AFR Americans for Financial Reform

This Week in Wall Street Reform | Dec 23 - Jan 7, 2017

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THE PRESIDENT-ELECT AND WALL STREET

Trump's Treasury Pick Excelled at Kicking Elderly People Out of Homes I Pro Publica
Since the financial crisis, OneWest, through Financial Freedom, has conducted a disproportionate number of the nation's reverse mortgage foreclosures. It was responsible for 16,200 foreclosures on government-backed reverse mortgages, or 39 percent of all foreclosures nationwide, from 2009 through late 2014, even though it only serviced about 17 percent of the loans, according to government data analyzed by the California Reinvestment Coalition, an advocacy group for low-income consumers. While some foreclosures were justified, legal aid attorneys say Financial Freedom has refused to work with borrowers in foreclosure to establish payment plans, in contrast with other servicers of reverse mortgages.

Mnuchin's confirmation could be truly disastrous for Trump I The Week (Jeff Spross)
Steven Mnuchin, Trump's pick for treasury secretary, will soon get his confirmation hearing before the Senate. While Clinton may have made six figures giving speeches to Goldman Sachs, Mnuchin literally ran a national bank, OneWest, that kicked tens of thousands of Americans out of their homes at the height of the housing crisis. There's a mound of evidence that plenty of those foreclosures were illegal and fraudulent. It's hard to imagine a candidate who more perfectly embodies Wall Street's depredations against ordinary Americans.

Trump's election boosts Goldman Sachs bonuses - bigly I Crains NY

Treasury pick Mnuchin facing heat for bank critics call "the foreclosure kings of California" I CNN

Trump presidency is going to hurt Americans' wallets I Business Insider (Helaine Olen)
They've been complaining… about how the common-sense regulations the agency promotes to protect consumers are actually job-killing power grabs by an unaccountable bureaucracy. You can think of these bills as works of performance art designed to hide the less controversial way the Republicans plan to hobble the CFPB.

We'll almost certainly see proposals to do away with a single agency director, replacing the position with a five-member commission whose members are approved by Congress. While that certainly sounds reasonable enough, it will at best dilute the agency's power to get things done, and at worst leave it subject to political meddling by Congress.

You can also expect to see congressional efforts to stop the agency from stepping in and continuing with plans to crack down on payday-lending abuses and put a stop to mandatory arbitration clauses in financial contracts.

Trump's debts are widely held on Wall Street I Wall St. Journal

Dodd-Frank changes in Trump's first year, Hensarling says I Bloomberg BNA
Changes to the Dodd-Frank Act aren't among the first few priorities of the incoming Trump administration, but House Financial Services Committee Chairman Jeb Hensarling (R-Texas) is confident there will be action in 2017.

With one bill, Republicans fast track plan to undo Obama regs I Business Insider
Many Wall Street regulations inspired by the 2007-09 financial crisis have only recently taken final form or are on the cusp of completion, putting them in the disapproval line of fire. That includes two pending rules on payday lending and mandatory arbitration clauses in contracts - both of which have raised Republican ire.

See letters from AFR and Coalition for Sensible Safeguards.

Ivanka Trump turns to Goldman Sachs partner for advice I Politico

Speaker Paul Ryan, passes regulatory rollback, parties with lobbyists I The Intercept
The vote on the Midnight Rules Relief Act of 2017 took place at 4:48 p.m. on Wednesday. The fundraiser, at the offices of the BGR Group, a major lobbying firm, started at 7 p.m.

Exxon Mobil cashes out ex-CEO Tillerson I Wall St Journal
Exxon pay package to secretary of state nominee Rex Tillerson worth $180 million

What we've learned from the GOP's ethics fiasco I Politico (pro)

CONSUMER FINANCE & THE CFPB

Critics Look for Opening to Fire Head of the CFPB I Wall St Journal
Republicans want Mr. Cordray ousted and replaced with someone who reflects their views. But the 2010 Dodd-Frank financial-overhaul law that created the CFPB states that the president may only remove its director for "inefficiency, neglect of duty, or malfeasance in office."

The agency's critics are now openly calling for Mr. Cordray's removal and discussing potential faults he may have committed during his tenure at the CFPB's helm—so the incoming president can fire him for cause."President Trump, it's time to say 'you're fired' to Mr. Cordray," wrote Thaya Brook Knight, associate director of financial regulation studies at the libertarian Cato Institute**.**

Defenders of the CFPB took to social media and opinion pages to trumpet the benefits of the agency amid rising calls from Republicans for the dismissal of the agency's director.

Will Trump Cave to Wall Street Pressure & Fire CFPB Chief in a Nixonian Saturday Night Massacre I Daily Kos (Paul Bland)
Faced with a watchdog who was doing his job and doing it well, on October 20 1973, President Nixon fired Cox, in an act that became famously known as the Saturday Night Massacre. Firing Cox for effectively rooting out corruption didn't work too well for Nixon. If President-elect Trump follows the advice of bank lobbyists and similarly fires Rich Cordray for being too effective, this illegal abuse of power won't go well for Trump, either.

Stand up for federal agency that delivers its promises I Morning Consult (Ruth Susswein)
While the Consumer Financial Protection Bureau has been working tirelessly to make financial markets safer, more transparent and fairer for consumers, opponents have continued their attack seeking to "defang" and defund the bureau since before it opened its doors. With the impending change in administrations, and in Congress, the lone consumer financial watchdog will be more vulnerable to their attacks than ever before. It's time to stand up

No One Has Been Fired by the President for Cause. Richard Cordray Should Not be the First. I ACSBlog (Brian Simmons Marshall)
No president has removed an appointee for cause. Most presidents have not attempted it and the three times a president has tried to remove an official with for-cause protections—on the ground that the for-cause protection were invalid (not that there was cause for removals)—the courts stopped the president from doing so.

The Obama Legacy: Protecting Consumers from Big Banks, Payday lenders, and Debt Collectors I Common Dreams (Elizabeth Warren)
In the five and a half years since the CFPB has opened its doors, the agency has consistently delivered for working families across the country. It has returned nearly $12 billion directly to families who were tricked by big banks, payday lenders, debt collectors, and other financial institutions. It has acted aggressively to protect service members and their families from illegal foreclosures and other predatory actions. It has fielded more than one million consumer complaints, helping thousands of people in every state quickly and easily resolve disputes and recover unauthorized fees. And it has cracked down on banks that are ripping off their customers—culminating in the agency's recent settlement and record fine in the Wells Fargo fake accounts scandal…

Despite the work the CFPB has done, the fight to protect consumers isn't over—it's really just beginning. All the important work the CFPB does—helping defrauded families, cracking down on the most predatory and abusive practices, bringing more transparency and competition to the market—is at risk if the incoming Trump Administration and congressional Republicans have their way. For years, the big banks and their allies have launched one shameless attack after another trying to gut the CFPB. Recently, just days after the CFPB's settlement with Wells Fargo for cheating consumers was announced, both House and Senate Republicans advanced bills to weaken the agency. It's up to all of us to fight back against these efforts and protect an agency that's put billions of dollars back in the pockets of working families.

See letter from National Civil Rights Groups praising CFPB and its Director

Consumer protections and protectors need to remain I Sierra Vista Herald

CFPB Will Likely Issue rule targeting arbitration before Trump takes over I Forbes
Companies would still be able to include arbitration clauses in their contracts. However, for contracts subject to the proposal, the clauses would have to say explicitly that they cannot be used to stop consumers from being part of a class action in court.

CFPB orders TransUnion and Equifax to pay for deceiving consumers I CFPB

Equifax and TransUnion fined $23 million I Washington Post

CFPB Sues to Stop Scam Against Lead Poisoning Victims I AFR
According to the CFPB's November 21 lawsuit, Access Funding and its partners aggressively pressured consumers to accept up-front payment amounting to about 30 percent of the present value of the money due to them,[1] and lied to them by saying that once they had received a cash advance they were legally obligated to proceed with the transaction.[2] Knowing that many of the consumers in this case had suffered cognitive impairments from lead poisoning, the CFPB's complaint alleges that the companies exploited their "lack of understanding" in order to lock them into these arrangements. About 70 percent of Access Funding's deals were done in Maryland, where it was headquartered.

CFPB Slams Two Credit Bureaus For Deceptive Marketing I US PIRG (Ed Mierzwinski)

CFPB sues pawn companies for misleading consumers about costs I AFR

Advocates Applaud CFPB for Highlighting Older Student Loan Borrowers I NCLC

What will you lose if you lose consumer financial protection? I St Louis American (Charlene Crowell)
As Americans adjust to the realities wrought by the recent elections, one of the most important consequences has yet to be fully explored: the future of consumer financial protection.

CFPB Stops Payday lender from deceiving customers I AFR
The CFPB's consent order found that Moneytree violated the Dodd-Frank Wall Street Reform and Consumer Protection Act. First, Moneytree ran a deceptive online advertisement campaign between February—March 2015. Moneytree advertised a fee for their tax-refund check-cashing service was significantly lower than the fee consumers were actually charged. Second, Moneytree mailed letters to hundreds of consumers between 2014 and 2015 which threatened to repossess their vehicles if they did not make past-due payments on their installment loans, despite the fact that Moneytree had no right or ability to repossess consumers' vehicles. Third, Moneytree withdrew money from over 700 consumers' bank accounts without authorization.

Missouri Bill aims to change Regulations for Payday Lending I Ozarks First

Consumer Protections are going to the Piggies I Chicago Tribune

Obama Administration says CFPB Structure is Constitutional l Credit Union Times

Pro-Regulation Advocates Have Polling on their Side in GOP battles l Who.What.Why
Lisa Donner, executive director of **Americans for Financial Reform** (AFR), is most concerned about the fate of the Consumer Financial Protection Bureau (CFPB) — created in the aftermath of the housing crash of 2008 that was brought about by lax regulation of mortgage lending. The CFPB, the brainchild of Senator Elizabeth Warren (D-MA), was designed to be independent, with its funding from the Federal Reserve Board and a director appointed for a five-year term. Its mandate is to ensure that banks, lenders and other financial institutions are not cheating or exploiting customers.

An Avoidable Crash in Car Loans l NY Times (Editorial)
Congressional Republicans never wanted the Consumer Financial Protection Bureau and have been trying to weaken the agency ever since it was created under the Dodd-Frank financial reform law of 2010. They're likely to intensify their efforts next year with Donald Trump in the White House.

If successful, they will enfeeble an agency that has proved its worth time and again. In the past five years, the bureau has forced lenders to provide $11.7 billion in restitution and relief to 27 million consumers for illegal practices involving mortgages, foreclosures, credit cards, student loans, payday loans and other forms of credit.

In fact, more federal regulation of consumer financial services is needed, not less. A case in point is subprime car loans marketed to people with low credit scores. The Federal Reserve Bank of New York recently expressed "significant concern" over rising delinquencies in such loans; roughly six million borrowers are on the verge of losing their cars.

The Rocky Road Ahead for the CFPB in 2017 l National Mortgage News
Brian Simmons Marshall, policy counsel at **Americans for Financial Reform**, said it would be "an unprecedented and outrageous act to try to fire Director Cordray for cause." Marshall said he expects that Cordray will serve out his term until July 2018 and that the bureau will issue final arbitration and payday rules in 2017.

This New Year, Celebrate the CFPB l U.S. PIRG
An annual poll conducted for the PIRG-backed **Americans for Financial Reform** found in July that the public, overwhelmingly and across party lines, supported both the CFPB and continued Wall Street regulation. A December Morning Consult poll found that 56% of Trump voters either want the CFPB left alone or strengthened. Only 7% want it eliminated.

What the CFPB commission debate is really about l American Banker (Adam Levitin)
The financial services industry is pushing hard for Congress to change the single director Consumer Financial Protection Bureau into a multimember commission under the guise of "good government." Let there be no mistake what this is really about: the proposal for a commission structure is a backdoor attack on the very existence of the CFPB as an agency.

PHH case could be tied to separate Cordray Challenge | **Bloomberg BNA**
A brief Jan. 5 order by a federal judge means an appellate proceeding involving PHH Corp. and a separate challenge to the Consumer Financial Protection Bureau could be single-tracked in the U.S. Court of Appeals for the District of Columbia Circuit (*State Nat'l Bank v. Lew* , D.D.C., No. 12-cv-01032, 1/5/17).

Nine years later, State Wins Key Verdict over Tribal payday lenders | **Los Angeles Times**

A look back at 2016 and a look ahead at 2017 | **Lexology**
The Financial Services Committee of the House attempted last year to replace Cordray with a bipartisan commission through introduced legislation. Similarly, the incoming administration has echoed a desire to reign in the Bureau. Finally, the D.C. Circuit has weighed in on the constitutionality of the CFPB and its ruling is now being considered en banc by its entire panel of judges. Depending upon the outcome of the D.C. Circuit's en banc review of the PHH decision, the CFPB may become an executive agency vs. an independent agency. The net result may be that the CFPB and its regulations become subject to the regulatory review process of the Office of Management and Budget.

Wells Fargo Customers: Bank's Contract Can't Allow Illegal Activity | **Consumerist**
Even though Wells Fargo has admitted that bank employees opened millions of fraudulent, unauthorized accounts in customers' names, the bank has avoided or delayed class-action lawsuits over this fake account fiasco by citing terms in customer contracts that prevent account-holders from bringing lawsuits against Wells. However, one group of customers is arguing that the bank can't use these contracts to shield itself from being held liable for illegal activity.

Wells Fargo is trying to fix its scandal, one grueling case at a time | **Wall St Journal**
Wells Fargo is attempting a fix-it project with little precedent in the banking world, after being accused by federal regulators of forcing thousands of banking products on its unwitting customers.
First, it must determine how many customers had accounts and other services opened without their knowledge over the past seven years (an early, partial estimate tallied as many as 2.1 million accounts). Then it has to determine how these customers were affected—and how they should be compensated.

DERIVATIVES, COMMODITIES & THE CFTC

Massad's resignation gives Giancarlo path to chair CFTC | **Politico**
Timothy Massad's plan to resign as head of the CFTC on Inauguration Day gives President-elect Donald Trump another early opportunity to begin remaking the financial regulatory landscape.

Massad's move — coming after SEC Chair Mary Jo White also said she plans to step down on Jan. 20, two years before her term is up — paves the way for Republican Commissioner Chris Giancarlo to lead the CFTC, at least temporarily.

CFTC Chair Massad is latest finance regulator to leave l AP

See AFR letter on improving cross-border regulation of derivatives.

ENFORCEMENT

Corzine reaches $5 million settlement with regulators in MF Global case l NY Times

EXECUTIVE COMPENSATION

Wall Street Gets Reprieve as SEC Official Says Bonus Rule 'Dead' l Bloomberg
Wall Street executives can breathe a sigh of relief when cashing their year-end bonus checks after a key regulator at the Securities and Exchange Commission said he's uninterested in passing a rule that would put constraints on incentive pay.

INVESTOR PROTECTION AND THE SEC

Trump to Tap Wall Street Lawyer Jay Clayton to head SEC l Washington Post
As chairman of the SEC, Clayton would help police many of the same large banks he has spent decades representing, including Goldman Sachs and Barclays. He also would play a key role in Trump's efforts to dismantle parts of 2010's financial reform legislation, known as the Dodd-Frank Act. Clayton brings "decades of experience helping companies navigate complex federal regulations" and would "play an important role in unleashing the job-creating power of our economy," according to a statement issued by Trump's transition office announcing Clayton's nomination.

After ripping Wall Street, Trump Picks Insider to lead SEC l Bloomberg
Trump will nominate Sullivan & Cromwell partner Jay Clayton to run the Securities and Exchange Commission, the president-elect's transition team said in a statement Wednesday. Clayton's clients represent a virtual who's who list of industry titans, including hedge funds, private equity firms and Goldman, where his wife has worked for almost two decades.

Left comes out hard against Clayton l Politico
Liberal Democrats led by Senate Banking ranking member Sherrod Brown (D-Ohio) and Sen. Elizabeth Warren (D-Mass.) ripped Donald Trump's pick of Sullivan & Cromwell lawyer Jay Clayton for SEC chair. But the attacks ring a little hollow.

Dodd-frank rules dead at SEC, Piwowar says l Politico
SEC Commissioner Michael Piwowar said today said he is "highly likely" to lead the agency temporarily in the days ahead and vowed that no regulations required by the 2010 Dodd-Frank Act will proceed under his watch.

A new financial rule that aims to protect client interests faces pushback l Marketplace

Whistleblowers to Remain Prominent Fixtures in Securities Regulation I The Hill
The SEC's Dodd-Frank Whistleblower Program provides monetary awards to eligible individuals who provide the agency with information that leads to an SEC enforcement action in which significant financial sanctions are ordered.

As the SEC completes year five of the program, it is obvious that public companies — especially those in the financial services industry— cannot afford to ignore employees who speak up about corporate misdeeds.

SEC awards $5.5 million to whistleblower I U.S. Securities and Exchange Commission

MORTGAGES & HOUSING

Barclays refuses to settle with US DoJ over 'craptacular loans' I The Guardian
The DoJ's legal filing outlines an array of colourful descriptions of the types of mortgages that it alleges were used by Barclays to package up in bonds – known as residential mortgage bond securities – which could be sold on to investors. It accuses Barclays of selling investors RMBS "backed by loans it knew were made to borrowers who were not creditworthy and which were supported by house appraisals it knew were inflated".

United States Sues Barclays bank to recover civil penalties for Fraud in the Sale of Residential mortgage-Backed Securities I DOJ

U.S. Department of Justice files civil suit against Barclays bank I Jurist

Barclay suit shows again what caused the crash I Executive Intelligence Review

Deutsche Bank Eyes Private Equity Help in U.S. Settlement I Bloomberg
Deutsche Bank AG is supposed to give relief to subprime mortgage borrowers as part of a $7.2 billion settlement with the U.S. government. It is considering an unusual approach to meeting that requirement: lending money to private equity firms and hedge funds.

Will OCC's New Charter Go beyond Fintech Firms? I National Mortgage News
The Office of the Comptroller of the Currency's decision to offer a special-purpose charter for fintech firms may entice more players than expected, including mortgage lenders

Seller-Financed Deals Putting People in Lead-Tainted Homes I NY Times
Throughout the country, tens of thousands of rundown homes have been scooped up by investment companies that have offered high-interest financing or rent-to-own deals largely to poor people. Many of these homes were foreclosed on during the housing crisis.

These investors, however, often put no money toward renovation, or for fixing lead paint problems. The low-income buyers and renters are forced to make all repairs. When there are serious problems with the homes, victims can be required to sign confidentiality agreements to keep them quiet in a settlement after they have been compensated, as happened in Ms. Bennett's case.

HUD charges Bank of America with discriminatory lending practices l HUD

RETIREMENT SAVINGS AND DOL FIDUCIARY RULE

President-Elect Trump: What if everything you've been told about the DOL Fiduciary rule is wrong? l Huffington Post (Barbara Roper)
SIFMA, the leading lobbyist for Wall Street, the Chamber of Commerce, the big business community's anti-regulatory attack dog, and the rest of their financial industry cronies have a New Year's resolution: to overturn the Department of Labor rule that requires brokers and insurance agents who provide retirement investment advice to rein in their most harmful conflicts and act in their customers' best interests...

Although the DOL fiduciary rule enjoys strong support among Trump voters, a number of the president-elect's advisers and transition team members have wasted no time in making their opposition known. In doing so, they have repeated the same cynical messages that financial lobbyists deployed when they asked us to believe that they were spending millions to defeat the rule, not to protect their own self-interest, but out of a deep concern over the harmful impact the rule would have on retirement savers.

Wall St Lobbyists and D.C. "Insiders" Wrong on DOL Conflicts of Interest Rule l Huffington Post
Amid rampant speculation over whether the new Administration will try to kill, water down, or delay the implementation of the new rule, some D.C. "insiders" and Wall Street lobbyists have claimed that the new Administration has the authority on January 20th to delay the rule's implementation date to buy time to significantly change or eliminate the rule altogether.

@realDonaldTrump: Support Corporations, U.S. Economic Growth & Jobs - The Fiduciary Rule l Scholarly Financial Planner (Ron Rhoades)

Brokers Once Disdained Independent Advisers. Now They Copy Them l Wall St Journal
Wall Street brokerages are moving to comply with new retirement-advice regulations, boost profit and take back market share

Financial advice is a thicket of conflicts. Wall St Wants it that way l Washington Post (Benjamin P. Edwards)
Twenty years ago, a Securities and Exchange Commission task force on compensation recognized that the stockbroker commission structure creates far too many conflicts of interest. Instead of fixing the problem, Congress and financial self-regulators have simply slapped patch after patch on our increasingly outdated Depression-era regulatory infrastructure.

In the current conflict-rich environment, Wall Street gorges itself on the public's retirement assets. While transaction fees are costs to the public, they're often juicy paydays for financial advisers. A study by the White House Council of Economic Advisers found that Americans pay approximately $17 billion annually in excess fees because of such conflicts of interest. The high fees mean that the typical saver will run out of retirement money five years earlier than he or she would have with better, more disinterested advice.

Congressman Introduces Bill to Delay DOL Fiduciary Rule I ThinkAdvisor

STUDENT LOANS & FOR-PROFIT EDUCATION

For-profit school skirting federal law with GI Bill revenue I Stars and Stripes
An analysis by the U.S. Department of Education released Wednesday found that nearly 200 for-profit schools are skirting federal funding limits by relying heavily on GI Bill tuition funds. The results are reigniting concern from veterans groups and the federal government about targeted recruitment of service members and vets .

Former students fight for stake in ITT Educational Services bankruptcy I Washington Post
Creditors, federal regulators, state attorneys general and jilted employees of ITT Educational Services have laid claim to the remaining assets of one of the nation's largest for-profit college operators in bankruptcy court. Absent from the line of those seeking redress, however, are the thousands of students who say they were defrauded by the chain. That is, until now.

A group of former students at ITT Technical Institutes on Tuesday filed a lawsuit against the parent company to ensure participation in bankruptcy proceedings. The group is asserting claims against the company of consumer protection violations and breach of contract, and asks for class-wide status to cover anyone who attended ITT Tech in the past 10 years. The group is also seeking an injunction to stop the collection of private loans administered by ITT, which ran an in-house lending program that is at the center of two federal lawsuits.

SYSTEMIC RISK

U.S. Banks Gear up to fight Dodd-Frank Act's Volcker Rule I Reuters
Big banks have been making such arguments for years, but the industry's influence waned significantly in Washington after the financial crisis. The Obama administration's regulators and enforcement agencies have been tough on banks, while lawmakers from both parties have seized opportunities to slam Wall Street to score political points.

Banks now see opportunities to unravel reforms under President-Elect Donald Trump's administration and the incoming Republican-led Congress, which appear more business-friendly, lobbyists said. While an outright repeal of the Volcker rule may not be possible, small but meaningful changes tucked into other legislation would still be a big win, they said.

The Fed has given Trump cover to unwind a key Wall Street rule I Business Insider
The prospect of deregulation following the election of Donald Trump — and specifically some kind of softening of the Volcker rule — is being discussed far and wide.
Now it seems the Federal Reserve has provided some cover for Trump's nominees to go soft on the rule.

The Fed released a staff paper on December 22 focused on the Volcker rule, which bans proprietary trading, and its effect on market liquidity.

The Volcker Rule and Other Regulations Carl Icahn Likes I Wall St. Journal
“There is too much regulation on the banks,” he said without offering specifics. He even suggested that he would give bankers a role in rewriting regulations, adding that “the great experts” on bank rules include the chief executives of Bank of America Corp. and J.P. Morgan Chase & Co., two of the largest U.S. banks.

But past comments suggest he won’t be advocating the kind of wholesale regulatory rollback that many Republicans and business executives—or even Mr. Trump himself—would want to see. “In fact, I think you need Dodd-Frank, to some extent, more than even Donald does,” Mr. Icahn said in an interview with Fox News last month.

Mr. Trump’s nominee for Treasury secretary, the investor and former Goldman Sachs Group Inc. banker Steven Mnuchin, has criticized the Volcker rule, a Dodd-Frank provision that bans banks from trading with their own funds.

Mr. Icahn, at a conference in 2015 where he publicly debated BlackRock Inc. Chief Executive Laurence Fink, said he thought the Volcker rule “is very important and it is good.”

Fed’s Powell Urges Congress to Take Another Look at Volcker Rule I Bloomberg

OTHER TOPICS

Banks, Retailers Grid for New Battle over Debit Fees I Politico
One of the nastiest business lobbying fights in recent years is primed to flare up again. At issue is a provision in the 2010 Dodd-Frank law that capped debit card swipe fees. Banks, which want to repeal the regulation after losing revenue, and retailers, which want to preserve their legislative victory, are gearing up for an epic battle that could leave many in Congress running for cover.