AFR Americans for Financial Reform

This Week in Wall Street Reform | October 8-14, 2016

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WELLS FARGO CASE

Wells Fargo CEO John Stumpf is out I CNN
The Wells Fargo (WFC) boss is out in the wake of a national uproar that erupted after regulators accused the bank of creating many as two million fake bank and credit card accounts. The company admitted to firing 5,300 workers over several years. A person familiar with the matter said that Stumpf made the decision to retire, which was welcomed by the board. Stumpf's resignation comes after Senator Elizabeth Warren publicly condemned him for "gutless" leadership at a Sept. 20 Senate hearing. "You should resign... You should be criminally investigated," Warren told Stumpf during a fiery one-sided exchange.

Wells Fargo Chief Abruptly Steps Down I New York Times
Despite the industry's many troubles, relatively few banking chiefs have stepped down under outside pressure. But Wells Fargo's transgressions were unusually blatant and straightforward, which contributed to the still-mounting public outcry…

The sales practices may reach back far longer [than originally reported]. Former bank employees told The New York Times of concerns they raised internally as far back as 11 years ago.

Mr. Stumpf, 63, who was twice called in front of Congress to testify about the scandal in recent weeks, faced vocal demands to resign from an outraged public, but the timing of his departure was unexpected given that the Wells Fargo board had not completed its internal investigation into the phony accounts and that the bank reports third-quarter earnings on Friday. He potentially walks away with millions of dollars, including a $20 million pension, as of Wednesday, another $4.3 million in deferred compensation, plus stock worth $109 million, according to data from Equilar.

Wells Fargo CEO John Stumpf Steps Down I Wall Street Journal

Wells Fargo reported a $5 billion profit during one of the worst periods in its history I Washington Post
It's been a tough few weeks for Wells Fargo. The megabank is under federal investigation after admitting that thousands of employees set up sham accounts to meet aggressive sales goals. Its long-time CEO retired abruptly. And it has become a punch line in late-night television. But that didn't stop the San Francisco bank on Friday from reporting a more than $5.6 billion profit over the last three months. That quarterly profit was down slightly from the same period a year ago, but still beat what analysts were expecting. A conference call with analysts to discuss the financial results reflected the tricky position Wells Fargo has found itself in: It must appear contrite enough to satisfy its critics while continuing to produce the gangbuster profits that have made it a Wall Street darling.

Congress Should Act In the Wake of Wells Fargo Scandal I Huffington Post (Mike Feuer)
Curb arbitration clauses. Will this be the moment federal lawmakers finally disallow mandatory arbitration clauses in the form contracts consumers must accept when they deal with large institutions? Wells' customers are among the millions of consumers required to acquiesce to arbitration clauses when they agreed to open accounts or secure credit cards at their bank. And Wells continues to enforce these provisions against consumers, even in the wake of the unauthorized accounts scandal. Allowing mega-financial institutions to

impose such clauses on their customers is not sound public policy. First, such clauses typically include class action waivers (and even if they don't explicitly, they have the same practical effect), preventing consumers from joining forces to press their cause and lessening the likelihood that legitimate claims will be vindicated.

OCC Deserves More Scrutiny in Wake of Wells Fraud I American Banker (Akshat Tewary)
Perhaps the most troubling aspect of Curry's written testimony was his assessment of what additional actions are needed to prevent similar market abuses in the future. Instead of owning up to the OCC's glaring failure to regulate Wells Fargo, Curry attempted to create a smokescreen by claiming that upcoming regulations on incentive-based compensation under Section 956 of Dodd-Frank are the answer. But Section 956 was crafted to protect banks from excessive risk-taking by bonus-seeking managers and traders. It will do little to protect customers from dishonest retail banking practices like those perpetrated at Wells Fargo, especially where those practices do not rise to the level of threatening the overall fiscal health of the offending bank.

While the OCC is a prudential regulator charged with protecting national banks' shareholders, a vital component of its statutory mandate includes the public-oriented goal of ensuring "fair and equal access to financial services for all Americans." The Wells Fargo scandal demonstrates a stark failure by the OCC to live up to that mandate.

Wells Fargo Controversy Rekindles CFPB Debate I West Virginia Register-Herald
House Republicans are reprimanding the CFPB for not taking faster action against Wells Fargo after they opened false bank accounts.

CONSUMER FINANCE & THE CFPB

Federal Appeals Court Rules the Structure of the CFPB Is Unconstitutional I Washington Post
"There is a need for the banking regulators and the financial regulators to be able to make independent judgments on the merits, outside of the needs of the electoral cycle and concerns about blowback from one lobby or another," said Brian Simmonds Marshall, policy counsel for **Americans for Financial Reform**, a coalition of more than 200 civil rights, consumer- and labor-oriented community groups. Marshall said it was important that the director of the CFPB be allowed to serve a full term.

Court: Consumer bureau's structure is unconstitutional I The Hill
The nation's second most powerful court ruled Tuesday that the structure of the Consumer Financial Protection Bureau (CFPB) is unconstitutional, delivering a huge victory to business groups and Republicans in Congress.

Tuesday's ruling, handed down by the U.S. Court of Appeals for the D.C. Circuit, does not halt the agency's operations but states that Congress erred in creating a far-reaching agency that is led by a single director.

"Compromising the CFPB's independence would be a huge gift to Wall Street greed and a loss for consumers. We are hopeful that this erroneous decision will be overturned," said Lisa Donner, executive director of **Americans for Financial Reform**.

Elizabeth Warren's Wall Street Watchdog Ruled Unconstitutional in Current Form I Huffington Post
Americans for Financial Reform, a nonprofit coalition that supports tough banking regulations, also denounced Tuesday's ruling. "Compromising the CFPB's independence would be a huge gift to Wall Street greed and a loss for consumers. We are hopeful that this erroneous decision will be overturned," the group's executive director, Lisa Donner, said in a statement.

CFPB structure ruled unconstitutional I Bankrate
Glee was heard across the land from conservatives and business interests.
"This is a good day for democracy, economic freedom, due process and the Constitution," said Jeb Hensarling, chairman of the House Financial Services Committee. "The second-highest court in the land has vindicated what House Republicans have said all along, that the CFPB's structure is unconstitutional."

Lisa Donner, executive director of **Americans for Financial Reform**, said, "We are hopeful that this erroneous decision will be overturned."

Judges Say Bureau Structure 'Unconstitutional' **I MortgageOrb**
In a separate statement, Lisa Donner, executive director of **Americans For Financial Reform**, said her group is disappointed by the decision because "the CFPB is doing exactly what Congress established it to do: serve as an effective enforcer of fair rules of the road to prevent unfair deceptive and abusive financial practices, practices that led to the financial crisis and cost trillions of dollars in lost homes, lost jobs and lost wealth." "Precisely because the CFPB is achieving that mission, Wall Street banks, predatory lenders and their allies have worked determinedly to undermine and defang it, including by compromising its decision-making structure, independence and authority," Donner wrote. "Compromising the CFPB's independence would be a huge gift to Wall Street greed and a loss for consumers. We are hopeful that this erroneous decision will be overturned."

Court ruling against consumer bureau opens the door to lawsuits **I The Hill**

U.S. Court of Appeals Reaches Erroneous Conclusion in PHH Challenge to CFPB **I Value Walk**
"Americans for Financial Reform is disappointed by the D.C. Circuit's decision today. As the CFPB's work to stop the Wells Fargo's fraud demonstrated once again, the CFPB is doing exactly what Congress established it to do: serve as an effective enforcer of fair rules of the road to prevent unfair deceptive and abusive financial practices, practices that led to the financial crisis and cost trillions of dollars in lost homes, lost jobs, and lost wealth. Precisely because the CFPB is achieving that mission, Wall Street banks, predatory lenders, and their allies have worked determinedly to undermine and defang it, including by compromising its decision making structure, independence, and authority. Compromising the CFPB's independence would be a huge gift to Wall Street greed and a loss for consumers. We are hopeful that this erroneous decision will be overturned," said Lisa Donner, Executive Director of **Americans for Financial Reform.**

See **AFR statement.**

Consumer Watchdog Structure Ruled Unconstitutional **I AP**

U.S. CFPB 'Considering Options' on Next Level in Court Fight **I Reuters**

U.S. Court Rules CFPB Structure Unconstitutional, Bureau Can Still Operate **I Reuters**

Appeals Court Deals Setback to Consumer-Watchdog Agency **I Wall Street Journal**

Federal Agency That Investigated Wells Fargo Scandal Dealt Blow by Court **I LA Times**

Court Gives President More Power Over Consumer Agency Chief **I New York Times**

Structure of Agency Conceived by Warren Ruled Unconstitutional **I Boston Globe**

Conservatives Win Big in Landmark Ruling Against Consumer Financial Protection Bureau **I Politico**

Court: Structure of Consumer Watchdog Agency Unconstitutional **I CBS News**

Consumer Financial Protection Bureau Structure Ruled Unconstitutional **I USA Today**

A Court Ruled Against Elizabeth Warren's Brainchild--and Saved It **I New Republic**

CFPB Survives Legal Attack As Court Trims Director's Power **I Bloomberg**

The Next President Might Be Able to Fire One of Our Most Important Consumer Watchdogs for Any Reason **I Slate**

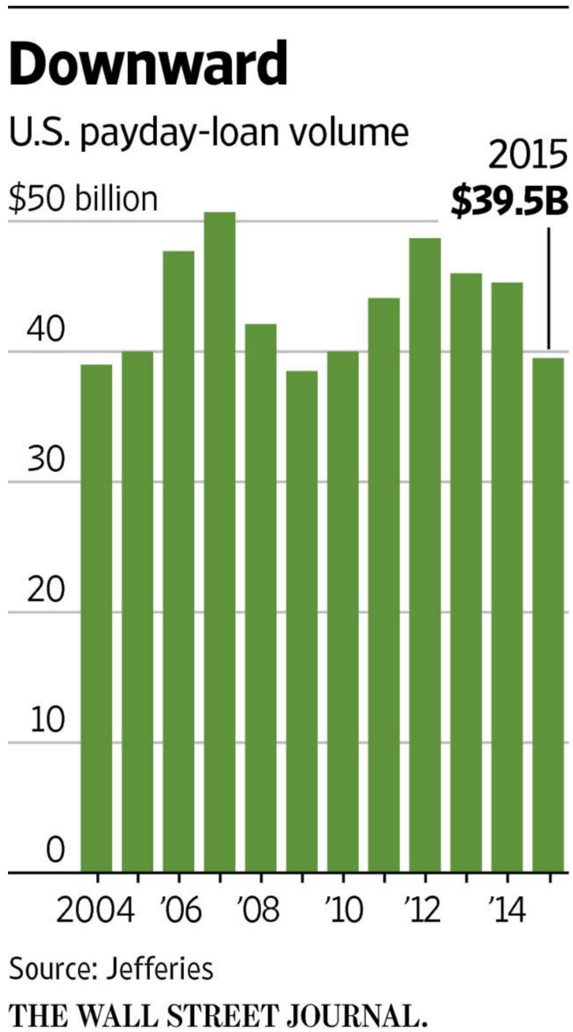
Consumers Lose, Wall Street Wins, in Right-Wing Court Ruling **I Truthout**

Cheat Sheet: What CFPB Constitutionality Ruling Means for Banks **I American Banker**

Lights Out for the Second-Most-Powerful Man in DC **I Wall Street Journal**

[Elizabeth Warren's Wall Street Watchdog Dealt Major Blow](#) I Independent Women's forum

[Will CFPB Ruling Spur Banks to Reopen Old Enforcement Actions?](#) I American Banker



[Dueling Payday-Lending Campaigns Deluge CFPB With Comments](#) I Wall Street Journal
Consumer groups such as the Center for Responsible Lending and Americans for Financial Reform formed an alliance and ran a Twitter campaign using the hashtag #StopTheDebtTrap and shepherded people to a comment site,http://stoppaydaypredators.org. To submit a comment, users only need to type in their name, email address and ZIP Code.

On the eve of the comment deadline, Sen. Elizabeth Warren (D., Mass.), one of the creators of the CFPB, sent a blast email urging supporters to use an activist website associated with President Barack Obama to submit prewritten comments that say "I support strong standards with no loopholes that will prevent lenders from...trapping borrowers in long-term cycles of debt."

[There's High Interest in Cracking Down on Payday Loans](#) I Chicago Tribune
On the surface, you'd expect consumer activists would be lining up with the CFPB. Not so. While it's getting applause for recommending some changes, there's also pushback from groups that want more aggressive regulations, including those seeking to lay the groundwork for capping interest rates on payday loans.

"The CFPB recommendations are a step in the right direction, but they don't go far enough," said Mike Calhoun, president of the Center for Responsible Lending, based in Durham, N.C.

[Oregon Lawmakers Target Payday Lenders](#) I Portland Business Journal
Five of Oregon's seven congressional delegation members signed a letter that was sent to the CFPB regarding

a stronger payday rule. The lawmakers state their views on the importance of putting an end to predatory lending.

Terry Meza Sets Sights on Flipping Texas House District 105 North Dallas Gazette
Meza is targeting the "payday loan" industry, which she refers to as "predatory lending." It was one of her key areas when responding to questions on why she is seeking the office. This is an area of particular interest to those working in low-wage jobs that often find themselves stuck in a never-ending cycle that begins with coming up "just short" of making bills in one tough month that ends up stretching out endlessly.

Unbanked Hispanics Pay Steep Fees I Christian Science Monitor

Local Pols, Advocates Plead With Feds to Strengthen Payday Lending Rules I CityLimits.org

Hurst, Euless, Bedford Join Texas Cities Restricting Payday Lenders I Star-Telegram

CBC Members Join the Call for Payday Lending Reform I San Diego Reader

Kaine backs proposed CFPB effort to curb predatory lending practices I August Free Press

Illegal Practices Lead to CFPB Fines and Lawsuits Against Title Lenders I Jacksonville Free Press

In Record Ruling, Payday Lender Scott Tucker Fined $1.27 billion for Deceptive Practices I NBC

Schneiderman Leads Coalition of AGs Urging CFPB to Adopt Consumer Protections I Madison County Courier

Punished Payday Loan Executives Gave Big to the Congressmen with Oversight I Topeka-Capital Journal

The Fight Over New Payday Lending Rules Gets Nasty I MSN Money

New Regulations Treat the Symptoms Rather than the Disease of Payday Loans I Observer-Reporter

The Consumer Financial Protection Bureau Plans to Regulate the Payday Lending Industry out of Business I National Review

Federal Small Business Authority Sharply Questions CFPB's Proposed Payday Rule I JD Supra

The CFPB Should Learn that No Means No I Cato Institute Blog

Federal Agency that Investigated Wells Fargo Scandal Dealt Blow by Court I LA Times

Worries Grow Over 'Payday Loans for Small Businesses' I Atlanta Journal-Constitution

Payday Lenders Defend Their Industry As a Federal Consumer Watchdog Prepares to Hand Down New Regulations I Greater Baton Rouge Business Report

Mission Hills Payday Lender James Carnes to Appeal Multimillion-Dollar Penalty I Kansas City Star

State AGs Split Over CFPB Payday Plan I American Banker

Kaine Backs Proposed CFPB Effort to Curb Predatory Lending Practices I Augusta Free Press

Local Pols, Advocates Plead With Feds to Strengthen Payday Lending Rules I City Limits

Airbnb Defends Arbitration in Push to Dismiss Discrimination Suit I National Law Journal

Initial Analysis of Consumer Financial Protection Bureau's Proposed Outline to Address Debt Collection Abuses I Center for Responsible Lending

Appleseed Charts a Way Out of the Debt Trap I Appleseed

AmeriCash says it got customers to send 2000+ handwritten letters to CFPB I prweb.com

OCC special purpose charter paper coming Nov. 15, trade groups say I PoliticoPro

DERIVATIVES, COMMODITIES & THE CFTC

U.S. Swaps Regulator Delays Expansion of Dealer Oversight I NY Times
Smaller swap-dealing firms were granted a one-year reprieve from oversight, with the regulator for the U.S. market delaying a planned expansion of the dealers who must register with the federal government. Since 2012, any dealer with more than $8 billion in swap activity has been required to register with the Commodity Futures Trading Commission, which subjects it to stricter federal oversight. That swap activity value in dollars, known as the "de minimis" threshold, had been poised to fall to $3 billion by the end of 2017. In order to determine if they complied, smaller dealers would have had to take on more recordkeeping and track trades more closely starting in January. CFTC Chairman Timothy Massad said in a statement that the commission had found that lowering the threshold would not make more interest rate and credit default swaps subject to regulation, but would require many firms with a small role in the market to register.

THE ELECTION AND WALL STREET

Clinton advisers touted political boost from Wall Street taxes, fees I Politico

ENFORCEMENT

Court Rejects Texas Attorney General Paxton's Latest Bid to Dismiss Securities Fraud Charges I Wall Street Journal

HIGH SPEED TRADING AND FINANCIAL TRANSACTION TAX

US markets braced for trading tax grab from Democrats I Financial Times
Such taxes have been floated in Congress for years without success. But market participants are paying close attention nonetheless. "It's very much alive," says Bill Harts, chief executive of Modern Markets Initiative, a trading industry group.

Bernie Sanders, the Vermont senator and former presidential candidate, and Keith Ellison, a Minnesota representative, have each sponsored bills that would impose a tax of 0.5 per cent on the sale of stocks, 0.1 per cent on bonds and 0.005 per cent on derivatives such as futures. Another, introduced by Rep Peter DeFazio of Oregon, would levy a uniform 0.03 per cent tax on stock, bond and derivative transactions.

Mrs Clinton's plan would place a tax on orders — or messages that signal an intent to buy or sell — rather than transactions in stock markets. Specifically, her campaign says its tax "would hit HFT strategies involving excessive levels of order cancellations." Rapid-fire entry and cancellation of orders have become a central allegation in recent legal cases against "spoofing" — conduct in which traders try to dupe other traders by generating a false sense of interest in buying or selling.

Marcus Stanley, policy director of the lobby group **Americans for Financial Reform**, supports transaction taxes, calling the DeFazio proposal "a serious revenue raiser". He hopes the issue will be part of a debate over corporate tax reform after the election.

Clinton and Europe on Wall Street Tax I Inequality.org (Sarah Anderson)
Over the past week, we've seen two breakthroughs on the issue of taxing Wall Street speculation – one in the United States and one in Europe.

In the United States, one of the hacked emails posted on Wikileaks contains a juicy note from Gene Sperling suggesting Hillary Clinton is more supportive of this idea than previously known. Sperling, a former National Economic Advisor to Presidents Bill Clinton and Barack Obama, wrote in February 2016 that he favored "a broad, thin financial transaction tax" (i.e., one covering a wide range of financial instruments, with a low tax rate applied to each trade).

To blunt Wall Street's line that such a tax would hurt the stock market and pension values, Sperling proposed that revenue go towards middle class retirement savings or Social Security. This would be a major "Wall Street pays for Main Street" proposal and Clinton "seemed open" to it, Sperling wrote…

The news that Sperling, as mainstreamy a Democrat as you could find, is not only supportive of a financial transaction tax, but actively (and apparently successfully) urging Clinton to support it, is encouraging. And it lends extra weight to the favorable language on this issue that progressives were able to insert in the Democratic Party Platform.

INVESTOR PROTECTION AND THE SEC

Elizabeth Warren to Obama: Fire SEC Chief Mary Jo White I Wall St. Journal
Sen. Elizabeth Warren is calling on President Barack Obama to dismiss Mary Jo White as chairman of the Securities and Exchange Commission, the latest and strongest push by the Massachusetts Democrat to criticize the top markets cop and to influence financial policy-making here.

While it is highly unlikely the Obama administration will oblige Ms. Warren in its final months, the request comes as the former Harvard law professor and other progressive Democrats seek to pull their party to the left and influence the selection of the next round of presidential appointees after the November election.

Ms. Warren is again targeting the SEC chief for her decision not to craft a rule requiring public companies to disclose their political spending activities—even though the agency is restricted by law from working on such a rule this year. The senator also denounced an initiative to eliminate duplicative or outmoded corporate disclosures—a project Ms. Warren dubbed a "far-reaching, anti-disclosure initiative."

Elizabeth Warren urges Barack Obama to fire SEC chief Mary Jo White I Financial Times
Barack Obama is being pressed by the Democratic party's left wing to sack Mary Jo White, chair of the Securities and Exchange Commission and one of his most senior appointees.

In a blistering letter on Friday, Senator Elizabeth Warren called on Mr Obama to use exceptional powers to eject Ms White, accusing her of standing in the way of greater corporate transparency.

Her move lays bare dissatisfaction in the party with the head of the market watchdog and Wall Street reform with barely three months remaining of a presidency that began in the throes of the financial crisis.

"I have tried both publicly and privately to persuade Chair White to direct the agency's resources toward pressing matters of compelling interest to investors and the public," wrote the outspoken Wall Street critic. "But after years of fruitless efforts, it is clear that Chair White is set on her course."

What Warren really is asking Obama in her latest anti-White salvo I MarketWatch
The continuing budget resolution that was passed at the last minute at the end of September to avoid the government shutdown includes a rider—inserted after midnight—that blocks the SEC from finalizing a corporate political spending disclosure rule. Warren's letter could encourage President Obama to threaten to veto the bill when it comes up for renewal in early December.
The president could also strongly encourage White to work on the political disclosure rule despite the inclusion of the rider in a budget bill.

[Elizabeth Warren rips into Obama's SEC chief] **I CNNMoney**

[Sen. Elizabeth Warren blasts a new target] **I USA Today**

[Warren Asks Obama To Replace Wall Street Regulator For 'Brazen Conduct'] **I Huffington Post**

[White Out] **I Public Citizen (Bartlett Naylor)**

[A Bank's Data Needs Its Own Balance Sheet] **I American Banker**

MORTGAGES & HOUSING

[Civil Rights Groups File Supreme Court Brief Defending Access to Justice in Housing Discrimination Cases] **I National Fair Housing Alliance**

POLITICAL INFLUENCE OF WALL STREET

[Liberal groups tell Schumer: No Bayh as Banking chair] **I Washington Post**
A coalition of progressive groups wants to make absolutely, 100-percent sure that Evan Bayh won't take over the Senate Banking Committee if he's elected in November… "The Committee already conspicuously harbors several of the Democratic Caucus's most conservative, Wall Street-friendly members," the coalition wrote Thursday to presumptive Senate Democratic Leader Charles E. Schumer (N.Y.), who also serves on the committee and has raised millions from the financial sector over his career.

The letter follows a report in American Banker in August speculating that Bayh, who sat on the Banking Committee from 2000 to 2010, could find himself with more seniority on the panel than current Ranking Member Sherrod Brown (D-Ohio) if Bayh returns to the Senate.

"The scenario has been quietly discussed among financial services lobbyists, most of whom prefer the more moderate and bank-friendly Bayh to the progressive Brown," the report stated.

RETIREMENT SECURITY & FIDUCIARY DUTY RULE

[Fiduciary rule will give investors a break] **I Chicago Tribune (Jill Schlesinger)**
The new rule comes with an asterisk: the "best interest contract exemption" or BICE. If companies do want to continue certain product sales or compensation agreements that don't exactly fit into the fiduciary mold, they can do so as long as they follow certain requirements. Those requirements may be a bit too onerous for some firms. Recently, the Bank of America's Merrill Lynch unit announced that after April 10, 2017, retirement investors will no longer have the option of paying a commission for trades. Instead, those customers will have to find another brokerage firm to hold those assets.

This shift is precisely what spooked the Securities Industry and Financial Markets Association (SIFMA), the lobbying arm of the financial world. When the Labor Department announced its rule changes, SIFMA argued that, rather than assuming the risk of maintaining these accounts, many companies would choose to limit investors' choices, raise minimums or force customers into an asset under management (AUM) model of compensation. For some investors, those alternatives may be more expensive than simply holding what they already own in a commission-based account.

[Morgan Stanley and Fiduciary: Never the Twain Shall Meet?] **I ThinkAdvisor**

[How the new 'fiduciary' rule will actually affect you] **I CNBC**

[BlackRock cuts ETF fees ahead of new financial advice rule] **I Reuters**

STUDENT LOANS & FOR-PROFIT EDUCATION

For-profit DeVry University reaches a settlement with Education Dept. over deceptive ads I Washington Post

In recent months, DeVry has enacted changes aimed at changing public perception of its schools and creating a new standard in for-profit education. A few weeks ago, the company said it would limit the amount of revenue it receives from federal student aid, including veterans and military tuition assistance, getting in front of a controversial issue as the for-profit industry buckles under economic and regulatory pressure. And in May, DeVry joined the University of Phoenix in no longer barring students from filing class-action lawsuits or otherwise taking their grievances to the courts, ending mandatory arbitration clauses that consumer advocates say rob students of their rights.

DeVry Settled With the Feds, but More Trouble Looms I Bloomberg

DeVry University Agrees To Stop Ads Touting Grads' Job Success Without Proof I NPR

SYSTEMIC RISK

Money Market Rules Take Effect I Wall St. Journal

Finance chiefs and treasurers have to re-evaluate how they allocate corporate cash, as long-awaited money market rules take effect today. Finance executives now face an unfamiliar array of investment options, and some can't be sure they are allowed to invest in money funds that have a floating net-asset-value, because preservation of capital is a CFO's top priority, Vipal Monga reports**.** The new rules give prime money funds, long a staple for holding cash with minimum risk and, at least for now, some yield.

Banks see "major concerns" as capital burdens squeeze risk efforts - E&Y survey I Complinet