, national payday lender executive Dennis Shaul is correct in pointing out that just because a payday loan is stretched out to 10 weeks does not mean the borrower has defaulted. What does this mean for the borrower? Have they rolled the original loan over several times? Do they now have several outstanding loans to cover the building interest? Are they being hit with excessive fees and interest?

For reasons that defy common sense, the state of Utah has never required, and payday lenders have never volunteered, this important piece of information.

Servicemembers Deserve Protection From Financial Ruin During Deployment
Sen. Tom Udall Press Release, 10/29
Today, U.S. Senators Tom Udall (D-N.M.) and Martin Heinrich (D-N.M.) joined in a letter led by U.S. Senators Bob Menendez (D-N.J.) and Sherrod Brown (D-Ohio) to U.S. Department of Defense Secretary Ashton Carter outlining their concerns over reports of significant harm to the finances and credit of active servicemembers while deployed. The senators are requesting specific information and feedback to help ensure all servicemembers have the tools they need to safeguard their financial security.

"Even small credit events, such as a single missed payment, have the potential to snowball into major problems that can endanger their financial well-being," the senators wrote. "It is unreasonable to think that a country would send its men and women overseas to defend our national security without equipping these brave servicemembers with the adequate safeguards to protect their finances and their credit."

Ohio Issue 1 campaign funded by payday lenders, other lobby groups
Jackie Borchardt, Cleveland.com, 10/23
A payday loan industry group is the leading contributor to the campaign backing Issue 1, which would change how Ohio draws state legislative districts. The Ohio Consumer Lenders Association contributed $100,000 to the redistricting reform effort, according to a campaign finance report filed Thursday with the Ohio secretary of state's office.

[AARP new poll shows support for payday loan cap](#)
Pascale Mondesir, KSFY, 10/28

[Payday lender donations to McHenry prompt probe call](#)
Mark Barrett, Citizen-Times, 10/23

[Hundreds of Black Church Leaders To Launch National Strategy To Address Payday Lending.](#)
Joy105, 10/29

[Program Launched to Help Low-Income Residents Find Safe Banking Options](#)
Hannah Albarazi, Bay City News, 10/27

[Big Banks Sign On to Safer Account Standards for Underserved](#)
Ian McKendry, American Banker, 10/27

[Payday loan stats in Alabama staggering](#)
Gadsden Times Editorial Board, 10/24

[Most banks invisible on federal complaint website](#)
Fred Williams, CreditCards, 10/26
Comenity Bank is a big credit card company, with dozens of store cards. But you won't find its name in the government's database of consumer financial complaints. That's because a legal loophole gives Comenity -- and thousands of other lenders -- a pass on having complaints about them aired on the federal website.

Under the Dodd-Frank Act, banks and credit unions with less than $10 billion in assets are not subject to oversight by the U.S. Consumer Financial Protection Bureau. Consequently, the agency sends gripes about them to other regulators, and leaves them off the complaint site… Smaller banks' exemption from CFPB supervision was written into the Dodd-Frank Act as part of the political deal to win the law's passage -- not because the lenders aren't significant. For example, St. Paul, Minnesota-based Bremer Bank has 99 locations across three states and holds nearly $8 billion in customers' deposits, according to the FDIC. But with assets of less than $10 billion, it is just under the threshold for CFPB oversight.

[Scam by Callers Claiming to be from Advance America Expands into Kentucky](#)
ACA International, 10/23

[High-interest car title loans driving consumers into a hole](#)
Chicago Sun Times Editorial Board, 10/29

DODD-FRANK (ATTACKS AND DEFENSE)

[This Christmas, just say ‘No’ to Wall Street gifts](#)
Rep. Maxine Waters, The Hill, 10/26
On Dec. 11, the stop-gap spending measure currently funding the government will expire. But instead of looking for ways to help Main Street and pull America back from a self-imposed budget “cliff,” Republicans in Congress are already planning how to use this year-end deadline as a way to push through Wall Street’s Christmas wish-list…

[The Battle of the Budget Isn't Over](#)
David Dayen, American Prospect, 10/29
Attached to all of the existing appropriations bills are riders unrelated to the budget, affecting everything from social to environmental to financial regulatory policy…

These aren’t primarily funding decisions, but unrelated favors that reward conservative friends (typically businesses seeking to be unshackled from regulations) and punish enemies such as Planned Parenthood and the Consumer Financial Protection Bureau. They would fail as standalone legislation, but can pass when attached to the budget like barnacles to a ship. And they are exactly the type of policies—repealing environmental and safety regulations, attacking

Planned Parenthood—that conservatives deemed important enough to be worth shutting down the government for. That bomb has not been defused; it hasn't even been delayed.

Ryan Would Bring Expertise, Views to Reshape Financial Industry

George Cahlink, CQ Roll Call, 10/26

Like most Republicans, Ryan wants to scale back the 2010 Dodd-Frank financial regulatory law (PL 111-203) and wants to discourage future federal bailouts of banks. He supported the 2008 financial bailout, calling it a bad option but better than a potential economic depression...

Omnibus Spending Bill: Top Issues for Appropriators

Bloomberg, 10/30

Look for Republicans to try to reverse parts of the 2010 Dodd-Frank financial law… The Senate's version of legislation to fund the Internal Revenue Service, S. 1910, contains the full text of Financial Regulatory Improvement Act, S. 1484, approved by Senate Banking Committee in May. The bill by Chairman Richard Shelby would give banks multiple exceptions from consumer regulations. A House draft provision would restrict the ability to regulate mutual funds as non-bank systemically important financial institutions, or SIFIs, under Dodd-Frank.

Republicans were able to roll back a Dodd-Frank planned derivatives trading regulation in last year's "cromnibus," Public Law 113-235, and they are emboldened to try to limit Dodd-Frank again this year. The provision last year allowed some companies, such as Citigroup Inc. and JPMorgan Chase & Co., to forgo spinning off their swaps activities to non-bank affiliates, and maintain access to federal assistance. Democratic appropriators felt the wrath of Senator Elizabeth Warren after allowing the swaps provision to sneak into the omnibus, so they plan to fight harder this time, a House aide said.

Here's How GOP Hardliners Could Still Blow Up the Budget Deal

Martin Matishak, The Fiscal Times, 10/30

The government shutdown threat has NOT been defused. And that poses a big test for Paul Ryan.

Greg Sargent, Washington Post, 10/30

Reid: Democrats Would Stop a Rider-Riddled Omnibus

Niels Lesniewski, Roll Call, 10/30

GOP Contenders Slam Government's Role in Banking

Victoria Finkle, American Banker, 10/28

Republican presidential candidates managed to get in several barbs over banking policy during the party's primary debate on Wednesday night, largely aimed at the Federal Reserve and government more broadly.

Still, the contenders mostly skirted around banking issues yet again, the third GOP debate in a row that has failed to substantively address the Dodd-Frank Act, mortgage finance or other pressing financial policy matters. If anything, the candidates were relatively unified in their positions that regulatory bureaucracy and government bumbling are at the root of the country's problems.

ENFORCEMENT

Deutsche Bank Is Expected to Settle Sanctions Violation Case for at Least $200 Million

Ben Protress and Peter Eavis, NY Times, 10/28

Deutsche Bank, the German financial giant with a big presence on Wall Street, is close to settling one of the many government investigations it currently faces. In a deal that is expected to be announced as soon as next week, Deutsche Bank would pay at least $200 million to resolve investigations into its dealings with countries like Iran and Syria, according to officials briefed on the matter.

Deutsche Bank is the latest in a long line of banks to pay big fines for doing business with Iran and other countries blacklisted in the United States. The biggest case came last year when France's biggest bank, BNP Paribas, pleaded guilty to criminal charges and paid a record $8.9 billion penalty to federal and state authorities.

EXECUTIVE COMPENSATION

JPMorgan Approves Clawback-Disclosure Plan, Weighs Proxy Access

Hugh Son, Bloomberg, 10/26

While JPMorgan's policies have allowed it to recover pay from workers who have hurt the company and its shareholders, the bank wasn't required to disclose such actions. JPMorgan has clawed back millions in pay from managers responsible for the 2012 London Whale debacle, which led to a trading loss of more than $6.2 billion. The bank was fined more than $1 billion by U.S. and U.K. regulators in 2013 for lax oversight.

The board will also consider amending bylaws making it easier for shareholders to nominate directors, similar to provisions at firms including Bank of America Corp. Investors who own at least 3 percent of the bank's stock for three years, or a group of as many as 20 shareholders formed to reach that threshold, can nominate at least two directors, according to the filing.

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

The war over a tax break for hedge funds and money managers

Paul Solman, PBS NewsHour, 10/29

Morris Pearl: The carried interest loophole is the most egregious example of unfairness that I have seen…

Paul Solman: Egregious, Pearl thinks because, despite the argument made by this private equity video, money managers aren't risking anything. But, because they form so-called partnerships with their investors, they get to cut their tax bill in half by reporting their share of profits as a carried interest capital gain. The industry's rationale? The managers are investing something: their effort.

The Bipartisan Budget Deal's Small Step to Crack Down on Large Partnerships

Steven Rosenthal, TaxVox, 10/28

The tentative budget deal, which the House could vote on later today, would create a new regime to audit large partnerships which now are largely free from IRS oversight. The measure would allow the IRS to examine the partnership's income, gains, losses, deductions, and credits—and require the partnership (not the individual partners) to take into account any adjustments in the year that the audit is completed. The agency also would collect any additional taxes directly from the partnership—rather than from the partners. In general, the IRS would collect a tax on any income adjustment at the top individual rate, but the IRS would have to reduce the tax if an income adjustment is allocable to a tax-exempt partner.

A budget that works for everyone, not just the wealthy

Sen. Tammy Baldwin, Medium, 10/24

I believe we should take action on a tax reform measure I have introduced to end the carried interest loophole. This loophole allows Wall Street millionaires and hedge fund managers to pay a lower tax rate than many truck drivers, teachers and nurses. We need to eliminate this loophole to make sure those at the top are paying their fair share so we can invest in an economy that creates shared prosperity.

Valeant Stock Plunge Shows the Risk of Following the Leader

Steven Davidoff Solomon, NY Times, 10/27

Hedge funds often justify their high fees by saying that they offer distinct approaches to investing. But the recent turmoil in the shares of Valeant Pharmaceuticals International reveals a dangerous tendency of these funds to engage in herd behavior, following the crowd as they plunge in and out of a stock.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

Keynote Address of CFTC Commissioner J. Christopher Giancarlo before the 2015 ISDA Annual Asia Pacific Conference

Christopher Giancarlo, 10/26

There is no doubt there must be safeguards in place, but those safeguards should not stifle promising innovation. As has been reported, the staff of the CFTC has been working on a rule proposal regarding regulation of automated trading. Much of the public's views on how the CFTC should approach automated trading are expressed in comment letters formally submitted to the Commission in response to an important concept release issued in September 2013.

INVESTOR PROTECTION AND THE SEC

Dems push SEC to issue political spending rule

Lydia Wheeler, The Hill, 10/23

Congressional Democrats renewed their push this week to get financial regulators to issue a rule requiring all publicly traded companies to disclose their political spending. Reps. Patrick Murphy (D-Fla.) and Michael Capuano (D-Mass.) led a coalition of 58 lawmakers in writing a letter to Securities and Exchange Commission (SEC) Chairwoman Mary Jo White calling again for a formal rule.

"As you know, the 2010 Supreme Court decision in Citizens United v. FEC, opened the floodgates on unlimited and unchecked corporate spending on political communication and campaign advertisements," the lawmakers' letter said. "This paradigm poses a fundamental threat to our democracy, which is hobbled by unaccountable corporate special interests drowning out the voices of everyday citizens."

New SEC fundraising tool starting to gain popularity, White says

Patrick Temple-West, Politico, 10/29

Businesses are gradually embracing a new fundraising tool enacted in the 2012 JOBS Act, while the SEC simultaneously starting to scrutinize these deals for misconduct, the head of the agency said today. In July 2013, the SEC lifted the ban on advertising and "general solicitation" for businesses raising cash in private securities offerings. Since then, businesses have taken advantage of general solicitation and advertising, but at a lower rate than businesses using traditional private deals that do not allow such activity, said SEC Chair Mary Jo White, speaking at a conference in New York.

SEC May Soon Buck Its Male-Heavy History with a Majority of Female Commissioners

Steve Straehley and Danny Biederman, AllGov, 10/27

Obama has now nominated Lisa Fairfax, a law professor at George Washington University, to fill the Democratic seat on the SEC that had been held by Luis Aguilar. Fairfax is seen as an advocate for consumers who isn't coming from a Wall Street law firm…

In June, a coalition of investor protection groups sent Obama a letter criticizing him for filling the SEC with "'revolving door' insiders with a history of moving back and forth between Wall Street firms seeking to escape accountability and the agency charged with defending the public interest." The new nominations appear to be bucking that trend. "[Fairfax] is not a revolving-door candidate, so that is a positive thing," Marcus Stanley, policy director of **Americans for Financial Reform**, the nonprofit coalition that spearheaded the letter, told the Times.

MORTGAGES & HOUSING

'Redlining' home loan discrimination re-emerges as a concern for regulators

Rachel L. Swarns, NY Times, 10/30

The green welcome sign hangs in the front door of the downtown branch of Hudson City Savings Bank, New Jersey's largest savings bank. But for years, federal regulators said, its executives did what they could to keep certain customers out. They steered clear of black and Hispanic neighborhoods as they opened branches across New York and Connecticut, federal officials said. They focused on marketing mortgages in predominantly white sections of suburban New Jersey and Long Island, not here or in Bridgeport, Conn. The results were stark. In 2014, Hudson approved 1,886 mortgages in the market that includes New Jersey and sections of New York and Connecticut, federal mortgage data show. Only 25 of those loans went to black borrowers…

[Rural Bankers Ask Lawmakers for Grace Period on Mortgage Disclosures]
Lalita Clozel, American Banker, 10/28

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Lawmakers Want Yet Another Comment Period on DOL Fiduciary Rule]
ThinkAdvisor, 10/30
House lawmakers are being asked to co-sign a draft letter circulating on Capitol Hill asking the Department of Labor to hold another 15- to 30-day comment period on its fiduciary rule before finalizing it. The draft letter, penned by Rep. Jared Polis, D-Colo., a member of the House Rules and Education and Workforce committees, states that "upon determining the specific changes" DOL will make to its conflict of interest rule under the Employee Retirement Income Security Act, that the department "open a 15- to 30-day comment period prior to finalizing" the rule.

[House Passes Bill to Smother the DOL's Fiduciary Rule]
Alex Padalka, Financial Advisor, 10/29
The House has passed a bill that would force the DOL to wait for the SEC to come out with a rule on the fiduciary standard before issuing its own ruling, ThinkAdvisor writes. But, according to the publication, the bill is unlikely to pass the Senate — and the White House has already said, a day before its passage, that it would veto the bill.

The bill, introduced by Rep. Ann Wagner (R-Mo.), was supported by DOL-rule opponents in the industry and by mostly Republican lawmakers who say the rule would add too much complexity to financial advice and squeeze less-affluent investors from being able to afford it, as reported earlier. The bill already had less Democratic support getting out of the House Financial Services Committee in September than the version proposed two years ago, ThinkAdvisor says. In addition, the day before the House vote, which split 245 to 186, the Office of Management and Budget said it's against the bill because it would "derail" an important attempt to protect retirement accounts, the publication reports.

[Unintended consequences of Labor Department's fiduciary rule]
Bob Chernow, Milwaukee Journal Sentinel, 10/28

[Will House Dems Quietly Derail the DOL Rule They Publicly Defended?]
Barbara Roper, Huffington Post, 10/29
Now some of the same House Democrats who helped to lead the fight against the Wagner bill pose the most pressing immediate threat to the conflict of interest rule's survival. Indeed, even as he [stood in the spotlight] proclaiming his support for the Department's rule before the Rules Committee and then on the House floor, Rep. Jared Polis (D-CO) was preparing and circulating a letter to colleagues that has the very real potential to disrupt and derail the rulemaking process.
The letter for which Rep. Polis and others were seeking co-signers urges the Department of Labor, once it has decided on the specific changes it plans to make to the conflict of interest rule, to provide an additional 15- to 30-day comment period. This on a rule that has already been the subject of repeated rounds of comment and revision over the past five years. In a display of either breathtaking naïveté or stunning cynicism, the letter's authors maintain that the Department can provide this additional comment opportunity and still meet its goal of finalizing the rule before the end of this Administration.

[It's time for transparency from investment advisers]
Will Phillips and Ken Zaiken, Rochester (Minn.) Post-Bulletin, 10/24
Today, we have our best chance in years to take a major step toward closing the "retirement advice loophole." Earlier this year, the U.S. Department of Labor issued a proposed "conflict of interest" ERISA rule that would hold all financial professionals who give investment advice to individual retirement plan investors to the highest "fiduciary duty" standard that puts the interest of their clients first.

The release of the proposed rule opened a public comment and public hearing period that is proving to be highly contentious. The rule is opposed by powerful segments of Wall Street and the financial services industry — and by their supporters in Congress.

We call on Minnesota's Members of Congress to support the Department of Labor's proposed "conflict of interest" rule to close the advice loophole.

U.S. Sen. Warren: 'Kickbacks' Create Conflicts for Annuity Sales Agents

Leslie Scism, Wall St. Journal, 10/27

Capitol Hill's biggest critic of Wall Street is exerting more pressure on a new target: the life-insurance industry. Sen. Elizabeth Warren said Tuesday in a report released by her office that 13 of the nation's biggest life insurers use vacations and other prizes to reward agents for selling high-cost retirement-savings products. The incentives, she said, are "kickbacks" that "create conflicts of interest."

Ms. Warren said in her report that existing disclosure rules allow potential rewards to agents to be described "in the broadest and most vague terms" in materials that consumers receive, and "are buried deep" within documents "in complex legalese."

STUDENT LOANS & FOR-PROFIT EDUCATION

Government watchdog wins $530 million lawsuit against for-profit Corinthian Colleges. Too bad it will never see a dime.

Danielle Douglas-Gabriel, Washington Post, 10/28

In its bankruptcy filing, Corinthian said it had $143 million in debt and less than $20 million in assets. Because the company has dissolved and its assets have been distributed according to the liquidation plan in its bankruptcy case, Corinthian cannot pay CFPB the $530 million judgement. Bureau officials say they will continue to pursue relief for consumers harmed by Corinthian, and are concerned about debt buyers' efforts to collect on the Genesis loans.

CFPB Wins Default Judgment Against Corinthian Colleges for Engaging in a Predatory Lending Scheme

Consumer Financial Protection Bureau (Newsroom), 10/28

Feds Win Default Judgment Against Corinthian Colleges Over Predatory Lending Scheme

Ashlee Kieler, Consumerist, 10/28

Will Corinthian Colleges Be Able to Pay Back Students?

Adrienne Green, The Atlantic, 10/29

A U.S. District Court judge on Tuesday ordered that Corinthian Colleges Inc.—which at one point oversaw 100 schools in states including Arizona, Colorado, California, Hawaii, and Oregon—pay back $531 million in damages to all students who attended the network of colleges before it was shuttered in April.

Still, while the Consumer Financial Protection Bureau's court victory may assuage some of the concern that the government is perpetuating the problems with for-profit colleges, in reality it doesn't ensure that all the Corinthian students will be relieved of their debt. After the lawsuit was issued last fall, Corinthian Colleges filed for bankruptcy, effectively rendering all of its assets unavailable for the repayment. According to The Washington Post, at the time of its bankruptcy filing Corinthian had less than $20 million in assets—but its liquidation plan dissolved all of those assets.

Senator, veterans defend Pentagon crackdown on University of Phoenix

Bobby Caina Calvan, Reveal, 10/28

Corinthian College students sort through confusion, bureaucracy after company's fall

Katy Murphy, Contra Costa News, 10/25

Court Ruling Could Push Debt Forgiveness For Cheated Students

Molly Hensley-Clancy, BuzzFeed, 10/29

The Obama Administration's Disgraceful Handling of a Student Loan Scandal

David Dayen, The Fiscal Times, 10/30

"The CFPB will continue to pursue relief for consumers harmed by Corinthian's unlawful conduct," the agency said in a statement. (CFPB did secure what officials describe as $480 million in relief on Genesis loans for students at campuses purchased by ECMC, about a 40 percent haircut in the outstanding amount due.)

That's a rather unsatisfying conclusion for hundreds of thousands of Corinthian students, who will not have any portion of the Genesis loans they paid returned to them. However, these students didn't just take out the private loans. Most of their payments to Corinthian came in the form of federal loans, which they still owe to the Education Department…Words of compassion aside, only in situations like the Corinthian mess do we see that system not as merely bad luck for borrowers but concerted government policy choices. You can't get out of your loan even when the people who sold it to you broke the law. The Education Department has a moral responsibility to fix this.

Senate Democrats Criticize Nonprofit Conversions

Inside Higher Ed, 10/26

A group of Democrats in the U.S. Senate sent a letter Friday to Education Secretary Arne Duncan and Internal Revenue Service Commissioner John Koskinen urging them to stop for-profit colleges from converting to nonprofit status. Those colleges, they argue, are looking to evade federal income taxes, gainful employment regulations and the so-called 90/10 rule, which restricts for-profits from receiving more than 90 percent of their operating revenue from federal student loans and grants.

The senators were spurred to action following a recent report from the Century Foundation's Robert Shireman, a former Education Department official who joined the foundation as a senior fellow. Shireman described how several for-profits became nonprofits, arguing that they did so to avoid federal regulations. He also wrote that the IRS and the Education Department haven't cracked down on these entities because of a "regulatory blind spot," so each agency assumes the other is doing the monitoring.

GOP Lawmakers Slam CFPB Probe Involving Accreditation

Inside Higher Ed, 10/26

The Republican chairmen of the U.S. House and Senate education committees on Friday blasted the Consumer Financial Protection Bureau's recent demand for records from a national accrediting agency, calling the action an "unprecedented overreach." Senator Lamar Alexander of Tennessee and Representative John Kline of Minnesota sent a letter to CFPB Director Richard Cordray asking him to rescind the bureau's demand for records and testimony from the Accrediting Council for Independent Colleges and Schools and to stop any other planned actions involving accreditors.
The two lawmakers said the CFPB had no jurisdiction over accrediting agencies. "This action is an unprecedented intrusion by your agency into higher education and undermines the process Congress created to assess institutional quality," they wrote.

CFPB Chief Defends Investigation Involving College Accreditation

Inside Higher Ed, 10/29

Responding to Republican criticism of the CFPB's ongoing investigation involving the accreditation of for-profit colleges, Director Richard Cordray left open the possibility that the consumer bureau would target accrediting agencies themselves. "Our authority is over those who provide financial products or services, or provide material, substantial assistance to those who do," he said at an event hosted by Politico's "Morning Money" newsletter. "If an accrediting agency is facilitating for-profit colleges' misleading consumers, treating them unfairly and deceptively, then that's something that we should look at."

The Law School Debt Crisis

NY Times Editorial Board, 10/24

SYSTEMIC RISK

Glass-Steagall's Political Firewall

Adam Levitin, Huffington Post, 10/27

Contrary to conventional wisdom, the importance of Glass-Steagall was not as a financial firewall between speculative investment activities and safe deposits. Glass-Steagall never prevented deposits from being put at risk, as bank loans can be every bit as risky as securities or derivatives. Instead, Glass-Steagall's importance was as a political firewall that kept the different sectors of the financial services industry from uniting in their lobbying efforts and undermining financial regulation…

The demise of Glass-Steagall did not come in one fell swoop, but when the Act was finally repealed in 1999, the stage was set for a massive deregulation of the financial services industry that led to the 2008 debacle. The end of Glass-Steagall meant that formerly adversarial financial firms were able to unite as affiliated subsidiaries of "financial holding companies." The different financial services industry trade associations stopped fighting each other and banded together to push through some of the major deregulatory legislation that contributed to the 2008 meltdown, such as the 2000 Commodities Futures Modernization Act, which prohibited regulation of credit derivatives, and the 2005 bankruptcy amendments, which encouraged the use of repo funding for mortgages.

Resurrecting Glass-Steagall

Simon Johnson, Project Syndicate, 10/30

The three leading Democratic candidates disagree, however, on whether there should be legislation to re-erect a wall between the rather dull business of ordinary commercial banking and other kinds of finance (such as issuing and trading securities, commonly known as investment banking). This issue is sometimes referred to as "reinstating Glass-Steagall," a reference to the Depression-era legislation – the Banking Act of 1933 – that separated commercial and investment banking. This is a slight misnomer: the most credible bipartisan proposal on the table takes a much-modernized approach to distinguishing and making more transparent different kinds of finance activities. Sanders and O'Malley are in favor of this general idea; Clinton is not (yet).

There are three main arguments against a modern version of Glass-Steagall. None is convincing…

The next president should break up some big companies

Lina Khan, Washington Post, 10/28

it's not enough to stop future consolidation; we need to consider breaking companies up. Major industries in the United States — including agriculture, airlines, banks, books, energy, health insurers, general retail, telecom and pharmaceuticals — are already highly consolidated and conglomerated. As the Wall Street Journal reported last week, almost two-thirds of publicly traded companies operate in more highly concentrated markets today than they did in the mid-1990s. In some cases, we are past the point where halting mergers alone would be sufficient to restore competition.

Even Bernie Sanders May Underestimate Some Banks' Size

Mayra Rodriguez Valladares, American Banker, 10/27

Vermont Sen. Bernie Sanders, who supports breaking up giant financial institutions, reiterated his belief that the three largest U.S. banks "are much bigger than they were when we bailed them out." The debate had barely finished when I received an email from an industry supporter who decried Sanders' claim as myth, but who selectively picked a few journalist quotes to back up the argument.

But banks are even bigger than Bernie Sanders may realize. When talking about "too big to fail," bank lobbyists and journalists are largely silent about banks' enormous amounts of off-balance sheet assets. The U.S. accounting standards, defined by the Generally Accepted Accounting Principles, let banks exclude a significant number of items such as certain derivatives from their books. Institutions can omit them where credit, market, operational, and liquidity risks are difficult to identify. The resulting opacity forces market participants to become forensic accountants, needing to use magnifying glasses to pour through hundreds of footnotes in the hopes of piecing together the true size of a bank and its risks.

["Too Big to Fail": Megabanks Bigger than Ever, Nonprofits Growing Slower]

Rick Cohen, Non-Profit Quarterly, 10/30

Rodríguez Valladares says that since 2007, Citibank has grown six percent, Bank of America 22 percent, JPMorgan Chase 49 percent, and Wells Fargo a whopping 230 percent, though the latter bank's massive growth is in part due to its acquisition of Wachovia. She contends, however, that through various accounting mechanisms, the truth is that the "banks are even bigger than Bernie Sanders may realize." If the calculations are based on international accounting standards instead of U.S. accounting standards, the latter allowing for the exclusion of various derivatives from their books and the valuation of derivatives on a lower "net" basis, the calculations change. Applying the international standards would double JPMorgan's asset value to $4 trillion, vaulting it from seventh to the top of the list of the largest bank in the world.

Fed Imposes New Limits on Big Banks to Reduce Bailout Risks

Ryan Tracy, Wall St. Journal, 10/20

The rule would set a new minimum level of "total loss-absorbing capacity," or TLAC, for eight of the largest U.S. bank holding companies, in an attempt to force them to hold enough resources on their books so that they would never again need to seek an infusion of taxpayer funds, even if they face extreme trouble along the lines of the 2008 financial crisis.

Specifically, it would require those institutions to issue a combined $120 billion in new long-term debt to shore up their buffer in case of their own insolvency. It would likely increase the aggregate annual funding costs of the firms by between $680 million and $1.5 billion, the Fed estimated

Wells Fargo Risks Being Odd Man Out Under New Rule

Ryan Tracy and Emily Glazer, 10/29

Do regulators consider Wells Fargo & Co. one of America's safest, most stable megabanks? Or one of the riskiest?

The answer depends on which measure is used. New rules to be proposed by the Federal Reserve on Friday likely will force the San Francisco bank—more than some of its rivals—to make significant changes to its balance sheet, even though Wells Fargo has fared better than competitors in earlier tests on safety and soundness.

AIG Faces Push to Break Up

Leslie Scism, Joann Lublin, and David Benoit, Wall St. Journal, 10/28

Two of the biggest names in finance are pressing American International Group Inc. to split into three pieces, a move to break up a giant insurer that threatened to bring down the banking system during the financial crisis. The argument made by billionaires Carl Icahn and John Paulson is that by dividing into smaller parts AIG could escape onerous regulations imposed by federal policy makers in an effort to head off systemic threats like the one AIG once posed.

If successful, the efforts could advance the goals of regulators who are threatening big financial institutions with tougher oversight, in part hoping they will be encouraged to shrink. AIG is one of the world's biggest insurance companies, with a market value of about $83 billion.

Icahn takes stake in AIG, calls for breakup

Michael Flaherty and Richa Naidu, Reuters, 10/28

OTHER TOPICS

Taking the Crisis to Those Who Created It

Terrence Heath, Campaign for America's Future, 10/26

National People's Action has developed a reputation for not being content to simply hold rallies on the streets outside of symbols of political power. In the words of NPA vice president Bobby Tolbert, "We like to take the crisis to the people who created it… We walked up to the door of the person who could actually be a game changer," he said.

Two years before, NPA conducted a similar action, by bringing more than 800 activists to storm JP Morgan Chase's annual shareholders' meeting, to demand that the bank stop foreclosures and payday lending in their communities. The action brought together activists from across the country. "In Ohio, in 2010, we went up against JP Morgan Chase bank, mainly around payday lending," Tolbert said. "There were people there from California, there were people there from North Carolina, there were people from Washington, there were people from New York, who were all in solidarity with these folks."

At Republican Debate, Fantasy Sports Got More Attention than Wall Street

Neil Irwin, NY Times, 10/29

The candidates have been quick to criticize what they call the over-regulation of businesses, and to argue that loosening this regulatory burden will unleash faster economic growth. That's fine as an ideological disposition. But it doesn't really answer the question of how to manage trade-offs that are inherent in how the government oversees Wall Street, or the pharmaceutical industry or, for that matter, sports gambling.

Many of the choices a president and his or her appointees make are not so much about "more regulation" versus "less regulation" as they are about "regulation that favors X industry" versus "regulation that favors Y industry."

Paul Singer, Influential Billionaire, Throws Support to Marco Rubio for President

Maggie Haberman & Nicholas Confessore, NY Times, 10/30

One of the wealthiest and most influential Republican donors in the country is throwing his support to Senator Marco Rubio of Florida, a decision that could swing millions of dollars in contributions behind Mr. Rubio at a critical point in the Republican nominating battle. The decision by the donor, Paul Singer, a billionaire New York investor, is a signal victory for Mr. Rubio in his battle with his rival Jeb Bush for the affections of major Republican patrons and the party's business wing.

New York Bank Regulators Exit After Clash with Governor Cuomo's Office

Erica Orden and Christopher Matthews, Wall St. Journal, 10/26

The acting head of New York's top banking regulator and the agency's chief spokesman are resigning from the office amid the agency's battle with New York Gov. Andrew Cuomo's administration over the regulator's independence, according to people familiar with the matter. Anthony Albanese, the acting superintendent of the Department of Financial Services, and spokesman Matthew Anderson informed the governor's office in recent weeks that they would resign, these people said.

Mr. Cuomo's staff has sought in recent months to exert more control over the regulator, which has established itself as a powerful financial watchdog and brought billions of dollars in penalties to New York state's general fund. The regulator was also unpopular on Wall Street, where some executives felt the department at times overreached on Mr. Lawsky's watch.

Post-Lawsky rift led to resignation at Cuomo's financial services department

Jimmy Vielkind, Politico, 10/28

The problem with Anthony Albanese was that he was no Ben Lawsky. Albanese, who resigned last week as the acting superintendent of the state's Department of Financial Services after five months as its leader, clashed frequently with aides in Gov. Andrew Cuomo's executive chamber who tried to rein in the agency, according to four people familiar with the operation of the agency.