Americans for Financial Reform

This Week in Wall Street Reform | Oct 21 - 27

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THE TRUMP ADMINISTRATION, CONGRESS & WALL STREET

Government Dysfunction Could Doom Us To A Never-Ending Financial Crisis When The Next One Hits | MarketWatch
(Howard Gold)
No matter where it begins, I think the next crisis will be defined by the inability of governments to act as decisively as they did after the fall of Lehman Brothers 10 years ago. Though regulation of mainstream financial institutions has greatly improved, budgetary and financial constraints as well as toxic politics may well tie the hands of regulators and central bankers in a way they didn't the last time around.

Fed Fires Warning Shot At Wall Street's Riskier Loan Deals | Bloomberg
A top Federal Reserve official fired a rare public warning Wednesday, saying that banks appear to be chasing increasingly dangerous deals and forgoing protections against borrowers going bust.

"There may be a material loosening of terms and weaknesses in risk management," Todd Vermilyea, the Fed's head of risk surveillance and data, told bankers at a conference in New York. "Some institutions could be taking on risk without the appropriate mitigating controls."

The warnings come after watchdogs have spent most of the year expressing confidence about the health of the $1.3 trillion market for leveraged loans. They acknowledged that some firms were putting together transactions that were risky by the standards of just a few years ago, but said it was happening outside the tightly regulated banking sector, thus mitigating threats to the financial system.

Trump Lashes Out At Federal Reserve Chairman On Interest Rates, 'Maybe' Regrets Picking Him | CBS News

President Trump lashed out at his Federal Reserve chairman, saying in a Wall Street Journal interview that the man he picked for the post last year, Jerome Powell, seems to enjoy raising interest rates. Powell's actions at the U.S. central bank threaten economic growth, the president says in the interview.

"Every time we do something great, he raises the interest rates," Mr. Trump said. Powell "almost looks like he's happy raising interest rates."

CONSUMER FINANCE AND THE CFPB

New UltraFICO Score Stokes Concerns About Data Privacy | American Banker
FICO announced this week that it is testing a new credit score with Experian and data aggregator Finicity that draws on several months' worth of data from consumers' bank

accounts. The idea, according to FICO, is to create a “second chance” score that could allow consumers who’ve been denied credit due to the traditional model another shot at obtaining it.

But some observers saw an immediate potential problem — namely with credit bureaus getting unfettered access to bank account data.

“If the credit bureaus want to start routinely accessing our bank accounts, they should be subject to bank-like regulation,” said Sheila Bair, a former chairman of the Federal Deposit Insurance Corp. “I’ve been a critic of big U.S. banks in certain areas, but I do believe their information security systems are substantially superior to the credit bureaus and that is due, in large part, to their regulated status.”

New FICO Model Could Boost Credit Scores For Millions | HousingWire
The consumer will grant permission to contribute information from their bank statements, including the length of time accounts have been open, frequency of activity and evidence of saving. The information will be electronically read by Finicity and combined with consumer credit information from Experian.

“This approach allows Americans to benefit from positive financial behaviors,” Finicity CEO Steve Smith said. “We are proud to have created a new way for consumers to share financial information, safely and securely so that a new UltraFICO Score can be created.”

Trump Anti-Discrimination Official Once Called Most Hate Crimes ‘Hoaxes’ | Washington Post
A senior Trump appointee responsible for enforcing laws against financial discrimination once questioned in blog posts written under a pen name if using the n-word was inherently racist and claimed that the great majority of hate crimes were hoaxes.

Eric Blankenstein, a policy director at the Consumer Financial Protection Bureau, expressed those and other controversial views more than a decade ago on a political blog he co-authored with two other anonymous contributors.

Read a letter from consumer advocacy groups, including AFR, calling on Acting Director Mulvaney to fire Eric Blankenstein.

CashCall Owes $200M For Loan Scheme, CFPB Tells 9th Circ. | Law360

The U.S. Consumer Financial Protection Bureau urged the Ninth Circuit on Friday to reverse a lower court order and force CashCall Inc. to cough up more than $200 million for bilking consumers on high-interest payday loans, saying the company escaped with just a $10 million fine because a federal judge wrongly decided the company didn't have to pay restitution.

U.S.Consumer Watchdog Dilutes Penalty Against Payday Lenders | Reuters
Mick Mulvaney, the head of the U.S. Consumer Financial Protection Bureau (CFPB) on Wednesday fined a payday lender $200,000 for wrongly hounding borrowers but the penalty fell short of the $3 million his predecessor was seeking, said three sources familiar with the move.

Pentagon, Others Baffled By CFPB Plans To Cease Military Lending Exams | American Banker

Roughly 30 military and veterans groups are opposed to the supervisory rollback. The Department of Defense says it was not consulted on the bureau's decision and remains committed to the current law, which imposes a 36% annual percentage interest rate cap for active-duty military members and their dependents.

See Stop the Debt Trap's statement on Mulvaney's lack of enforcement for the Military Lending Act, and the bipartisan letter from members of Congress.

CFPB Expected To Cut Payday Repayment Tests In Rule Overhaul | Bloomberg
Payday lenders could escape tighter regulation as the Trump-led Consumer Financial Protection bureau considers eliminating a requirement that they first assess borrowers' ability to repay loans.

The CFPB is expected to either propose eliminating the rule's strict ability to repay standards or delaying their effective date so that they can undergo further review, according to multiple sources with knowledge of the rulemaking process.

Trump CFPB Moves To Rework Key Part Of Obama Payday Lending Regulation | Washington Times
"The consumer bureau used to be a great agency dedicated to enforcing the law and protecting consumers, is now to putting predatory lenders ahead of the law and its mission with this attempt to gut consumer protections," said Jose Alcoff, payday campaign manager at **Americans for Financial Reform**, in a statement.

Americans Who Don't Have A Bank Account At Lowest Level Ever | Associated Press
The percentage of Americans who do not have a bank account fell to a record low last year, the Federal Deposit Insurance Corp. said Tuesday, a sign that the economic fortunes of the country's most vulnerable people continues to improve.

In 2017 approximately 6.5 percent of U.S. households did not have a primary bank account. That is down from 7 percent in 2015 and from a high of 8.2 percent in 2011. That translates into roughly 14.1 million adults without a bank account.

Financial Companies Rack Up Complaints, But Good Luck Finding Them | NerdWallet
Escaping scrutiny are Green Dot Corp. — which partners with Walmart, Apple, Intuit and more than 100,000 retailers — and Credit One Bank, which issues NASCAR credit cards. A NerdWallet investigation found that many other businesses also are not subject to oversight by the Consumer Financial Protection Bureau despite being the subjects of many complaints.

The lack of supervision means that consumer grievances about the companies do not appear on a public complaint database the bureau set up to help guide consumer decisions.

Hertz Can Force Arbitration In Illinois Rental Fee Row | Law360
An Illinois federal judge on Wednesday sided with Hertz Corp. in a putative class action suit against the rental car company brought by a customer, saying a contract required arbitration for the bulk of claims accusing Hertz of repeatedly charging improper fees.

U.S. District Judge Sara L. Ellis said that of the five transactions at issue in Kathryne Anne Kurth's suit, claims against one would be thrown out and claims involving the other four had to go to arbitration. The opinion said the case would be stayed while arbitration moved forward.

CFPB's 'Wizard of Oz' Puts Trump Plans Into Practice | Wall Street Journal
Brian Johnson spent years as a congressional aide organizing Republican attacks on the Consumer Financial Protection Bureau. Now, he is its No. 2 official, playing a central role in the Trump administration's reshaping of the consumer-finance regulator.

DERIVATIVES, COMMODITIES & THE CFTC

FinTech Cops Urged To Play Nice, But Sandbox Is A Hard Sell | Law360
"Some consumer groups have come out against sandboxes because they're concerned about consumer protection, and so one challenge is just to make sure that [companies are] not only building these protections but are communicating them," Williams said.

Such protections could include disclosure requirements, data security and privacy safeguards, she said. Companies will also still face the anti-discrimination obligations of the Equal Credit Opportunity Act and the Fair Housing Act.

EXECUTIVE COMPENSATION

World's Largest Wealth Fund Says Companies Pay CEOs All Wrong | Bloomberg
"Designing a robust set of CEO targets is notoriously difficult on a multiyear horizon," the fund said in its position paper, adding that "engineered incentives crowd out the intrinsic motivation of the CEO." It also pointed to research that suggests there's currently no definitive correlation between overall levels of executive pay and firm performance.

Washington Keeps Failing To Rein In Banker Pay | American Banker (Bartlett Naylor)
A report from Public Citizen and the Institute for Policy Studies published in April found that among the largest four megabanks — JPMorgan, Bank of America, Wells Fargo and Citigroup — the average pay ratio between executives and workers in 2017 was 319-to-1. A typical employee would have to work a full year before earning as much as the chief executive pockets in a single day.

When one measures the grip of the Wall Street lobby on Washington, nothing is more telling than these results. Where it matters to individual bankers, reform has left them personally untouched.

INVESTOR PROTECTION, THE SEC, AND RETIREMENT SAVINGS

DOL Proposes Rule For Pooled Small Business Retirement Plans | The Hill
The rule, if approved following a comment period, would pave the way for business associations to operate association retirement plans (ARPs), allowing a group of businesses to share administrative and oversight costs.

"Many small businesses would like to offer retirement benefits to their employees, but are discouraged by the cost and complexity of running their own plans," said Labor Secretary

Alexander Acosta. "Association Retirement Plans give these employers a simple and less burdensome way to offer valuable retirement benefits to their employees.

For Silicon Valley, The SEC Has Become An Unwelcome Neighbor | Washington Post

For the SEC, the country's top financial regulator, Silicon Valley poses a unique challenge. Most of the companies are privately held and thrive on a grow-at-any-cost, break-it-now-fix-it-later culture. And its leaders can sometimes appear dismissive of the SEC, including when Musk called it the "Shortseller Enrichment Commission" days after reaching a $20 million settlement. Even after the SEC laid out evidence of massive fraud at Silicon Valley darling Theranos, some wondered what had taken the agency so long.

MORTGAGES AND HOUSING

Wall Street Is Spending Big To Protect Its Ability To Jack Up Rents In California | The Intercept

Currently, cities in California are banned from pursuing rent control for apartments built after 1995 and for all single-family home rentals, of which there are 2 million in the state. Blackstone has a portfolio of over 12,700 single-family rentals in California, and if it helps defeat Prop 10, the firm can continue to jack up rents to an unlimited degree.

Preying On Veterans, Mortgage Brokers Could Hurt Big Bond Market | Bloomberg Government

In September, there was a clear sign that someone might be preying on homeowners. Roughly 5,000 veterans and active military members took cash out of their homes by refinancing loans, according to estimates from Ginnie Mae, a government-owned corporation whose job is making mortgages more affordable. The figure startled Ginnie officials because with interest rates rising, they expected about 50 borrowers to pull equity from their homes.

Either a lot of homeowners were desperate for money -- and willing to pay a higher monthly rate to get it -- or they were being hounded to refinance.

"We believe brokers and some lenders are pushing veterans into it," Michael Bright, Ginnie's chief operating officer, said in an interview. "We are aware of this, we are upset about this, and we will take steps to fix this."

How HUD Could Help More Families Affected By Natural Disasters | Government Executive (Alys Cohen)

After the winds die down and the flood waters recede, natural disaster survivors begin the long process of putting the pieces of their lives back together. But for low-income homeowners, this period can exacerbate economic vulnerabilities, causing too many survivors to lose their homes amidst the struggle to rebuild. Earlier this year, HUD developed a new "disaster standalone partial claim" program to help homeowners who have mortgages insured by the Federal Housing Administration avoid foreclosure. However, unnecessary barriers to enrollment and the limited scope of the program place this critical lifeline out of reach for too many families struggling after recent storms and other disasters.

PRIVATE FUNDS

The Silver Lining Of The New Gilded Age: Fewer Targets | American Prospect

Last December, groups including **Americans for Financial Reform** and the Center for Responsible Lending sent a letter to Blackstone calling on it to cap interest rates at 36 percent, not to lobby for higher state limits and to refrain from requiring borrowers to agree to settle potential disputes through arbitration. A “variety of fees, ancillary payments, and insurance” can push actual rates paid by installment loan borrowers into the “double or triple digits,” the letter noted.

How Best Buy Survived The Retail Apocalypse | The Week
Unlike Toys 'R' Us or Sears, which were both sunk by the debt foisted on them by massive leveraged buyouts, Best Buy was able to stay nimble. In fact, it's only gotten nimbler. Since 2012, Best Buy has actually cut its debt load in half and increased its cash on hand almost threefold. And while interest payments were gobbling up 4 percent of Toys 'R' Us' revenues before it went under, they only accounted for 0.2 percent of Best Buy's total sales. As rivals were being felled by balance sheets overloaded with debt, Best Buy was cleaning up its own.

How BlackRock Rules The World | American Prospect
Buoyed by an index fund collection called iShares that it purchased from Barclays, BlackRock is the world’s largest asset manager, with $6.3 trillion of other people’s money under its control. BlackRock’s Aladdin risk-management system, a software tool that can track and analyze trading, monitors a whopping $18 trillion in assets for 200 financial firms; even the Federal Reserve and European central banks use it. This tremendous financial base has made BlackRock something of a Swiss Army knife—institutional investor, money manager, private equity firm, and global government partner rolled into one.

STUDENT LOANS AND FOR-PROFIT SCHOOLS

Obama Student Loan Rule To Take Effect | Inside Higher Ed
The ruling on the regulation, known as borrower defense, is seen as a major win for students by consumer groups. The rule would ban colleges from enforcing arbitration provisions of enrollment agreements. And it could make it easier for many student borrowers to receive loan forgiveness. But those benefits will also depend on how the Education Department, which has sought for the past two years to roll back the regulations, carries out provisions of the rule.

See AFR Education Fund’s statement on the ruling.

$1.5 Trillion Of Student Loan Debt Has Transformed The American Dream | Quartz
It’s a sum so astronomical that education researchers characterize this as a time of crisis—one that will only worsen without governmental and institutional intervention. In January of this year, Judith Scott-Clayton of Columbia University’s Teachers College wrote in a Brookings Institute report that “the looming student loan default rise is worse than we thought.” Based on the most recent trends, it seems likely that by 2023, about 40% of borrowers may default on their student loans, amounting to about $560 billion in unpaid debt.

SYSTEMIC RISK

'Early Warning System' For Markets Muzzled Under Trump | Politico
The Office of Financial Research, which was given the power to pull together granular data from across the financial system, has seen its budget slashed and is on pace to lose more than a third of its staff.

The office, established under the landmark 2010 Dodd-Frank Act as an independent agency with the freedom to cite dangers, has sometimes faced blowback for its efforts. Five years ago, it sparked an uproar among asset managers by warning of potential threats posed by the multi-trillion-dollar industry.

But now, the Treasury Department is increasingly taking over responsibility for crafting its research agenda — and, as a result, the office is doing a lot less. That has raised alarms among its supporters.

Big Banks Should Not Try To Weaken The Leverage Ratio | Forbes
(Mayra Rodriguez Valladares)
Since key internationally active banks have been implementing the leverage ratio since 2014, I salute the Basel Committee for its openness in taking comments from the public globally to determine whether additional changes should be made to the leverage ratio. Yet, I am concerned that bank lobbyists, in particular will push to weaken the leverage ratio. The leverage ratio is very important, because banks have a fair amount of flexibility in how they design their risk models and what data they use to calculate their risk-weighted assets. As I wrote in 2015, trusting banks' own models can be dangerous. The leverage ratio is a calculation of the common equity needed to cover all assets on and off-balance sheet. For this calculation, assets are not risk-weighted. Unlike risk-weighted asset calculations, the leverage ratio is much harder to manipulate.

Once Feared On Wall Street, Dodd-Frank's Watchdog Is In Retreat | Bloomberg
Since officials picked by President Donald Trump took the reins [of the Financial Stability Oversight Council], the group has been more focused on making it easier for companies to escape the government's grip than examining whether additional firms should be tapped. With such an agenda, it seems unlikely that any non-bank giants -- such as Berkshire Hathaway Inc. or BlackRock Inc. -- will be declared systemically important financial institutions anytime soon.
"They made it clear that they didn't want to designate anyone," said Marcus Stanley, policy director at **Americans for Financial for Financial Reform** in Washington.

See AFR Statement on Prudential's de-listing as a SIFI.

The Looming Dangers of Non-Banks | Axios
(Felix Salmon)
The most likely cause of a future financial crisis isn't the banks, it's the non-banks. They're enormous, they're much less regulated than banks are, and they tend to have much greater leverage.

Flashback: Never forget that when the U.S. financial system fell apart in September 2008, the bank (Lehman Brothers) was deemed small enough to fail. It was the insurance company (AIG) that was too big to fail and needed a $182 billion government bailout.

Trump Re-Opening Wall Street Casino By Weakening Volcker Rule | American Banker
(Dennis Kelleher)

Prop trading is like taxpayers giving Wall Street's biggest banks a credit card with no limit and telling them to go to Las Vegas to gamble. Worse, Wall Street is also told that it gets to keep all the winnings and taxpayers will get the bill for all the losses.

No one would ever agree to that because it incentivizes Wall Street to make the biggest, highest risk bets because they have only upside and no downside. They get to shift their losses to taxpayers like they did in 2008. That's why Wall Street loves prop trading. And that's why the Volcker Rule prohibits it — to protect taxpayers and the financial system.

See AFR Education Fund's comment on the Volcker Rule.

Regional Banks' Reg Relief Triumph Gives Way To New Battle | American Banker
Regional banks notched a huge win earlier this year when the regulatory relief law ensured only the biggest banks sit in the Federal Reserve's toughest regulatory tier. But midsize institutions have not rested on their laurels as another battle has ensued over the law's implementation.

Ex-Bank Regulator: We Don't Understand 'How Systemically Broken The System Is' | Yahoo Finance
In her new book, "Noncompliant: A lone Whistleblower Exposes the Giants of Wall Street," Segarra argues that those who flout the rules are actually rewarded as opposed to being reprimanded.

"This is a culture that rewards bad behavior systemically," she said. "And so because the issue is so systemic, fixing it is going to take a lot of time and a lot of effort."

In 2013, Segarra filed a lawsuit against the New York Fed and her supervisors. Both the case and the subsequent appeal were dismissed. In 2014, she provided ProPublica and "This American Life" with 46 hours of recorded conversations with colleagues during her time at the Fed.

Podcast: Why We Need A New Way To Measure The Economy | Knowledge@Wharton

TAXATION

The Trump Tax Scam, Phase II | New York Times (Paul Krugman)
Sure enough, the deficit is soaring. And this week Mitch McConnell, the Senate majority leader, after declaring the surge in red ink "very disturbing," called for, you guessed it, cuts in "Medicare, Social Security and Medicaid." He also suggested that Republicans might repeal the Affordable Care Act — taking away health care from tens of millions — if they do well in the midterm elections.

Kamala Harris's Trump-Size Tax Plan | The Atlantic
Harris is offering a kind of fun-house-mirror inversion of the sweeping Republican tax initiative, one that would, instead of slashing rates on high-income households and corporations, push huge credits out to middle-income and poor families. The lift the Middle Class Act would provide monthly cash payments of up to $500 to lower-income families, on top of the tax credits and public benefits they already receive. "Last year, Congress gave a trillion dollars in tax breaks to corporations," Harris told me. "That money should have gone to American taxpayers who need it instead of handing it over to corporations and the top 1 percent."

OTHER TOPICS

State Regulators Set To Renew Legal Fight Over Federal Charter For Fintechs | Politico
State bank regulators on Thursday will sue a federal agency that they say is overstepping its bounds by offering national bank charters to financial technology startups.
The Office of the Comptroller of the Currency, which oversees national banks, this summer finalized plans to put forward a limited charter for fintech companies, allowing those firms to operate across state lines without having to comply with each state's rules.

$30 Billion in Saudi Deals Even as Investors Denounce a 'Horrendous' Killing | New York Times
"I'm not doing any media," said Ken Moelis, the founder and chief executive of Moelis & Company, an investment bank. "It'll have to be 'no comment.'"

"It's awkward," said Tally Zingher, chief executive of Dawsat, a start-up company focused on health in the Middle East, who noted the shadow cast by Mr. Khashoggi's death.

Ms. Zingher, an American, considered not attending, but decided that she was not prominent enough to make a statement by skipping the conference.

Experian Flaw Just Revealed PINs Protecting Credit Data | NerdWallet
Experian's site exposed the personal identification numbers — the PINs needed to thaw credit freezes — after users answered their security questions with a blanket answer: None of the above.

More than a year ago, security expert Brian Krebs reported a similar flaw. At that point, people had to correctly answer the four "knowledge-based authentication" questions used to identify them. The problem with this method, according to Krebs, is that the personal information needed to successfully guess the answers is readily available online through commercial as well as criminal sites.

Bankers Of The World, Unite! | The Nation
(Mike Konczal)
You can see how bad working conditions lead to bad behavior by looking at what went wrong at Wells Fargo. The bosses there insisted that workers meet punishing sales goals. They demanded that their employees sell customers additional products they didn't need, like car mortgages or home loans. This created an environment where workers felt compelled to create fake and unauthorized accounts to reach these corporate benchmarks—the kind of abuse that could easily be checked if employees had a say in their own working conditions.

Regulation from below is the perfect complement to "regulations from above"—the ones that address the size of banks, their activities, and their balance sheets to keep them from threatening the entire economy.

An Exclusive Look at Cory Booker's Plan To Fight Wealth Inequality: Give Poor Kids Money | Vox

America has a massive, growing racial wealth gap. The median white family today holds nearly 10 times the wealth of the median black family.

Sen. Cory Booker (D-NJ) is introducing a bill aimed at closing that gap. His idea is to give lower-income kids a sizable nest egg (nearly $50,000 in some cases) that they could use for wealth-building purchases, like a down payment on a house or college tuition.

Paul Volcker, At 91, Sees 'A Hell Of A Mess In Every Direction' | New York Times

"The central issue is we're developing into a plutocracy," he told me. "We've got an enormous number of enormously rich people that have convinced themselves that they're rich because they're smart and constructive. And they don't like government, and they don't like to pay taxes."

How One Stubborn Banker Exposed A $200 Billion Russian Money Laundering Scandal | Wall Street Journal

It took a £1 payment to uncover one of the world's biggest money-laundering scandals.

Howard Wilkinson, a British trader at a Danish bank's branch in Estonia, noticed that a London business, which moved more than $1 million through the branch almost daily, had filed a report with the U.K. government claiming it had no income or assets. Downloading the report cost Mr. Wilkinson one pound.