AMERICANS FOR FINANCIAL REFORM

THIS WEEK IN WALL STREET REFORM November 30 – December 6, 2013

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VOLCKER RULE COUNTDOWN

Lew Says Volcker Rule to Prevent Repeat of London Whale Bets

lan Katz & Kasia Klimasinska, Bloomberg, 12/5/13

"Treasury Secretary Jacob J. Lew said the Volcker rule banning banks' proprietary trading that regulators plan to vote on next week will prohibit transactions such as <u>JPMorgan (JPM)</u> Chase & Co.'s so-called London Whale and put more responsibility on top Wall Street executives.

"The rule prohibits risky trading bets like the 'London Whale' that are masked as risk-mitigating hedges,' Lew said in the prepared text of a speech today in Washington. 'And it puts in place strong compliance requirements that require those in charge of financial institutions to make sure that the 'tone at the top' sends the right signal to the whole firm.'

"Lew is coordinating efforts by regulators to adopt rules intended to prevent a repeat of the 2007-08 financial crisis. The <u>Federal Reserve</u>, Office of the Comptroller of the Currency, Federal Deposit Insurance Corp. and Commodity Futures Trading Commission plan to vote Dec. 10, and the Securities and Exchange Commission will act the same day."

Volcker's Passage May Presage Another Dodd-Frank Fight

Deborah Solomon, WSJ.com PrivateEquityBeat, 12/4/13

"Next week's vote to finalize the long-delayed Volcker rule is likely to kick-off another protracted process: Rewriting key portions of the 2010 Dodd-Frank law.

"Since the financial law's passage, lawmakers have been trying to change — or outright repeal — portions of the statute. Not all of the efforts have been strictly partisan: Democrats have joined with Republicans to push for changes to several provisions. And even some regulators, including Federal Reserve Chairman Ben Bernanke, have suggested alterations may be needed to distinct portions of the law..."

Volcker Rule to Require CEOs Guarantee Compliance

Scott Patterson, WSJ, 12/6/13

"The Volcker rule will require bank executives to guarantee their firms are in compliance with the regulation, said people familiar with the rule, another setback for Wall Street firms ..."

"U.S. Treasury Secretary Jack Lew referenced the need for such accountability in a speech Thursday, saying the Volcker rule 'puts in place strong compliance requirements that require

those in charge of financial institutions to make sure that the 'tone at the top' sends the right signal to the whole firm."

Treasury Chief to Declare Big Gains in Financial Reform

Peter Eavis, NY Times, 12/5/13

Regulators Poised to Finalize Volcker Rule; Answers Sought on Hedges, Market-Making Bloomberg BNA (paywalled), 12/3/13

The Volcker Rule: From Idea to Implementation (Almost)

Wall Street Journal, 12/4/13

The Big Question: Will Volcker Prevent Next 'London Whale'

Scott Patterson, Wall Street Journal, 12/4/13

Volcker Rule Won't Allow Banks to Banks to Use 'Portfolio Hedging'

Scott Patterson and Justin Baer, Wall Street Journal, 12/4/13

That's Gonna Hurt: Bankers Brace for the Volcker Rule

Peter Coy, Bloomberg Businessweek, 12/4/13

Wall Street Sweats Out Volcker Rule Impact on 18% of Revenue

Michael J. Moore and Dakin Campbell, Bloomberg, 12/4/13

Fear of Volcker Rule Raising Borrowing Costs for Municipalities

Al Yoon, Wall Street Journal, 12/4/13

CONSUMER FINANCE AND CFPB

Banks Come Under Fire for Filling In The Payday Loan Gap

Robert Benincasa, NPR, 12/5/13

"A payday loan is a costly form of credit operating on the fringes of the economy. That's why the target of a new crackdown by federal regulators may surprise you: Instead of a forlorn-looking storefront with a garish neon sign, it's your familiar neighborhood bank.

"A small but growing number of banks, including some major players, have been offering the equivalent of payday loans, calling them 'deposit advances.' That is, at least, until bank regulators stepped in Nov. 21 and put new restrictions on the loans."

Coming After the Modern-Day Loan Shark

Jim Lardner, USNews.com, 12/5/13

Banks as Payday Lenders

Editorial. NY Times. 12/2/13

"Last month, banking regulators put the finishing touches on rules designed to rein in short-term consumer loans from banks that are as dangerous to consumers as the predatory loans made by so-called payday lenders.

"Payday lenders have notoriously marketed themselves as a harmless option for people who need small loans they hope to repay quickly, usually in two weeks. In truth, the industry earns

considerable profits from borrowers who cannot afford to repay the original loan as agreed and must renew the loan again and again for an average fee of about \$50 each time. These borrowers end up in debt for months, saddled with loans that can carry an interest rate of 400 percent or more."

New York Subpoenas Websites in an Effort to Curb Payday Lenders
Rachel Abrams and Jessica Silver-Greenberg, New York Times, 12/2/13

Student Debt Owed by Class of 2012 Borrowers Rises to \$29,400

Janet Lorin, Bloomberg, 12/4/13

"U.S. college students are leaving school with higher amounts of debt as they increase borrowing to keep up with rising tuition.

"Graduates of the class of 2012 who took loans for bachelors' degrees owed an average of \$29,400. The level of debt represents an average annual increase of 6 percent from the \$23,450 incurred by borrowers who graduated in 2008, the last year the federal government reported the data, according to a report released today by The Institute for College Access & Success, an Oakland, California-based nonprofit group."

Student Debt Viewed as Major Problem by Most Millennials

Harvard Institute of Politics Poll, 12/4/13

Good News for Student Loan Borrowers

CBS News, 12/3/13

Student Debt Load Found to Vary by College and State

Richard Pérez-Peña, NY Times, 12/5/13

Nonbanks Servicing Student Loans Come Under Agency

Marcy Gordon, Associated Press, 12/3/13

CFPB Wades Deeper Into Student Loans

Bernie Becker, The Hill, 12/3/13

CFPB Gaining Wider Clout Over Student-loan Servicers

Danielle Douglas, Washington Post, 12/3/13

Bureau Will Be Powerful Ally in the Corner of Student-Loan Borrowers in March

Washington Post, 12/3/13

8 Ways the Consumer Financial Protection Bureau Is Helping Consumers

Amber Phillips, Monterey Herald, 12/4/13

Consumer Bureau Headquarters Renovation Plan Gets GOP Flak

Los Angeles Times, 111/29/13

Lobby Group Warns Regulators: Hands Off Electronic Payments

Megan R. Wilson, The Hill, 12/5/13

DERIVATIVES, COMMODITIES AND THE CFTC

Wall Street Trade Groups Sue CFTC Over Dodd-Frank Rules

Silla Brush, Robert Schmidt and Andrew Zajac, Bloomberg, 12/5/13

"Wall Street's biggest lobbying groups banded together to sue the Commodity Futures Trading Commission, seeking to curb the overseas reach of its rules and rein in a regulatory barrage by its departing Chairman Gary Gensler.

"The suit, filed yesterday in federal court in Washington, seeks to overturn guidance the CFTC approved in July. The trade associations, which represent Goldman Sachs Group Inc., JPMorgan Chase & Co., Deutsche Bank AG and other swap dealers, say the agency illegally set regulations by issuing guidance documents and staff advisories rather than formal commission-approved rules. In their court papers and in interviews, the groups said they felt pushed to the edge by Gensler, who has spent the past five years grappling with banks over the parameters of a more public marketplace for financial products that helped ignite the 2008 credit crisis."

Obama Nominee Would Lead The CFTC At Pivotal Moment

Ben Goad and Megan R. Wilson, The Hill, 12/1/13

"President Obama's choice to lead the Commodity Futures Trading Commission would take the agency's helm at a crucial moment, with the derivatives regulator poised to flex new muscles in the face of fierce opposition and a strained budget.

"Timothy Massad is no stranger to big tasks — having overseen the Wall Street bailout and turning a profit during his tenure at the Treasury Department. 'I think what people are going to find with him is that he calls it like he sees it,' Mark A. Patterson, former Treasury Department chief of staff, told The Hill. 'He's not going to come into this favoring any point of view. He'll come into it with an open mind, but he will also be a tough regulator.'"

<u>CFTC's Cross-Border Swaps Rules Challenged in Suit by Global Banks</u> Nick Paraskeva, Compliance Complete, 12/5/13

<u>U.S. Swaps Regulator Says More Time Needed On Cross-Border Rules</u> Rachel Armstrong, Reuters, 12/4/13

Wall Street Challenges Overseas Swaps Rules Landon Thomas Jr., NY Times, 12/5/13

New Rules on Derivatives Draw Suit Zachary Warmbrodt, Politico, 12/5/13

<u>CFTC Data Shows Speculators Cut Back On Bullish Precious Metals Positions</u> Kitco News (Forbes), 12/3/13

Regulator O'Malia Cites 'Insanity' in U.S. Overseas Swaps Policy Silla Brush and Robert Schmidt, Bloomberg, 12/4/13

ENFORCEMENT

<u>JPMorgan Chase, Citigroup First U.S. Banks to Be Fined in Rate-rigging Scandal</u> Danielle Douglas, Washington Post, 12/5/13

"On Wednesday, JPMorgan Chase and Citigroup became the first U.S. banks fined for the alleged manipulation of benchmark interest rates that affect hundreds of billions of dollars in contracts around the world, including credit cards and mortgages.

"The European Commission slapped six financial giants, including Deutsche Bank and Royal Bank of Scotland, with \$2.3 billion total in penalties for allegedly colluding to rig European and Japanese interest rates for profit."

EU Fines RBS, Citi, 6 Other Banks \$2.3B For Rate-Rigging Evan Weinberger, Law360 (paywalled), 12/4/13

Fifth Third To Pay \$6.5M For Faulty Crisis-Era Accounting Evan Weinberger, Law360 (paywalled), 12/4/13

EXECUTIVE COMPENSATION

More than 116,000 Individuals and Organizations Support SEC
Action on Pay-Ratio Disclosure

AFR, 12/2/13

"Six weeks ago, the Securities and Exchange Commission came out with a proposed rule to implement the Dodd-Frank Act requirement that public companies disclose the ratio of their CEO's pay to their median employee's pay.

"Corporate leaders and lobbyists have mounted a furious campaign of protest, spearheaded by such groups as the Financial Services Roundtable, the U.S. Chamber of Commerce, and the Securities Industry and Financial Markets Association. But popular support for the proposal has been overwhelming. During an initial consultation period, the SEC received more than 20,000 letters, overwhelmingly in favor of the pay-ratio requirement. Since the Commission issued its proposed rule in September, more than 116,000 individuals and organizations, including **Americans for Financial Reform**, have submitted letters urging the SEC to stand firm.

"Support has come not only from ordinary citizens, public-interest groups and unions (see partial list below), but from a number of investor organizations, including the <u>California Public Employees' Retirement System</u> (CalPERS), the <u>California State Teachers' Retirement System</u>, the <u>Forum for Sustainable and Responsible Investment</u>, and <u>Walden Asset Management</u>. The <u>New York City Comptroller's office</u> has also voiced its support, while the <u>Council of Institutional Investors</u> (CII), without taking an official stand on the rule itself, has written to the SEC to contest corporate claims about the supposedly burdensome difficulty of calculating such a ratio."

See AFR letter to SEC.

Fast Food CEOs Gorge on Taxpayer-Subsidized Pay Institute for Policy Studies, 12/2/13

FEDERAL RESERVE

Should the Federal Reserve Keep Interest Rates Low? US News DebateClub, 12/15/13

Explainer: How Does the Fed Influence the Economy? CBS News MoneyWatch, 12/2/13

INVESTOR PROTECTION & SEC

Keeping Shareholders in the Dark

Editorial, NY Times, 12/4/13

"Protecting investors and ensuring proper corporate governance are the essence of the mission of the Securities and Exchange Commission. But you wouldn't know that from the <u>recent actions</u> of the agency and its chairwoman, Mary Jo White.

"Last week, the S.E.C. unwisely removed from its regulatory agenda a plan to consider a rule to require public companies to disclose their political spending — even though the case for disclosure is undeniable. Basic investor protection requires that shareholders know how corporate executives are spending shareholder money. Good corporate governance requires that companies are transparent about their use of corporate resources. Shareholders know this and have demanded disclosure."

<u>Proposed Bill Aims to Exempt PE Firms From SEC Registration</u> Shasha Dai, Wall Street Journal, 12/2/13

"A proposed bill currently sitting in the House of Representatives is expected to effectively exempt most–if not all–private equity firms from registering with the Securities and Exchange Commission , a key regulatory requirement that the industry has been complying with for more than a year.

"In its current form, the proposed bill, H.R. 1105, would exempt private equity fund managers from registering with the SEC if their funds are levered at less than two times committed capital at the fund level. Titled 'The Small Business Capital Access and Job Preservation Act,' H.R. 1105 was approved in November by a majority of the House Financial Services Committee members, who recommended the full House vote in favor."

See AFR <u>letter of opposition</u> to HR 1105.

The Next Big Thing: Where Crowdfunding and Investing Meet Northwestern MutualVoice Team, Forbes.com, 12/5/13

<u>Investor Advocates Push to See Trove of Arbitration Records</u> Suzanne Barlyn, Reuters, 12/5/13

<u>House Rejects Horsford Motion to Recommit Dodd-Frank Adviser Exemption Bill</u> Bloomberg Government (paywalled), 12/4/13

White House Threatens Veto Against Dodd-Frank Change Pete Kasperowicz, The Hill, 12/3/13

36 Dems Go Against Obama, Support Dodd-Frank Fix

Pete Kasperowicz, The Hill, 12/4/13

SEC political spending snub upsets Democrats

Zachary Warmbrodt, Politico, 12/3/13\

A Cheer For SEC Chairman Mary Jo White And Good Government

Bradley Smith, Forbes, 12/5/13

SEC to Consider Volcker Rule Dec. 10 with Paper-Ballot Process

Dave Michaels, Bloomberg, 12/5/13

SEC Criticized Over Omission In Agenda of Action on Political Spending

Bloomberg BNA (paywalled), 12/4/13

SEC Puts Corporate Political Disclosure on Back Burner

Fredreka Schouten, Washington Post, 12/2/13

Waters Second-Guesses SEC Agenda

Peter Schroeder, The Hill, 12/3/13

Private Fund Managers Not Using SEC's Solicitation Regime, Attorneys Say

Bloomberg BNA (paywalled), 12/4/13

MORTGAGES & FORECLOSURES

Debt and Taxes

Editorial, NY Times, 12/1/13

"The debacle of the housing bust is not over. In addition to 10 million borrowers who have already lost their homes, nearly nine million still owe some \$500 billion more on their mortgages than their homes are worth and, of them, 2.3 million are in or near foreclosure.

"Making matters worse, help is about to get even harder to come by. Unless Congress acts soon, a debt-relief law — the Mortgage Forgiveness Debt Relief Act, enacted in 2007 — will expire at the end of 2013, leaving homeowners without the legal protection they need to manage their overwhelming mortgage debt."

See Nov. 22 letter from AFR and a long list of allied organizations.

Report: Lending Rules Could Have Cut Defaults in Half

Nick Timiraos, Wall Street Journal, 12/2/13

"Some of the nation's largest banks will offer loans that don't conform to new gold-standard lending definitions under sweeping mortgage regulations set to take effect next month, reversing course after industry leaders had earlier suggested that banks might further curtail lending.

"Executives at Wells Fargo WFC -0.62% & Co., the nation's largest mortgage lender, said the bank will make some loans that don't meet the definition of a so-called qualified mortgage, a new designation that allows banks to demonstrate they have met requirements ensuring borrowers can afford their mortgages. J.P. Morgan Chase JPM -0.70% & Co., Bank of America Corp. BAC -1.08%, and Citigroup Inc. are also likely to make some loans that fall outside of the

standard, according to bank representatives, although the loans are likely to be limited to affluent bank customers."

What You Don't Know About Mortgages

Editorial, NY Times, 11/30/13

"Thanks largely to new rules from the Consumer Financial Protection Bureau, taking out a mortgage is not the risky business it was during the bubble. But it is still the largest and most complex financial transaction in the lives of most people. And it still involves inherent imbalances in expertise between lenders and borrowers, including the use of intermediaries who may or may not be trustworthy. In short, conditions for abuse still exist.

"That is why the bureau's new and long-awaited mortgage disclosure forms are important. It is also why they are disappointing. Required by the Dodd-Frank financial reform law, the new forms use an easy-to-read format to disclose complex terms; in addition to clear entries of principal, interest and closing costs, there is information on prepayment penalties and other complicated loan features. But the forms fall short in the crucial task of helping consumers assess and compare the total cost of various loans. Without that information, it is difficult for borrowers to know whether they are getting the best deal."

N.J. ACLU, Others Sue Federal Agency in Brewing Eminent Domain Controversy Eunice Lee, New Jersey Star-Ledger, 12/5/13

"The American Civil Liberties Union of New Jersey and the Brooklyn-based Center for Popular Democracy filed suit today against the Federal Housing Finance Agency in a growing battle for towns seeking to use eminent domain to seize underwater mortgages.

"Last month, Irvington's mayor announced plans to conduct a legal study of using eminent domain to help residents facing more than 1,700 homes foreclosures.

"If town officials decide to proceed, Irvington would become the second town in the nation, after Richmond, Calif., to employ a tactic that's drawn fire from Wall Street, according to Executive Director Udi Ofer of the ACLU of New Jersey, which endorsed Irvington's announcement."

Housing Activists Jump on Mortgage Settlement Results

Kerri Ann Panchuk, HousingWire, 12/4/13

"The National Mortgage Settlement Monitor <u>released its latest servicing compliance</u> <u>report</u> Wednesday, showing three of the nation's top servicers failed to comply with key servicing metrics...

"However, the real sticking point for the market is the realization that the recent mistakes are repetitive and involve troubled borrowers. This realization prompted Department of Housing and Urban Development Secretary Shaun Donovan to lambast the impacted servicers with an advisory saying future failures on the same tests could result in penalties. And it didn't take long. Soon after Donovan's statement, housing advocates jumped into the controversy."

Insight: A New Wave of U.S. Mortgage Trouble Threatens

Peter Rudegeair, MSN Money, 11/26/13

Eminent Domain Takes Root in Areas with High Unemployment, Poverty Carrie Bay, Dallas Star News, 12/2/13

Shift on Nonconforming Mortgages

Nick Timiraos, Wall Street Journal, 12/2/13

Newark Advances Eminent Domain Plan to Slow Foreclosures

Terrence Dopp, Bloomberg, 12/5/13

These 18 Countries May Have Housing Bubbles. If They Pop, God Help Us All

Neil Irwin, Washington Post, 12/2/13

NOMINATIONS

How Filibuster Reform Could Help Obama Crack Down on Banks

Erika Eichelberger, Mother Jones, 12/2/13

"Last month, Democrats <u>changed the rules of the Senate</u>. Now, confirming President Barack Obama's judicial and executive-branch nominees will take just 51 votes instead of the previous 60. That is good news for Obama's efforts to rein in big banks...

"'We've seen that court challenges are a major element of the [financial] industry's plan to block strong regulations,' says Marcus Stanley, the policy director of the nonprofit **Americans for Financial Reform**. 'So having a better ideological balance on the court should be very helpful to financial reform.'"

Easier Road Seen For Obama Regs

Ben Goad & Julian Hattem, The Hill, 11/29/13

"The Obama Administration's second-term regulatory agenda should be an easier lift, thanks to changes to the Senate's filibuster rules that make it easier to fill key agency positions and install federal judges. The Senate's move this month to lower the threshold to reach final confirmation votes strengthens President Obama's hand when it comes to imposing regulations in support of his policy agenda.

"Instead of a 60-vote threshold that required support from at least five Republicans, the president can now afford to lose a handful of Democrats and still win Senate confirmation for his nominees with a simple majority vote...

"Vacancies now 'should be easier to fill with people who meet the basic criteria of having a commitment to fulfilling the law,' said Lisa Donner, executive director of **Americans for Financial Reform**."

SYSTEMIC RISK

Fed Governor Daniel Tarullo Pushing For Policy to Rein In Bank Size

Danielle Douglas, Washington Post, 12/4/13

"One of the most influential policymakers at the Federal Reserve, Daniel Tarullo, publicly debated options Tuesday for ending bailouts of big banks considered too big to fail, signaling that the contentious issue may move to the forefront in the coming year.

"The proposals attempt to limit the risks the nation's largest banks can pose to the financial system, and ultimately taxpayers, if they collapse. Policymakers have been emboldened by public outrage over the continued growth of megabanks. Critics also note that although the

program that bailed out the nation's banks during the 2008 financial crisis has all but ended, the ensuing Dodd-Frank financial reform law did not definitively ban the government from future bailouts."

How to Know When We've Ended the \$83 Billion Bank Subsidy

Editorial, Bloomberg, 12/1/13

"It's been almost a year since we caused a stir by pointing out that the largest U.S. banks received a taxpayer subsidy worth an estimated \$83 billion a year. What's changed since then?

"Better banking rules are coming into force, and if they work they'll reduce the subsidy. It would be good to know exactly how much. Unfortunately, measuring the transfer in real time is something regulators aren't well equipped to do.

"Policy makers and legislators have largely come to accept that the subsidy is there. The biggest and most systemically important banks can borrow more cheaply than they otherwise would, because creditors expect the government to rescue them in an emergency. This is an unfair and unintended transfer of wealth to bank shareholders and executives, and it weakens market discipline by desensitizing banks to risk. In effect, banks are being rewarded for presenting a threat to the economy."

Chamber Urges Overhaul of Financial Stability Council

Ben Goad, The Hill, 12/2/13

"The U.S. Chamber of Commerce called Monday for an overhaul of the 2-year-old Financial Stability Oversight Council (FSOC), saying the panel has failed to properly juggle its responsibilities and that there is too much power placed in the hands of a few regulators.

"We fundamentally believe we may not be headed toward the goal that FSOC was designed to take us to,' said David Hirschmann, president of the Chamber's Center for Capital Markets Competitiveness."

Banks' Views of Risk Rarely Off by More Than 100%

Matt Levine, Bloomberg View, 12/4/13

OTHER TOPICS

Bad Deals With Wall Street Are Costing The City As Much As \$1 Billion A Year: Report Phyllis Furman, NY Daily News, 12/2/13

"Wall Street has put the squeeze on the city to the tune of \$1 billion, a report due out Tuesday claims. As much as \$723 million worth of unnecessary fees and bad deals, coupled with \$300 million in bank subsidies should be rejiggered, says a study from a new left-leaning coalition called New Day, New York...

"'New York City could be saving \$1 billion annually just by changing the way it does business with Wall Street,' one of the report's authors, Connie Razza, director of strategic research initiatives at the Center for Popular Democracy, told the Daily News."

See New Day New York study: "Leveraging New York's Financial Power to Combat Inequality."

Chamber Chief Laments 'Avalanche' of Obama Regulations

David Boyer, Washington Times, 12/3/13

President Obama is "shattering all records" for imposing new and costly regulations on businesses, and Senate Democrats' elimination of the filibuster for presidential nominees...

Warren Calls on Big Banks to Disclose Policy Group Contributions

Cheyenne Hopkins, Bloomberg, 12/5/13

Reps. Capito, Meeks Circulating Draft Bill to Force Agencies to ID Conflicting Regs Bloomberg BNA (paywalled), 12/4/13

Global Investors May Face Stricter Dividend Rules

Lauren French, Politico, 12/5/13

Number of U.S. banks drops to record low

CBS News, 12/4/13

LIBOR Rate Fines on Banks Are Meaningful, Serra Says

Bloomberg, 12/4/13

Deutsche Bank to RBS Fined by EU as Libor Bill Tops \$6 Billion

Bloomberg, 12/4/13

Bank Reform's Populist Virtues

Darrell Dellamaide, USA Today, 12/3/13

Train Reading: Hedge Funds Are (Still) for Suckers

Wall Street Journal, 12/3/13

Banks, Credit Unions Ask for Relief From Post-Crisis Regulatory Burden

Bloomberg BNA (paywalled), 12/4/13

Small Banks Fear Regulation 'Tidal Wave'

Julian Hattem, The Hill, 12/3/13

Enviro Bankers and Boring Bankers

Matt Levine, Bloomberg, 12/2/13

EU Financial-Transactions Tax Faces More Delays

Tom Fairless, Wall Street Journal, 12/1/13

Lew Says U.S. Will Press Europe, Asia To Match Dodd-Frank

Erik Wasson, The Hill, 12/5/13