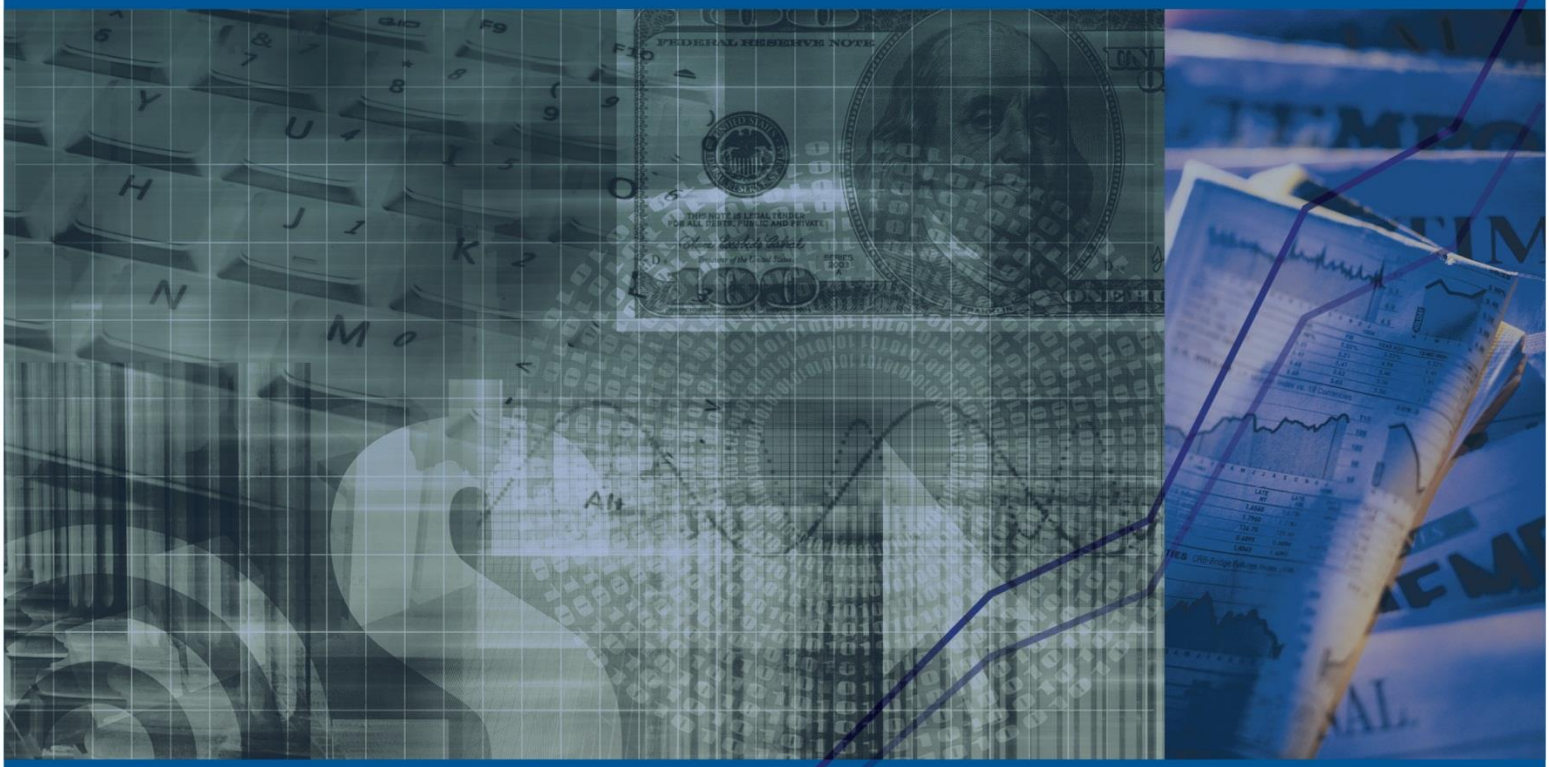

BRUNSWICK GROUP

# U.S. FINANCIAL INDUSTRY REGULATION NEWSLETTER

February 9, 2018

BRUNSWICK

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# THE TOP LINE

**Fed of the Future?**

Jay Powell had his first official day in the chair on Monday, and was met with bouts of volatility in the stock market that have continued through the week. While volatility remained low over the first year of Donald Trump's presidency, the current downturn is a reminder that U.S. policy since the financial crisis has been to strengthen the economy to withstand such cycles. While it is easy to get excited by a 1,000 dip in the Dow, institutional stability is the key to maintaining financial stability in our economic system. Fed officials last week toughened stress test scenarios against far greater shocks than what we're seeing in the markets, so it isn't time to panic just yet, or to bet against another rate hike from the Fed in March.

Continued rate hikes from the Fed could halt economic growth, though, putting Powell at odds with a President who has taken pride in the state of the economy. And Janet Yellen didn't hand over the chair quietly, with the Fed announcing an unprecedented growth ban on Wells Fargo last week. What remains to be seen is whether the sanction against the scandal-ridden bank is merely a feather in Yellen's cap, or if it is a reflection of how the Fed plans to operate going forward.

But first, the markets will test the new Fed chair, who seeks to continue a trend of low and contained inflation. Powell made his goal clear in the early minutes of his tenure (before volatility set in), saying, "Our financial system is now far stronger and more resilient than it was before the financial crisis that began about a decade ago. We intend to keep it that way."

**Seating Trump's Party**

Elsewhere, Trump nominees are moving to take their seats at agencies, though plenty of regulatory positions have yet to get a nominee from the administration. In a positive sign for the deregulatory agenda, Trump nominees finally gained the majority at FSOC, with Mick Mulvaney replacing Richard Cordray, and the council dropped an appeal that sought to maintain MetLIfe's SIFI designation.

With Mulvaney at the helm of the CFPB, the agency has made a series of moves to ease oversight on high-interest lenders. Mulvaney has said that the agency will not go beyond its statutory mandate and that it will review its payday rule. The consumer-finance regulator dropped a four-year investigation into World Acceptance Corp. and a lawsuit against a group of payday lenders.

Also in the year so far, the Senate Banking Committee voted 24-1 to advance FDIC chair nominee Jelena McWilliams to a full vote before Congress where she is expected to win confirmation. McWilliams hasn't committed to a plan of action for the FDIC, but has said that reducing regulations on community banks is a top goal.

The Senate Banking Committee also advanced Marvin Goodfriend, nominated to a Fed board seat, though he did not attract any Democratic support and faces shaky odds in a Senate vote after Rand Paul announced his opposition to the nomination. Goodfriend, if confirmed, would fill one of four open seats on the Fed board. The other three spots, including one as vice chair, remain without nominees.

# SUMMARY OF U.S. NEWS AND TRENDS

- **On February 6, two top financial regulators said that Congress may need to grant them new powers in they are to protect consumers from fraud on cryptocurrency exchanges.** The SEC and CFTC have broad authority over stock markets and investment product, but those powers don't extend over currency markets.

- **On January 30, the House approved The Senior Safe Act, which provides liability protection for financial professionals who report cases of suspected elder abuse to regulators or other authorities.**

- **On January 30, a legislative effort to relax postcrisis money-fund rules hit a snag that makes it unlikely to move to the House floor without changes.** The legislation, which aims to kill an SEC rule that forced certain money-fund shares to fluctuate in value, passed the House Financial Service Committee this month.

## Federal Reserve

- **On February 8, Marvin Goodfriend's nomination to the Fed board passed the Senate Banking Committee on party lines.** Goodfriend, a Trump nominee, might not have enough support to win confirmation in the Senate after Senator Rand Paul said he would vote against the nomination.

- **On February 4, the Fed banned Wells Fargo from growing until it can convince authorities that it's addressing shortcomings.** The move caps Wells Fargo's total assets, which could cost the bank $400 million in profit this year and handicap it in the long-term.

- **On January 23, the Senate voted 84-13 to confirm Jerome Powell as the next chairman of the Federal Reserve.** Powell, who was appointed to the Fed board in 2012 by Barack Obama, was granted a four-year term with the vote.

## Consumer Financial Protection Bureau

- **On January 31, the constitutionality of the CFPB was held up in a D.C. Circuit Court of Appeals, though the diverse opinions from the circuit open the agency to constitutional review.**

## Commodity Futures Trading Commission (CFTC)

- **On February 1, the CFTC fined Deutsche Bank $70 million to punish attempted manipulation of interest-rate benchmarks.** The agency recognized Deutsche Bank's cooperation in the investigation.

- **On January 29, the CFTC announced civil settlements with Deutsche Bank, UBS and HSBC related to commodities fraud and spoofing.** The banks are set to pay $30 million, $15 million and $1.6 million, respectively.

## Federal Deposit Insurance Corporation (FDIC)

- **On February 8, the Senate Banking Committee approved Jelena McWilliams to serve as the next chair of the FDIC.** McWilliams was nominated to the position by President Trump in December.

- **On January 23, McWilliams vowed to review the regulators informal moratorium on issuing ILC licenses for non-bank deposit taking.** The removal of an obstacle to the program would pave the way for fintech firms to enter the banking sector.

## Financial Stability Oversight Council (FSOC)

- **On January 18, FSOC dropped its appeal of a ruling that rescinded MetLife's SIFI designation.** The decision comes after Trump appointees gained a majority on the council with Mick Mulvaney replacing Richard Cordray.

## Enforcement Actions

- **On January 29, Federal prosecutors announced charges against eight traders for deceptive trading practices in the futures markets.** The charges against the traders primarily reference activity before 2015, when both firms and regulators lacked sufficient controls to monitor for spoofing activity, as trading migrated from open pits to electronic platforms.

- **On January 18, HSBC agreed to pay $101.5 million to resolve fraud charges related to front-running practices at the bank.** HSBC admitted to using confidential information in two instances for its own profit as part of the agreement, which must be approved by a judge.

- **On January 26, BNP Paribas agreed to plead guilty to rigging foreign currency prices and pay a $90 million criminal fine.** The bank will not be put on probation, given its efforts to improve oversight.

# U.S. EVENTS

*CONGRESSIONAL HEARINGS*

**SENATE BUDGET COMMITTEE HEARING ON THE WHITE HOUSE BUDGET**

The Senate Budget Committee holds a hearing on President Donald Trump's budget request for fiscal 2019. OMB Director Mick Mulvaney will testify.
Tuesday, February 13, 2018, 10:00 AM
Washington, DC

**HOUSE FINANCIAL SERVICES SUBCOMMITTEE HEARING ON DATA SECURITY AND BREACH NOTIFICATION**

The House Financial Services Financial Institutions and Consumer Credit Subcommittee holds a hearing on "Examining the Current Data Security And Breach Notification Regulatory Regime."
Wednesday, February 14, 2018, 10:00 AM
Washington, DC

**HOUSE BUDGET COMMITTEE HEARING ON THE WHITE HOUSE BUDGET**

The House Budget Committee holds a hearing on President Donald Trump's budget request for fiscal 2019, featuring OMB Director Mick Mulvaney.
Wednesday, February 14, 2018, 10:00 AM
Washington, DC

**SENATE FINANCE COMMITTEE HEARING ON THE 2019 TREASURY BUDGET REQUEST AND TAX REFORM IMPLEMENTATION**

The Senate Finance Committee will hold a hearing on the Trump administration's fiscal 2019 budget request for the Treasury Department and include discussion of the tax reform law's implementation.
Wednesday, February 14, 2018, 10:30 AM
Washington, DC

**HOUSE FINANCIAL SERVICES COMMITTEE HEARING ON DERIVATIVES**

The Capital Markets, Securities and Investments Subcommittee holds a hearing: "Legislative Proposals Regarding Derivatives."
Wednesday, February 14, 2018, 2:30 PM
Washington, DC

**SENATE FINANCE COMMITTEE HEARING ON THE 2019 IRS BUDGET REQUEST**

The Senate Finance Committee will hold a hearing on the president's budget request for the IRS and its implementation efforts.
Wednesday, February 14, 2018, 2:30 PM
Washington, DC

**SENATE AGRICULTURE COMMITTEE HEARING ON CFTC OVERSIGHT**

The Senate Agriculture Committee holds a hearing on CFTC oversight, featuring CFTC Chairman Christopher Giancarlo.
Thursday, February 15, 2018, 9:30 AM
Washington, DC

*GENERAL EVENTS, PRESS CONFERENCES AND SPEECHES*

**CFTC TECHNICAL ADVISORY COMMITTEE MEETING**

The Commodity Futures Trading Commission's Technical Advisory Committee holds a public meeting to discuss the committee's efforts in 2018. Live webcast available here.
Wednesday, February 14, 2018, 10:00 AM
Washington, DC

# U.S. LEGISLATION TRACKER

| BILL | TITLE / SUMMARY | SPONSOR | LAST ACTION / NEXT STEPS |
|---|---|---|---|

# MEDIA COVERAGE (January 18, 2018 – February 9, 2018)

1. **The Wall Street Journal:** Wells Fargo's Political Penalty; Janet Yellen offers a Fed parting gift to Elizabeth Warren.
2. **The Washington Post:** U.S. regulators say they don't have enough power over cryptocurrency exchanges; The SEC and CFTC lack the authority to protect investors from cryptocurrency trading fraud, officials say.
3. **Reuters:** CFPB scores too low on Equifax transparency
4. **Bloomberg:** Fed's Wells Fargo Punishment Sets Precedent for Harsher Era
5. **The Wall Street Journal:** Deutsche Bank Fined for Attempting to Manipulate Interest-Rate Benchmarks; CFTC imposes $70 million penalty, the latest in a series of actions against major banks
6. **The Wall Street Journal:** A Case Ripe for the Supreme Court; The D.C. Circuit tees up the CFPB for constitutional review.
7. **The New York Times:** Kodak's Dubious Cryptocurrency Gamble; The Shift
8. **Bloomberg:** Signaling Crackdown, SEC Boss Emerges as Crypto Skeptic-in-Chief
9. **InvestmentNews:** House approves legislation to help advisers combat senior exploitation
10. **The Wall Street Journal:** House Money-Fund Bill Hits a Snag; Legislation is unlikely to move to floor without changes, Republican aides say
11. **The Wall Street Journal:** Justice Department Charges Eight Traders With Deceptive Futures Market Trading; The Commodity Futures Trading Commission announced related civil charges against three banks and six individuals
12. **Reuters:** U.S. CFTC to fine UBS, Deutsche Bank, HSBC for spoofing, manipulation: sources
13. **Reuters:** BNP Paribas unit pleads guilty in U.S. to currency rigging, fined $90 mln
14. **The Washington Post:** As Congress prepares to loosen bank regulations, it still refuses to address the cause of the two worst financial meltdowns in history
15. **Bloomberg:** Volcker Rule Rollback Gains Steam With Help From a Top Bank Ally
16. **The Wall Street Journal:** A Rogue Treasury Department Turns Toward the 1930s; The president shouldn't allow an Obama appointee to guide housing finance policy toward disaster.
17. **The New York Times:** Mick Mulvaney Calls for 'Humility' from Consumer Financial Protection Bureau
18. **The Washington Post:** Senate confirms Powell for Fed chair, handing Trump's pick enormous influence over the economy ; Jerome H. Powell just got a 4-year term as one of the most powerful stewards of the global economy.
19. **The Wall Street Journal:** Court Drops Government's Appeal of MetLife Case; Panel of judges signs off on Trump administration's decision last week to end appeal
20. **Bloomberg:** Trump's FDIC Pick Plays It Safe on Fight Over Big Bank Leverage
21. **Reuters:** Trump's pick to head FDIC vows to address non-bank licenses 'hold-up'
22. **The Washington Post:** Why Democrats need to stand with working Americans vs. big banks
23. **The Wall Street Journal:** AIG Returns to Expansion Mode
24. **The Wall Street Journal:** The MetLife Saga's Mostly Happy Ending; The government drops its appeal but with an odd and unhelpful demand.
25. **The Wall Street Journal:** HSBC to Pay $101.5 Million to Resolve Federal Fraud Charges; Bank admits to misusing confidential client information for its own profit, a practice known as front-running

**Wells Fargo's Political Penalty; Janet Yellen offers a Fed parting gift to Elizabeth Warren.**
By The Editorial Board
6 February 2018
The Wall Street Journal

The Dodd-Frank Act gave financial regulators more power and discretion, which some have used as a license to do whatever they want. The latest example is the Federal Reserve's arbitrary and seemingly political punishment of Wells Fargo for retail banking blunders.

Janet Yellen on her way out as Federal Reserve Chair on Friday imposed a sweeping consent order on Wells to punish "recent and widespread consumer abuses and other compliance breakdowns." To wit, its creation of as many as 3.5 million unauthorized consumer accounts and enrollment of 570,000 auto-loan customers in insurance they didn't want. The Fed is prohibiting the nation's third largest bank from growing its balance sheet until it "makes sufficient improvements" in risk management and compliance. Translation: Wells Fargo's board of directors must do whatever the Fed orders.

This new penalty comes after the bank made substantial reforms following settlements with the Consumer Financial Protection Bureau (CFPB) and Office of the Comptroller of the Currency (OCC) for creating the unauthorized accounts, which resulted from aggressive sales goals and misguided compensation incentives. The bank exploited unknowing customers, but they suffered a total of only $6.1 million in harm—an average of $1.75 per account. Wells compensated for those losses and paid $185 million in regulatory fines and $142 million to settle a class action.

Wells also fired executives and some 5,300 bankers. CEO John Stumpf resigned, and board chairman Stephen Sanger retired. The board last year clawed back $69 million in compensation from Mr. Stumpf and $67 million from Carrie Tolstedt, the deposed head of community banking. Wells itself discovered the auto-loan overcharges and notified regulators. And it promised to reimburse customers and removed culpable staff.

Notably, the CFPB and OCC missed—or failed to halt—Wells's blunders, which took place over several years during the Dodd-Frank era. Isn't rooting out such abuses what Senator Elizabeth Warren designed the CFPB to do? The Los Angeles Times revealed the unauthorized accounts in 2013. An internal OCC review last spring reported that its regulators had received 700 complaints by Wells employees related "to gaming of incentive plans" but failed to act until the story went public.

The Fed blames the bank's mistakes on corporate governance failures, which is a catchall. But it also acknowledges that Wells has "taken steps to review its corporate governance and risk management" and laudably identified errors to regulators. About half of its board has turned over in the past two years, and Wells plans to replace four more members this year.

All of which raises the question of why this double jeopardy now? One reason may be political pressure from the likes of Ms. Warren, who has been demanding heads at Wells. Ms. Yellen wrote to Ms. Warren on Friday crowing that the consent order is "unique and more stringent" than any that has been imposed for "similar unsafe and unsound practices." Ms. Warren was delighted.

The new growth restraint has no relation to Wells's transgressions and will hurt the bank's lending as the economy gains speed. Wells says its balance sheet provides flexibility to minimize the impact on customers, but it could also breed distortions within the bank's asset management as bankers look for ways to make up lost earnings. Wells estimates the penalty will reduce earnings by $300 million to $400 million this year, which may not sound like much on $22.2 billion in profits for 2017.

But its arbitrary nature should cause shivers in bank boardrooms everywhere, which may have been Ms. Yellen's main point. The Fed hasn't provided a legal justification for its order, which requires Wells to waive "any issuance of a notice of charges"; judicial review; and the ability to "challenge or contest, in any manner, the basis, issuance, validity, terms, effectiveness, or enforceability."

The irony is that Wells didn't need the 2008 bank bailout because of its conservative asset management. Its decentralized decision-making, which regulators now claim contributed to the errors, was at the time considered a strength because risk was spread across business units.

Former CFPB director Richard Cordray abused his power time and again. The Financial Stability Oversight Council ignored its own guidance and tagged MetLife too-big-to-fail. President Trump promised to end lawless government, so we hope his appointed Fed Chair Jerome Powell will show more respect for due process than Ms. Yellen has.

**U.S. regulators say they don't have enough power over cryptocurrency exchanges; The SEC and CFTC lack the authority to protect investors from cryptocurrency trading fraud, officials say.**
By Brian Fung
6 February 2018
The Washington Post

Two of the nation's top financial regulators said Tuesday that Congress may need to grant them new powers if they are to protect consumers from fraud on cryptocurrency exchanges, the digital trading platforms where investors swap dollars for bitcoin or other virtual currencies.

Asked by federal lawmakers Tuesday whether they had enough authority to shield cryptocurrency investors from scams, market manipulation and abuse, top officials from the Securities and Exchange Commission and the Commodity Futures Trading Commission said that the agencies were still consulting with other U.S. officials but that they may need more legislative authority.

"When you have an unregulated exchange, the ability to manipulate prices goes up significantly," said SEC Chairman Jay Clayton. "Just a few coordinated sales can change the price."

The SEC and the CFTC have broad jurisdiction over stock markets and investment products. But that authority does not extend to currency markets, officials said Tuesday, meaning regulators cannot impose the same rules on cryptocurrency exchanges that apply to, say, the New York Stock Exchange.

For example, the SEC requires stock exchanges to adhere to cybersecurity regulations. By contrast, said CFTC Chairman J. Christopher Giancarlo, regulators lack the authority to demand the same of cryptocurrency exchanges, which have fallen victim to multiple devastating hacks and thefts in recent

years. Japan said this week that it was launching a probe of all cryptocurrency exchanges after $530 million worth of virtual currency was stolen from a major exchange, Coincheck.

"We may be back with our friends from Treasury and the Fed to ask for additional legislation," Giancarlo said Tuesday in testimony before the Senate Banking Committee. He added that the federal government is still studying how cryptocurrencies differ from traditional investments — in some cases appearing to function as a security like stocks, while at other times as a commodity like gold, and at still other times as a conventional currency like the dollar.

The two chairmen, along with a number of lawmakers, acknowledged the potential benefits of cryptocurrency and cautioned against regulating the technology too harshly. Giancarlo even suggested that cryptocurrency's underlying technology, blockchain, could have helped avert the 2008 financial crisis by giving regulators the ability "to do real close market surveillance," in real time, of problematic transactions between lenders and borrowers. As the hearing wore on, the price of bitcoin briefly rose past $7,300, and cryptocurrency enthusiasts on Reddit — a popular venue for discussions about the technology — celebrated the remarks.

"Super bullish news," wrote user jayjayzian. "I'm actually really surprised."

Other securities regulators have said they have witnessed an explosion in scams and solicitations targeting rookie cryptocurrency investors as demand for bitcoin has surged. And many investors have been eager to invest in "initial coin offerings," or ICOs, which have come under increased scrutiny in recent months as their popularity has skyrocketed.

When done properly, ICOs can give entrepreneurs the funding they need to launch a successful cryptocurrency project. They also give investors the chance to buy a new token or coin at a bargain price before — hopefully — the experiment takes off. But while there may be many examples of legitimate ICOs, Clayton said, there are also many that seek to skirt regulations by misrepresenting themselves as something other than a security.

"If you're giving people money in exchange for future development of a business in hope of a return," Clayton told lawmakers, "it's a security."

In December, the SEC moved to block an ICO that had promised investors profits of more than 1,350 percent in a month. The ICO had allegedly raised more than $15 million from thousands of people since August.

Clayton said that because it views ICOs as a traditional securities offering, his agency has clear authority to take action against ICOs that violate securities law. But protecting investors on cryptocurrency exchanges remains a very different matter.

"The SEC doesn't have jurisdiction over pure cryptocurrencies — but we have to watch it because they're integrated with the markets we do oversee," he said.

**CFPB scores too low on Equifax transparency**

By Christopher Beddor
5 February 2018
Reuters

The U.S. Consumer Financial Protection Bureau is scoring too low on transparency. The watchdog is dialing back its probe of the $15 billion Equifax's massive data breach last year. Mick Mulvaney, Donald Trump's CFPB head, says the regulator has "pushed the envelope" too far in the past. Perhaps – but if protecting vital data of the kind hacked at the U.S. credit-scoring firm isn't its remit, he needs to explain what is.

The CFPB owes its existence to Democratic Senator Elizabeth Warren, who helped create it as part of the 2010 Dodd-Frank financial reforms. The agency was a political football from the start. The new boss put in a quarterly funding request for zero dollars. His predecessor, Richard Cordray, had asked for $217.1 million the quarter before. Democrats have charged that Mulvaney is effectively dismantling the agency – and the Equifax news plays into their fear.

The news comes after the CFPB said last month it would reconsider a new rule to restrict payday lenders and curb high-interest loans. Mulvaney told staff in a memo last month that he would balance consumer-protection efforts against the potential cost to financial institutions. He also said he wants to better align the CFPB's priorities with what is bothering consumers, suggesting they are more concerned about debt-collection practices, for instance, than payday lending.

Even some Democrats say Cordray may have pursued the agency's mandate too aggressively. Financial institutions were especially peeved by so-called "enforcement by regulation." They say the CFPB used investigations and prosecutions, rather than rulemaking, to curb perceived bad behavior.

Mulvaney plans to use his discretion differently. He has the authority to investigate episodes like the cyber attack on Equifax, which potentially exposed confidential information on 143 million Americans. Equally, he can choose not to – and the company is in any case under broader scrutiny. The Federal Trade Commission is conducting an investigation, and state attorneys general may now pick up some of the slack.

Even so, it means Mulvaney is letting go something that seems squarely within his remit. Given he believes in clear rules, he would do well to state in more concrete terms the agency's priorities – and, by implication, which areas will be left to other regulators and enforcers. A bit more openness could do wonders for the CFPB's own credit score.

**Fed's Wells Fargo Punishment Sets Precedent for Harsher Era**
By Laura J. Keller and Shahien Nasiripour
4 February 2018
Bloomberg

The Federal Reserve just devised a harsh new punishment after Wells Fargo & Co. landed in scandal after scandal -- one that may haunt every big bank.

The San Francisco-based lender had its rating cut by three analysts and fell by the most in more than two years on Monday after the Fed banned the bank from growing until it convinces authorities it's addressing shortcomings. The cap on total assets could cost it $400 million in profit this year and handicap it long-term by giving its largest competitors an advantage in pursuing new business.

Even as the Trump administration signals a loosening of regulations across industries including Wall Street, the Fed's move sets a unnerving tone for an industry where public scorn seems to shift every few years to another colossal U.S. firm.

"The harsh Fed consent order is rare and a strong sign of regulators' frustration about the very wide swath of areas where Wells has had issues," JPMorgan Chase & Co. analysts led by Vivek Juneja said Monday in a note to investors. The analysts downgraded their rating on the stock to underweight.

Shares of the company tumbled 8.3 percent to $58.77 at 9:34 a.m. in New York trading, after dropping to as low as $58.05. The stock posted the biggest drop in the 24-company KBW Bank Index, which dipped 1.4 percent as every lender's shares fell in a broad market decline.

Wells Fargo is moving to rectify the regulators' concerns, said spokesman Oscar Suris.

"As Friday's consent order acknowledges, Wells Fargo has made progress in enhancing its board governance and compliance and risk management, and that work continues through the consent-order process and ongoing actions such as recent key outside hires and additions to the board," Suris said Sunday in an emailed statement. "The company is confident that under Chair Betsy Duke and CEO Tim Sloan we will move swiftly to address the issues."

Major U.S. banks have bounced back from past crackdowns.

In 2013, JPMorgan Chase & Co. agreed to more than $23 billion in legal and regulatory settlements as the bank sought to resolve probes in areas including energy trading, oversight of services to Ponzi-scheme operator Bernard Madoff and mortgage-linked dealings by the bank and firms it acquired. The next year its assets grew by $157 billion.

In late 2011, mounting fines and liabilities over Bank of America Corp.'s role in the housing collapse pushed its stock price below $5. Still, the bank was able to add more than $80 billion in assets the following year.

Ratcheting Up

The Wells Fargo sanction -- called unprecedented by Fed officials -- arguably marks an apex for central-bank enforcement actions that have been ratcheting up in recent years.

The Fed has at times put a bank's growth in check, such as in 2005 when it told Citigroup Inc. that it was expected to not undertake "significant expansion" until it addressed the issues that gave rise to numerous compliance failures. But before the 2008 financial crisis, the Fed wasn't known for punishing lenders.

During former Chair Janet Yellen's tenure it changed course, routinely banning bankers from the industry who had been accused of misconduct and joining other regulators in imposing billions of dollars in fines on Wall Street firms.

What's unclear is whether Wells Fargo's sanction reflects how the Fed will do business going forward, or if it's the capstone of a more aggressive enforcement posture that could now start receding.

Trump's Tone

President Donald Trump, who has repeatedly said he wants to loosen constraints on the financial industry, is increasingly putting his stamp on the central bank. His pick, Jay Powell, succeeds Yellen. Former Carlyle Group LP executive Randal Quarles is now responsible for the Fed's oversight of large banks, and last month the Trump appointee laid out his road map for easing aspects of the Dodd-Frank Act and other rules.

Quarles said his plans include altering regulations that have forced lenders to hold bigger capital cushions, revising Volcker Rule trading restrictions and making annual stress tests that examine whether firms can endure another economic meltdown less burdensome. Quarles, who became the Fed's vice chair of supervision in October, had no involvement with the Wells Fargo case because family ties have prompted him to recuse himself from all matters tied to the lender.

'Willing' Regulators

Representative Maxine Waters of California, the top Democrat on the House Financial Services Committee, said the Fed's action shows that regulators must be vigilant across the industry.

"We need more regulators to be willing to use all of the regulatory tools at their disposal to deal with bad actors like Wells Fargo," she said.

The Fed's move presents an opportunity for other banking giants, according to Betsy Graseck, an analyst at Morgan Stanley. Wells Fargo is coming off a year when its loans fell for the first time since 2010 as the bank grappled with fallout from the scandals and pulled back in auto lending. Any reliance on the consumer business for growth would come as the bank is shrinking its branch network.

'Back Foot'

"I would think every competitor is looking at this saying, 'OK, Wells is going to be on the back foot for the full year so let's go after market share," Graseck said Friday as analysts grilled Sloan on Wells Fargo's conference call.

A "very small number" of Wells Fargo's existing customers will be affected by the bank's need to dial back some activities, Sloan said on the call. Among them will be other banks that have parked some of their money at Wells Fargo, said Chief Financial Officer John Shrewsberry. Ditching those high-cost deposits could end up boosting Wells Fargo's net interest margin, Shrewsberry said.

Sloan, the bank's chief executive since October 2016, isn't in imminent danger, said Charles Peabody, an analyst at Compass Point Research & Trading.

"Sloan can stay as long as there is no additional scandal," Peabody said. "You've got to have the shareholders on board to change management. I don't sense you have it there yet."

Still, in a Sunday note, Jefferies analyst Ken Usdin summed up concerns about the potential for more sanctions or nervous investors dumping shares by asking whether the Fed's action was the "end of the beginning or beginning of the end."

**Deutsche Bank Fined for Attempting to Manipulate Interest-Rate Benchmarks; CFTC imposes $70 million penalty, the latest in a series of actions against major banks**
By Gabriel T. Rubin
1 February 2018
The Wall Street Journal

The Commodity Futures Trading Commission fined Deutsche Bank Securities Inc. $70 million as regulators continue to punish attempted manipulation of interest-rate benchmarks.

Deutsche Bank "made false reports and through the acts of multiple traders" deliberately and repeatedly attempted to manipulate common global interest-rate products between 2007 and 2012, according to the CFTC's order.

"We have cooperated extensively with the CFTC's investigation and have undertaken significant efforts to remediate benchmark-related activities," a Deutsche Bank spokesman said.

The CFTC recognized Deutsche Bank's cooperation in the investigation.

The large fine against Deutsche Bank joins a series of penalties against other major multinational banks for alleged interest-rate manipulation in recent years. The CFTC has imposed more than $5.3 billion in penalties in 20 actions against banks and brokers to address the rigging of benchmarks such as Libor and ISDAFIX.

"This action reflects the CFTC's continued and vigilant commitment to protect those who rely on the integrity of critical financial benchmarks," said James McDonald, the CFTC's director of enforcement.

Barclays PLC, Citigroup Inc., Goldman Sachs Group Inc. and Royal Bank of Scotland Group PLC have settled similar cases with the CFTC for larger amounts of money.

**A Case Ripe for the Supreme Court; The D.C. Circuit tees up the CFPB for constitutional review.**
By The Editorial Board
31 January 2018
The Wall Street Journal

The D.C. Circuit Court of Appeals on Wednesday repudiated the Consumer Financial Protection Bureau's lawlessness while upholding its constitutionality. But the diverse opinions from the circuit offer the Supreme Court an opening to issue a landmark ruling on how the bureau violates the Constitution's separation of powers.

PHH Corp. v. CFPB stemmed at root from the bureau's absolute lack of accountability. Former Director Richard Cordray overruled an agency administrative law judge and broadly reinterpreted the Real Estate Settlement Procedures Act of 1974 to fine PHH $109 million. Mr. Cordray also claimed the law's three-year statute of limitations didn't apply to him.

PHH challenged the fine's legality and the CFPB's constitutionality as an independent agency led by a single director who can't be removed by the President except "for cause"—that is, "inefficiency, neglect of duty, or malfeasance in office." Yet Article II of the Constitution holds that "the executive Power shall be vested in a President of the United States of America."

A unanimous three-judge panel of the D.C. Circuit ruled in PHH's favor in 2016 and two said the President's inability to fire the director for policy disagreements is unconstitutional. The full circuit agreed on the statutory question, but a 6-3 majority held that the bureau's structure is constitutional.

The majority bobs and weaves through Supreme Court precedents like a gardener dodging thorny bushes to find the CFPB constitutional. "The dissenters seek to cast aspersions on Humphrey's Executor, painting it as an outlier in the Court's separation-of powers," the majority writes of one precedent. "Perhaps all that need be said in response is that the case binds us, as an inferior court."

You almost have to admire the faux judicial modesty. As Judge Karen Henderson points out in her excellent dissent, Humphrey's Executor (1935) differs notably from PHH. That case concerned limits on a President's ability to remove Federal Trade Commission members, but the FTC is a bipartisan five-member commission subject to Congressional appropriations.

The CFPB obtains its funding on demand from the Federal Reserve. As Judge Henderson notes, its sole director whose five-year tenure outlasts the President needn't "bother with the give and take required of a bipartisan multimember body." Even the White House budget office lacks "any jurisdiction or oversight over the affairs or operations of the Bureau." In Myers v. U.S. (1926) the Supreme Court said the President must have "unrestricted power" to remove executive officers to faithfully execute the law.

The CFPB gives one person limitless power to supervise nearly a quarter of the U.S. economy—or more since Mr. Cordray stretched his authority beyond the bounds of the Dodd-Frank Act. If the CFPB is legal, then Congress could distribute other chunks of presidential power in the same way. Why not a one-man National Labor Relations Board?

Acting CFPB head Mick Mulvaney is likely to drop PHH's fine on remand. But PHH should still ask the Supreme Court to hear the constitutional issues. The Trump Justice Department took a narrower position supporting the President's ability to remove the director at will. This may have been strategic since the White House wants a whip hand to undo Mr. Cordray's many lawless actions. But it is also myopic since President Trump's successor could appoint an equally uninhibited director.

Judge Henderson would have invalidated the bureau in its entirety and "let the Congress decide whether to resuscitate—and, if so, how to restructure—the CFPB." This would be genuine judicial restraint since "excising only the for-cause removal provision would leave behind a one-legged agency that, by all indications, the Congress would not have created." PHH should give the Justices a chance to make Congress fix its shoddy work and discipline a runaway administrative state.

**Kodak's Dubious Cryptocurrency Gamble; The Shift**
By Kevin Roose
30 January 2018
The New York Times

An eon or two ago, Eastman Kodak was a bleeding-edge technology company. It hired the smartest engineers and put them to work racking up patents, pioneering new chemical processes and building a globe-spanning camera and film business that, at its peak, employed 145,000 people.

But the digital photo age passed Kodak by, and today, the Rochester, N.Y., company exists mostly in the past tense. Many of the patents have been sold, buildings have been rented out or demolished, and the company has continued to shrink since it filed for bankruptcy in 2012.

Now, the 130-year-old company is trying an unlikely sort of comeback — one built by betting on cryptocurrency. It's a bold gamble that has excited some investors, perplexed others and raised questions about how closely Kodak vetted its cryptocurrency business partners, who now include a paparazzi photo agency, a penny-stock promoter and a company offering what has been called a "magic money making machine."

This month, Kodak lent its name to a digital currency called KodakCoin, which is billed as "a photo-centric cryptocurrency to empower photographers and agencies to take greater control in image rights management." The basic idea behind KodakCoin is to use the blockchain to help photographers manage their collections by creating permanent, immutable records of ownership. The company also struck a licensing deal for a Bitcoin-mining computer called the Kodak KashMiner, which allows users to generate their own cryptocurrency.

Kodak's stock rose more than 200 percent following the announcements, and has not fallen much since.

That's partly because the blockchain — the mathematical ledger system that forms the basis of digital currencies — has a kind of talismanic effect in today's stock market. As investors seek to capitalize on the popularity of currencies like Bitcoin and Ethereum, a number of struggling companies have reversed their fortunes, at least temporarily, simply by adding "blockchain" to their names or announcing a new cryptocurrency venture unrelated to their previous line of work. (The most notorious example is Long Island Iced Tea Corp., a beverage company that tripled its value overnight after it rebranded itself "Long Blockchain Corp.")

These sudden, brazen moves have also attracted the attention of regulators. In a recent speech, Jay Clayton, the chairman of the Securities and Exchange Commission, said that the agency was "looking

closely at the disclosures of public companies that shift their business models to capitalize on the perceived promise of distributed ledger technology."

Kodak is the most prominent old-line company to enter the cryptocurrency game so far, and maybe the most controversial. Almost immediately, critics pounced on the company's plans, characterizing them as a desperate money grab.

"It feels like a publicly traded company issuing a token to raise its stock price from the grave," said Kyle Samani, a partner at the cryptocurrency trading firm Multicoin Capital.

"I would not be sleeping very well if I was involved in this," said Jill Carlson, a blockchain consultant.

In an interview, Jeff Clarke, Kodak's chief executive, said that the company's blockchain ambitions were genuine. He began looking into blockchain technology last summer, he said, and realized that it could solve a perennial problem for photographers — proving ownership of their images, tracking down copyright violators, and getting paid.

"This is not a dog food company that's creating a currency," Mr. Clarke said. "This is a real solution around digital rights management that Kodak has been involved in for many years."

In theory, photographers will be able to upload their images to a platform called KodakOne, create a blockchain-based license for each image, and use web-crawling software to scour the internet looking for copyright violations. Instead of using dollars, photographers can have clients pay them in KodakCoins.

KodakCoin's initial offering, scheduled for Wednesday, is expected to raise as much as $20 million. (On Tuesday night, KodakCoin's website said that it would delay the offering by "several weeks" to verify the credentials of potential investors.) But there are few details about what that money will be used for, or why a similar system could not be built without the blockchain. There is also a more obvious question: Why would photographers want to be paid in digital tokens, rather than cash?

In several calls with KodakCoin leaders, I couldn't get straight answers to these questions. And KodakCoin's white paper, a technical document that details the plans for the currency, is a 40-page mishmash of marketing buzzwords and vague diagrams, like the one below:

Make no mistake: Digital rights management is a real issue for photographers, and the blockchain does, in theory, offer a compelling solution. But the specific attributes of KodakCoin present some red flags.

First, despite the name, KodakCoin is not actually a Kodak project. The company behind the offering, WENN Digital, is a California-based affiliate of a British photo agency that specializes in paparazzi photo licensing. Under their licensing agreement, Kodak will not receive any direct revenue from the public offering. It will receive a minority stake in WENN Digital, 3 percent of all KodakCoins issued and a royalty on future revenue.

Cameron Chell, a lead adviser to the KodakCoin project, told me that the initial offering represented a "seminal moment" for Kodak, and that the company's interest in blockchain technology was a savvy long-term investment.

"The real story is that it's about to be a renaissance," he said.

But Mr. Chell, a Canadian entrepreneur and motivational speaker who once opened for Tony Robbins, has a troubled track record. In 1998, Mr. Chell agreed to a five-year ban from the Alberta Stock Exchange in Canada and paid a $25,000 fine in connection with a violation of the exchange's rules. A previous company of his ended in ignominy after its chairman was charged with fraud.

Asked about these incidents, Mr. Chell said that he was "young, inexperienced and was irresponsible in my actions," and that he had "learned a lot since 1998 and work hard to conduct myself in a manner that does not reflect that poor judgment." A Kodak spokesman did not return a request for comment about Mr. Chell and whether it knew about the ban.

Mr. Chell has refashioned himself as a blockchain expert in recent years, and KodakCoin is his biggest project so far. He is the chairman of Appcoin Innovations, which was registered as a literary agency — Redstone Literary Agents — until last year, when it became a consulting firm that provides "a turnkey set of services for companies to develop and integrate blockchain and cryptocurrency technologies," according to securities filings.

The company, which trades over the counter as a penny stock, earned no revenue in 2015 or 2016, according to S.E.C. filings. Appcoin Innovations is slated to receive 20 percent of all KodakCoins issued and a portion of the offering proceeds, a stake that could amount to millions if the offering is successful.

"Once formally launched," Mr. Chell wrote to me in an email, "the company will hopefully provide shareholders a traditional and transparent place to participate in the crypto space with projects that are regulatory compliant."

Now, about those coins. You might think that a digital currency that is trying to "democratize photography and make licensing fair to artists," in Mr. Clarke's words, would be easily accessible. But because of regulatory requirements, KodakCoins will be available only to so-called accredited investors in the United States. An accredited investor is defined as a person with a net worth of $1 million or more, or an annual income above $200,000.

How many cryptocurrency-obsessed millionaire photographers do you know?

Even if photographers do meet the requirements to participate, they could have a hard time spending their KodakCoins, or redeeming them for cash. The S.E.C. has warned that securities sold in private offerings, such as KodakCoins, may be difficult to resell — and that investors may be required to hold on to them "indefinitely." A KodakCoin representative told me that the company believes its tokens will eventually be freely traded, and that it may issue other types of tokens in the future that will not be subject to the same restrictions.

KodakCoin's white paper says that token holders may receive other benefits, such as a share of KodakOne's revenue and access to a "marketplace" that will allow them to spend their KodakCoins on camera equipment, studios for photo shoots, and travel expenses. But these benefits could fail to materialize.

Cryptocurrency experts also do not seem impressed with the Kodak KashMiner, a Bitcoin-mining machine advertised at this year's CES electronics trade show. According to the advertisement, users will pay $3,400 to rent the machine, a Kodak-branded computer that solves complex math equations to unlock new Bitcoin, for two years. Half the Bitcoins successfully mined with the Kashminer will go back to Spotlite, the company licensing Kodak's name, and the user will keep the other half.

Kodak hasn't shared many details about its KashMiner deal. But renting the machines could be a hard sell. In its CES advertisement, KashMiner estimates that each renter will earn $9,000 from mining Bitcoin over the two-year contract window. Experts told me that figure was most likely inflated, because Bitcoin mining gets harder over time. And they pointed out that the KashMiner itself appears to simply be a rebranded version of a popular Bitcoin-mining machine that can be purchased outright for less than the rental cost.

All of this — the origins of KodakCoin, the currency itself and the lofty claims about the KashMiner's moneymaking potential — adds up to a big question mark, and points to the possibility that Kodak may be in over its head.

"The best-case scenario is that they believe that the technology will eventually be able to deliver what they've pitched," said Ms. Carlson, the blockchain consultant. "The worst-case scenario is that they are just being very opportunistic."

Mr. Clarke, Kodak's chief executive, characterized the blockchain projects as a small part of the company's overall strategy, and said it was "ironic" that critics were faulting Kodak for embracing a young technology like cryptocurrency, given that its past problems were caused by a failure to innovate.

"This isn't speculative," Mr. Clarke said. "We're taking an emerging new technology in blockchain, and we're using it to solve a real problem."

**Signaling Crackdown, SEC Boss Emerges as Crypto Skeptic-in-Chief**
By Robert Schmidt and Benjamin Bain
31 January 2018
Bloomberg

Several weeks after becoming the top cop for U.S. markets last May, Jay Clayton began reading everything he could get his hands on about Bitcoin, realizing it was quickly evolving from a method of payment to a global investment craze.

Since then, the Securities and Exchange Commission chairman has elevated digital currencies to the forefront of his agenda, asserting that many of the products fall under the agency's oversight. During Clayton's tenure, the SEC has unleashed its enforcement lawyers on companies that are illicitly raising

money by selling digital tokens, put the kibosh on attempts to set up cryptocurrency mutual funds and repeatedly urged investors to take more seriously the risk of getting fleeced.

Clayton's latest concern, detailed in an interview this week, is the lightly regulated exchanges where the currencies are bought and sold. With many located offshore, Clayton said federal authorities have no insight into their operations and little recourse when things blow up for U.S. investors.

"These platforms that these things trade on, they are very easily manipulated and I don't think investors understand that," Clayton said. While there's a thick set of regulations that exchanges must adhere to, "none of that exists" when they aren't registered with the SEC.

He said he's concluded that a number of venues should fall under the SEC's jurisdiction, which would open them up to regular surveillance and ensure they follow investor protection rules. That, of course, could slow down a red-hot market that has thrived in part because it resembles the Wild West.

Sitting at a conference table in his 10th floor office overlooking the U.S. Capitol, Clayton spoke approvingly of the digital-ledger technology underlying the coins and said the SEC isn't trying to stand in the way of progress. Yet just days after a Japanese exchange revealed it had been robbed of more than $500 million in tokens, Clayton said he was increasingly worried about fraud hitting "Main Street" investors.

"When an ordinary person loses 10, 15, 25 grand, that makes a material difference in their lives and that's bad," he said. "Anytime our markets are used like that we need to be paying attention."

Some also think that digital currencies are a bubble that will inevitably pop. After jumping more than 1,400 percent in 2017 and minting more than a few overnight millionaires, Bitcoin has lost a third of its value this year amid fears that regulators will subject the industry to more rules.

Being Washington's chief cryptocurrency skeptic is an unusual position for Clayton, a former Wall Street deals lawyer appointed by President Donald Trump. But despite his free-market credentials, Clayton has embraced a go-slow approach that has at times appeared to put the SEC at odds with the other main regulator in the area, the Commodity Futures Trading Commission.

That agency's chairman, J. Christopher Giancarlo, late last year allowed two exchanges to offer Bitcoin futures, arguing the move would help the CFTC gain insight into the largely unregulated markets where the cryptocurrency is traded.

ETF Apprehension

Although many expected the futures would hasten SEC approval for mutual and exchange-traded funds based on digital coins, it has not. Instead, the agency said this month such offerings raise a number of investor-protection questions. In the interview, Clayton made clear that he's in no hurry to sign off on the funds, saying such a move would be seen as "a tacit endorsement" that he is not yet ready to make.

Though some of the legal and jurisdictional issues are novel or are still being worked out, the CFTC claims some authority over actual digital currencies -- which it classifies as commodities -- and

derivatives, such as futures, tied to them. The SEC is responsible for regulating securities that are comprised of digital tokens. That includes so-called initial coin offerings, which were used to raise an estimated $3.7 billion last year even though some of the companies behind them have laid out scant business plans.

In an ICO, a firm sells digital tokens that can eventually be redeemed for goods or services. The coins can be traded in a secondary market -- which the SEC says makes them securities and subject to its oversight. In the case of an ICO, that would mean filing extensive documents detailing plans for the offering. The exchange it trades on would also have to be registered with the SEC. Thus far, no trading venue or ICO has taken those steps.

At the moment, the main way the SEC is trying to ensure compliance is through its enforcement arm. Already, the agency has formed a special group to dig into potential fraud and filed several high-profile lawsuits. Just this week, the SEC sued to halt a Texas-based ICO that claimed to have raised more than $600 million, using celebrities like former boxing champ Evander Holyfield to tout the offering.

'More Cases'

"We have brought cases, and if people don't change their ways we're going to be bringing more cases," Clayton said.

But there are limitations on the SEC's reach, a problem that's particularly vexing because there have been a spate of thefts across the globe involving hackers, who if they could be found, are likely to ignore U.S. subpoenas.

"If a U.S. person sends their money to a foreign country through the internet and it gets taken, there's not much I can do about it," he said.

For now, Clayton said the agency has all the power it needs to regulate crypto products. He added that SEC oversight will ultimately help the industry flourish.

"There's no doubt in my mind that our regulatory framework is not holding back the promise of this technology," Clayton said. "In fact, it could be the other way around."

'Understanding Dangers'

Clayton also said he will continue to highlight his concerns in speeches and public comments. He's slated to testify before Senate Banking Committee next week along with Giancarlo, the CFTC chairman.

Both are also part of a special working group, set up under the Treasury's Financial Stability Oversight Council, to monitor cryptocurrencies. Officials who attended the FSOC's December meeting said they were struck by Clayton's comments on the need for the government to protect retail investors as they creep into the market.

“It’s not just the public that I’m talking to, I’m talking to other regulators inside and outside the U.S.,” Clayton said. “I think that the level of understanding of the dangers in trading of these instruments has increased substantially.”

**House approves legislation to help advisers combat senior exploitation**
By Mark Schoeff Jr.
30 January 2018
InvestmentNews

*The Senior Safe Act provides liability protection for financial professionals who report cases of suspected elder abuse to regulators or other authorities*

Legislation that would help financial advisers combat financial exploitation of senior citizens gained House approval Monday night in a bill that could provide a vehicle to get it through the Senate.

House lawmakers passed on voice vote a larger bill that contained the Senior Safe Act, a measure that provides liability protection for investment advisers, brokers and other financial professionals who report cases of suspected elder abuse to regulators or other authorities.

The Senior Safe Act was also included in a larger bill approved by the Senate Banking Committee in December that would reform parts of the Dodd-Frank financial law.

But the bill the House passed on Monday may provide the smoothest pathway to full Senate approval for the elder-abuse legislation because the Senate Banking bill could get hung up in the House.

"This [House bill] that it is attached to seems the least controversial piece of legislation that contains Senior Safe Act provisions," said Paul Richman, vice president of government affairs at the Insured Retirement Institute. "That's why we're hopeful that this House bill will be taken up expeditiously in the Senate."

The Senior Safe Act, written by Sens. Susan Collins, R-Me., and Claire McCaskill, D-Mo., was approved by the House in a previous Congress but failed to make it through the Senate when one senator placed a hold on the bill. It had to be reintroduced in the current congressional session.

Another obstacle facing the bill is a difficult Senate agenda that includes approving a budget and tackling immigration legislation.

"This is still high on their list in the Senate, but until other issues are resolved, it will be difficult to move it forward," Mr. Richman said.

If the bill is approved by Congress, it would bring a federal law into the senior financial exploitation area.

A Financial Industry Regulatory Authority Inc. regulation goes into effect on Feb. 5 that gives brokers safe harbor to report exploitation and allows them to place temporary holds on disbursements from accounts of elderly clients who may have been victimized by scams.

Also, a number of states have approved a North American Securities Administrators model rule that is similar to the Finra regulation but that mandates incident reporting.

The Senior Safe Act has wide support among financial industry trade associations and other organizations, including IRI, NASAA, the American Council of Life Insurers and the Investment Company Institute.

**House Money-Fund Bill Hits a Snag; Legislation is unlikely to move to floor without changes, Republican aides say**
By Andrew Ackerman
30 January 2018
The Wall Street Journal

A legislative effort to relax postcrisis money-fund rules has hit a snag and is unlikely to come to the House floor in its current form, according to GOP aides.

The bill, which passed the House Financial Services Committee in a 34-21 vote this month, won't advance to the floor without alterations designed to attract more support, the aides said. "The bill is not in a form where it can pass through the House," according to one aide.

The legislation aims to scrap a 2014 Securities and Exchange Commission requirement that forced certain money-fund shares to fluctuate in value, rather than always remaining at $1. The SEC rule covers a subsection of money-market mutual funds—those whose shares are held by institutions and that purchase corporate debt or municipal bonds.

Money-market funds are investments designed to be a safe place to park cash temporarily with little risk of taking a loss. The expectation that the shares would stay at $1 led to triggered a stampede out of some funds catering to large institutions during the 2008 financial crisis when it became clear investors might get less than a dollar back, called "breaking the buck." The bill would allow such funds to return to offering investments with stable, $1 share prices.

The measure has drawn behind-the-scenes pushback from large fund managers such as BlackRock Inc. and Fidelity Investments. It is backed by Federated Investors Inc., a midsize, Pittsburgh-based company with nearly 70% of its assets in money funds. Spokesmen for Federated didn't respond to a request for comment.

Opponents say the market has already adjusted to the 2014 requirement and are reluctant to force the SEC to revise it, worried about reopening a bruising fight over the funds' structure that could take years.

The legislation had racked up an unusual amount of bipartisan support—more than 60 co-sponsors—fueled by lobbying from municipal officers and treasurers who say the rule has increased short-term borrowing costs, crimped investment options and clashed with state requirements that governments park cash in funds that aren't at risk of losing their principal value.

Despite enough bipartisan to advance the bill out of the financial-services panel, five Republicans voted against it, including Reps. Bill Huizenga of Michigan and Sean Duffy of Wisconsin, who head two of the panel's subcommittees. The panel's chairman, Rep. Jeb Hensarling (R., Texas), voted for the measure but said he had reservations about it.

House aides said lawmakers are working on making changes to aspects of the bill and might take up a modified version later this year, though they declined to say how it might be altered.

"I remain committed to addressing the negative consequences of the SEC's 2014 rule and I look forward to working with leadership on House passage," Rep. Keith Rothfus (R., Pa.,) the bill's primary author, said in a written statement. He added that the bill "continues to attract more co-sponsors and supporters from around the country."

Opponents of the legislation also warn that reversing the rules could invite future scrutiny of the industry from the Financial Stability Oversight Council, a government panel that has the authority to target specific firms for tougher oversight from the Federal Reserve, according to a memo from the Investment Company Institute trade group reviewed by The Wall Street Journal. The Fed has long sought tougher curbs on money funds and its officials generally backed the 2014 requirement.

"Most big money managers adjusted to the new rules, but a few—apparently unhappy that the changes have cut into their revenues—are pushing Congress to undo them," Nellie Liang, a senior fellow at the Brookings Institution and a former Fed official, wrote in a recent blog post.

**Justice Department Charges Eight Traders With Deceptive Futures Market Trading; The Commodity Futures Trading Commission announced related civil charges against three banks and six individuals**
By Gabriel T. Rubin
29 January 2018
The Wall Street Journal

Federal prosecutors on Monday announced charges against eight traders for deceptive trading practices in the futures markets, with all but one person charged with illegal spoofing.

The traders worked for UBS Group AG and Deutsche Bank AG, among other firms. The Commodity Futures Trading Commission later announced related civil charges against three banks and six individuals.

"Conduct like this poses significant risk of eroding confidence in U.S. markets and creates an uneven playing field for legitimate traders and investors," acting assistant attorney general John P. Cronan said in a statement.

Before Monday's cases, only three individuals had ever been charged with spoofing, which involves a trader entering large orders with the intention of tricking others into thinking there had been a fundamental change in supply and demand in a market. Congress outlawed the practice in 2010 as part of the Dodd-Frank Act. In August, a federal appeals court upheld the conviction of the first U.S. trader to face prison time for manipulating futures prices using spoofing tactics.

In addition to the criminal charges, the CFTC announced civil settlements with Deutsche Bank, UBS, and HSBC Securities Inc. related to commodities fraud and spoofing. Deutsche Bank agreed to pay $30 million after the CFTC charged it with engaging in a scheme to manipulate the prices of precious metal futures. UBS reached a $15 million settlement for similar charges, and HSBC agreed to pay $1.6 million, also for spoofing in precious metals markets. The fines for UBS and HSBC were lower due to their cooperation with the CFTC, including UBS self-reporting much of the illegal activity, the agency said.

"These cases should send a strong signal that we at the CFTC are committed to identifying individuals responsible for unlawful activity and holding them accountable," said CFTC Enforcement Director James McDonald.

Monday's cases are the most significant action taken against banks for spoofing since the CFTC fined Citigroup Inc. $25 million last January for illegal activity in Treasury futures markets. Citigroup neither admitted to nor denied the allegations.

In one of the cases, the CFTC fined Andre Flotron, a former UBS precious metals trader in Stamford, Conn., and Zurich, with concocting a spoofing scheme for personal and corporate profit. UBS had provided its futures traders, including Mr. Flotron, with automated trading software that allowed them to "place, modify, and cancel multiple orders nearly simultaneously," according to a criminal indictment filed in September.

Mr. Flotron's lawyer, Marc Mukasey, said the new case "is an especially enormous waste of taxpayers' money because the CFTC knows darn well that there is a pending criminal matter, that Mr. Flotron has long been retired from the business, and that he lives in Switzerland. Their case is a paper tiger."

Rob Sherman, a spokesman for HSBC, said the bank was "pleased to have resolved this issue."

A UBS spokesman noted that the bank "cooperated fully in the investigation, and has long since remediated the conduct," while a spokesperson for Deutsche Bank said the bank provided "substantial and proactive cooperation with the government's investigation and has enhanced controls and surveillance to help ensure that the underlying conduct does not occur in the future."

The charges against the traders primarily reference activity before 2015, when both firms and regulators lacked sufficient controls to monitor for spoofing activity, as trading migrated from open pits to electronic platforms.

"The conduct at issue here started in 2008," said Michael Friedman, general counsel of Trillium Management LLC, a New York-based electronic-trading firm, which isn't involved in the cases announced Monday. "When this conduct was in its heyday, which is now seven to eight years ago, people weren't looking to detect it like they are now."

The cases mark the first major enforcement actions of 2018 for the CFTC and Mr. McDonald, who took over as enforcement director in April 2017. The relatively large fines follow a year that saw a steep drop in total financial penalties, although it can be hard to compare years that involve a change in agency leadership.

**U.S. CFTC to fine UBS, Deutsche Bank, HSBC for spoofing, manipulation: sources**
By Michelle Price
26 January 2018
Reuters

The U.S. derivatives regulator is set to announce it has fined European lenders UBS, HSBC and Deutsche Bank millions of dollars each for so-called "spoofing" and manipulation in the U.S. futures market, three people with direct knowledge of the matter told Reuters.

The enforcement action by the Commodity Futures Trading Commission (CFTC) is the result of a multi-agency investigation that also involves the Department of Justice (DoJ) and the Federal Bureau of Investigation (FBI) - the first of its kind for the CFTC, the people said.

The fines for UBS and Deutsche Bank will be upward of ten million, while the fine for HSBC will be slightly less than that, the people said, without providing exact figures.

Spokesmen for HSBC, Deutsche Bank and UBS declined to comment.

Spoofing involves placing bids to buy or offers to sell futures contracts with the intent to cancel them before execution. By creating an illusion of demand, spoofers can influence prices to benefit their market positions.

Spoofing is a criminal offense under a provision implemented as part of the 2010 Dodd-Frank financial reform.

Some of the manipulative behavior came to light as a result of the authorities' previously-settled probes into forex market manipulation while UBS self-reported the wrong doing, according to two of the people with knowledge of the matter.

The bank investigations have been ongoing for more than a year, one of the people said.

The settlement is the most high-profile brought so far by the CFTC's head of enforcement James McDonald who was appointed to the role in March 2017.

McDonald, who was previously a prosecutor in the Southern District of New York, said in September he plans to encourage companies and staff to report their own wrongdoing and cooperate with investigators, a strategy he hopes will make it easier to prosecute more individuals.

In August, a U.S. appeals court upheld the conviction of former New Jersey-based high-speed trader Michael Coscia who was the first individual was the first person to be criminally prosecuted for the manipulative trading practice.

A spokeswoman for the CBOE, one of the U.S.'s major futures exchanges, declined to comment. A spokeswoman for the CME Group, the other major futures bourse, did not immediately respond to a request for comment.

**BNP Paribas unit pleads guilty in U.S. to currency rigging, fined $90 mln**
By Jonathan Stempel
26 January 2018
Reuters

A unit of BNP Paribas SA agreed to plead guilty and pay a $90 million criminal fine for rigging foreign currency prices, the U.S. Department of Justice said on Friday.

BNP Paribas USA admitted to having conspired to suppress competition by fixing prices for Central and Eastern European, Middle Eastern and African currencies from September 2011 to July 2013, violating U.S. antitrust law.

The Justice Department said the conspiracy involved price manipulation on an electronic trading platform through the creation of bogus trades, coordinated trading, and agreements on what prices to quote to specific customers, among other means.

"BNP Paribas USA deeply regrets the past misconduct that led to this settlement, which was a clear breach of the high standards on which it operates," the French bank said in a statement.

The settlement also resolves probes by the U.S. Federal Reserve and the New York State Department of Financial Services, BNP Paribas said.

BNP Paribas is the sixth major bank to admit criminal wrongdoing in the Justice Department's currency probe.

Barclays Plc , Citigroup Inc , JPMorgan Chase & Co , Royal Bank of Scotland Group Plc and UBS Group AG have also entered guilty pleas, the Justice Department said. The six banks have collectively been fined more than $2.8 billion.

The Justice Department said BNP Paribas will not be put on probation, given its "substantial" efforts to improve oversight and avoid a recurrence.

It also said the bank agreed to cooperate with the probe by the department's antitrust division.

"The division's investigation aims to root out and eradicate the manipulation that has plagued this industry," Assistant Attorney General Makan Delrahim said in a statement.

BNP Paribas' plea followed the Jan. 4, 2017 guilty plea of a former trader, Jason Katz, for conspiring to fix currency prices.

Katz, who also worked at Barclays, was the first person to admit guilt in the probe, and is scheduled to be sentenced on July 5, court records show.

Four other traders have also been criminally charged, and one of them has pleaded guilty, the Justice Department said.

Another French bank, Societe Generale , in November said it was in talks with U.S. authorities to resolve a probe into the alleged manipulation of benchmark interest rates such as the London Interbank Offered Rate, or Libor.

**As Congress prepares to loosen bank regulations, it still refuses to address the cause of the two worst financial meltdowns in history**
By Daniel Burge
26 January 2018
The Washington Post

As the debates over tax cuts for millionaires and billionaires die down, the political push to roll back the Obama-era financial regulations is beginning to catch the media's attention.

Recently, the Senate continued to move forward on a measure that relaxes restrictions on smaller banks and weakens the guidelines for marking certain financial institutions as "systemically important" — institutions that face stronger regulation because they are considered vital to the economy.

In pushing deregulation, the Senate has shown a failure to appreciate, and thus address, a recurrent source of trouble for the American financial system: bank runs. A run occurs when too many depositors demand cash from a bank. Such demands pose a problem because most of a bank's funds are not waiting in an on-site vault. Rather, they are tied up in long-term loans that cannot be sold off quickly without incurring losses.

Bank runs fueled the two most dramatic financial crises that the United States has experienced: the Great Depression in the 1930s and the Great Recession in 2008. The emergence of another kind of short-term debt — funds that can be quickly withdrawn — now once again threatens the stability of the financial system. Instead of addressing that threat, the Senate has chosen to weaken regulations, leaving the country at risk for another severe economic downturn.

Over the course of the Great Depression, several thousand banks went bankrupt and closed their doors. The consequences were dire. These bank failures led to a freeze on productive lending that further depressed economic activity. Uncertain as to whether their local banks would survive, Americans rushed to their branches to withdraw cash. If the bank failed before a customer could get there, that customer lost his or her life savings.

Because of the severity of the banking crisis, Congress prioritized the problem. In 1933, lawmakers passed the law that established deposit insurance. By deciding to insure a fraction of demand deposits — funds that can be taken out at any time — at commercial banks, lawmakers ended the terrifying prospect of losing one's life savings. However, the New Deal regulatory apparatus that stabilized the

banking system was more a product of good fortune than forward thinking. President Franklin D. Roosevelt and others initially resisted deposit insurance on the grounds that it would encourage banks to take excessive risks.

Nevertheless, deposit insurance, along with tough entry restrictions and prudent oversight, brought, in economist Gary Gorton's words, a "quiet period" to American banking for the next few decades. These decades of financial stability also saw income inequality decrease, the power of labor unions soar and the welfare state expand. These years now appear to be a "historical aberration."

In the late 1970s, the rise of stagflation — high inflation and high unemployment — stimulated changes in the financial infrastructure of the country that helped lead to a new set of financial institutions that eventually played a role in the 2008 crisis.

To cure stagflation, Federal Reserve Chairman Paul Volcker restricted the money supply and allowed interest rates to soar. The volatile, double-digit interest rates led to serious problems in the banking sector, especially the thrift or savings and loan industry. In an attempt to provide savings and loans with some relief, the Reagan administration and Congress relaxed some of the New Deal regulations in an effort to let thrifts — banks that previously had been restricted to making home loans — solve their own troubles.

Facing fewer constraints, insolvent thrifts made more high-risk loans with government-insured money. Thrifts hauled in the profits if their risky loans succeeded, while the government had to absorb the losses if the loans failed. The irresponsible lending by thrifts led to the 1980s savings and loan crisis — a $152.9 billion debacle that demonstrated the hazards associated with deregulating federally insured depository institutions.

Meanwhile, a new banking system developed alongside the struggling traditional banking sector that was constrained by New Deal regulations. As Gorton and others have suggested, "shadow banking" likely grew, in part, because the New Deal system no longer yielded the comfortable profits of the past.

The new "shadow" system — one not regulated or insured by the federal government — aims to serve institutions that need a temporary place to store their funds, often in the millions of dollars. A key feature of this system is the "repo-market" (short for sales and repurchase agreements). In this market, to summarize briefly, an institution that needs funds pledges collateral — such as mortgage-backed securities — to the institution providing the funds.

In the 2008 crisis, a more modern version of a bank run helped devastate the broader economy. According to Gorton, institutional investors panicked when the value of the collateral that was provided to them came into question. Many rushed to collect their funds from investment banks. But investment banks had been using these funds to finance their own longer-term assets. To meet the numerous demands, investment banks had to quickly sell their assets and, as a result, suffered substantial losses.

Nevertheless, a new insurance framework is an unlikely political solution for the problems posed by the "shadow banking" sector. It is hard to imagine that members of Congress would explicitly insure, with taxpayer funds, the many millions of dollars that belong to institutions. American taxpayers would question why they should be the ultimate backstop for funds that they do not own.

Tellingly, the 2010 Dodd-Frank Act largely ignored the problems posed by the repo-market. Prudent policymakers will have to continue to rely on a set of more general regulations, such as higher capital requirements and restrictions on risky investments.

Deposit insurance demonstrated that the financial dragons can be temporarily tamed. Today's more complex financial system, however, renders the New Deal's solutions politically difficult to enact. The deregulatory changes currently being debated in Congress do not look promising. Neither does the track record of politicians producing and supporting far-sighted solutions to the risks posed by the country's financial system. Until lawmakers prioritize solving the bank run problem, a Second Great Recession remains a possibility.

**A Wall Street Ally Leads the Charge to Roll Back the Volcker Rule**
By Jess Hamilton
24 January 2018
Bloomberg

Wall Street watchdogs appointed by President Donald Trump are evaluating a specific proposal for easing the Volcker Rule, one of the financial industry's most-hated restrictions because it put shackles on bank trading after the 2008 financial crisis.

A key agency that's taken a lead in revising Volcker -- the Office of the Comptroller of the Currency -- recently circulated a blueprint to other regulators for making the rule more friendly to banks, said two people familiar with the matter. The draft relies heavily on June recommendations issued by the Treasury Department, which wants to give firms more leeway to trade and soften constraints on their ability to invest in private-equity and hedge funds.

Wall Street critics will likely take exception with the fact that the architect of the OCC proposal was Keith Noreika, a long-time bank lawyer who served as the regulator's acting head last year. In January, Noreika returned to his law firm, Simpson Thacher. Its financial industry clients could benefit if his ideas for overhauling Volcker come to fruition.

Noreika and an OCC spokesman declined to comment.

Named for former Fed Chairman Paul Volcker, the controversial regulation was meant to prevent banks from triggering another financial meltdown by prohibiting them from making speculative bets with their own capital.

But Wall Street and Republican lawmakers have long argued it was poorly implemented, prompting lenders to go too far in retreating from markets. (Timothy Geithner, Barack Obama's treasury secretary, has also said that he opposed the rule at the time of its creation before determining it was needed to win congressional approval of the Dodd-Frank Act).

Dialing Volcker back now is in line with the Trump administration's contention that constraints on business are stifling economic growth.

Noreika, who left the OCC in November, shared the draft with five agencies that all have to agree on revising the rule, said the people who asked not to be named because the process isn't public. They include the Federal Reserve, Securities and Exchange Commission, Federal Deposit Insurance Corp. and Commodity Futures Trading Commission.

Spokesmen for those agencies declined to comment.

Long Process

It's unclear whether the other regulators will support the OCC's proposal or how soon revisions to Volcker could take effect.

Fed Vice Chairman Randal Quarles, the central bank official in charge of overseeing Wall Street, indicated last week that there isn't yet a consensus behind what's on the table, saying in a speech that "it will naturally take a bit of work for the agencies to congeal around a thoughtful" revision of Volcker.

Though officials nominated by Trump have slowly been taking over financial regulation, a holdover from the Obama administration still leads the FDIC. Jelena McWilliams, the president's choice to run the agency, still needs Senate approval.

Implementing or revising rules can take months if not years, with regulators having to vote on whether to seek public comment on a proposal and then holding a second round of votes to make changes binding. A clear example of the drawn-out process is Volcker itself, as the rule was required in 2010 under Dodd-Frank, but agencies didn't finalize it until 2013.

Treasury Secretary Steven Mnuchin kick-started the Volcker rollback in May at a closed-door meeting of the Financial Stability Oversight Council by directing agencies to come up with a plan to revise the rule.

A month later, the Treasury Department issued a report that said Volcker "far overshot the mark" in its implementation. The report called for exempting small banks completely and said all lenders should have more flexibility to buy and sell assets without violating the rule's ban of proprietary trading, the practice of investing for themselves rather than for clients.

Breathing Room

Treasury said banks should have more breathing room to make markets, a permitted custom under Volcker in which firms execute trades on behalf of their customers. Wall Street has argued that the way the rule was originally written prevents banks from maintaining ample inventories of securities and derivatives so that clients can buy and sell at will.

Noreika's draft, circulated before he left the OCC, set out to accomplish Treasury's goals without straying from the boundaries that Dodd-Frank imposed on regulators, said the people. A more sweeping overhaul of Volcker, or an outright repeal, would require Congress to change the law.

As he walked out the OCC's doors, Noreika said easing Volcker's bite is the most urgent and effective way the Trump administration can help banks. He's familiar with some of the firms that care most about the rule. Before his brief stint in government, many of them, including Goldman Sachs Group Inc., JPMorgan Chase & Co., Bank of America Corp. and Citigroup Inc., were his clients.

**A Rogue Treasury Department Turns Toward the 1930s; The president shouldn't allow an Obama appointee to guide housing finance policy toward disaster.**
By Peter J. Wallison
23 January 2018
The Wall Street Journal

First, the good news: A group of senators are working on a bill to repeal the government charters of Fannie Mae and Freddie Mac, according to a report last week in the trade publication American Banker. This would set the U.S. on a course toward a private system for financing mortgages. Now, the bad news: The Treasury Department wants to return to the regulated market that caused the financial crisis.

At first this might seem implausible. The aggressive deregulatory work of the Trump administration has stimulated the U.S. economy, but its Treasury Department is pushing for more extensive regulation of the housing-finance market. Among conservatives, there's an emerging view that the Treasury Department is on a frolic all its own.

Last week, the director of the Federal Housing Finance Agency, which regulates Fannie and Freddie, released a plan for housing-finance reform. The director is an Obama administration holdover, and it shows. His plan's principal element is heightened government regulation, with all the elements that caused the 2008 financial crisis.

According to the plan, circulated in Washington but not formally released by the FHFA, Fannie and Freddie would be turned into privately owned utilities, with regulated rates that would assure a "fair return" to their shareholders. They would issue mortgage-backed securities covered by an explicit government guarantee. This would "attract and retain shareholders while also supporting broad liquidity in the single family and multifamily housing finance market with affordable mortgage rates." The whole scenario comes straight out of the left's fantasy world.

The FHFA also expressed concern that too much competition "could increase the potential for a race to the bottom in underwriting standards in pursuit of market share." Its solution is again regulating the rate of return of the Fannie and Freddie successors, "which would limit incentives to unduly relax underwriting standards." Ideas like this hark back to the New Deal. The Roosevelt administration sought to prevent supposedly excessive competition on the theory that it would drive down prices, force companies out of business, and produce more unemployment.

Addressing another major Democratic priority, the FHFA's plan called for government-backed affordable housing. The utility-like successors to Fannie and Freddie could have "a lower rate of return on purchases serving low-income and moderate-income borrowers." This would ensure that "all taxpayers can share in the benefits of federal support for the housing finance market." Remember that what taxpayers actually "shared" in 2008 was Fannie and Freddie's losses of about $186 billion.

What caused those losses? Affordable-housing goals. A 1992 law required Fannie and Freddie to reduce their underwriting standards so they could meet quotas for low- and moderate-income mortgages. By 2008, on the eve of the financial crisis, half of all mortgages in the U.S. were subprime or otherwise risky. And 76% of those mortgages were on the books of government agencies, primarily Fannie and Freddie. The government had created the demand for these mortgages.

Treasury apparently has no problem with this. Last week Craig Phillips, counselor to Secretary Steven Mnuchin, said the department was "broadly supportive" of the FHFA's plan. This is disturbing enough, but Treasury is also endorsing some of the details that are far afield of the administration's deregulatory efforts. For example, last week American Banker quoted Mr. Phillips agreeing that the FHFA should use rate regulation to prevent a competitive race to the bottom: "The key is regulation. Whether there is one or five [guarantors], we cannot have weak regulation." FDR must be smiling.

The trouble here is not merely that the Treasury is an outlier in what was supposed to be a deregulatory administration. It is also that the department's current custodians appear to have learned nothing from the financial crisis, which was caused by precisely the policies they now support.

Before the affordable-housing goals were enacted in 1992, Fannie and Freddie would buy only prime mortgages. Although they competed with each other, there was no race to the bottom. They began to reduce their underwriting standards, with tragic effect, after the affordable-housing goals came into force. The result was the largest housing bubble in American history, followed by a monumental crash in 2008. Another consequence, courtesy of Barney Frank, was the Dodd-Frank Act, which was based on the false idea that the crisis was caused by insufficient regulation of the financial system. President Trump has accurately called the act a "disaster." It over-regulated the rest of the financial system but left the insolvent Fannie and Freddie untouched, in the care of the FHFA as conservator.

Housing finance desperately needs reform, but Treasury is moving in the wrong direction—back to the 1930s. The headline on the American Banker story was "Treasury, FHFA see eye to eye on housing reform, top official says." Who would have believed it a year ago?

**Mick Mulvaney Calls for 'Humility' from Consumer Financial Protection Bureau**
By Alan Rappeport
23 January 2018
The New York Times

Mick Mulvaney, the White House budget director, spent the weekend managing the shutdown of the federal government. On Tuesday, he turned his attention back to his secondary job running the Consumer Financial Protection Bureau, a government agency he would probably shut down if he could.

In a 1,118 word mission statement that was sent to the bureau's staff on Tuesday, Mr. Mulvaney, the acting director, outlined a vision for an agency that enforces financial regulations and consumer protections with "humility and prudence" and that will no longer "push the envelope" when it comes to jurisdiction and scope. Mr. Mulvaney insisted that he would not shutter the bureau, if only because doing so would be against the law.

"When I arrived at C.F.P.B., I told folks that despite what they might have heard, I had no intention of shutting down the Bureau," Mr. Mulvaney wrote. "Indeed, the law doesn't allow that, and as members of the Executive Branch we are charged with faithfully executing the laws."

The consumer bureau, which was created by the 2010 Dodd-Frank law, has been an ongoing target of Republican lawmakers, who complain that its mandate is too broad, that it has too much power and that its director is unaccountable. The agency is loathed by Republicans because its authority is intended to be independent of the White House and Congress.

In the letter, which was reviewed by The New York Times, Mr. Mulvaney directly attacked the approach of his predecessor, Richard Cordray, who left late last year. Mr. Cordray, he said, viewed the bureau as an agency of "good guys" fighting "bad guys" who modeled himself as the "new sheriff in town" with a broad mandate to crack down on businesses as he saw fit.

Mr. Mulvaney's missive also incorrectly quotes Mr. Cordray discussing his strategy of "pushing the envelope" in a Politico Magazine story. That remark was made by an anonymous former CFPB official, not Mr. Cordray.

Mr. Mulvaney made clear that under his direction, the consumer bureau would be more reluctant to target companies without overwhelming evidence of wrongdoing and suggested that the effect on a business should be weighed more heavily when considering cracking down on potential consumer abuses.

"If a company closes its doors under the weight of a multiyear Civil Investigative Demand, you and I will still have jobs at C.F.P.B.," Mr. Mulvaney wrote. "But what about the workers who are laid off as a result?"

Mr. Mulvaney also said that the bureau would introduce more quantitative rigor in determining which companies to target for enforcement, a move sure to be welcomed by banks and financial trade groups that have complained about the agency's enforcement approach.

He suggested that the agency's efforts would be focused on areas where consumer complaints are most abundant, saying a complaint-driven approach would shift focus to areas like debt collection and away from payday lending.

"In 2016, almost a third of the complaints into this office related to debt collection. Only 0.9% related to prepaid cards and 2% to payday lending. Data like that should, and will, guide our actions," he wrote.

The staff memo comes a week after Mr. Mulvaney made his most significant moves to date at the bureau, requesting no funding for the quarter from the Federal Reserve and freezing a rule drafted by Mr. Cordray that would have cracked down on the predatory practices of payday lenders.

The latter move drew a public rebuke on Twitter from Mr. Cordray, who is now running for governor of Ohio as a Democrat.

The Trump administration is expected to name a permanent replacement for Mr. Mulvaney in the coming weeks. In the meantime he has been stocking his office with like-minded staffers in an effort to change the culture of the bureau.

Since President Trump tapped him to take the helm of the bureau, Mr. Mulvaney has used his wry humor and the occasional box of doughnuts to win over the staff of a department that he once called a "sad, sick" joke. On Tuesday, he attempted to use literature to persuade employees that they should heed his vision of the bureau's legal remit, quoting from A Man for All Seasons, a play about the life of Sir Thomas More in which More is encouraged to arrest someone just for being bad.

"If you push the envelope now in pursuit of the supposed 'mission,' what's to stop someone else — with a different mission, perhaps — from pushing that envelope against you tomorrow?" Mr. Mulvaney said, noting that a copy of the book sits in his office.

**Senate confirms Powell for Fed chair, handing Trump's pick enormous influence over the economy; Jerome H. Powell just got a 4-year term as one of the most powerful stewards of the global economy.**
By Jeff Stein
24 January 2018
The Washington Post

The Senate overwhelmingly confirmed Jerome H. Powell as the next chairman of the Federal Reserve on Tuesday, voting 84 to 13 to give President Trump's nominee a four-year term as one of the most powerful stewards of the global economy.

Powell, a current Fed governor and former financial-firm executive, will replace Fed Chair Janet L. Yellen, whose term ends in February. First appointed to the Fed board in 2012 by President Barack Obama, Powell is expected to largely continue Yellen's policies — a contrast from other candidates Trump considered who had criticized the Fed under Yellen for its focus on low interest rates and economic stimulus.

Powell, a former Carlyle Group executive, also worked in President George H.W. Bush's Treasury Department, as well as at the Bipartisan Policy Center, a Washington think tank.

Powell worked closely with Yellen and her predecessor, Ben Bernanke, noted David Wessel, a senior fellow at the Brookings Institution.

"Much of what he knows comes from them," Wessel said. "If you wanted to be a central banker and wanted good teachers, that's a pretty great faculty. I think we'll benefit from what he learned."

As Fed chair, Powell will be tasked with two major balancing acts. The bank seeks to minimize unemployment while managing inflation. And broadly, the Fed tries to stimulate the economy, creating jobs and fighting unemployment, by lowering interest rates. Raising interest rates is typically aimed at fighting inflation.

Powell will oversee an economy in which unemployment is at 4.1 percent, job growth has been steady but unspectacular, and inflation remains at or below the Fed's targets. The economy, however, faces persistent and growing inequality, and workers have seen only limited wage gains during the long, slow recovery from the Great Recession.

Powell will take over Yellen's project of unwinding the extraordinary efforts the central bank took to stimulate economic growth in the aftermath of the Great Recession. The Fed has gradually increased interest rates in recent years after leaving them at record lows for the better part of a decade.

Powell is also tasked with overseeing the bank's efforts to regulate the financial sector, working to implement and enforce many of the rules aimed at warding off another financial crisis.

The regulatory law Congress passed in response to the financial crisis left the Fed significant discretion in writing new rules — effectively relying on the bank's regulators to maintain a healthy financial sector while protecting consumers and the economy as a whole.

The Fed is not part of the administration, and Powell will have broad autonomy — in conjunction other Fed officials — to make his own decisions.

Despite a bipartisan confirmation by the Senate, Powell will face scrutiny from both ends of the U.S. political spectrum.

In a speech on the Senate floor on Tuesday, Sen. Elizabeth Warren (D-Mass.) said Powell would move to dismantle some of the new authorities given to the Fed under the Dodd-Frank Act, the 2010 banking law signed by Obama. At his Senate Banking Committee hearing in November, Powell said that regulations on Wall Street are "tough enough." (Warren was the only member of the committee to vote against Powell, and she voted against him again Tuesday.)

"I'm deeply concerned that as soon as Governor Powell unpacks his boxes in the Chairman's office, he will begin weakening the new rules Congress and the Fed put in place after the 2008 financial crisis," Warren said, according to prepared remarks. "We need someone who believes in tougher rules for banks — not weaker ones. That person is not Governor Powell."

Sen. Dianne Feinstein (D-Calif.) at first voted to confirm Powell but changed her vote to no after the initial tally.

Across the aisle, conservatives say the Fed's new powers under Dodd-Frank have slowed growth in the American banking sector and should be restrained by the legislative branch. Rep. Warren Davidson (R-Ohio), who has a bill to impose restrictions on the Fed's ability to enact new regulations, has already pushed Powell to commit to working with Congress on reducing the Fed's reach.

"My hope is that Jerome Powell will be less of an activist with an ideology and recognize the Federal Reserve is as a regulator clearly subject to the authority of Congress," Davidson said.

**Court Drops Government's Appeal of MetLife Case; Panel of judges signs off on Trump administration's decision last week to end appeal**
By Lalita Clozel
23 January 2018
The Wall Street Journal

WASHINGTON—A federal appeals court on Tuesday dismissed a case involving MetLife Inc.'s designation as a "systemically important financial institution," the last step in the insurer's path to shedding the label.

The move by a panel of judges on the U.S. Court of Appeals for the District of Columbia Circuit came in response to the Trump administration's decision last week to end the government's appeal of the case.

MetLife was designated as "systemically important" in 2014 by the Financial Stability Oversight Council, a body that includes the heads of financial regulatory agencies and an independent member representing the insurance industry.

The insurer challenged the label in court and won in early 2016, when U.S. District Judge Rosemary Collyer ordered the label to be rescinded. The oversight council had appealed Judge Collyer's decision during the end of the Obama administration.

MetLife Chief Executive Steven Kandarian said in a statement that "FSOC's 2014 designation of MetLife was a textbook case of regulatory overreach."

**Trump's FDIC Pick Plays It Safe on Fight Over Big Bank Leverage**
By Jesse Hamilton
23 January 2018
Bloomberg

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Jelena McWilliams, President Donald Trump's pick to be the next chief of the Federal Deposit Insurance Corp., is tiptoeing through a battlefield that pits the agency against other regulators in a fight over big-bank leverage.

The Federal Reserve wants to relax a post-crisis requirement known as the leverage ratio that led to dramatically increased capital levels at Wall Street lenders. But the FDIC, which for now is run by a Barack Obama appointee, has been opposed.

Senator Sherrod Brown, the Banking Committee's top Democrat, pressed McWilliams at her confirmation hearing Tuesday on whether she'd keep up the fight. She demurred, saying "I would like to take a look at leverage rules."

But Brown wouldn't let it go, asking McWilliams whether excessive borrowing by banks helped cause the 2008 financial crisis. McWilliams -- the chief legal officer at Fifth Third Bancorp -- hesitated to agree completely, while promising to "circle back" after studying the FDIC's analysis on the topic.

Billions Released

The leverage ratio is hugely consequential to Wall Street because billions of dollars could be freed up at banks if it's dialed back. The Fed and the Office of the Comptroller of the Currency, another bank regulator, are counting on McWilliams to back efforts to make it less burdensome.

McWilliams, who once worked as chief counsel for the Senate committee, didn't reveal much about her views on Wall Street oversight, focusing almost entirely on community banks.

She said she's concerned that the smallest lenders aren't secure from cyber threats, and added that she wants to encourage people to open more banks. Reducing regulations on community banks is a top goal, including capital and liquidity constraints and exempting them from Volcker Rule trading restrictions, McWilliams said.

"Regulatory burden plays a key component in consolidation," she said.

Also at the hearing, Thomas Workman, the nominee to take an insurance-expert position on the Financial Stability Oversight Council, said an idea pushed by the Treasury Department to redirect how the council flags risks "deserves consideration."

Treasury has sought to largely abandon designating nonbank firms as systemically important -- a label currently affixed only to Prudential Financial Inc. -- and instead focus on specific activities that might be dangerous. He also supported increased transparency for those dealing with FSOC.

**Trump's pick to head FDIC vows to address non-bank licenses 'hold-up'**
By Michelle Price

23 January 2018
Reuters

President Donald Trump's pick to lead a key U.S. banking regulator vowed on Tuesday to address the "hold-up" in issuance of special lending licenses, potentially paving the way for companies like Wal-Mart Stores and fintech firms to enter the banking sector.

Fintech firms are closely watching to see if Jelena McWilliams, nominated to head the Federal Deposit Insurance Corporation (FDIC), will end the regulator's informal moratorium on issuing Industrial Loan Company (ILC) licenses - one of the few ways non-bank companies can move into deposit-taking.

In testimony before the Senate Banking Committee on Tuesday, McWilliams said she believed such licenses, which are overseen by the FDIC, did not pose a threat to the safety of the banking system and added that she would ensure the FDIC moved "swiftly" to consider ILC license applications.

"If it meets the ILC standards as currently set up by the FDIC, I believe there should be no obstacles in the application program," she said.

The issuance of ILCs to the likes of car manufactures and supermarkets has been a controversial issue after the FDIC rejected Wal-Mart's 2005 application amid strong opposition from community banks who claimed the world's largest retail chain might use the license to expand into other financial services.

Issuance of ILC licenses was restricted by the 2010 Dodd-Frank financial reform law, which sought to prevent banks from making the kind of risky bets that led to government bailouts during the 2007-2009 global financial crisis.

That particular Dodd-Frank restriction expired in 2013 but the FDIC, which protects customer deposits in U.S. banks, has not yet issued an ILC license.

Fintech firms such as payment processor Square Inc have applied for such a license, but community banks have argued that granting one would pose a risk to the financial system.

The debate over mixing banking with commerce was reignited in November after Keith Noreika, the then-acting comptroller of the currency, said the restrictions reduced competition and concentrated risk among a smaller number of players.

**Why Democrats need to stand with working Americans vs. big banks**
By Katrina vanden Heuvel
23 January 2018
The Washington Post

For election watchers, perhaps the most significant development of the past week happened not in Washington but in Wisconsin, where Democratic candidate Patty Schachtner won a state Senate race in a district that President Trump carried by 17 points. The unexpected victory, which Wisconsin Gov. Scott

Walker (R) called a "wake up call" for the GOP, marked the 34th legislative seat that Democrats have flipped this cycle and offered yet another signal that a wave election may be coming.

A year into the Trump era, the discontent that drove his support among the working class in places such as Wisconsin has not abated. Though Trump's base has not yet abandoned him, his approval rating has dropped across voter demographics. The environment is ripe for Democrats, powered by the massive resistance that manifested again last weekend at Women's March events nationwide, to reclaim control of Congress. Unfortunately, a group of Senate Democrats seem intent on squandering this moment by siding against working families on the issue that most clearly embodies how the U.S. economy is rigged against them. They are joining with Republicans to roll back regulations on big banks.

As the New York Times reports, 11 Democrats are co-sponsoring a bill introduced by Sen. Mike Crapo (R-Idaho) that would significantly weaken the Dodd-Frank reforms enacted in 2010. Trump has expressed that loosening the reins on Wall Street is one of his top legislative priorities for 2018, and Senate Majority Leader Mitch McConnell (R-Ky.) is expected to bring Crapo's bill to the floor within the next month.

While it doesn't go as far as the extreme legislation to dismantle Wall Street reform that House Republicans advanced last June, the Senate bill is terrible policy. Under current law, banks with more than $50 billion in assets are considered "systemically important financial institutions" and therefore are subject to extra scrutiny. The Senate bill would lift that threshold to $250 billion, relaxing oversight of 25 of the 38 largest banks in the country. According to Americans for Financial Reform, those banks are collectively responsible for $3.5 trillion in assets and received nearly $50 billion in bailout money during the financial crisis. The bill would also roll back mortgage-lending protections and weaken the so-called Volcker Rule that prohibits banks from making certain reckless bets — some of the same careless behavior that led to the last recession.

Not only is Crapo's bill reprehensible policy, but also its Democratic supporters — six of whom are running for reelection this year — are also committing political malpractice. Polls show that the vast majority of voters want more regulation of big banks, not less. By endorsing a deregulation scheme that nobody outside the financial industry is asking for, Democrats are lending credibility to the Trump administration's broader push to loosen restrictions on Wall Street, including the gutting of the Consumer Financial Protection Bureau.

This self-defeating strategy would be shocking if only it weren't so sadly consistent with the party's recent past. After all, Clinton-era deregulation of the financial industry helped create the conditions that led to the 2008 crisis. "The only thing that the Clinton administration got really wrong was the repeal of Glass-Steagall. But at the time nobody saw what that was going to do," former Clinton adviser Elaine Kamarck told The Post earlier this month. But progressives did see it. Just days after the repeal was enacted in November 1999, the editors of the Nation warned, "History will record this bill as a landmark in the march toward the consolidation of financial power in America."

Today, progressives are again trying to dissuade their colleagues from compromising the interests of working Americans at the behest of the banks. "This bill increases the risk of another taxpayer bailout, and I will continue to challenge supporters of this bill — from both parties — to explain why they stand on the side of big banks instead of working families," said Sen. Elizabeth Warren (D-Mass.). Sen. Sherrod

Brown (D-Ohio) recently asked, "Hourly wages have stagnated for 40 years, and too many Americans are still feeling the impact of the 2008 financial crisis. Who needs help the most?"

Brown is posing the right question. But when it comes to protecting working Americans from recklessness on Wall Street, too many of his fellow Democrats are still giving the wrong answer.

**AIG Returns to Expansion Mode**
By Leslie Scism
23 January 2018
The Wall Street Journal

Eight months ago, new American International Group Inc. Chief Executive Brian Duperreault promised that the age of a shrinking AIG was over. The poster child for the excesses of the 2008 financial crisis would strive again to expand.

On Monday, he made his first big move to make that happen.

AIG said it is acquiring Bermuda-based insurer and reinsurer Validus Holdings Ltd. in an all-cash deal for $5.56 billion. At $68 a share, the deal represents a 46% premium to Validus's closing share price Friday and a 16% premium to its 52-week high.

On Monday, Validus's shares soared 44%, to close at $67.29, while AIG's stock fell 0.9% to $61.

Before landing at the center of the global financial crisis of 2008, AIG was one of the world's biggest financial-services companies, with about $1 trillion in assets. It is about half that size now after divesting itself of many businesses and assets to repay a U.S. government bailout that reached nearly $185 billion.

Taxpayers got their money in full by the end of 2012, but AIG's retrenchment continued as management then sought to improve weak profit margins by shedding poorly performing parts.

Last September, U.S. officials rescinded AIG's status as a "systemically important financial institution," giving AIG flexibility to do large acquisitions.

Mr. Duperreault, who became the company's CEO last May, made clear from the start that he would look for deals to expand AIG, probably by sharply reducing a stock-buyback program that was helping to boost earnings per share. He turned to an island he knows well. He was born in Bermuda, and two of his previous CEO roles were there.

Mr. Duperreault said in an interview that he has known the management of Validus for years, both as a competitor and as a client of brokerage and consulting firm Marsh & McLennan Cos., where Mr. Duperreault was CEO from 2008-2012. He said a key question he asks of potential targets is whether its management is "going to make us better or not," while of Validus's business mix, he said, "I love the fit of this company" with AIG. "That's why I put the call in" to get deal talks rolling.

Bermuda is a well-established hub for property-catastrophe reinsurance. The deal Mr. Duperreault has struck is the latest example of consolidation in this corner of the industry. In recent years, many reinsurers have suffered erosion of profit margins, making mergers and acquisitions a preferred course of action.

Another factor in favor of deal making, said Cathy Seifert of CFRA Research, is a recent change to U.S. tax law that reduces tax advantages by Bermuda-based insurers.

Profit margins have eroded in large part because of an influx of capital from pension plans and other big investors into catastrophe bonds and other reinsurance vehicles that serve as alternatives to conventional reinsurance.

Reinsurance is an arrangement in which insurers take on the risk of policies that primary insurers sell to businesses and individuals. A big product line for Validus is property-catastrophe reinsurance for hurricanes and other disasters. The company also has other operations, including a Lloyd's syndicate, crop insurance and a unit that insures small U.S. companies. They overlap minimally with existing businesses at AIG.

Ed Noonan, Validus's chairman and chief executive officer, said the deal makes sense for Validus because "becoming part of a larger, more diversified organization immediately opens new opportunities for our people and our franchise."

**The MetLife Saga's Mostly Happy Ending; The government drops its appeal but with an odd and unhelpful demand.**
By The Editorial Board
19 January 2018 19:07
The Wall Street Journal

The federal Financial Stability Oversight Council on Thursday at long last dropped its appeal of a federal judge's ruling that rescinded MetLife's too-big-to-fail designation. This is progress, but the four-year standoff is a reminder of how regulators can abuse their power.

In 2014 the council dubbed MetLife a "systemically important financial institution," which under the Dodd-Frank Act must adhere to bank-style capital and liquidity standards. FSOC, which includes the heads of nine federal agencies that oversee financial institutions, departed from its own regulatory guidance and denied MetLife access to its analysis.

MetLife sued and was vindicated in 2016 when federal Judge Rosemary Collyer ruled that FSOC failed to consider how the market would be destabilized or other institutions would be harmed by a MetLife collapse. FSOC also "purposefully" refused to assess the costs of its designation in violation of well-established administrative law.

The Obama Administration appealed to the D.C. Circuit Court of Appeals, which put the case on hold last spring at the request of the council while the Trump Treasury Department completed a review of the

systemic-designation process. We urged the White House to drop the appeal but were told that a majority vote on the council was necessary.

If that's true, FSOC by design undermines the President's ability to set executive policy. In November Treasury recommended the council revise its guidance to require that FSOC conduct a cost-benefit analysis and assess the likelihood of an institution's material financial distress. But a majority vote is needed to put its recommendations into effect.

So while most other executive agencies were rolling back Obama overreaches this past year, FSOC sat tight. Trump appointees finally comprise a majority on the council since White House budget director Mick Mulvaney replaced Richard Cordray as head of the Consumer Financial Protection Bureau.

This appears to have prompted FSOC's agreement to settle the case and let Judge Collyer's ruling stand. Yet it's disappointing that the government required that MetLife as a condition of the settlement ask the judge to vacate the portion of her opinion concluding that the council failed to undertake the required cost-benefit analysis.

This part of the ruling is significant because Judge Collyer held that agencies can't arbitrarily consider benefits of regulations while ignoring costs. She explained that under the Supreme Court's 2015 ruling in Michigan v. EPA, agencies may not "'entirely fai[l] to consider an important aspect of the problem' when deciding whether regulation is appropriate."

Judge Collyer thus extended Michigan v. EPA's limits on regulatory discretion and judicial deference to FSOC and other government agencies—an important potential precedent. Treasury has endorsed a rigorous cost-benefit analysis, and MetLife made a full-throated argument for it. So why is the Trump Administration trying to change the judicial record and expand administrative power?

It's possible that career officials at Justice want to protect regulators' discretion, which would make it easier to defend the government against other lawsuits. But this reinforces how regulators will resist relinquishing power and tying their own hands. We hope Judge Collyer sticks with her original ruling.

**HSBC to Pay $101.5 Million to Resolve Federal Fraud Charges; Bank admits to misusing confidential client information for its own profit, a practice known as front-running**
By Maria Armental
18 January 2018
The Wall Street Journal

HSBC Holdings PLC has agreed to pay $101.5 million to resolve federal fraud charges stemming from the bank's misuse of confidential client information for its own profit, a practice commonly known as front-running.

In documents filed Thursday in Brooklyn federal court, HSBC admitted to using confidential information in two instances for its own profit.

In one March 2010 transaction, it converted approximately £5.3 billion ($7.4 billion) to U.S. dollars for a client—identified in court documents only as a financial-services company—that resulted in a $38.4 million profit for HSBC. In a second transaction in December 2011 for Cairn Energy PLC, an Edinburgh-based oil-and-gas company, HSBC converted about $3.5 billion to British pounds that resulted in a roughly $8 million profit for the bank.

Front-running typically involves a trader jumping ahead of a client's order, buying or selling for their own account to profit when the larger transaction moves a price.

A related federal probe into foreign exchange-rate manipulation led to the conviction of a former high-ranking HSBC executive and charges against a second one.

As part of the proposed resolution, the British bank entered into a three-year deferred-prosecution agreement with the Justice Department and agreed to pay a $63.1 million criminal penalty, continue to cooperate in investigations and prosecutions, strengthen its compliance program and pay back $38.4 million in gains. The bank had previously settled for about $8 million with Cairn Energy.

The agreement must be approved by a judge.

Such agreements, a common tool in the U.S. in corporate prosecutions, give the alleged wrongdoer a chance to cooperate with prosecutors in exchange for a less-punitive outcome—typically a fine, admission of wrongdoing and taking measures to improve compliance. Under such agreements, the company is charged but criminal proceedings are suspended as long as conditions of the agreement are met.

HSBC said in a statement it has strengthened its controls and would continue to make more changes. "HSBC is committed to ensuring fair outcomes for our customers and protecting the orderly and transparent operation of the markets," spokesman Rob Sherman said in an email.

CONTACT

**ERIK HOTMIRE**
ehotmire@brunswickgroup.com
+1 (202) 393-7337

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