AFR Americans for Financial Reform

This Week in Wall Street Reform | October 17–23, 2015

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CONSUMER FINANCE & THE CFPB

The Banking Industry's Transparent Attempt to Weaken the CFPB
Sen. Elizabeth Warren, Huffington Post, 10/20
After years of trying to kill, then delay, and then defang the agency, the banking industry and their Republican friends in Congress have launched a new effort to attract Democratic support for their latest attack by claiming that they just want to help the agency and the consumers it protects… The industry and its allies claim that the consumer agency was originally conceived of as a commission -- a point that is both irrelevant and wrong…

When I first proposed the idea for a federal agency dedicated to protecting the consumers of financial products, I suggested that the agency might resemble the Consumer Product Safety Commission. In making that comparison, I focused on the mission and jurisdiction of the agency -- not its structure. As the consumer agency went from a theory to a reality, I delved more deeply into the details of how the agency might work, and I took a close look at the successes -- and failures -- of other agencies. I consulted with experts. I read books. I talked with government workers. And it didn't take long before I strongly supported a single-director structure.

Open Letter to Kyrsten Sinema
Barney Frank, Politico, 10/16
I was very disappointed at your misrepresentation of my position on the CFPB, and of your failure to speak with me before you did so. I have always personally supported a single Director. When we began legislating, Henry Waxman and other Democrats on the Energy and Commerce Committee expressed a strong preference for a Commission. Combining their votes with the votes of those opposed to any CFPB at all meant that I would not have a majority on a floor vote. I did manage to get agreement on a single Director to set it up, but I had to agree to switch to a Commission afterwards, not because that was my preference but because it was the political reality. When Chris Dodd had the votes to carry out what was his, Elizabeth Warren’s and my preference for a single Director, I folded in Conference happily and immediately…

I assume you know that your allies on this are overwhelmingly those who do not want any CFPB at all, while supporters of the Bureau in and out of Congress believe that your position would diminish its effectiveness.

Bernie Sanders's Highly Sensible Plan to Turn Post Offices Into Banks
Joe Pinsker, The Atlantic, 10/20
Sanders: “If you are a low-income person, it is, depending upon where you live, very difficult to find normal banking. Banks don’t want you. And 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. And, yes, I think that the postal service, in fact, can play an important role in providing modest types of banking service to folks who need it.”

… [I]n fact, Sanders’s idea is quite sensible. “Postal banking”—which just means that post offices run savings accounts, cash checks, and perform other basic financial services—is common in most of Asia and Europe, and only about 7 percent of the world's national postal systems don't offer some bank-like services. Postal banking is a really good way to reach people who haven't had access to standard savings accounts. One estimate figures that more than 1 billion people have used post offices for making deposits.

Bernie Sanders: 'Invest in jobs and education, rather than jails and incarceration.'

Felix Salmon, Fusion, 10/20

Q: Do you believe in postal banking?

A: Yeah, I think that's a great idea. In fact, I just spoke to a postal union this morning. I want to see our post office be reinvigorated. And one of the ways that I think we can help not only the U.S. Postal Service, but help a lot of low-income people—if you are a low-income person, it is, depending upon where you live, very difficult to find normal banking. Banks don't want you. And 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. And, yes, I think that the postal service, in fact, can play an important role in providing modest types of banking service to folks who need it.

How your junk mail shows if you're rich or poor

Jeff Guo, Washington Post, 10/19

Are you "pre-screened" for lots of mileage-reward cards? Banks think you're rich and educated. Do you mostly see offers for low-APR teaser rates? Banks think you're poor and uneducated — and, perhaps, vulnerable to financial traps. To get ahead in a highly competitive industry, credit card companies have become increasingly sophisticated — and specific — about soliciting new customers. They have also learned to be savvy about wringing profits from their cardholders, even if that means taking advantage of people's behavioral weaknesses…

Card offers sent to poorer, less-educated people were often loaded with risky features: low introductory APRs, high late fees, and penalty interest rates that kick in if you break the rules.

New Report Documents How Account Screening Consumer Reporting Agencies Impede Banking Access for Millions

PRNewsWire, 10/19

While a lack of financial education is often cited as the key reason tens of millions of people across the country don't have bank or credit union accounts, in fact, millions are shut out from the mainstream banking system because of a small group of little-known companies who manage databases used by financial institutions to determine whether or not to allow a consumer to open an account. A new report released today by the Cities for Financial Empowerment Fund (CFE Fund) and the National Consumer Law Center (NCLC) entitled "Account Screening Consumer Reporting Agencies: A Banking Access Perspective" outlines the tremendous and deeply flawed role that "account screening consumer reporting agencies" (CRAs) play in determining whether consumers can obtain an account. The report raises concerns about these companies, financial institutions' use of their reports, and offers solutions both for industry leaders and regulators.

See CFE and NCLC report, **"Account Screening Consumer Reporting Agencies: A Banking Access Perspective"**

No-Brainer Nonprime Lending Reforms We Should All Get Behind

Ken Rees, American Banker, 10/21

I believe we ultimately can and will make progress on the toughest issues facing our industry with solutions that ensure all nonprime consumers are treated fairly. But for a moment, why don't we take a break and tackle a cause that should be easy for all parties to get behind — eliminating onerous and unnecessary fees. Punitive and add-on fees can drive vulnerable customers deeper into debt, ultimately hurting their long-term financial health. While these types of fees aren't unique to nonprime lending, their impact on nonprime consumers can be especially devastating and deserves immediate attention.

[Reframing the Debate about Payday Lending]

Robert DeYoung, Ronald J. Mann, Donald P. Morgan, and Michael R. Strain, Liberty Street Economics, 10/19

Except for the ten to twelve million people who use them every year, just about everybody hates payday loans. Their detractors include many law professors, consumer advocates, members of the clergy, journalists, policymakers, and even the President! But is all the enmity justified? We show that many elements of the payday lending critique—their "unconscionable" and "spiraling" fees and their "targeting" of minorities—don't hold up under scrutiny and the weight of evidence.

[Right-Wing Think Tank Shills for Payday Lenders on New York Fed Website]

David Dayen, The Intercept, 10/20

The New York Federal Reserve Board, charged with overseeing Wall Street banks, turned over its normally staid official blog this week to a highly contentious argument in defense of high-cost payday lenders, who are partially funded by the same big firms the Fed is supposed to be regulating. Michael Strain, a resident scholar at the ultra-conservative American Enterprise Institute think tank, co-authored the piece. While posts at the New York Fed's Liberty Street Economics blog always caution that the views expressed do not reflect the position of the regional bank, it is highly unusual to have anyone from an ideological think tank write an article there. A review of the last three months of Liberty Street Economics posts shows no other instance of this happening…

"Except for the ten to twelve million people who use them every year, just about everybody hates payday loans," Strain and his co-authors write, dramatically mischaracterizing what drives users to the services. Payday loan users typically have few alternatives to maintain their bill payments, especially as banks have denied them lending services. It is not love that motivates them; it is desperation.

[CFPB steps in to RushCard mess]

Claes Bell, Bankrate, 10/23

The Consumer Financial Protection Bureau looks to finally be stepping in to help consumers being harmed by the crisis at prepaid debit card provider RushCard. After more than a week of complaints from RushCard customers who say their cards were unusable and that their direct deposits had gotten lost, the CFPB has issued an official statement from director Richard Cordray:

"The CFPB is taking direct action to get to the bottom of this situation that may have harmed thousands of innocent consumers already…we indicated that the CFPB is prepared to use all appropriate tools at our disposal to help ensure that consumers obtain the relief that they deserve. We also agreed that the most constructive path forward for UniRush to reduce consumer harm is to take immediate action to resolve these issues. The CFPB has also engaged in discussions with fellow regulators, including the Office of the Comptroller of the Currency and the Federal Trade Commission, to ensure a comprehensive response that addresses the situation quickly and holds accountable all of the parties involved to make consumers whole…"

[Our thoughts on Director Cordray's arbitration comments to the CFPB's Consumer Advisory Board]

Alan S. Kaplinsky, CFPB Monitor, 10/22

[Obama's CFPB Move Nixes Win Over Law Firm, 9th Circ. Told]

Daniel Siegal, Law360, 10/20

[California Reinvestment Coalition Joins 89 Community Organizations in Urging Regulators to Reject OneWest Bank's Community Reinvestment Plan]

BusinessWire, 10/20

DERIVATIVES, COMMODITIES AND THE CFTC

FDIC Sets New Swaps Rules in Bid to Prevent AIG-Type Meltdown

Ryan Tracy, Wall St. Journal, 10/22

Federal regulators took a big swing at trying to prevent the type of risk-taking that fueled bailouts of firms such as American International Group Inc., adopting a new rule requiring banks to collect more collateral for swaps transactions as a kind of insurance in case such trades go bad… Other agencies are expected to complete their own versions in the coming weeks. Swaps are financial transactions in which two parties "swap" the risk of price swings in currencies, interest rates, commodities, and other things. Financial firms, manufacturers, farmers, and energy firms use them to wager on and hedge against those price swings.

Revised Swaps Rule to Spare Big Banks Billions in Collateral

Jesse Hamilton and Silla Brush, Bloomberg, 10/22

Wall Street banks will escape billions of dollars in additional collateral costs after U.S. regulators softened a rule that would have made their derivatives activities much more expensive. Two agencies approved a final rule on Thursday that will govern how much money financial firms must set aside in derivatives deals. A key change from recent draft versions of the rule -- and the focus of months of debate among regulators -- cut in half what the companies must post in transactions between their own divisions.

Senator Elizabeth Warren, a frequent critic of Wall Street, urged the CFTC to follow the lead of the bank regulators and warned against a more lenient rule. "If the CFTC's rule is weaker than those issued by other federal regulators, it will create opportunities for big banks to game the rules," Warren, a Massachusetts Democrat, said in a statement before the bank regulators' version was released.

Bank regulators to ease margin rule in final draft

Zachary Warmbrodt, Politico, 10/22

Bank regulators have decided to soften the potential impact of rules that will require banks and other large financial institutions to set aside collateral to shore up derivatives trades that aren't guaranteed by a central clearinghouse.

According to final minimum margin requirements that banking agencies will begin to release today, regulators are stepping back from proposed rules that would apply to "inter-affiliate swaps" entered into by subsidiaries of the same bank. The final rule would also soften margin requirements for trades involving financial "end-users" such as insurance companies and pension funds.

Regulators Cut Big Banks a Break in Final Swaps Rule

John Heltman, American Banker, 10/22

DODD-FRANK (AND CONTINUED ATTACKS)

Senate Democrats want policy riders out of any budget deal

Vicki Needham, The Hill, 10/20

"Now it's time for responsible members of the Republican party to grab the reins and move quickly to put together a bipartisan deal," Schumer said in a conference call with reporters.
Schumer said that a deal couldn't include any "ideological poison-pill riders" and must end sequestration and raise the spending caps set two years ago.

He argued that Republicans slipped their policy preferences into the last spending bill without discussing them on the Senate floor because "they know the public is against them on these issues and they know they'd lose."

[Schumer, Stabenow, Progressive Leaders Tell Congress to Pass a Clean Budget With No Ideological Riders That Fully Funds Middle-Class Priorities]
Public Citizen, 10/20

ENFORCEMENT

[How to Punish Corporate Fraudsters]
Eric Havian, NY Times, 10/22
EDWARD THURLOW, an English lord chancellor in the 18th century, reputedly said that it's difficult to punish a corporation because there is "no soul to be damned, and no body to be kicked."

But there is, in fact, a way to punish corporations for their misdeeds: Bar their officers from government work. So why don't we? Few outside the legal community are familiar with the concept of "exclusion," which permits many federal agencies — including the Securities and Exchange Commission, the Federal Deposit Insurance Corporation and the Department of Health and Human Services — to temporarily or permanently block corporations that violate their rules from doing business with them.

[Credit Agricole to pay $787 million to resolve U.S. sanctions probes]
Karen Freifeld, Reuters, 10/20
France's Credit Agricole SA has agreed to pay U.S. authorities $787 million to resolve accusations it illegally moved money through the U.S. financial system in violation of sanctions against Iran, Sudan, and other countries, according to a person familiar with the matter.

[U.S. Attorney Aims to Dismiss Insider Trading Charges in SAC Capital Advisors Case]
Christopher M. Matthews and Aruna Viswanatha
Manhattan U.S. Attorney Preet Bharara will drop charges against seven people, dealing a blow to what had been one of the most successful insider-trading prosecutions and a marquee case in his tenure. Not long ago, Mr. Bharara boasted a near-perfect conviction rate in the dozens of insider-trading cases pursued by his office. But on Thursday he moved to dismiss charges against former SAC Capital Advisors LP portfolio manager Michael Steinberg and six analysts.
Mr. Steinberg's conviction stood out, because it brought prosecutors as close as they ever got to SAC founder Steven A. Cohen, the billionaire founder of the hedge fund, which prosecutors had been investigating for a decade hoping to prove it had relied on illegal insider tips to boost its trading results.

EXECUTIVE PAY

[U.S. Chamber of Commerce Won't Challenge Pay Ratio]
Emily Chasan, Wall St. Journal, 10/20
The U.S. Chamber of Commerce isn't planning to mount a legal challenge to the Securities and Exchange Commission's pay ratio rule. The rule, required by the Dodd-Frank Act of 2010, will force companies to disclose the gap between their chief executive's pay and that of their median employee by 2017. It formally took effect on Monday, after the Securities and Exchange Commission approved it by a 3-2 vote in August.

"We decided not to move forward on [the legal challenge]," said Tom Quaadman, senior vice president for Capital Markets Competitiveness at the U.S. Chamber of commerce. The pay ratio rule won't affect most companies until 2018, Mr. Quaadman said. The political landscape around the rule could also change in Congress and the White House following the 2016 election, he added.

FEDERAL RESERVE

[You're Not Supposed to Understand the Federal Reserve]
Adam Davidson, NY Times Magazine, 10/20

HEDGE FUNDS AND PRIVATE EQUITY FUNDS

U.S. Cap on Prison Call Prices to Hit Private Equity Firms
Todd Shields, Bloomberg, 10/22
Families paying a combined $1 billion a year to stay in contact with inmates can expect some relief as the U.S. set new limits on what regulators call the "exorbitantly high rates" phone companies charge…The win for inmate families may be a double loss for a prison-phone industry dominated by private equity-backed firms. The companies will not only collect less per call, but they lost their bid to bar prisons and jails from charging them commissions to access their captive markets.

NYSE Pleads for Rules to Make Hedge Funds Reveal Short Positions
Annie Massa, Bloomberg, 10/21

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

Regulation of Treasuries Trading Needs Update, SEC's White Says
David Michaels, Bloomberg, 10/20
The top U.S. financial regulator called for new oversight and risk controls on high-frequency traders that invest in Treasuries, saying rules haven't kept pace with electronic strategies that now dominate the market.

Securities and Exchange Commission Chair Mary Jo White said Tuesday that regulators should "seriously reevaluate" the lax oversight of speed-trading firms that account for more than 50 percent of trading in Treasuries on electronic platforms. Regulators should require that firms report their trades and restrict trading that can disrupt stressed markets, she added.

US regulator signals bid to curb high-speed trading
Gregory Meyer and Joe Rennison, Financial Times, 10/21
A major US financial regulator has signalled the first serious effort to curb high-speed automated trading in the futures market, which increasingly influences benchmark assets such as equities, commodities and government bonds.
The plans detailed by Timothy Massad, chairman of the Commodity Futures Trading Commission, come with concern growing among regulators over the sudden large price movements that have plagued a number of markets in recent years.

High-Speed Trades Will Face CFTC Policies to Curb Disruption
Silla Brush, Bloomberg, 10/21
Timothy Massad, chairman of the Commodity Futures Trading Commission, said on Wednesday that the agency will lay out requirements for testing and supervising automated algorithms to ensure they can be stopped in emergencies. The CFTC's proposals, more than two years in the making, will also probably mandate registration for standalone trading firms…The requirements may also include restrictions on incentive programs used by exchanges CME Group Inc. and Intercontinental Exchange Inc. to encourage trading as well as measures to curb how often a high-speed firm winds up being on both sides of the same trade, which was highlighted by regulators in a report on price swings in the Treasury market last October.

Hillary Clinton and High-Frequency Trading
John Sanders, Huffington Post, 10/19

INVESTOR PROTECTION AND THE SEC

The Most Diverse S.E.C. Ever May Be Taking Shape

Julie Hirschfeld Davis, NY Times, 10/20

President Obama on Tuesday announced he would nominate Lisa M. Fairfax to be a commissioner to the Securities and Exchange Commission, elevating a law professor who has studied shareholder activism after progressive groups lobbied intensely against naming a Wall Street insider. The selection of Ms. Fairfax, 44, a Harvard-trained legal scholar who teaches securities law and contracts courses at the George Washington University Law School, is the latest sign of the influence of the Democratic Party's liberal wing in shaping Mr. Obama's selections for key financial posts.

The selection of Ms. Fairfax comes after a coalition of investor protection groups wrote to Mr. Obama in June charging that his administration had populated the S.E.C. 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," and calling on him to tap an independent voice.

Marcus Stanley, the policy director of **Americans for Financial Reform**, the nonprofit coalition that coordinated the letter, said his organization was withholding judgment for now on Ms. Fairfax's nomination. But Mr. Stanley said the group was pleased that Ms. Fairfax appeared to represent a break from the administration's practice of selecting corporate defense lawyers beholden to the industry they are supposed to be regulating.

Lisa Fairfax picked as next SEC Democrat commissioner

Patrick Temple-West, Politico, 10/20

Shareholder Activism Expert, Regulatory Critic Nominated for SEC

Aruna Viswanatha and Andrew Ackerman, Wall St. Journal, 10/20

Why President Obama Likely Will Nominate a Republican for Two Terms on the SEC and a Democrat for One

Justin Schardin, Bipartisan Policy Center, 10/21

Yesterday, the White House announced it would nominate Lisa Fairfax and Hester Peirce to serve on the Securities and Exchange Commission (SEC). As is often the case with partisan commissions, the administration paired a Democrat (Fairfax) with a Republican (Peirce) as a package, in a sense. What often goes unnoticed about these package nominations is that the lengths of each nominee's terms are generally not equal.

Investor advocates worried about potential accounting rule change

Patrick Temple-West, Politico, 10/19

There's a battle brewing over the footnotes buried inside public companies' financial disclosures. Firms occasionally reveal juicy tidbits in the footnotes of their financial statements that scrupulous investors like hedge funds trawl for clues about a business's well-being. For example, Enron Corp.'s bankruptcy in December 2001 was foreshadowed in its 2000 financial statement footnotes. Now, investor advocates are worried the industry group tasked by the SEC with establishing accounting standards is considering a change that could limit information companies have to tell shareholders about their business problems.

7 Reasons Investors Should Often Avoid What Wall Street Is Selling

Susan Antilla, TheStreet, 10/22

When Wall Street lures Main Street into investing in the risky stuff known as "structured products," things don't always end well for the customer.

Last week's $19.5 million settlement between investment bank UBS (UBS) and securities regulators is just the latest example of why Mom and Pop have no business getting involved with Wall Street's most convoluted creations.

[SEC's in-house court would face limits in House Republican bill]

Patrick Temple-West, Politico, 10/22

Defendants facing SEC sanctions would be guaranteed the right to fight the charges in district court as opposed to the agency's in-house judicial venue under a House Republican bill to be introduced today.

For about a year, the SEC's "administrative proceedings" venue has been criticized as an unfair home-court advantage for the agency, which has been steering more cases to it. In the first legislative attempt to rein in the SEC's administrative proceedings, a bill sponsored by Rep. Scott Garrett (R-N.J.) would provide a mandatory right of removal, allowing the defendant to request that the case be moved to a district court.

[SEC Doubles Number of Financial Reporting and Audit Cases in Two Years]

Susan Komen, Wall St. Journal, 10/22

The U.S. Securities and Exchange Commission nearly doubled its enforcement actions related to financial reporting and audit fraud over the past two years, the agency's top cop said Thursday. The agency filed 134 cases in the financial reporting and audit area in its 2015 fiscal year, ended Sept. 30. That's up from 98 in fiscal 2014, and 68 in fiscal 2013. The agency's actions are generally filed in federal court or brought before an administrative law judge.

MORTGAGES & HOUSING

[How Not to Fix Fannie and Freddie]

Antonio Weiss, Bloomberg, 10/19

The recent push to recapitalize Fannie Mae and Freddie Mac and release them from conservatorship is misguided. Proponents of the "recap and release" proposal claim homeowners and taxpayers would benefit if the federal government ceded control of the mortgage finance giants to private shareholders. Just the opposite is true. Recap and release could raise the cost of mortgages for Americans, and potentially expose taxpayers to another painful bailout… We learned the hard way that the old business model of privatizing gains while socializing losses doesn't work.

[How Not to have a Real Discussion about Fixing Fannie and Freddie]

Joshua Rosner, Graham Fisher, 10/19

This morning's Bloomberg View columni by Antonio Weiss, on Fannie Mae and Freddie Mac, was perplexing in that it seemed to respond to a debate about future housing policy that has not occurred. And yet, such a dialogue is specifically required by the 2008 Housing and Economic Recovery Act (HERA) which increased oversight of Fannie Mae and Freddie Mac. HERA also created a new regulator, the Federal Housing Finance Agency (FHFA), and empowered the FHFA with broad powers over the GSEs capital requirements and specific obligations in the management of a GSE's conservatorship.

[Mortgage industry raises concerns about new HMDA rules]

Trey Garrison, HousingWire, 10/16

[A}ffordable housing advocates welcomed the new rules. "Taken together, this data will provide a better picture of the market and make it easier for regulators to enforce fair housing and fair lending laws; for homeowners and community groups to understand and monitor the performance of banks, lenders, brokers, and other industry players; and for all of us to work for a mortgage market that serves people fairly and helps families and communities build and preserve wealth," said a statement from **Americans for Financial Reform.**

[Overnight Regulation: HUD rules target harassment by landlords]

Tim Devaney and Lydia Wheeler, The Hill, 10/21

The Department of Housing and Urban Development (HUD) proposed new rules Wednesday to protect renters from being harassed by their landlords. Rooting out sexual harassment of low-income women is the agency's primary concern. "A home should be a refuge where every woman and man deserves to live without the threat of violence or harassment," HUD Secretary Julian Castro said in a statement. "The rule HUD is proposing is designed to better protect victims of harassment by offering greater clarity for how to handle a claim against an abuser."

[Is the CFPB Ready to Pounce on Mortgage Tech Vendors?]

Kate Berry and Austin Kilgore, American Banker, 10/21

POLITICAL INFLUENCE OF WALL STREET

[Will Wall Street money make Clinton pull her punches?]

Greg Gordon and Kevin Hall, Sacramento Bee, 10/16

Hillary Clinton has vowed to get tough on Wall Street, but her relationship with the powerful in the financial sector is both complicated and nuanced. Her record and her family ties suggest a healthy working relationship with Wall Street, if not a cozy one. Here are five ways Clinton is inexorably linked to Wall Street…since 2001, Wall Street ponied up over $8 million in speaking fees...Between her 2000 Senate run and June 30, Clinton's political campaigns have raised $3.6 million from six major banks, four of which were among her top five donors.

[A Matter of Trust — Slowing Wall Street's Revolving Door]

Craig Holman, InsideSources, 10/20

How did our nation fall into the financial crisis in the first place, and how did Wall Street avoid paying the price?

Although many of the specifics of the story may be complicated, the big picture is not all that difficult to understand. The financial crisis came primarily from a revolving-door dance between two groups: Wall Street itself, and the government regulators overseeing Wall Street. Over the last decade, these two groups have increasingly become the same people. Wall Street executives taking jobs as government regulators, and government regulators flowing into lucrative jobs on Wall Street. The same people, with increasingly the same interest: loosen government regulations, ease back on oversight, for the purpose of allowing bankers and investors to maximize profits.

[Groups Urge Obama Administration to Slow Revolving Door Between Wall Street and Federal Government]

Rootstrikers, 10/22

Today, 28 organizations urged the Obama administration to slow the revolving door between Wall Street and the government by ensuring that new federal officials don't get extra pay from the financial industry just for taking a government job overseeing the financial industry.

In letters sent today, the groups urged President Barack Obama and Vice President Joe Biden to require new administration officials coming from the financial industry to forego special compensation frequently offered by their former employers in exchange for their decisions to enter into public service in senior executive branch positions.

PUBLIC FINANCE

[Senate Panel Is Chilly to Puerto Rico's Pleas and Obama's Aid Plan]

Mary Williams Walsh, N.Y. Times, 10/22

Officials from debt-plagued Puerto Rico, hoping for some comfort and sympathy - and even practical advice - from senators at a committee hearing in Washington on Thursday, got little of it. And the Obama administration's proposal for helping the island out of its financial fix got no love either ... There were glimmers of support from two prominent politicians: Senator [Bernie Sanders] of Vermont, a candidate for the Democratic presidential nomination, and Senator [Elizabeth Warren] of Massachusetts, a Democrat, but they were just that - glimmers.

Mr. Sanders said he had heard that some of the bonds the island is in danger of defaulting on might have been issued illegally and perhaps could be torn up. 'Should debt be repaid if it was incurred in an unconstitutional way?' he asked, harking back to an argument that changed the course of Detroit's historic bankruptcy… But mostly, the committee was critical of Puerto Rico officials, including Gov. Alejandro García Padilla, who testified at the hearing, for providing what it said were confusing and out-of-date numbers."

RETIREMENT SECURITY & DOL FIDUCIARY DUTY RULE

Spending Bill Rider May Be Best Way to Stop DOL Rule: Rep. Wagner Aide

ThinkAdvisor, 10/16

The best way to ensure that the Department of Labor's fiduciary rule doesn't see the light of day may be to amend a government spending bill this fall to do just that, according to Erik Rust, senior legislative assistant for financial services affairs to Rep. Ann Wagner, R-Mo.

Wagner, a House Financial Services Committee member, has introduced H.R. 1090, a bill to stop DOL from issuing its fiduciary rulemaking under ERISA, but Rust said that internal Democratic party politics will make passage of that bill—and any veto override—unlikely. However, should Congress make progress this year in writing and passing a broader spending bill, not a Continuing Resolution (CR), to fund the government, President Obama would be loath to veto the spending bill even if it contained a rider that would stop DOL from issuing its controversial rule.

We must not allow scare tactics to derail the conflict-of-interest rule

Jared Bernstein and Lily Batchelder, On the Economy, 10/20

In objecting to our op-ed on the importance of ensuring that financial advisors place their clients' best interest ahead of their personal profits, Dirk Kempthorne, the President and CEO of the American Council for Life Insurers, offers a misleading argument, built on a large, incorrectly cited number.

Kempthorne suggests that the proposal hurt savers by reducing the amount of advice they receive – as if all advice is necessarily good advice – and then incorrectly cites an estimate that actually makes our point, not his. He writes that "by the [Labor] department's own estimate, financial losses associated with the lack of advice amounted to $114 billion in 2010 alone," implying the rule will increase these costs.

In fact, the number he cites is DOL's estimate of savers' losses from investment mistakes in general, regardless of whether they receive advice or not. It includes mistakes due to getting no advice, mistakes due to getting good advice but not following it, and the very losses that the DOL's proposal would address – mistakes due to following bad advice from advisers who consciously or unconsciously respond to the structure of perverse incentives that conflicts of interest create.

Supporting the Department of Labor's "Best Interest Rule" Is Good for All Business

Leo Hindery Jr., Huffington Post, 10/19

It closes a 40 year-old legal loophole that has been exploited by some in the financial advisory industry for decades, allowing them to rake in billions of dollars a year in commissions by recommending investments that drain away their clients' hard-earned savings through these commissions and low investment returns.

Of course, not everyone who gives retirement investment advice is taking advantage of their clients, and many do act in their clients' best interests. But because the law does not require financial advisors to do so, far too many do not act fairly. Thus it is that selfish actions by some advisors are damaging the reputations of all of the 'good guys' in the financial advisory industry at the very time when we're seeing a new generation of innovative firms already embracing the spirit of this proposed rule and helping middle class savers get the kind of advice that just a few years ago was out of reach.

DOL to 'Simplify and Streamline' Fiduciary Rule: Borzi

Melanie Waddell, ThinkAdvisor, 10/20

Phyllis Borzi, the main architect of the Department of Labor's rule to change the definition of fiduciary for retirement advice, said Tuesday that DOL was still wading through the comment letters that poured in during the plan's six-month comment period, but that she expects a final rule to be out in the first half of 2016.

[W]hile Borzi said the comments are a "mixed bag of opposition and support," DOL is looking for "constructive comments" on ways to enhance the rule — and has "found them."

Is Wall Street Eating Your 401(k) Nest Egg?

Chris Arnold, NPR, 10/19

Americans collectively are losing billions of dollars a year out of their retirement accounts because they're paying excessive fees, according to researchers studying thousands of employer-sponsored retirement plans across the country.

The researchers say part of the trouble is that many employers that offer 401(k) plans to their workers are outgunned by financial firms that sell them bad plans loaded with hefty fees. That's especially true, they say, for small and midsize employers that don't have much financial expertise in-house.

Labor, pension managers square off over benefits

Tim Devaney, The Hill, 10/21

The Department of the Treasury is facing mounting pressure over a proposal to cut retirement benefits for hundreds of thousands of union workers.

Hurtling toward insolvency, the Central States Pension Fund is looking to slash benefits by an average of one-third in order to prevent the program from running out of money in the coming years.

Finding A Good Financial Adviser Without Paying Too Much

Kent Smetters, NPR, 10/19

Finding a good adviser involves two key steps: First, only choose a "fee-only adviser." Don't be fooled by the expression "fee based" — that's a wolf in a sheep's clothing. The word "only" is critical. By law, a "fee-only" adviser must place your interests first and not accept hidden commissions from mutual funds, insurance companies, or anyone else…Second, you want an adviser who believes in "low-cost passive-indexed diversification." That's fancy language but important. All it means is that your adviser is using low-cost investments (often index funds) while not trying to "beat the market." Keeping costs low is critical for creating wealth over time. And by buying an index of stocks, say the S&P 500, you can very cheaply just "ride the market" up over time. The evidence is very clear that even skilled investment managers who try to "beat the market" generally can't do it. In other words, paying people to pick stocks for you usually means you pay higher fees and make less money.

Study: Most Americans Think They Are Too Poor For Financial Advisors

Christopher Robbins, Financial Advisor, 10/20

STUDENT LOANS & FOR-PROFIT EDUCATION

Dems to feds: Stop sending funding to fraudulent schools

Lydia Wheeler, The Hill, 10/20

Senate Democrats are calling on the Department of Education to take immediate action to stop tens of millions of dollars in federal funds from going to potentially fraudulent for-profit colleges and universities. Sens. Dick Durbin (D-Ill.), Richard Blumenthal (D-Conn.), Elizabeth Warren (D-Mass.), and Sherrod Brown (D-Ohio) sent a letter to Education Under Secretary Ted Mitchell on Tuesday in response to a New York Times article last week. The report said massive sums of money every month are going to for-profit schools that have been accused of predatory behavior, substandard practices or illegal activity.

“As demonstrated by the catastrophic closure of Corinthian Colleges, Inc. earlier this year, the current program integrity structure does not provide sufficient protection to prevent federal dollars from being squandered at illegitimate institutions” the senators wrote.

Is this the beginning of the end for ITT?

Danielle Douglas-Gabriel, Washington Post, 10/19

ITT Educational Services, one of the largest operators of for-profit technical schools, is facing tougher sanctions for mismanaging financial aid dollars and could ultimately lose access to federal funding.

On Monday, the Department of Education placed additional restrictions on the school's use of federal grants and loans, after ITT failed to account for millions of dollars in aid that was disbursed to students in the last five years…ITT spokeswoman Nicole Elam said the company is "complying with the department's requirements and is already process of implementing measures to fully address the relates reporting and administrative matters."

U.S. Tightens Restrictions on ITT's Access to Federal Student Aid
Nick DeSantis and Goldie Blumenstyk, Chronicle of Higher Education, 10/19

The government is cracking down on funding for a major for-profit college chain
Jillian Berman, MarketWatch, 10/20

Follow Defense Department lead to crack down on for-profit colleges
Kansas City Star Editorial Board, 10/19
The U.S. Department of Defense took a strong stand against the abusive for-profit college industry when it recently suspended one of its largest players from recruiting on military bases and accessing federal dollars available to service members for educational expenses. If only the rest of the federal government, Congress included, would be as assertive.

Enrollment at for-profit colleges has dropped as the economy has improved and word of the schools' tactics has gotten around. But they continue using questionable methods to lure thousands of students, many of them low-income, with promises of high-paying jobs and bright futures that rarely pan out. And the government keeps subsidizing them.

For-profit degrees worth nothing, exploitative
Maddie Pickens, The Daily Wildcat, 10/19

The Latest Threat to Veterans' Education Benefits: Covert For-Profits
Sarah Sicard, Task and Purpose, 10/19

For-Profit College Owner, Who Used Strippers As Lure, Goes On Trial
David Halperin, Huffington Post, 10/20

Republican Lawmakers Blast CFPB for Investigation Involving Accreditor
Andy Thomasan, Chronicle of Higher Education, October 23, 2015

SYSTEMIC RISK

The Dangerous Opacity of Modern Banking
Robert Lenzner, The Atlantic, 10/21
Even after the reckoning of the 2008 financial crisis, the assets being repackaged and resold by the giant institutions that dominate global finance are still terribly risky. That's the conclusion of a recent book by the British economist John Kay, *Other People's Money: The Real Business of Finance*, which suggests that the overarching arrangement of finance hasn't changed much in the wake of the crisis.

Kay argues that the "real business of finance" mentioned in his subtitle is the project of making the general economy much more opaque. The accounts of major banks are lengthy and impenetrable. No one really knows the profitability, year by year, segment by segment, or in aggregate of the banking system. "The proliferation of poorly understood complexity in the financial sector was intentional," Kay asserts.

Clinton vs Sanders vs O'Malley On Fixing Banking
Dave Johnson, Campaign for America's Future, 10/21
Which Democratic candidate will take on the banks? They all have proposals that increase regulation and give voice to breaking up the biggest banks. But will their administrations enforce those as well as existing regulations if elected?

● No one doubts that Sanders, with his 100 percent Candidate Scorecard rating is independent of Wall Street and potential regulatory capture – his net worth after 25 years in the Congress is around $330,000 and that includes his residence – and will be extremely tough both with policy and enforcement.
● O'Malley is stressing his positions on and independence from Wall Street. He also has a 100 percent Candidate Scorecard rating and solid proposals. His position paper stresses enforcement.
● Clinton is offering a comprehensive plan to bring the big banks under control. She has also offered a "revolving door" plan that goes after bonuses from Wall Street firms and delays for three years any lucrative compensation for people who leave government after doing favors for the companies that might hire them.

Mike Huckabee: 'I was right' on economy
CNBC (video), 10/16
Huckabee: "Look, I'm not sure the repeal of Glass-Steagall was a brilliant idea because what you did was erase the line between traditional banks and.."

Interviewer: "Would you bring it back?"

"Very Likely. Yeah…I absolutely agree that [Wall Street executives] should have been prosecuted. These were the smartest people in the room! John, these were the people that were supposed to be the geniuses. They were all Ivy Leaguers. They knew darn well that they were shuffling papers around and getting ridiculous amounts of money."

Bernanke: I'm 'puzzled' by the focus on Glass-Steagall
Nick Gass, Politico, 10/21
"I'm actually a little puzzled by the focus on that particular provision," Bernanke said during a discussion with POLITICO's Ben White at an America's Fiscal Future event in Manhattan. "I think that if you look at the actual, what happened a few years ago in the crisis, that Glass-Steagall was pretty irrelevant to it because you had banks like Wachovia or [Washington Mutual] that went bad because they made bad loans, and you had investment banks like Bear Stearns and Lehman that went bad because of their investment banking activities." Even if Glass-Steagall were still in place at the time of the financial crisis, "it would have had no effect on most of these firms," he said, including AIG, which required massive and repeated bailouts.

WHISTLEBLOWER PROTECTION

Billboards urge Wall Street employees to report financial crimes
John Aidan Byrne, NY Post, 10/17
The NYPD asks if you see something, say something. And now a band of Wall Street gadflies are similarly seeking help in sniffing out weapons of financial destruction. The financial industry requests hit New York like a thunderbolt last week, announced by in-your-face billboards across downtown Manhattan advertising an encrypted new way bank employees can electronically and anonymously disclose sensitive statements and documents on suspected workplace fraud.
The aim is to help level the playing field on Wall Street between get-rich-quick shady operators and the often-innocent workers, according to a grassroots coalition of workers. Behind this campaign urging bank employees to blow the whistle in an intensified clampdown on suspected corruption are advocates and lawyers.

"If You See Something, Do Something," scream the billboards, which will be visible, organizers say, until the end of October from Exchange Place in lower Manhattan north to Greenwich Street. They also tout the campaign's Web site, WhistleBlowWallStreet.com.

OTHER TOPICS

Big Banks to America's Firms: We Don't Want Your Cash

Juliet Chung and Sarah Krouse, Wall St. Journal, 10/18

U.S. banks are going to new lengths to ward off a surprising threat to their financial health: big cash deposits.

State Street Corp., the Boston bank that manages assets for institutional investors, for the first time has begun charging some customers for large dollar deposits, people familiar with the matter said. J.P. Morgan Chase & Co., the nation's largest bank by assets, has cut unwanted deposits by more than $150 billion this year, in part by charging fees… Since last year, Bank of America Corp. has told some institutional clients that they will need to move their deposits or pay to keep them at the bank, people familiar with the matter said. Top executives decided to approach clients that didn't do other business with the bank.

Obama administration blamed for massive regulatory delays

Tim Devaney, The Hill, 10/22

A government watchdog is complaining of massive regulatory delays from the Obama administration. The White House's Office of Information and Regulatory Affairs (OIRA) has delayed important regulations for a combined total of 4,136 days, according to a new report from Public Citizen. That amounts to more than 11 years worth of delay….

When Politicians Are Not Experts, Agencies Step In

Brandi Lupo, RegBlog, 10/20

Being pro-business doesn't mean hanging consumers out to dry

Hillary Clinton, Quartz, 10/20

American capitalism built the greatest middle class in history. When it works the way it should, our system is defined by innovators constantly sparking new ideas, workers sharing in the profits they help produce, consumers enjoying ever-greater choices, and small business owners like my father, working hard to give their families a better life. But sometimes, the system doesn't work the way it should and we need to fix it. Teddy Roosevelt had to do it. Franklin Roosevelt had to do it. Barack Obama, too…

Economists, including President Obama's Council of Economic Advisers, have put their finger on what's going on: large corporations are concentrating control over markets. Two-thirds of public corporations operated in more concentrated markets in 2013 than in 1996, according to recent reporting by the Wall Street Journal. Rather than offering better products for lower prices, they are using their power to raise prices, limit choices for consumers, lower wages for workers, and hold back competition from startups and small businesses.