This Week in Wall Street Reform | SEP 16 - 23

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CONSUMER FINANCE AND THE CFPB

News Release: AFR Applauds the House Passage of the FAIR Act | AFR

Today, the House of Representatives passed the Forced Arbitration Injustice Repeal (FAIR) Act in a 225-186 vote. The FAIR Act prohibits companies from forcing harmed consumers, workers, and small businesses into the secret arbitration process to resolve disputes. It protects their ability to seek relief through the courts when companies have harmed them and restores the ability of harmed individuals to join together in class actions to hold companies accountable for their wrongdoing.

Forced arbitration clauses buried in the fine print of take-it-or-leave-it contracts may be the single most important tool that predatory banks, payday lenders, credit card companies and other financial institutions have used to escape accountability for cheating and defrauding consumers. Financial companies regularly force consumers into arbitration by requiring consumers to accept it as a non-negotiable condition to get access to financial services, including bank accounts, credit cards and student loans.

Trump just asked the Supreme Court to let him fire the CFPB's head. The implications are enormous | Vox

On Tuesday, the Trump administration asked the Supreme Court to hear a lawsuit challenging the leadership structure of the Consumer Financial Protection Bureau (CFPB) — taking the same side as the people suing the government in a major constitutional dispute.

The administration essentially threw in the towel in the challenge to the consumer protection agency started by senator and presidential candidate Elizabeth Warren. As a general rule, the Justice Department has a duty to defend federal laws challenged in court. The administration, however, decided not to defend the law at issue in this case.

Trump's Latest Assault on the CFPB Could Backfire | Slate

The Department of Justice has urged the Supreme Court to ensure that the next Democratic president can fire Donald Trump's director of the Consumer Financial Protection Bureau on day one.

In a brief filed Tuesday, Solicitor General Noel Francisco told the court that the government believes the CFPB's structure is unconstitutional. He encouraged the justices to fix the putative problem by severing a provision of the law that bars the president from removing the CFPB's director without cause. The move is likely motivated in part by a fixation on sweeping executive power. It may also be influenced by Republicans' long-standing crusade to strip the agency of its independence, a key factor in its ability to aggressively enforce regulations against bad actors like Wells Fargo and predatory debt collectors. But a ruling in the DOJ's favor would not accomplish that goal. Instead, it would guarantee that Trump's messy takeover of the CFPB will die once the next Democratic president takes office.

NCLC Attorney Statement Regarding Challenge to Constitutionality of Consumer Financial Protection Bureau Leadership Structure | NCLC

"More than 80 years ago in the Humphrey's Executor v United States case involving the FTC, the Supreme Court upheld Congress's authority to create independent agencies and to limit the president's ability to dismiss officers for political reasons without cause. The situation today is no different than when President Roosevelt tried to stack the FTC.

"It is shocking to see the head of a consumer protection agency who took the job with eyes open about the baseless claims against the agency suddenly reverse course and decide to undermine her own authority to protect the public. Most courts have rejected the claim that Congress cannot protect an agency from political meddling without cause and we expect the Supreme Court to do so as well."

Led by Trump appointee, CFPB is back in the enforcement business | American Banker

The Consumer Financial Protection Bureau has ratcheted up investigations and enforcement actions in the past few months, an apparent shift by the agency under Director Kathy Kraninger, who had initially signaled that supervision would be the primary focus in her tenure.

Kraninger has called more attention to enforcement in recent speeches and public comments. And financial firms are receiving more civil investigative demands and notices alerting them of possible enforcement actions, lawyers say. The notices are similar to those issued under former CFPB Director Richard Cordray.

Equifax Doesn't Want You to Get Your $125. Here's What You Can Do. | New York Times

Equifax had one job — keep its vast trove of personal financial information on millions of Americans secure. In 2017, the company failed spectacularly at that job when a hack compromised the information of more than 147 million people.

This July, Equifax settled a lawsuit with the Federal Trade Commission in response to that failure for up to $700 million. A settlement website was created to allow those who had their information exposed by Equifax to file a claim to receive either free three-bureau credit monitoring for up to 10 years or up to $125 (if you already had credit monitoring, no documentation necessary).

Is a Consumer Protection Exec Quietly Dismantling LGBTQ Protections? | Advocate

A simmering battle over LGBTQ issues is reaching a boiling point at the Consumer Financial Protection Bureau, the government agency partly established by Sen. Elizabeth Warren and tasked with safeguarding taxpayers. The situation comes nearly three months after The Advocate published an exclusive report in collaboration with Allied Progress detailing that the head of the Bureau's Office of Innovation, Paul Watkins, attempted to hide the fact that he worked as senior legal counsel for Alliance Defending Freedom, a hate group seeking to criminalize LGBTQ people.

PRIDE, an LGBTQ employee resource group at the CFPB, has been hosting discussions about the matter since the article came out in June. As many as 70 employees have joined across all departments, and even more have called in.

[232 Nonprofit Groups Object to CFPB Plan to ‘Protect Abusive Debt Collectors’](#) | CU Today

A coalition of 232 nonprofit organizations from all 50 states and the District of Columbia have sent a letter to the Consumer Financial Protection Bureau (CFPB) in response to its proposal that the group said “protects abusive debt collectors more than consumers.”

Instead of giving the debt collection industry more weapons to harass and abuse consumers, the coalition urges the consumer bureau to limit the number of phone calls per week, require consent of the person before sending emails or text messages, allow people to opt-out of electronic messages, hold debt collection attorneys responsible for misrepresentations, and prohibit the collection of ‘zombie debt,’ the groups said in a statement released in conjunction with the letter.

Credit Union Regulator Expands High-Cost Loan Program Without Needed Safeguards, Say Consumer Groups | NCLC
Today, the National Credit Union Administration (NCUA) voted to approve a final rule governing Payday Alternative Loans, referred to as PAL II. In response, the Center for Responsible Lending (CRL) and the National Consumer Law Center (NCLC) acknowledged improvements over the proposed PAL II rule while critiquing changes that could expose credit union members to more loans with effective annual percentage rates (APRs) above 100% and to larger loans at rates that could be unaffordable.

CRL and NCLC (on behalf of its low-income clients) had submitted a comment letter on the proposed rule. This and a separate letter from more than a hundred organizations, including community, consumer, civil rights, faith, and legal services groups, urged the NCUA to maintain guardrails against predatory lending.

More than 200 Organizations across the 50 States and D.C. Call for Strong Consumer Protections on Debt Collection | NCLC

Late yesterday, a coalition of 232 nonprofit organizations from all 50 states and the District of Columbia sent a letter to the Consumer Financial Protection Bureau (CFPB) in response to its proposal that protects abusive debt collectors more than consumers. Instead of giving the debt collection industry more weapons to harass and abuse consumers, the coalition urges the consumer bureau to limit the number of phone calls per week, require consent of the person before sending emails or text messages, allow people to opt-out of electronic messages, hold debt collection attorneys responsible for misrepresentations, and prohibit the collection of “zombie debt.” The National Consumer Law Center, Americans for Financial Reform, Consumer Federation of America, National Association of Consumer Advocates, U.S. PIRG, and Woodstock Institute also submitted technical comments (227 pages).

CFPB investigating Bank of America over phony accounts | American Banker

As part of a probe that grew out of the Wells Fargo phony-accounts scandal, the Consumer Financial Protection Bureau is investigating whether Bank of America also violated federal law by opening credit card accounts without customer authorization.

The civil investigation of BofA came to light Tuesday when the bureau posted documents online that detail its legal wrangling with the Charlotte, N.C., company. Bank of America has argued that a March 2019 demand for emails and other records is unduly burdensome, while also calling on the agency to close its investigation. CFPB Director Kathleen Kraninger denied the bank's petition in July.

Consumer Bureau's Complaints Database Is 'Here to Stay,' Director Says | New York Times

The Consumer Financial Protection Bureau will continue to publish its database of consumer complaints about financial companies, ending — for now — a battle over public access to one of the agency's most powerful tools.

"The database is here to stay," Kathleen Kraninger, the bureau's director, said Wednesday at a consumer conference in Rosemont, Ill., outside Chicago.

Letter: CFPB Debt Collection Practices Changes File Your Comment | Tucson.com

Re: the July 24 article "Financial watchdog bureau should live up to its name."

A few months ago Kelly Griffith, executive director of the Southwest Center for Economic Integrity wrote an editorial about proposed changes to the Fair Debt Collection Practices Act(FDCPA) by the Consumer Financial Protection Bureau (CFPB). The FDCPA was passed in 1977 to curtail abusive debt collection practices and to encourage consistent State response to abusive collection practices. I am a local attorney that works with the laws like the FDCPA to help challenge unfair and deceptive debt collection practices. Currently, text and email notices are not generally allowed under the FDCPA but will be under the proposed changes. Often consumers and small business owners are harassed and sued for the collection of invalid debt.

Protect Consumers, But Let Debt Collectors Do Their Jobs | CEI

Debt collector seem to be the occupation everyone loves to hate, but without them businesses large and small—from banks to gyms to doctor's offices—could not serve their customers with the assurance that their contracts would be enforced. That's why the Competitive Enterprise Institute has again weighed in with the Consumer Financial Protection Bureau (CFPB), calling for debt collection rules that protect consumers from fraud and harassment, but don't hinder debt collectors' crucial function in keeping the credit market flowing.

Understanding the crucial role played by debt collection firms in facilitating the flow of credit among consumers, entrepreneurs, and lenders in the market, the CFPB proposed a debt collection rule earlier this year that would update regulations surrounding the industry for the first time in more than 40 years. Last month, CEI scholars John Berlau and Daniel Press took the opportunity to weigh in on the proposed rule, detailing its merits and shortcomings.

DERIVATIVES AND THE CFTC

Waters Statement on FDIC Proposal to Eliminate Inter-Affiliate Swaps Initial Margin | House Financial Services Committee

Today, following the release of a Federal Deposit Insurance Corporation (FDIC) proposal to eliminate the requirement that banks collect initial margin when transacting with their affiliates, Congresswoman Maxine Waters (D-CA), Chairwoman of the House Financial Services Committee, issued the following statement:

“The rollback of this important safeguard has been on Wall Street’s wishlist since the enactment of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which Democrats put in place to prevent another devastating financial crisis. Now, the megabanks have found a friendly audience among Trump-appointed regulators, and unfortunately, some Members who were not in Congress during the crisis have endorsed this rollback. The fact of the matter is that the FDIC’s proposal would ultimately be a $40 billion giveaway to Wall Street megabanks at the expense of our economic stability and U.S. taxpayers. The FDIC should not adopt this proposal, and I will continue to work to prevent its implementation.”

PRIVATE FUNDS

Private Equity Firms are Massacring the Free Press | Take On Wall Street blog

Though lacking the size and prestige of The New York Times or The Washington Post, The Storm Lake Times is arguably just as important. When politicians see no need to address the problems of small rural towns, it is up to the journalists to step up. Two years ago, the tiny bi-weekly Storm Lake Times in Iowa (circulation: 3,000), won the coveted Pulitzer Prize for taking on corporate agriculture interests in Iowa. If it weren’t for the existence of vibrant local papers, stories like that might never come to light.

When Wall Street investors (here you can also sub-in hedge funds or private equity moguls – they often play the same role) scoop up papers similar to the Storm Lake Times – and they have done a lot of that – we all suffer because the equation is essentially the same as buying a retail giant like Toys ‘R’ Us, which private equity looted into bankruptcy.

Warren Probes Apollo and KKR on Backing For-Profit Colleges | Wall Street Journal

Elizabeth Warren is demanding answers from private-equity firms about their investments in for-profit colleges, the latest push by a high-profile Washington lawmaker to investigate how buyout firms affect the public.

The Democratic senator from Massachusetts, joined by Rep. Mark Pocan (D., Wis.), wrote to six private-equity firms—including Apollo Global Management Inc. and KKR & Co.—asking for financial information and other details about their investments in for-profit colleges, the lawmakers said Tuesday. They expressed concern that buyout firms were profiting by worsening the quality of education and saddling students with debt.

Elizabeth Warren's latest private equity target: for-profit colleges | Pitchbook

Private equity, take note. Elizabeth Warren isn't going anywhere.

On Tuesday, Sen. Elizabeth Warren (D-MA) and Rep. Mark Pocan (D-WI) announced that they had mailed letters to six private equity firms with current or recent holdings in for-profit colleges. KKR, Sterling Partners, Altas Capital Partners, Vistria Group, Leeds Equity Partners and Apollo Global Management all received the letters, which requested information about the firms' management of for-profit colleges and universities.

Specifically, the lawmakers ask for data that would clarify any role the firms might have in tuition hikes, declines in education quality and other issues exacerbating the student loan crisis plaguing young Americans. Private equity-owned for-profit schools are the "most frequent offenders" in terms of deceptive and illegal marketing practices that have long persisted in the for-profit education arena, the senators wrote.

Families Fight Back Against Surprise Air Ambulance Bills | New York Times

It wasn’t long after Kathleen Pence gave birth to her third child, a girl named Piper, that she learned her newborn would need heart surgery.

“We were in shock,” said Ms. Pence, 40, a lawyer who lives in a suburb of Tulsa, Okla. “We had no idea this was going to happen.”

The doctors acted quickly. That November day in 2016, 10 hours after her birth, Piper was airlifted from Tulsa to OU Medical Center in Oklahoma City, about 90 miles away. At 5 pounds 4 ounces, she was just big enough for doctors to operate.

Blackstone, KKR Draw Ire from Congress over Surprise Medical Bills | Pitchbook

US Congress has turned its attention to three private equity firms after numerous reports of customers being hit with enormous healthcare bills. On Monday, the US House Energy and Commerce Committee sent letters to KKR, Blackstone and Welsh, Carson, Anderson & Stowe announcing it has launched an investigation into the business practices that have led to surprise bills from third-party medical providers backed by the three private equity firms.

Reps. Frank Pallone Jr. (D-NJ) and Greg Walden (R-OR) authored a six-page letter taking aim at TeamHealth, a hospital staffing company that Blackstone purchased for roughly $6.1 billion in 2016. It also called out emergency department outsourcing company EmCare, which KKR acquired through its $9.9 billion take-private purchase of Envision Healthcare in October 2018.

How Private Credit Soared to Fuel Private Equity Boom | Bloomberg
Private equity is booming, thanks in large measure to private credit, a rapidly growing slice of the debt markets where ever-growing pools of capital supplied by large investors are mobilized outside of traditional lending channels. Private credit has supplied the leverage that's helped private equity buy the businesses that have expanded its collective portfolio to its current $4 trillion. Also known as private debt, non-bank lending, alternative lending or shadow lending, private credit's growth mirrors the retreat by banks from lending to smaller or riskier borrowers after the financial crisis. Regulators and industry watchdogs have flagged concerns about the risks that lurk within this often-opaque market.

Grocery Chains' Massive Debt Fuels Tense Labor Talks | Bloomberg

Grocery retailers saddled with billions of dollars in debt are bringing labor negotiations across the country to the brink as they balance thin profit margins with the threat of tens of thousands of employees giving up on talks and walking off the job.

The tense situation nearly brought 48,000 California grocery workers at Albertsons- and Kroger-owned stores to the picket line, a potential corporate financial nightmare. An eleventh-hour deal was made Sept. 8 before voting began on a company-proposed contract that unions didn't like. A strike of that scale in California would have been a huge blow to profits.

MORTGAGES AND HOUSING

Trump housing plan could have unintended consequences for FHA | American Banker

In its vision for the future of housing finance, the Trump administration not only calls for smaller footprints for the government-sponsored enterprises Fannie Mae and Freddie Mac. It also foresees a smaller role for the Federal Housing Administration.
Yet many of the ideas outlined for the FHA in a Sept. 5 report by the Department of Housing and Urban Development have raised eyebrows and have some former FHA officials concerned.

Yet many of the ideas outlined for the FHA in a Sept. 5 report by the Department of Housing and Urban Development have raised eyebrows and have some former FHA officials concerned.

HUD Proposing to Roll Back Civil Rights Protections in Housing | AFR

Today, the Department of Housing and Urban Development (HUD) proposed drastic changes to its Disparate Impact rule that would effectively dismantle the Fair Housing Act's protections against systemic discrimination. Disparate impact is a legal theory that allows people to challenge policies that have a discriminatory effect and limit housing opportunities for people of color and other groups. It is a critical tool in fighting discrimination and protecting equal access to housing. This proposal comes during intense national discussion about race, discrimination, and harassment.

STUDENT LOANS AND FOR-PROFIT SCHOOLS

Arts Institute of Las Vegas again faces possible closure | Las Vegas Review-Journal

The Art Institute of Las Vegas may lose its license to operate in Nevada after a report to the Commission on Postsecondary Education recommended denying the school's renewal request.

New owners Save Ai Las Vegas will appeal the decision at a commission meeting Wednesday in Carson City that also will be teleconferenced to Las Vegas. Commissioners have four possible courses of action: renew the license; suspend it until the sale of the Henderson school is complete; issue a conditional license; or revoke the license and immediately close the school.

DeVos has failed at every turn | Freeport Journal-Standard

Providing our children with a quality, public education is one of our nation's most important promises. We're united by the common belief that every child — no matter where they live — should start out with a fair shot at success. As a product of public schools, I understand their importance, challenges and potential. A handful of teachers and coaches changed my life, challenged me and taught me what it would take to serve others.

But today, we sadly have a secretary of education – Betsy DeVos – who doesn't even believe in public schools. Americans of all stripes saw that disregard for public education on full display during her confirmation hearings, which led several Republican U.S. senators to vote against her nomination. Secretary DeVos was confirmed only because of a tie-breaking vote by Vice President Mike Pence. And while I hope Secretary DeVos' visit to Rockford was illuminating, her record of abject failure at the Department of Education cannot be overlooked or overstated.

Hayes moves to help students hurt by college closures | Greenwich Times

A national wave of shuttering for-profit colleges has left some low-income students unable to get their undergraduate degrees, after using up their federal aid eligibility at the closing institutions.

More than 1,000 students from the state have applied to the U.S. Department of Education for "borrower defense" in the hopes of getting student-loan forgiveness because their school misled them or engaged in misconduct. These students join more than 239,000 nationwide seeking loan help.

The Trump Administration Is Canceling California's GI Bill Approval Power, But The State Is Fighting Back | LAist

There's a knock-down, drag-out brawl being waged right now in the world of college financing. On the surface, it's about the future of veterans' education and which schools are allowed to accept valuable GI Bill payments. On a deeper level, this is a fight for the survival and prosperity of the troubled for-profit college industry.

It's a complicated situation, so buckle up.

For-Profit Schools Target The Black Community. Here's How You Can Avoid The Scam | BET

This article takes a deeper dive into for-profit schools and the students who have been scammed into pursuing quick-and-easy higher education. Let's all take a minute to look at why this problem hits the Black community the hardest.

In 2017, the government issued a borrower's defense repayment process for students who felt targeted by for-profit schools. These schools have come under fire due to their unfair predatory lending practices that have created unbelievable debt for students desperate for education and of course, financial aid.

For-profit middlemen may be driving up the cost of online higher education | MarketWatch

Boosters of online higher education have long held out the lofty promise that it would bring down the spiraling cost of college while also widening its reach.

But a little-known industry of for-profit middlemen, which is skimming off as much as 80% of the proceeds and has U.S. revenues of $1 billion annually, may be thwarting the innovative potential of online education.

What now? An update on Florida Coastal Law School | Florida Times-Union

When fall semester kicked off at Florida Coastal Law School, student loan funds were already late. At first, it was by a week. But as time passed, that delay grew, causing students to wait almost a month. Because of the delay, the school was unable to provide its students with living expense stipends. Now, the school has new leadership and a looming lawsuit.

A denied nonprofit status, abrupt resignation, delayed student funding, new leadership, and now, a lawsuit. When fall semester kicked off at Florida Coastal School of Law, student loan funds were already late. At first, it was by a week. But as time passed, that delay grew, causing students to wait almost a month. Because of the delay, the school was unable to provide its students with living expense stipends.

SYSTEMIC RISK

Fed rushes to plug cash shortage in short-term loan market | Washington Post

A peculiar thing is happening in financial markets this week: an oft-overlooked corner of Wall Street where banks and others go for billions of dollars in short-term loans is suddenly in need of cash. To that end, the Federal Reserve has stepped in to inject about $200 billion over the past three days, with plans for another $75 billion on Friday.

The Fed took action after interest rates on these short-term loans spiked in a sign that banks and other borrowers were running short of cash. While there was similar turbulence in the so-called repo market in the period leading up to the financial crisis, economists say there's no need to worry this time, the financial system isn't about to seize up like it did in 2008.

The Repo Market's a Mess. (What's the Repo Market?) | Bloomberg

When plumbing works well, you don't need to think about it. That's usually the case with a vital but obscure part of the financial system known as the repo market, where vast amounts of cash and collateral are swapped every day. But when it springs a leak, as it did this week, it rivets the attention of the U.S. Federal Reserve, the nation's largest banks, money-market funds, corporations and other big investors. The Fed calmed things down by pumping in billions of dollars, but it may have a lot more work to do on the pipes.

Time to Worry About Corporate Debt Again | Wall Street Journal

High levels of corporate debt are suddenly a whole lot more worrisome than they were just a couple of months ago.

U.S. financial account figures from the Federal Reserve released Friday showed the amount of money U.S. companies have borrowed continues to swell. Domestic nonfinancial companies had $9.95 trillion in debt outstanding in the second quarter, an increase of $1.2 trillion from just two years ago. At 47% of gross domestic product, the level of corporate debt in relation to the economy has never been so high.

Booming securitized loan market has echoes of financial crisis, BIS warns | Reuters

Lending standards in the rapidly growing loan market are deteriorating and complex financial products that mask risks to banks have parallels with the run-up to the 2008 financial crisis, the Bank for International Settlements warned on Sunday.

The number of collateralized loan obligations (CLOs), a form of securitization which pools bank loans to companies, has ballooned in recent years as investors hunt for higher returns by buying into loans to lower-rated and riskier companies.

ELECTIONS, MONEY, AND POLITICS

Idea of Warren presidency frightens investors at conference: 'She's not my candidate of choice | CNBC

In a room full of avowed capitalists, policies that sound to some like socialism are bound not to go over well.

That's why the recent surge by Sen. Elizabeth Warren in the Democratic presidential race polls was jangling the nerves of some of the finance professionals gathered Thursday at the Delivering Alpha conference presented by CNBC and Institutional Investor.

"They won't open the stock market if Elizabeth Warren is the next president," joked Leon Cooperman, the legendary head of Omega Advisors.