![AFR Americans for Financial Reform]

This Week in Wall Street Reform | April 2 - 8, 2016

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CONSUMER FINANCE & THE CFPB

CFPB head defends record to Republicans

Sylvan Lane, The Hill, 4/7/16

CFPB Director Richard Cordray told the Senate Banking Committee that the agency's actions to crack down on allegedly discriminatory auto loans and predatory lending were helping the economy and consumers, not limiting access to financial products.

Advocates take to the Senate Banking hearing with the CFPB

Storify, 4/7/16

See AFR statement to Senate banking committee.

Elizabeth Warren Lambasts Former Colleague In War Over Financial Rules

Shahien Nasiripour, Huffington Post, 04/05/2016

There is a well-worn Washington playbook that the financial industry and Republicans use when they want to kill a proposal meant to protect households from dodgy financial practices: They claim the costs of the proposal exceed its benefits. On Tuesday that strategy appeared to blow up in their faces when Sen. Elizabeth Warren (D-Mass.) spent seven minutes skewering a former senior regulator at the Federal Reserve who she claimed played a "key role in blowing up the economy." Warren accused Leonard Chanin, a financial industry lawyer critical of post-crisis rules, of failing to police suspect subprime mortgage lending in the runup to the 2007-2009 financial crisis…

[Republicans chide CFPB, as Warren takes on former Fed official]()

Siri Bulusu, MarketWatch, 4/5/16

Massachusetts Sen. Elizabeth Warren., who pushed for the idea of a consumer watchdog to regulate the financial services industry even before she was elected to the Senate, forcefully attacked one of the witnesses, former Federal Reserve Deputy Director Leonard Chanin, who was in charge of financial regulation at the Fed before being tapped by Warren to run the CFPB's rulemaking operation. Chanin had joined other critics in saying the regulations have stifled the financial services industry.

Warren said a commission that analyzed the 2008 financial meltdown criticized the Fed for failing to identify the subprime "toxic" mortgages that caused the crisis. Chanin responded that the Fed bases decisions on data and "no data was provided to the Fed … that suggested there was a meltdown in the mortgage market in 2005 and 2006."

Warren responded, "Did you have your eyes stitched closed?"

"Given your track record at the Fed, why should anyone take you seriously now" in calling for less regulation?" she asked.

"Were your eyes stitched closed?": Elizabeth Warren skewers Federal Reserve regulator who played "pivotal" role in 2008 financial crisis

Sophia Tesfaye, Salon.com, 4/5/16

"Of all the people who might be called on," Warren said of Republicans' lead witness Leonard Chanin, former Deputy Director of the Division of Consumer and Community Affairs at the Federal Reserve Board, "I am surprised that my Republican colleagues would chose a witness who might have one of the worst track records in history on this issue."

Elizabeth Warren just opened a massive can of whoopass at today's GOP banking hearing

Bethania Palma Markus, RawStory, 4/5/16

Court Asks CFPB to Justify Structure

Rachel Witkowski, The Wall Street Journal, 4/5/16

An appeals court has asked the Consumer Financial Protection Bureau to justify at a hearing next week its structure of being led by a powerful single director, in a case that has emerged as a legal challenge to the agency. The questions stem from a lawsuit filed by a New Jersey mortgage lender challenging a penalty imposed by CFPB Director Richard Cordray for accepting what the agency called kickbacks from mortgage insurers.

Appeals Court Raises Constitutional Questions About CFPB

Kate Berry, American Banker, 4/4/16

Democratic Senators expected to introduce bill requiring CFPB registration of lenders making small-dollar loans

Barbara S. Mishkin, CFPB Monitor, 4/4/16

The bill would require any small-dollar consumer credit transaction that is made over the Internet, telephone, facsimile, mail, or email "to comply with the laws of the State in which the consumer resides with respect to annual percentage rates, interest, fees, charges, and such other or similar matters as the Bureau may, by rule, determine." It would also require any small-dollar consumer credit transaction "conducted by a national bank" to comply with the laws of the state in which the consumer resides.

[CFPB Payday Rules Are Win-Win for Lenders and Consumers]

Ken Rees, American Banker, 4/6/16

The Consumer Financial Protection Bureau is about to issue new rules that will define the future of small dollar and non-prime lending in our nation. Almost everything the CFPB has done to date has been controversial, prompting strong responses from consumer advocates, members of Congress and the industry. Likewise, the debate around the upcoming rules — which will affect payday, auto title and other small-dollar credit products — has been especially contentious.

Many groups are calling for lengthy delays to the CFPB's rules to allow for further analysis and review. Yet, for the benefit of millions of Americans who rely on non-prime credit and the thousands of lenders that provide it — including my company — the clarity and consumer protections offered by a new CFPB regulation can't come soon enough.

[What Is Payday Lending?]

Kathryn Lee, U.S. PIRG, 4/4/16

We are a leading member of **Americans for Financial Reform**, a coalition that was instrumental in the creation of the Consumer Financial Protection Bureau (CFPB) by Congress in 2010. The CFPB is currently working on a rule to rein in the payday lending industry. We, along with **AFR**, are working to make sure the rule is a strong one. We would like to share **AFR's** great explanation of payday lending and what a strong rule would look like to protect consumers from debt traps caused by these predatory products.

[When a City Takes the Lead in Financial Inclusion]

Victoria Finkle, American Banker, 4/4/16

San Francisco's innovative spirit is not confined to the tech giants of Silicon Valley — city officials also have shown a lot of creativity in their efforts to help low-income families improve their financial health.

The city has an Office of Financial Empowerment that has launched a handful of programs over the past decade to help struggling residents open bank accounts, save for college and avoid predatory lenders — all with the help of local banks and credit unions. José Cisneros, the city's treasurer, created the office in 2006, after work to develop a new tax credit for working families shed light on problems faced by the unbanked and underbanked.

[FTC Returns Money to Consumers Harmed by Scam That Collected Millions in Phantom Payday Loan Debts]

Frank Dorman, FTC, 4/6/16

[With Mafia-busting law, feds indict payday lending pioneer]

Jeremy Roebuck, Philly.com, 4/7/16

[Making the most of your tax refund]

Richard Cordray, CFPB, 4/5/16

[Consumer Complaints Rose 8% Last Year: CFPB]

Kate Berry, American Banker (paywalled), 4/1/16

[Pew's Call for Overdraft Reform Is Off-Base]

Achim Griesel, American Banker, 4/4/16

[Why CFPB's Consumer Relief Fund Has Ballooned]

Kate Berry, American Banker (paywalled), 4/1/16

[Seventh Circuit Decision Offers Valuable Lessons on Enforceability of Arbitration Clauses in E-Commerce]

Thomas H. Wagner, The National Law Review, 4/6/16

[California Court of Appeal Weighs in on Enforceable "Browsewrap" Arbitration Agreements in ProFlowers Case]
Kai S. Bartolomeo, Lexology, 4/5/16

DERIVATIVES, COMMODITIES & THE CFTC

[Banks' Favorite New Strategy: Footnote 151]
Katy Burne and Ryan Tracy, Wall St. Journal, 4/7/16
Banks hoping to lower the burden of new capital rules are turning to the fine print. Specifically, they are turning to the 79th page of a 2013 document titled "Regulatory Capital Rules"and looking at footnote 151. That reference effectively lets banks hold less capital against shorter-term derivatives, and banks want to harness it to lessen the blow when they enter into longer-running contracts.

"This is classic regulatory arbitrage," said Marcus Stanley, policy director for public-interest group **Americans for Financial Reform**, which advocates for tougher financial regulations. "The risk is identical."

THE ELECTION AND WALL STREET

[How Hillary Clinton can win in November]
Anita Jain, CNBC, 4/5/16
Bernie Sanders has been buoyed consistently by supporters disgusted with a political system awash in big money — and dismayed by Clinton's uncomfortably close relationship to Wall Street. There is a simple move Clinton can make to prove she is willing to take bold action against Wall Street: She can bring back the Glass-Steagall Act that put up a firewall between commercial and investment banking.

Over the course of recent Democratic debates, Clinton has remained opposed to reinstating Glass-Steagall even as Sanders used the rallying cry of breaking up the banks to help lock up several Midwest and Northeastern primaries.

[Clinton fundraiser response]
Ben White, Politico, 4/7/16
Former SEC lawyer Andy Green emails re Wednesday's M.M. item on the Julie Chon DC fundraiser for Hillary Clinton: "I asked Julie Chon to help host this event because anyone who worked on financial reform knows that she led and won the fight for tough derivatives reform as well as broader capital and margin requirements — critical elements of Dodd-Frank.

[Bernie Sanders meets with the Daily News Editorial Board]
Transcript, NY Daily News, 4/4/16

[Sanders Over the Edge]
Paul Krugman, NY Times, 4/8/16

EXECUTIVE PAY

[A Proposal to End Executive Manipulations of Incentive Compensation]
Sureyya Burcu Avci, Cindy A. Schipani and H. Nejat Seyhun, The CLS Blue Sky Blog, April 1, 2016
Options backdating? Who would be so arrogant to be still backdating their options? It has been exactly ten years since Wall St. Journal's exposé on "lucky CEOs."[1] The intriguing question though is whether the executives could resist temptation for ten years. We decided to find out. We find that despite all the reforms enacted in response to the

backdating scandal of 2006, manipulation of stock options as a form of incentive compensation is once again alive and well.

Let's digress and explain the background first. Backdating an option refers to the practice of fraudulently picking a date in the past when the stock price was lower than today as the grant date of the option. The lower the stock price, the lower the exercise price, and thus the more valuable are the option, since on the true grant date the option is already in the money. Other games involve spring-loading and bullet-dodging. Spring-loading refers to the practice of delaying the release of good news until after the option grant date. The subsequent rise in stock price when the good news is announced immediately increases the value of the option. Bullet-dodging refers to the practice of accelerating the release of bad news so that stock price declines before the option grant date. The decline in stock price ensures that the option grant is not hurt by the bad news.

American Enterprise Institute Creates a Fantasy about CEO Pay
Vineeta Anand, AFL-CIO, 4/7/16
AEI claims that the average pay for chief executives was a mere $220,700 in 2015… AEI created its distorted reality of CEO pay using data from the Occupational Employment Statistics survey by the federal Bureau of Labor Statistics. The BLS surveys workplace establishments, not entire companies. And its definition of "chief executives" includes functions performed by various senior executives, not just CEOs. All these factors suggest that the BLS survey is not a reliable indicator of CEO pay.

To compare these so-called chief executives with CEOs of the S&P 500 Index companies—the nation's largest publicly traded corporations—is laughable. The S&P 500 Index companies represent about 80% of the value of the entire U.S. stock market. Moreover, the BLS survey only measures hourly wages, not other forms of pay, including stock bonuses, profit-sharing payments, pensions and perquisites. The bulk of the pay for the CEOs of the S&P 500 companies consists of stock-based compensation. Base salaries represent less than 10% of the total pay of the CEOs of the large corporations.

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

Wall Street Should Pay a Sales Tax, Too
Sarah Anderson, Counter Punch, 4/7/16
Wall Street lobbyists are claiming that such taxes would still hurt mom-and-pop investors. The Investment Company Institute, which represents the trading arms of J.P. Morgan, Goldman Sachs, and the leading hedge funds, recently fired off a letter to Congress arguing that a Wall Street speculation tax would "harm all investors, especially middle-income American workers saving for retirement."
In reality, the type of tax Sanders is promoting would target the high rollers in the financial casino. Because the tax applies to every trade, it would hit the traders engaging in computerized split-second stock-flipping the hardest. That's a good thing, because that kind of trading makes markets less stable and adds no real value to the Main Street economy.

Over 30 Countries Tax Financial Speculation. Why Doesn't the United States?
Sarah Anderson, Foreign Policy in Focus, 4/6/16

Bernie Sanders says Wall Street tax would pay for his free tuition plan
Lauren Carroll, Politifact, 4/4/16

INVESTOR PROTECTION AND THE SEC

How SEC Lost the Race to Regulate Retirement Advice

Yuka Hayashi and Dave Michaels, Wall St. Journal, 4/6/16

If there is one big mystery about the tough new rule for stockbrokers who give retirement advice, it is this: Why on earth is it coming out of the Labor Department? That sort of financial service is typically regulated by the Securities and Exchange Commission. But the SEC, weakened by a partisan divide among its commissioners and weighed down by requirements to write an abundance of new postcrisis rules, has fumbled a rare chance to set the regulatory tone for a generation.

The implications go beyond Beltway bragging rights. Brokerage firms and insurers had hoped the SEC would keep at bay the sort of stricter requirements imposed by the Labor Department, which takes a more skeptical view of Wall Street business models. Instead, it is consumer activists who will be celebrating Wednesday saying it brings the strongest protections in decades for Americans saving for retirement. Meanwhile, the SEC is coming under fire for not moving faster.

Senate Banking Committee vote on nominations is delayed as four lawmakers demand rules forcing companies to disclose political spending

Andrew Ackerman, Wall St. Journal, 4/7/16

MORTGAGES & HOUSING

Protesters Disrupt Law School Event, Raising Security Concerns

Claire E. Parker, Harvard Crimson, 4/5/16

Housing rights advocates interrupted an event featuring Federal Housing Finance Agency Director Melvin Watt at the Law School Monday evening to protest Watt's housing finance policies, prematurely ending the event and prompting questions about security protocol at the school.

The event, organized by Law School professor Hal S. Scott, was intended to be a "fire-side chat" about federal housing policy. Scott said he heard beforehand that activists might protest, and as a result, Harvard University Police Department assigned two plainclothes officers to the event at the request of Law School administrators.
Several minutes into the event, members of City Life—a Boston-area community organization that advocates for tenant rights—stood up and interrupted Watt's remarks. City Life community organizer M. Antonio Ennis coordinated the protest with advocacy organizations Lynn United for Change and Springfield No One Leaves, and estimated that around 75 of the 85 event attendees were protesters.

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

Saving for Retirement? The Rulebook Is About to Change

Jason Zweig, Wall St. Journal, 4/4/16

Brokers' recommendations to this point have only had to be "suitable"—a less rigorous standard that critics say has encouraged some advisers to charge excessive fees, favor investments that offer hidden commissions and recommend securities that can be difficult for investors to sell. The shift, more than six years in the making, could cut the total costs of investing by billions of dollars annually. But it also will put the federal government deeper into the business of deciding what Americans should do with their own money.

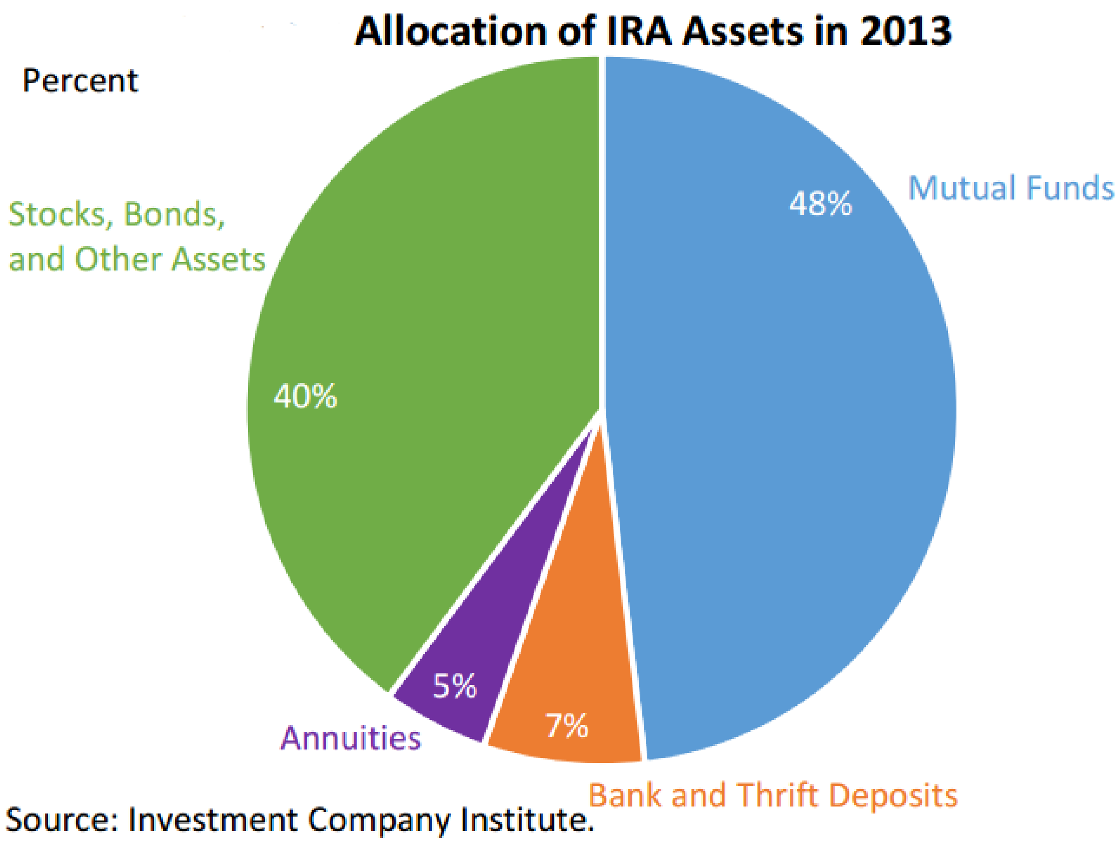
Investors who now pay commissions when they buy stocks or bonds will likely be moved into accounts where brokers collect up to 1% of their assets every year—a change that will compensate brokers for increasing the size of the account, not selling products. A range of popular but controversial offerings like variable annuities, commodity pools and some real estate investment trusts will likely be de-emphasized for retirement accounts. In their place investors increasingly will be offered low-cost index funds that passively mimic market returns. Moving funds from a 401(k) into an individual retirement account could become cheaper, as brokers comply with requirements that the fees are reasonable and the investment strategy is appropriate. And investors who feel they were wronged will find it easier to sue for breach of contract.

'Customers First' to Become the Law in Retirement Investing
Tara Siegel Bernard, NY Times, 4/6/16

We the People vs. Wall Street
Nancy LeaMond, AARP statement, 4/6/16

See AFR Statement: A Huge Victory for American Workers and Retirees.

And see statements by Better Markets, Consumer Federation of America, and Save Our Retirement Coalition. Add statement from AFL CIO



New Investor Protection Rules Expose an Industry War for Americans' Retirement Assets
Owen Davis, International Business Times, 4/6/16
The new rule largely preserves previous incarnations of the guidelines, requiring steep disclosures of conflicts of interest and making advisers sign a legally enforceable contract with clients promising to work in their best interests. Investor advocates like **Americans for Financial Reform** and the Consumer Federation of America, which lobbied extensively for the reforms, celebrated Wednesday's announcement.

The release did contain some [concessions] on matters that industry groups had argued were unworkable. Advisers will still be able to sell proprietary products and variable annuities, and they will have more leeway in approaching and advertising to clients without signing a fiduciary pledge. Paperwork requirements were diminished.

Obama's Conflict-Of-Interest Rule Could Rattle Edward Jones, An Investment Giant
Owen Davis, International Business Times, 4/5/16
The new rule largely preserves previous incarnations of the guidelines, requiring steep disclosures of conflicts of interest and making advisers sign a legally enforceable contract with clients promising to work in their best interests. Investor advocates like **Americans for Financial Reform** and the Consumer Federation of America, which lobbied extensively for the reforms, celebrated Wednesday's announcement.

U.S. Chamber of Commerce Goes for the Extreme
Barry Ritholtz, BloombergView, 4/7/16
According to Open Secrets, a site that tracks political lobbying and spending, during the past 18 years the Chamber has spent three times more than any other organization on behalf of industry ($1.2 billion versus $351 million by the No. 2 lobbying group, the National Association of Realtors).

This is of great interest in the context of the Chamber's opposition to the new fiduciary rules for retirement accounts, requiring brokers to put savers' interests ahead of their own. Opposing the fiduciary standard may be pro-Wall Street, but it's anti-small business.

What Wall Street, Insurance Companies Don't Want Congress to Know re: DOL Fiduciary Rule
Scholarly Financial Planner, 3/10/16

A Secure Retirement Demands Limiting Conflicts of Interets
Joe Valenti, Center for American Progress, 4/6/16

Republicans vow to fight new fiduciary rule
Peter Schroeder, The Hill, 4/6/16

Eugene Scalia: The Person To Watch On Fiduciary Rules
Ted Knutson, Financial Advisor, 4/6/16
Scalia is selling himself to Wall Street as the primary legal battering ram to kill financial reform, according to Dodd-Frank advocates. "He's been pretty much involved in all the major challenges," said Marcus Stanley, the policy director for **Americans for Financial Reform**.

Fiduciary Focus: The DOL Rule from all angles
Investment News, 4/5/16-4/7/16

STUDENT LOANS & FOR-PROFIT EDUCATION

Study Finds VA Fails to Protect Veterans From Deceptive Recruiting
Inside Higher Ed, April 4, 2016

Florida Lawmakers Vote to End Loophole for For-Profits
Inside Higher Ed, April 4, 2016

Students shouldn't have to give up legal rights to enroll in for-profit colleges
Steven Burd, The Hechinger Report, 3/30/16

[For-Profit College Trade Group Responds to Obama Reforms With Tantrum]

David Halperin, The Huffington Post, 4/1/16

[Massachusetts sues ITT Tech, alleging predatory practices]

Bamzi Banchiri, The Christian Science Monitor, 4/5/16

[UC Davis Chancellor Katehi apologizes to lawmakers for taking DeVry seat]

Diana Lambert and Sam Stanton, The Sacramento Bee, 4/4/16

SYSTEMIC RISK

[Fed's Kashkari Seeks Solutions for 'Too Big to Fail']

Shayndi Raice, Wall St. Journal, 4/4/16

Federal Reserve Bank of Minneapolis President Neel Kashkari said Monday that he wants to consider bold options for ending "too big to fail" once and for all, at a conference he organized exploring whether the country's biggest banks should be broken up to prevent future bailouts.

The "Ending Too Big to Fail" symposium, with its own Twitter hashtag "EndingTBTF," was announced by Mr. Kashkari in February, shortly after he took the reins as president of the Minneapolis Fed in January.

A top Treasury Department official during the financial crisis, Mr. Kashkari said in February that legislative action taken since the financial crisis didn't go far enough to prevent another scenario in which the biggest banks would require a government bailout if their failure threatened to destabilize the financial system—a situation known as "too big to fail." He said serious consideration should be given to breaking up the biggest banks and regulating them like a public utility.

[The Woman with the Most Stressful Job in Banking]

Christina Rexrode, Wall St. Journal, 4/4/16

[Andrea] Smith is leading Bank of America's stress-test submission, in which the firm's credibility with regulators, and possibly Chief Executive Officer Brian Moynihan's job, is on the line. The stress test, in which the Federal Reserve annually evaluates how banks would perform in a hypothetical recession, has become a primary pillar of the postcrisis regulation of Wall Street. Billions of dollars in dividends and share buybacks, which the Fed must approve, are also potentially at stake in this year's submission, which is due on Tuesday.

Bank of America, the second-largest bank by assets in the U.S., has fumbled the exam three of the past five years, more than any other major U.S. bank. Last year, it was the only U.S. bank required to resubmit its test, and the firm subsequently said it spent $100 million to rework the plan.

[MetLife and the Threat to Dodd-Frank]

Editorial, NY Times, 4/4/16

The federal court decision last week to remove the "too big to fail" label from MetLife, the insurance giant, may or may not turn out to be a factor in a future financial crisis. But it is a setback to regulation intended to protect the economy from the inherent risks of an undersupervised financial system.

The decision is a blow to the Financial Stability Oversight Council, established by the Dodd-Frank regulatory reform law. The council's job is to identify and defuse systemic risks to the economy from nonbank financial firms, including insurance companies and finance companies. The absence of such oversight let Lehman Brothers, American International Group and GE Capital run amok before the financial crisis of 2008, among other disastrous and interlocking developments.

[What Big-Bank Breakup Hawks Should Be Talking About]

Greg Baer, American Banker, 4/1/16

OTHER TOPICS

[U.S. readies bank rule on shell companies amid 'Panama Papers' fury]

Brett Wolf, Reuters, 4/7/16

The U.S. Treasury Department intends to soon issue a long-delayed rule forcing banks to seek the identities of people behind shell-company account holders, after the "Panama Papers" leak provoked a global uproar over the hiding of wealth via offshore banking devices. A department spokesman said on Wednesday the rule would "soon" be turned over to the White House for review and issuance, but did not confirm any timetable for the initiative, which has taken years.

[What Are The Panama Papers?]

So That Happened (podcast), 4/1/16

One week after a sheaf of leaked documents fingered Unaoil as a hothouse of global corruption, we get the Panama Papers -- a massive document dump that reveals the extent to which Panama has been used as a tax haven for the world's plutocrats, and the many global leaders who've been swift to stash their cash offshore.

Joining the podcast this week is Wisconsin Rep. Mark Pocan, **Americans for Financial Reform's** Alexis Goldstein, and The Huffington Post's Ryan Grim and Paige Lavender.

[Prosecutors open probes as world's wealthy deny 'Panama Papers' links]

Kylie Maclellan and Elida Moreno, Reuters, 4/4/16

[Panama Papers Show Advisors Need Treasury's AML Rule, Groups Argue]

ThinkAdvisor, 4/4/16

Groups including **Americans for Financial Reform** argue advisors 'bring billions of dollars into the U.S. financial system' and should be subject to AML rules

[New Tax Rules on Inversion Deals Are Met With Protest]

Richard Rubin and Jonathon D. Rockoff, Wall St. Journal, 4/6/16

[A Corporate Tax Dodge Gets Harder]

The Editorial Board, NY Times, 4/6/16