AFR in the News

Press coverage from April 2018

[Mick Mulvaney's Wells Fargo Settlement Lets The Bank Decide How Consumers Are Paid Back]() | The Intercept, 4/26/18

The billion-dollar Wells Fargo settlement reached between the bank and the consumer agency now controlled by Trump adviser Mick Mulvaney has been heralded as evidence that the longtime critic of the Consumer Financial Protection Bureau might not burn it to the ground after all. But a closer look at the details of that consent decree reveals that it is set up in such a way that will allow Wells Fargo to set the terms by which defrauded customers can be made whole...

Wells Fargo was accused of charging prospective mortgage borrowers fees for locking in interest rates for a sustained period, when the bank was responsible for the delays. It also automatically placed auto insurance on 2 million of its auto loan customers, when in many cases borrowers already had or did not need the coverage. In about 27,000 cases, the force-placed insurance premiums caused borrowers to default and have their cars repossessed, effectively stolen at the hands of Wells Fargo.
But according to the language in the settlement agreement, in order for homeowners and auto loan customers to receive restitution, they would have to identify an "economic or other cognizable harm" based mainly on a specific violation of federal law, under a standard created and judged by Wells Fargo. CFPB does get to audit the remediation plans, but there's no mechanism for forcing the bank to change those plans outside of going to a court and claiming noncompliance with the settlement...

"The CFPB was created to be a consumer advocate, to defend the interests of ordinary Americans," said Lisa Donner, executive director of **Americans for Financial Reform**, in a statement to The Intercept. "It is completely backwards that Mulvaney has chosen to let Wells Fargo decide who gets their money back and who does not. With a string of scandals that make it clear just how deep and pervasive wrongdoing is at Wells Fargo, there is no good reason for such a weak approach to enforcing the law on this megabank."

[Consumer watchdog becomes alphabet soup of controversy]() | Associated Press, 4/24/18

The Dodd-Frank Act created a "Bureau of Consumer Financial Protection" in 2010. But, except for the occasional court filing, the bureau was consistently referred to as the Consumer Financial Protection Bureau, or CFPB.

Mulvaney took over the bureau as acting director in late November, when Obama appointee Richard Cordray resigned. Since then, the bureau has increasingly referred to itself as the Bureau of Consumer Financial Protection, or by the acronym BCFP.

During testimony last week on Capitol Hill, Mulvaney said, "The Consumer Financial Protection Bureau does not exist."

But swapping "Bureau" from back to front is not a simple word shuffle, said Lisa Donner, executive director for the advocacy group **Americans for Financial Reform**.

"Doing that signals you want to take the emphasis away from serving consumers — which unfortunately is what Mulvaney's been doing in many ways — and put it on 'this is a bureaucracy'," Donner said.

Senate Votes to Ease Restrictions on Auto Lending Discrimination | New York Times, 4/18/18

The Senate voted on Wednesday to overturn an Obama-era rule that restricted automobile lenders from discriminating against minorities by charging them higher fees for car loans, in the latest attempt by Republican lawmakers to roll back financial regulations.

Republican lawmakers, along with one Democrat, Senator Joe Manchin of West Virginia, seized on the Congressional Review Act to overturn guidance issued in 2013 by the Consumer Financial Protection Bureau. The 1996 law gives Congress the power to nullify rules formulated by government agencies but has primarily been used to void recently enacted rules…

Democrats and consumer watchdogs criticized the move and warned that Republicans were making broader use of the Congressional Review Act to advance their deregulatory agenda.

"By voting to roll back the CFPB's work, senators have emboldened banks and finance companies to engage in racial discrimination by charging millions of people of color more for a car loan than is justified," said Rion Dennis of **Americans for Financial Reform…** "Lawmakers have also opened the door to challenging longstanding agency actions that are crucial to protecting workers, consumers, civil rights, the environment and the economy."

If Fed Moves Unlock Billions at Banks, Here's Who Might Win Most | Bloomberg, 4/16/18

How much Wall Street might actually benefit from President Donald Trump's deregulatory agenda is coming into focus.

Last week, federal agencies rolled out plans for overhauling some of the most significant constraints imposed on banks after the 2008 financial crisis: capital requirements that are meant to make lenders better equipped to withstand losses, stress tests that assess firms' ability to survive another economic calamity and restrictions on leverage.

On April 10, the Federal Reserve proposed making the stress tests less stressful, while tying capital demands much more closely to how banks perform in the annual exams. On April 11, the Fed and Office of the Comptroller of the Currency proposed easing limits on how much banks can rely on borrowed money by tweaking the leverage ratio rule, which is meant to prevent lenders from getting dangerously overextended…

The Federal Deposit Insurance Corp., which is still run by a Barack Obama appointee, refused to sign on to the Fed and OCC's leverage proposal. "Strengthening leverage capital requirements for the largest, most systemically important banks in the United States was among the most important post-crisis reforms," FDIC chief Martin Gruenberg said in a statement. This proposal, he said, dials back a limit that "served well" to curb excessive leverage.

Marcus Stanley, policy director at **Americans for Financial Reform** in Washington, accused the Fed and OCC of "caving in to the agenda of too-big-to-fail banks" to make changes he called "irresponsible."

During tenure working for banks, Tim Pawlenty thrilled Wall Street, angered consumer advocates | Minneapolis Star-Tribune, 4/14/18

Between his last stint as governor and his new bid to reclaim the job, Tim Pawlenty landed a lucrative gig in Washington as a key spokesman for the nation's largest banks at a time when the country was slowly climbing back from the Great Recession.

In 2012, when Pawlenty took the job of CEO for a Wall Street trade association called the Financial Services Roundtable, more than a quarter of all American homeowners were still "underwater," meaning they owed more on their home than it was worth. Millions more had already lost jobs and homes in the four years since the financial panic of 2008, which economists and government investigators blamed on reckless mortgage lending and Wall Street's unsound trading practices.

Pawlenty earned more than $10 million in a little over five years in the job, which he left in March. Now, the Republican faces scrutiny of his tenure at Financial Services Roundtable (FSR), which fought aggressively against financial regulations that the industry deems too burdensome. Pawlenty's opponents in both parties are already making political fodder of his time in the job.

"[Pawlenty's] lobbying will be yet another thing he'll be on the defensive about in this race, and it's clear Republicans have a much better chance without all that baggage," said Jeff Johnson, Hennepin County commissioner and Pawlenty's chief competitor for the GOP nomination.

Wall Street's progressive critics, who battled Pawlenty in Washington for years, are eager to discuss issues like the safety of the nation's financial system; lax privacy laws that led to fiascos like the Equifax breach of the personal information of millions of Americans; and Wall Street's efforts to prevent customers from suing them.

"Across party and regional lines, most people think Wall Street has too much influence in Washington. And they think that because it does," said Lisa Donner, executive director of **Americans for Financial Reform**, a consortium of labor unions, consumer groups, liberal think tanks and organizations like AARP.

In a recent interview on the public television program "Almanac," Pawlenty explained his work: "The plumbing of the economy for every person, every day, and for every business every day, is the financial services system. And if it doesn't work, things come to a halt, so you bet it touches every Minnesotan every day, and those are things that need to work."

The financial services system is currently working for the banks. According to the Federal Deposit Insurance Corporation, the nation's banks made nearly $165 billion in profit last year.

Fed proposes cuts to capital requirements for largest banks | Financial Times, 4/11/18

The more relaxed regime would benefit all eight US banks branded as systemically important, but it would do most for the custody banks State Street, BNY Mellon and Northern Trust.

On Wednesday the Fed and another bank regulator, the Office of the Comptroller of the Currency, announced a plan to revise a metric known as the enhanced supplementary leverage ratio, which has long been a source of discontent at big banks.

The Fed said: "The proposed changes seek to retain a meaningful calibration of the enhanced supplementary leverage ratio standards while not discouraging firms from participating in low-risk activities."

The central bank, which is now led by appointees of Donald Trump, announced the proposal with no fanfare.

But Marcus Stanley, policy director at **Americans for Financial Reform**, which wants tougher regulation of Wall Street, said: "This rule would be easily the most significant rollback of post-crisis risk controls for the largest banks since Trump took office."

The central bank said the changes would reduce the aggregate amount of tier one capital required by the US's eight systemically important banks by a net $400m, or approximately 0.04 per cent, at the level of their holding companies.

But that figure was described as "wildly misleading" by Mr Stanley. He said $400m was the amount of capital the banks could immediately return to their shareholders if the proposal were finalised today.

"But this rule could lower capital requirements by many tens or even hundreds of billions in capital if the banks change their balance sheets to load up on assets that regulators assign a low risk weight — such as AAA-rated mortgage-backed securities before the crisis, or Greek debt today," Mr Stanley said…

The Fed did not release estimates of how the proposal would reduce the capital requirements of individual banks.

Mr Stanley said: "During the 2008 crisis leverage capital was by far the best protection against bank failure . . . This action is short-sighted and irresponsible and shows that regulators are caving in to the agenda of too big to fail banks."

Big Banks Find a Back Door to Finance Subprime Loans | Wall Street Journal, 4/10/18

These days, Wells Fargo and Citigroup are unlikely to make a $14,000 auto loan to a borrower with a subprime credit score. That is now the domain of direct lenders such as Exeter Finance LLC, based in Irving, Texas.

But where does Exeter get the money to make subprime auto loans? From Wells Fargo and Citigroup. They have helped lend Exeter $1.4 billion for that very purpose.

Bank loans to Exeter and other nonbank financial firms have increased sixfold between 2010 and 2017 to a record high of nearly $345 billion, according to a Wall Street Journal analysis of regulatory filings. They are now one of the largest categories of bank loans to companies.

Banks say their new approach of lending to the nonbank lenders is safer than dealing directly with consumers with bad credit and companies with shaky balance sheets. Yet the relationships mean that banks are still deeply intertwined with the riskier loans they say they swore off after the financial crisis.

Loans to nonbank lenders got several banks into trouble during the crisis. Montgomery, Ala.-based Colonial Bank, for instance, became one of the largest bank failures of the era after a nonbank mortgage lender misappropriated more than $1.4 billion from its credit facility with the bank, according to the Justice Department.

During the housing boom, banks thought they had unloaded the risk of subprime mortgages to other institutions through collateralized debt obligations or vehicles known as conduits. Yet in the stress of the crisis, they found the risk landed back with them.

“It’s very easy for people to deceive themselves over whether risk has migrated,” said Marcus Stanley, policy director at **Americans for Financial Reform**, a nonprofit organization that advocates for tougher financial regulation.

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