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PUBLIC POLICY

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Thursday, June 23, 2016

TOP NEWS

Banks Face Stress Over Fed's Risk Management Review

Financial institutions are widely expected to meet mandated capital levels as the Federal Reserve on Thursday releases the first of its two-step review of banks' ability to withstand a financial shock, but questions remain over whether the Fed will approve their risk management procedures.

DOL's 'Persuader' Rule Survives Law Firms' Injunction Bid

A Minnesota federal judge refused Wednesday to temporarily block implementation of the U.S. Department of Labor's controversial "persuader" rule, saying that while portions of it could be invalid, the law firms challenging it did not show nearly enough potential harm to pause enactment.

Feds Blast Judge's Decision To Sink BLM Fracking Rule

The federal government on Wednesday blasted a Wyoming federal judge's recent decision to strike down the U.S. Bureau of Land Management's fracking rule for federal and Native American lands, saying the standards are well within the agency's authority and responsibility to protect public lands.

Fed's No. 2 Defends Efforts To End Too Big To Fail

The Federal Reserve Board has made much progress toward reducing the risk that the failure of large financial institutions poses to the economy, the board's second-in-command told an audience in Stockholm during a Wednesday speech.

Long-Awaited TSCA Reforms Finally Become Law

President Barack Obama on Wednesday signed into law sweeping reforms to the outdated Toxic Substances Control Act, capping a yearslong fight to update the law that finally succeeded with the backing of Republicans, Democrats, industry groups and environmentalists.

Ex-Federal Judges Demand Senate Fill High Court Seat

A trio of former federal judges made fervent calls Wednesday for the Senate to consider D.C. Circuit Chief Judge Merrick Garland's paralyzed nomination to the U.S. Supreme Court, warning its vacant seat is creating confusion among circuit courts and fraying the judiciary system as a whole.

LAW FIRMS

Akin Gump
Allen & Overy
Alston & Bird
Baker & McKenzie
BakerHostetler
Bergeson & Campbell
Berwin Leighton
Bird & Bird
Brashear LLP
Cadwalader Wickersham
Cleary Gottlieb
Clifford Chance
Cravath Swaine
DLA Piper
Day Pitney
DeCotiis FitzPatrick
Dechert
Dentons
Dickstein Shapiro
Drinker Biddle
Earthjustice
Epstein Becker Green
Fennemore Craig
Finnegan
Fisher Phillips
Foley & Lardner
Fredericks Peebles
Freshfields
Gibbs Houston
Gibson Dunn

Pipeline Regulator Reauthorized As Obama Inks Safety Bill

President Barack Obama signed legislation Wednesday reauthorizing the Pipeline and Hazardous Materials Safety Administration through 2019, which includes a mandate to craft new rules for underground natural gas storage in the wake of a massive gas leak in Southern California last fall.

ANALYSIS

TSCA Reform's Success Rests On EPA's Shoulders

The U.S. Environmental Protection Agency will be hard-pressed to meet the responsibilities established for it by the newly minted Toxic Substances Control Act reform law, and experts say the legislation's success in transforming the chemical regulation process depends in large part on whether the EPA can rise to the occasion.

New Team Telecom Rules May Be Cause For Industry Optimism

The Federal Communications Commission must go further than executive branch recommendations to truly streamline and expedite Team Telecom national security reviews, experts say, but they remain hopeful the process may finally be improved by the FCC's plan to float new rules.

Transportation Regulation To Watch In The 2nd Half Of 2016

The transportation industry is anxiously awaiting new rules that would impose heavier burdens on maritime shippers to properly weigh ocean containers, establish stiffer safety standards for commercial truckers and make the regulatory terrain trickier for attorneys to navigate overall in 2016. Here, Law360 examines the regulations that could change the game this year.

SEC Says It Won't Pursue Funds Over Auditor Conflicts

The U.S. Securities and Exchange Commission has said it won't pursue enforcement actions against mutual funds that retain auditors that have accepted loans from lenders that partially own the fund in violation of SEC accounting rules, while the agency discusses the conflicts with the auditors.

Fattah Case Stirs Political Criminalization Fears

While prosecutors cheered Tuesday's conviction of Rep. Chaka Fattah, D-Pa., on sweeping racketeering conspiracy charges, some critics view the case as more evidence that the government's increasingly aggressive efforts to root out public corruption has threatened to criminalize unremarkable political activities and relationships.

BANKING & SECURITIES

SEC Challenger Tells DC Circ. Old Rulings Still Relevant

An investment adviser challenging the U.S. Securities and Exchange Commission's in-house court disputed the SEC's claim that his appeal in the D.C. Circuit relies on since-vacated federal court decisions ruling the tribunal unconstitutional, saying Wednesday that the rulings are still relevant.

GOP Grills Yellen On Interest Rates And Regulations

House Republicans grilled Federal Reserve Chair Janet Yellen on interest rates paid to banks and the effect regulations have on the economy, as Yellen spent her second day before Congress as part of her semi-annual monetary policy hearing.

Greenberg Traurig

Griesing Law

Haynes and Boone

Herbert Smith Freehills

Hickey & Evans

Hogan Lovells

Holland & Knight

K&L Gates

Latham & Watkins

McDermott Will

Morgan Lewis

Olshan Frome Wolosky

Orrick Herrington

Paul Hastings

Pepper Hamilton

Perkins Coie

Pillsbury Winthrop

Post & Schell

Pringle Quinn

Schnader Harrison

Seaton Peters

Seyfarth Shaw

Sheppard Mullin

Sidley Austin

Sills Cummis

Simpson Thacher

Squire Patton Boggs

Stark & Stark

Stradley Ronon

Strasburger & Price

Stroock & Stroock

Troutman Sanders

Wasserman Jurista

White & Case

WilmerHale

Winthrop & Weinstine

COMPANIES

AAR Corporation

AT&T Inc.

Allergan PLC

Altman Weil Inc.

Anheuser-Busch Inbev SA/NV

Apple Inc.

Bank of America Corporation

Barclays PLC

North Carolina Senate OKs Intrastate Crowdfunding Bill

The North Carolina Senate passed an equity crowdfunding bill Monday letting certain issuers raise up to \$2 million annually through the novel fundraising method, hoping to join many states that have their own rules for intrastate offerings atop newly enacted federal regulations governing interstate campaigns.

White House Says Budget Bill Would 'Shortchange' SEC

The White House Office of Management and Budget warned Tuesday that the budget for the U.S. Securities and Exchange Commission included in the congressional appropriations bill would hinder SEC enforcement and "shortchange" the agency.

SEC Advisory Committee Wants Better, Not Less, Disclosure

A U.S. Securities and Exchange Commission advisory committee is urging the agency to focus its review of the effectiveness of corporate disclosures in a manner that improves the quality of information to investors, rather than simply shorten disclosures to benefit issuers.

Ex-House Speaker Hastert Reports To Prison

Former U.S. House Speaker Dennis Hastert entered a federal prison in Rochester, Minnesota, on Wednesday, beginning his 15-month sentence on charges he dodged federal bank reporting laws to cover up the fact he sexually abused several teen boys in the years before he ran for public office.

ENERGY & ENVIRONMENTAL

Minn. Vows Fight Of 8th Circ.'s Declawing Of Emissions Law

Minnesota Gov. Mark Dayton on Wednesday said his state will seek an en banc rehearing of an Eighth Circuit decision earlier this month that nixed portions of a Minnesota law barring new coal-fired plants from supplying electricity to the state.

NJ High Court Won't Revive Waterfront Public Access Rules

The New Jersey Supreme Court has refused to second-guess an appellate ruling knocking down state regulations for public access to beaches and tidal waterways after the lower court found the New Jersey Department of Environmental Protection had overstepped its authority in issuing the rules.

HEALTH & LIFE SCIENCES

House Republicans Unveil Obamacare Alternative

House Republicans on Wednesday unveiled a health care agenda meant to dismantle the Affordable Care Act, offering alternatives to the plan they have long derided while also keeping certain provisions intact.

EMPLOYMENT

Revised Equal Pay Data Rule On Horizon, EEOC Chair Says

The U.S. Equal Employment Opportunity Commission will soon be issuing a revised version of its proposal to expand pay data collection and will provide interested parties with a fresh opportunity to offer feedback on the regulation, agency Chair Jenny Yang said Wednesday.

Pa. Senate Panel Approves Bill Expanding LGBT Protections

Bipartisan Policy Center

BlackRock

CTIA

Cisco Systems Inc.

Cleveland Cavaliers

Coca-Cola Enterprises Inc.

Comcast Corporation

Competitive Carriers Associatio

Deloitte Touche

Deutsche Bank AG

Disabled American Veterans

ESPN Inc.

Exxon Mobil Corporation

Ferrari SpA

Fiat Chrysler Automobiles NV

Golden State Warriors

Google Inc.

Invesco Ltd.

Johnson Controls Inc.

London Stock Exchange Group
PLC

McGraw Hill Financial Inc.

Microsoft Corporation

National Association of
Manufacturers

National Basketball Association

National Cable &
Telecommunications Associatio

National Railroad Passenger
Corporation

Newegg Inc.

Northern Mariana Islands
Retirement Fund

Overstock.com Inc.

PricewaterhouseCoopers

Public Company Accounting
Oversight Board

Riverkeeper Inc.

Robert Half International Inc.

SABMiller

Sierra Club

Southern California Gas Co.

Texas Instruments Inc.

U.S. Chamber of Commerce

Zeughauser Group LLC

GOVERNMENT AGENCIES

A Pennsylvania Senate committee on Wednesday narrowly approved amendments to the state's Human Relations Act, sending to the full Senate proposed changes that would outlaw discrimination in housing and the workplace based on a person's sexual orientation or gender identity.

Testimony Of Mayor Trickery Wrongly Barred, NJ Justices Say

The New Jersey Supreme Court revived a hostile work environment lawsuit by three East Orange city workers accusing a supervisor of sexual harassment, ruling Wednesday that a lower court wrongly barred a witness's testimony that the town mayor instructed her to lie to investigators.

Congress Should Nix NLRB Joint Employer Test, Report Says

The U.S. Chamber of Commerce and the International Franchise Association on Tuesday jointly issued a report calling on lawmakers to reverse the National Labor Relations Board's controversial new standard for determining joint employment, which they say will reduce employer flexibility and competition.

COMPETITION

EU, S. Africa Competition Watchdogs Say They'll Cooperate

The competition authorities of the European Union and South Africa on Wednesday said that they will try to share information and coordinate their enforcement efforts in future antitrust cases that implicate the interests of both authorities.

White House Decries Antitrust Funding Level In House Bill

The White House on Tuesday said it would likely veto an appropriations bill that could be considered by the House this week partly out of concerns that the Federal Trade Commission's antitrust efforts would be hindered by resource constraints.

GOVERNMENT CONTRACTS

GSA Requires New Transaction Data Reports From Vendors

A new General Services Administration rule published Wednesday will require government contractors to make monthly transactional data reports, a move the agency says will save both the government and vendors hundreds of millions of dollars.

Fed. Circ. Axes 2nd Challenge To VA Claims Form Rule

The Federal Circuit deferred Wednesday to a prior ruling that veterans groups cannot successfully challenge U.S. Department of Veterans Affairs regulations requiring that all compensation claims and administrative appeals to the agency be filed on standard VA forms first.

INTERNATIONAL TRADE

EU Sets Out China Relationship Goals For Next 5 Years

The European Commission and the High Representative of the Union for Foreign Affairs and Security Policy laid out their plans Wednesday for dealing with China for the next five years, saying the update is due to the changes in the relationship between China and the European Union over the last decade.

TAX

Army Corps of Engineers
Bureau of Land Management
Consumer Financial Protection Bureau
Equal Employment Opportunity Commission
European Commission
Executive Office of the President
Federal Aviation Administration
Federal Communications Commission
Federal Deposit Insurance Corp
Federal Energy Regulatory Commission
Federal Maritime Commission
Federal Reserve Bank of NY
Federal Reserve System
Federal Trade Commission
Financial Stability Oversight Council
Food and Drug Administration
Immigration and Customs Enforcement
Internal Revenue Service
International Monetary Fund
National Labor Relations Board
National Telecommunications and Information Administration
Occupational Safety and Health Administration
Pipeline and Hazardous Materials Safety Administration
Securities and Exchange Commission
Small Business Administration
Tohono O'odham Nation
U.S. Army
U.S. Attorney's Office
U.S. Coast Guard
U.S. Department of Defense
U.S. Department of Health and Human Services
U.S. Department of Homeland Security
U.S. Department of Justice
U.S. Department of Labor
U.S. Department of Transportation
U.S. Department of Veterans Affairs

White House Likely To Veto \$236M Funding Cut For IRS

President Barack Obama is likely to veto a 2017 budget bill that cuts funding to the Internal Revenue Service by \$236 million from the current level, according to a statement released Wednesday.

Tenn. Defies High Court Tax Ruling On Interstate Sales

The number of states defying a U.S. Supreme Court ruling requiring retailers to have a physical presence in a state for tax purposes continues to rise, with Tennessee becoming the latest to propose sales and use tax on remote transactions that cross state lines.

Watchdog Says IRS Missed Over \$21M In Offshore Penalties

The Internal Revenue Service could have missed assessing more than \$21 million in delinquent penalties against taxpayers who don't reveal foreign assets and income under a voluntary disclosure program, according to an internal watchdog report released on Tuesday.

BANKRUPTCY

Cory Booker Ducks NJ Water Agency Mismanagement Suit

A New Jersey federal bankruptcy judge tossed claims against Sen. Cory Booker by Newark's defunct water infrastructure agency that he oversaw when he was mayor, saying in a ruling Tuesday that Booker was immune to the mismanagement charges by virtue of his then-office.

IMMIGRATION

9th Circ. Backs Visa Denial Over Suspected Gang Ties

A Ninth Circuit panel Tuesday found that a U.S. consulate had acted within the law in denying a visa to a Mexican man suspected of ties to a street gang, citing a concurring opinion by Justice Anthony Kennedy in a fractured Supreme Court decision.

NATIVE AMERICAN

Rep. Floats Bill To Shield States, Tribes From CFPB Rule

A Colorado Republican congressman said Wednesday that his proposed bill to allow states and Native American tribes to request an exemption from the Consumer Financial Protection Bureau's proposed rule for payday, auto title and other lenders would protect consumers from federal meddling with states' regulatory frameworks.

Tribal Legislators' Docs Mostly Unprotected In Casino Row

An Arizona federal judge said Tuesday that the Tohono O'odham Nation must disclose documents and allow its witnesses to answer questions connected with the tribe's bid to offer Las Vegas-style gaming near Phoenix, saying that tribes are generally entitled to legislative privilege but the documents sought by the state weren't entitled to that protection.

HUD Finalizes Procedure For Tribes To Consult On Policies

The Department of Housing and Urban Development finalized a procedure for government-to-government consultation with Native American tribes about policies that have substantial impacts on them, according to a notice set to run in the Federal Register on Thursday.

TELECOMMUNICATIONS

Affairs

U.S. Department of the Interior

U.S. Environmental Protection Agency

U.S. General Services Administration

U.S. House of Representatives

U.S. Senate

U.S. Supreme Court

United Nations

Wage and Hour Division

FCC Finalizes Changes To Lawsuit Notification Process

Parties looking to sue the Federal Communications Commission can now give the agency a heads-up via email, and in some cases are required to, according to a finalized rule slotted to be published in the Federal Register on Thursday.

Sen. Reid Says FCC Must Resolve Issues In Set-Top Box Plan

The Federal Communications Commission's plan to give consumers an alternative to renting set-top boxes from their pay-TV providers has hit another snag after Senate Minority Leader Harry Reid, D-Nev., said that the FCC must resolve privacy and copyright issues before moving forward with its plan.

Trade Groups Slam FCC Net Neutrality Transparency Guidance

A wireless association and competitive carriers group have told the Federal Communications Commission that its guidance for following the Open Internet Order's transparency rule amounts to new rule-making without providing required notice and an opportunity to comment.

Sen. Warren Expresses Support For FCC's Privacy Plan

Democratic Sen. Elizabeth Warren on Tuesday told the Federal Communications Commission to move forward with its proposal to regulate how broadband internet service providers treat customer data, saying strong rules are needed to protect consumer privacy and prevent low-income individuals from being singled out.

Microsoft Cautions FCC On Undersea Cable Reporting Rules

Microsoft expressed concerns Tuesday to the Federal Communications Commission about the possible burdens that could come from the FCC's plan to soon consider requiring submarine cable licensees to report communications network outages, cautioning the agency not to make restoration more difficult.

PEOPLE

Greenberg Traurig Nabs Real Estate Pro For Boston Office

Greenberg Traurig LLP has grown its real estate group with the addition of a veteran attorney experienced in all aspects of complex land deals as a shareholder in the firm's Boston office, expanding the practice's already deep bench of lawyers in the U.S. and abroad.

Ex-Fla. Jobs Chief Joins Foley & Lardner In Miami

Foley & Lardner LLP has picked up former Florida Department of Economic Opportunity head Jesse Panuccio as a litigation partner focusing on appellate cases and on the policy and labor groups in its Miami, Tallahassee and Washington, D.C., offices, the firm announced Wednesday.

Ex-UN Leader Dies 5 Days Before Hearing In Bribery Case

Former United Nations General Assembly Chief John Ashe, a diplomat who spent a decade at the U.N. and was implicated in a \$1.3 million bribery scandal, died at the age of 61 Wednesday afternoon, five days before a scheduled status conference, his attorney confirmed to Law360.

EXPERT ANALYSIS

FDA Delay Of Drug Labeling Rule Is Bad News For Plaintiffs

The delay, for the third time, of the U.S. Food and Drug Administration's new prescription drug labeling rule means that plaintiffs injured by generic drugs are essentially prohibited from seeking or receiving compensation for their injuries, say Stefanie Colella-Walsh and Martin Schrama at Stark & Stark.

FTC's Confusing Attempt To Comply With The E-Warranty Act

There are no proposed Federal Trade Commission revisions to the Magnuson-Moss Warranty Act that would permit, under any circumstances, the use of the internet to supply the warranty document to a consumer who has purchased the product — an option seemingly required by the E-Warranty Act, says Karen Lederer at Troutman Sanders LLP.

Redefining The Focus Of Federal And State Equal Pay Laws

While the federal government has not enhanced its own equal pay law, the current administration has made clear that equality in the workplace is a priority. State and local governments have taken it upon themselves to create more protections for employees, and there are several different elements employers should consider as they prepare for the possibility of defending cases under the new amendments, say attorneys at Epstein Becker Green LLP.

Del. Appraisal Legislation Is A Step In Right Direction

New legislation recently passed by the Delaware Senate may curb the cost of certain appraisal litigation. However, it does not include certain fundamental changes to the appraisal statute urged by takeover practitioners to limit abusive "appraisal arbitrage," say attorneys with Paul Hastings LLP.

LEGAL INDUSTRY

3 Reasons For The Lull In Cross-Border Firm Mergers

Despite the rapid globalization of their clients, law firms haven't been as quick to spread their wings internationally, at least when it comes to combining with other firms across borders. Here, experts give Law360 three reasons why cross-border law firm mergers have been rare in recent years.

DLA Piper, Allen & Overy Dominate EU

DLA Piper and Allen & Overy LLP reign over Europe with more than 1,900 attorneys each spread across the continent, eclipsing the other top firms on Law360's Global 20 with a focus on providing worldwide services out of London.

Global 20: Allen & Overy LLP

Allen & Overy LLP enlisted attorneys stationed around the globe to clinch another year of lucrative transactions, including helping brewing giant AB InBev fund its \$100 billion-plus acquisition of SABMiller and assisting on a \$27 billion, three-way merger that created the world's largest independent Coca-Cola bottler, landing the firm atop Law360's Global 20 for the second consecutive year.

Haynes And Boone, Sheppard Mullin Raise Associate Pay

Haynes and Boone LLP and Sheppard Mullin Richter & Hampton LLP have each boosted associate salaries to match the new Cravath Swaine & Moore LLP benchmark, representatives for the firms confirmed Wednesday.

Justices' Financial Disclosures Reveal Conflicts Of Interest

Chief Justice John Roberts and Justices Stephen Breyer and Samuel Alito held stock in companies that appeared before the high court in 2015 — Microsoft, Cisco Systems and Johnson Controls, respectively — while Alito finally offloaded the Exxon Mobil stock that forced him to recuse himself from the Exxon Valdez case, according to a watchdog group.

Women, Minorities Underrepresented In State Judiciary: Study

Women and minorities are significantly underrepresented on the bench compared to their presence in the U.S. population, while white male judges make up more than double their relative population numbers, according to a report released Wednesday.

7 Things US Attorneys Should Know As Brexit Voting Begins

As Britons go to the polls today to decide whether the U.K. should stay in the European Union or cut ties with the bloc, here are 7 things attorneys should know about the process, the possible outcomes and what to expect on June 24.

BigLaw Up (Almost) All Night For Brexit

Major law firms have spent months, if not years, gearing up for the possibility of the U.K. exiting the European Union. But as Britons line up to cast their votes Thursday, the BigLaw SWAT teams are in place — in some cases, literally.

UK In-House Paychecks Grew 12% In Last Year

In-house salaries are up across the pond, and the U.K. staffing consultancy that tracked the increase chalks it up to the paradigm shift that has law departments recruiting lawyers at a premium to build out in-house capabilities.

Calif. Court Halts Gibson Dunn's DQ In Malpractice Case

Gibson Dunn & Crutcher LLP on Tuesday won a pause to an May order removing it as counsel for McDermott Will & Emery LLP and an estate planning partner, Jonathan Lurie, in a pair of legal malpractice cases.

'Taking My Talents To South Beach': Law Firm Version

LeBron James has established his worth by tangible metrics. He cashed in on a free agent bonanza fueled by the NBA's economic model that supports his regal compensation. But such is not the case when it comes to first-year associate salaries of \$180,000 at certain law firms and \$2,000 an hour billing rates for certain partners, says Mark A. Cohen, founder of Legal Mosaic LLC.

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