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Subject: GOP's Swing At Dodd-Frank Could Give Banks Edge In Court

PUBLIC POLICY

What's Happened In The 3 Years Since The SEC Abandoned Its Strict 'No Admit, No Deny' Settlement Policy?

Read our exclusive analysis when Law360 In-Depth debuts June 11.

Wednesday, June 8, 2016

TOP NEWS

[GOP's Swing At Dodd-Frank Could Give Banks Edge In Court](#)

A sweeping rebuke of the 2010 Dodd-Frank Act unveiled Tuesday by a top House Republican has drawn attention for its proposed rewriting of capital rules and agency structures, but a small portion of the plan could also make it much easier for banks to overturn rules they don't like in court.

[IRS Proposes Corporate-Level Tax On Certain REIT Transfers](#)

The U.S. Internal Revenue Service proposed new regulations Tuesday to impose a corporate level tax on certain property transfers to real estate investment trusts and regulated investment companies.

[White House Threatens Veto Of Senate's 2017 NDAA](#)

The White House threatened Tuesday to veto the U.S. Senate's \$602 billion 2017 National Defense Authorization Act unless major changes are made, citing issues such as attempts to "micromanage" the Pentagon, overly rigid contracting clauses and purported attempts to undermine labor- and tax-related executive orders.

[DC Comes Closer To Approving \\$15 Minimum Wage By 2020](#)

Local lawmakers in Washington, D.C., took the nation's capital closer to setting an hourly minimum wage of \$15 on Tuesday, unanimously voting to advance a bill that they say would help the district's poorest families deal with rising housing costs and other expenses.

[EPA Unveils First Environmental Justice Regulatory Guide](#)

The U.S. Environmental Protection Agency issued its first-ever technical guidance document Tuesday covering how EPA analysts should incorporate environmental justice principles in national rules.

[US, China Tackle Steel Crisis, Investment Treaty At Summit](#)

A high-level trade summit between the U.S. and China wrapped up on Tuesday with the two world powers forging ahead on numerous thorny policy issues such as the global steel glut and their negotiations for a bilateral investment treaty.

LAW FIRMS

Allen & Overy
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Cahill Gordon
Clifford Chance
Constangy Brooks
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Hinshaw & Culbertson
Hogen Adams
Holland & Knight
Hueston Hennigan
Hughes Hubbard
Irell & Manella
Jeffer Mangels
Jones Day
Jones Walker
Kellogg Huber

Senate Approval Sends TSCA Reform To Obama

The U.S. Senate on Tuesday passed long-sought revisions to the Toxic Substances Control Act with lopsided, bipartisan approval, sending the reform legislation to President Barack Obama, who has said he supports the bill.

ANALYSIS

GOP's Dodd-Frank Repeal Bill Offers SEC Juicy Bone

The Republican plan to replace the Dodd-Frank Act, unveiled Tuesday by Rep. Jeb Hensarling, would give the U.S. Securities and Exchange Commission more leverage in enforcement actions by increasing its ability to extract penalties, experts said, while provisions allowing respondents to move cases to federal court likely wouldn't slow the agency down much.

Calif. Developers Face Large Affordable Housing Gap

As California cities continue to suffer through a severe affordable housing shortage, lawyers say developers are having to find creative ways to piece together financing from myriad sources to pay for such projects amid a shortage of available funds for low-income housing.

Fla. Justices Could Chill Doc Malpractice Suits, Attys Fear

Medical malpractice cases coming before the Florida Supreme Court on Thursday could transform the landscape for such litigation in the state by cementing lawmakers' power to cap attorneys' fee awards in cases against public facilities, which patient attorneys contend would slash citizens' access to court.

BANKING & SECURITIES

House GOP Dodd-Frank Fix Focuses On Higher Bank Capital

A top Republican lawmaker on Tuesday laid out a sweeping plan to repeal the Dodd-Frank Act and replace it with an option where banks could maintain higher capital levels in exchange for escaping other financial regulations.

SEC Says 2nd Circ. Ruling Ends 'Big Short' Adviser Appeal

The U.S. Securities and Exchange Commission on Monday urged the Second Circuit to shut down an appeal by Wing Chau, the investment adviser featured in Michael Lewis' book "The Big Short," following the court's recent ruling ending a similar challenge to the SEC's in-house court.

SEC Challengers Tell 11th Circ. That Tilton Dissent Was Right

An investment firm and a real estate developer urged the Eleventh Circuit to follow the dissent in the Second Circuit decision shutting down Lynn Tilton's challenge to the U.S. Securities and Exchange Commission's in-house court.

Dodd-Frank Act Flawed But Fixable, Senate Panel Hears

Legal and financial experts told a Senate committee Tuesday that the Dodd-Frank Act is flawed, complex and sometimes counterproductive but could be fixed, shying away from calling for an all-out repeal as some Republican lawmakers have.

SEC Cybersecurity Still Needs Work, IG Says

The U.S. Securities and Exchange Commission has not done enough to implement information technology security upgrades to protect highly sensitive information from data breaches, the commission's inspector general said in a

Kilpatrick Townsend

Littler Mendelson

Mayer Brown

Milbank Tweed

Morgan Lewis

Murphy Pearson

O'Melveny & Myers

Orrick Herrington

Paul Weiss

Post & Schell

Quintairos Prieto

Rogers Joseph

Ropes & Gray

Rutan & Tucker

Searcy Denney

Segal Roitman

Sidley Austin

Skadden

Sonosky Chambers

Steptoe & Johnson LLP

Umberg Zipser

Vaka Law Group

Weil Gotshal

Wendel Rosen

COMPANIES

American Bar Association

American Cable Association

American Civil Liberties Union

American Enterprise Institute

American International Group Inc

American Petroleum Institute Inc

Australian Securities Exchange

Berkshire Hathaway Inc.

Better Markets Inc.

Bright House Networks LLC

CME Group Inc.

CSX Corporation

Center for Biological Diversity In

CenturyLink Inc.

Charter Communications Inc.

Chevron Corporation

Commonwealth Scientific

Industrial Research Org.

Consumer Watchdog

Cornerstone Research Inc.

Cray Inc

report last week.

ENERGY & ENVIRONMENTAL

Texas Energy Regulators Want State To Fight Methane Rules

The Texas Railroad Commission's leaders on Tuesday asked the state's attorney general to pursue a legal challenge to the U.S. Environmental Protection Agency's methane regulations, with the energy regulators saying the rules impose an undue burden on the oil and gas industry.

EPA Asks Judge To Sink NC's Ozone Region Suit

The U.S. Environmental Protection Agency has asked a North Carolina federal judge to toss the state's lawsuit seeking to force the EPA to act on a petition filed by several northeast states to add North Carolina to a regional ozone-reduction program.

EPA Tighter Truck Fuel Standards Near Final White House OK

The U.S. Environmental Protection Agency on Friday sent a rule creating more stringent greenhouse gas and fuel efficiency standards for large and heavy-duty vehicles, like buses and tractor-trailers, to the White House for a final stage of review.

Enviros Say Feds Flouted ESA Review Requirements

Environmental groups on Monday sued the U.S. Forest Service and the U.S. Fish and Wildlife Service in Washington, D.C., federal court, alleging that the agencies skirted Endangered Species Act review requirements when they approved mine and highway projects that may cause harm to animals in Minnesota's Superior National Forest.

HEALTH & LIFE SCIENCES

GAO Urges VA To Improve Health Care Affiliate Contracting

A government watchdog said Monday that the U.S. Department of Veterans Affairs needs to step up its management of high-value sole-source affiliate health care contracts, claiming long contract development times risk causing potential gaps in patient care and other negative effects.

La. Lawmakers Pass Bill Banning Already Illegal Abortions

The Louisiana legislature on Monday sent a bill to Gov. John Bel Edwards attempting to ban abortions based on genetic abnormalities, while featuring an amendment that renders the bill essentially moot.

EMPLOYMENT

Mich. Tribes Redouble Opposition To NLRB Sway Over Casinos

Two Michigan tribes have again urged the U.S. Supreme Court to hear their challenges to the National Labor Relations Board's authority over labor practices at their casinos, with one tribe slamming the federal government's arguments that pending litigation and legislation should play out before the justices weigh the agency's efforts to assert its jurisdiction.

MSHA Floats Rule To Enhance Mine Inspections

The Mine Safety and Health Administration unveiled a proposal Tuesday to require that metal and nonmetal mine operators bolster the quality of their workplace inspections and promptly notify miners of any dangerous

Financial Industry Regulatory Authority Inc.

Florida Bar Association

Florida Hospital

Florida Justice Association

Georgia-Pacific LLC

Google Inc.

Guardian Industries

International Longshore and Warehouse Union

Microsoft Corporation

Motorola Mobility LLC

NFL Enterprises LLC

National Association of Broadcasters

National Association of State Regulatory Utility Commissioner

National Collegiate Athletic Association

National Hockey League

National Railroad Passenger Corporation

Natural Resources Defense Council

New Balance Inc.

New York University

PricewaterhouseCoopers

Prudential Financial Inc.

Public Company Accounting Oversight Board

QUALCOMM Incorporated

Securus Technologies Inc.

Telmate LLC

Thomson Reuters Corporation

Time Warner Cable

UBS AG

Uber Technologies Inc.

Westinghouse Electric Corp.

GOVERNMENT AGENCIES

California Department of Finance
Commodity Futures Trading Commission

Consumer Financial Protection Bureau

Equal Employment Opportunity Commission

Executive Office of the Presiden

conditions.

DC Gives Employers Tips To Prevent Transgender Bias

The District of Columbia Office of Human Rights along with an LGBT advocacy group unveiled a best practices guide Monday for employers that want to create workplace and hiring policies that prevent discrimination against transgender and gender-nonconforming individuals.

GOP Senators Seek To Block DOL Overtime Rule

A group of Republican senators are seeking to block the U.S. Department of Labor's newly finalized overtime rule proposal, warning that hiking the minimum salary threshold for overtime-exempt workers will unfairly cost businesses and inhibit flexible work environments.

CSX, Amtrak Insist Mass. Paid Sick Time Law Preempted

CSX Transportation Inc. and Amtrak told a Massachusetts federal judge Monday that the commonwealth's new paid sick leave law cannot apply to railroad employees, insisting that state and federal officials are twisting up controlling federal statute to claim Massachusetts' law passes muster.

Pa. AG Retaliation Suit Stayed Pending Criminal Case

A Pennsylvania federal judge on Tuesday paused litigation against Pennsylvania Attorney General Kathleen Kane over accusations that she retaliated against a pair of investigators who refused to cooperate with efforts to negatively portray a sting operation launched by her predecessors, pending the resolution of criminal charges against her.

Senate Panel OKs 1st Bipartisan Labor-HHS Bill Since '09

A subset of the U.S. Senate Appropriations Committee on Tuesday advanced a \$161.9 billion spending bill for the 2017 fiscal year that would fund the U.S. Department of Labor at \$12 billion and would amend regulations concerning H-2B visas, the first successful bipartisan effort for the subcommittee in seven years.

Pa. AG Faces Wage Discrimination Claim From Twin Sister

A top deputy and twin sister to Pennsylvania's embattled Attorney General Kathleen Kane has launched a complaint with the U.S. Equal Employment Opportunity Commission alleging that she is paid less than her male co-workers.

COMPETITION

FTC Head Calls US-China Antitrust Efforts 'Work In Progress'

Concerns remain that China is using antitrust laws to prioritize its own industries — particularly in intellectual property — and U.S. efforts to engage with the country are a "work in progress," the head of the Federal Trade Commission told a congressional committee Tuesday.

PRIVACY & CONSUMER PROTECTION

Va. School Board Taking Trans Bathroom Row To High Court

A Virginia school board asked the Fourth Circuit to stay its ruling that federal law requires schools to let transgender students choose which bathrooms to use, arguing Tuesday there are vital questions about separation of powers and privacy the board will raise at the U.S. Supreme Court.

GOVERNMENT CONTRACTS

Federal Bureau of Investigation
Federal Communications Commission
Federal Deposit Insurance Corp
Federal Election Commission
Federal Housing Finance Agency
Federal Reserve System
Federal Trade Commission
Financial Stability Oversight Council
Fish and Wildlife Service
Florida Attorney General's Office
Government Accountability Office
Immigration and Customs Enforcement
Internal Revenue Service
International Trade Commission
Little River Band of Ottawa Indians
Mine Safety and Health Administration
National Aeronautics and Space Administration
National Highway Traffic Safety Administration
National Institutes of Health
National Labor Relations Board
National Security Council
New Jersey Legislature
Office of the Comptroller of the Currency
Office of the U.S. Trade Representative
Poarch Band of Creek Indians
Saginaw Chippewa Indian Tribe Michigan
Securities and Exchange Commission
Seminole Tribe of Florida
Small Business Administration
Texas Attorney General's Office
U.S. Customs and Border Protection
U.S. Department of Agriculture
U.S. Department of Defense
U.S. Department of Education
U.S. Department of Homeland Security
U.S. Department of Justice

State Department Boosts Penalties For Arms Export Violations

The U.S. Department of State is increasing the maximum amounts of civil monetary penalties for arms export violations in order to account for inflation, as mandated by Congress in the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, the State Department said Tuesday.

National Security R&D Must Enter 21st Century, Panel Says

A White House advisory panel has called for updates to U.S national security-related science and technology research and development programs, saying they are stuck in the "last century" and aren't adequate to effectively respond to changing cyber and other threats.

INTERNATIONAL TRADE

Senate Approves 2 New CIT Judges

The U.S. Court of International Trade will soon see two new faces on the bench as the Senate on Monday approved the nominations of attorney Jennifer Choe Groves and Massachusetts appellate judge Stephen Katzmman to preside over the customs and duty venue.

US, India Vow To Explore New Trade Opportunities

President Barack Obama met with Indian Prime Minister Narendra Modi in Washington, D.C., on Tuesday, when the leaders agreed to explore "new opportunities" to further open up trade between the countries while also discussing a host of other cooperative initiatives, including ones on clean energy and technology.

WTO Chief Offers Plan To Jolt Lagging Global Trade

World Trade Organization Director-General Roberto Azevedo on Tuesday sketched out a broad plan to spur more trade growth among the membership, calling on countries to resist protectionist measures and continue striking high-standard agreements wherever possible.

TAX

IRS Says Fines Paid to FINRA Aren't Tax-Deductible

Securities lawbreakers fined by the finance industry's self-regulatory body can't write those amounts off their taxes, the Internal Revenue Service said in a memo finding that the Financial Industry Regulatory Authority, a privately incorporated trade group, is an "agency or instrumentality" of the federal government for tax purposes.

Ex-Congressman Gets New Trial Date After Complaints

Former House Rep. Mel Reynolds won't go to trial this month on misdemeanor tax charges after an Illinois federal judge on Tuesday pushed the date in response to Reynolds' flurry of court filings complaining about his inability to prepare while in pretrial custody.

IMMIGRATION

Feds Oppose Class Cert. In Immigrant Bond Row

The federal government on Monday asked a California federal court to deny a bid for class certification in a case challenging the government's policy of using cash bonds for immigrants, arguing that neither of the plaintiffs has yet

U.S. Department of Labor
U.S. Department of State
U.S. Department of Veterans Affairs
U.S. Department of the Interior
U.S. Department of the Treasury
U.S. Environmental Protection Agency
U.S. Forest Service
U.S. House of Representatives
U.S. Patent and Trademark Office
U.S. Postal Service
U.S. Senate
U.S. Supreme Court

gotten a ruling from the Board of Immigration Appeals that tackles their claims.

DOJ Atty Requirement To Take Ethics Courses On Hold

The Texas judge handling the case over President Obama's executive actions on immigration has stayed an order requiring U.S. Department of Justice attorneys to attend ethics classes and that the government to turn over information on various immigrants.

Feds Deny Immigrant Children Held In 'Deplorable' Conditions

The Obama administration has denied claims there are "deplorable" conditions at detention facilities where immigrant children are being held, telling a California federal judge there is no need to appoint a special monitor to oversee operations there.

NATIVE AMERICAN

Fla. Justices Put State In Hot Seat Over Slot Machines

The Florida Supreme Court on Tuesday challenged the state's reading of a law used to deny a license for slot machines at a Native American-operated racetrack in northern Florida, raising doubts about whether the statute clearly shows that the facility fell short in the approval process.

NJ Tribe Says State AG Can't Dodge Recognition Suit

The Nanticoke Lenni-Lenape Tribal Nation urged a New Jersey federal judge on Monday to reject a bid by the state's attorney general to nix a suit claiming state regulators wrongfully repudiated the tribe's state recognition status, saying the attorney general can't dodge the suit by asserting constitutional immunity.

TELECOMMUNICATIONS

State AGs Push FCC To Protect Privacy In Set-Top Box Plan

A group of 15 state attorneys general told the Federal Communications Commission in a letter that its plan to "unlock" TV set-top boxes must require consumer-facing privacy statements from third-party manufacturers so that states and the Federal Trade Commission can enforce consumer privacy protections.

AGs Urge DC Circ. To Kill FCC Rate Caps On Inmate Calls

Nine state attorneys general and a pair of sheriff's associations added to criticism of the Federal Communications Commission's rate caps on phone calls from inmates, asking D.C. Circuit on Monday to strike down the FCC's rules.

FCC Urged To Allow Local Media Combos, Given Megamergers

The National Association of Broadcasters on Monday pressed the Federal Communications Commission to toss rules that limit common ownership of TV stations and other media in local markets, saying that the FCC has allowed large-scale pay-TV deals while hindering the ability of TV stations to compete.

Phone Kiosk Co. Spared NY Telecom Tax But Not Sales Tax

An operator of retail kiosks where customers can buy extra calling minutes, text messages and mobile data from their cell phone carriers must pay New York state sales taxes, but doesn't owe an additional state excise tax on

telecommunications companies, according to a tax agency ruling made public Tuesday.

EXPERT ANALYSIS

'Berning' The High Court For Pro-Worker Nominees

While Bernie Sanders hasn't released a list of who he would nominate to the U.S. Supreme Court, one could surmise his nominees would include judges who've demonstrated a pro-worker tilt. As food for thought, Michael LeRoy, a professor of law at the University of Illinois at Urbana-Champaign, examines recent employment rulings from judges who would likely garner interest from a candidate who speaks loudly for a \$15-an-hour minimum wage.

Courts May Not Be The Best Place For SEP Issues

In recent years, several cases tried to evaluate the monetary measure of a standard-essential patent and the proper behavior of patent owners and their adversaries doing licensing negotiations under SEPs and commitments to standard-setting organizations. These issues are being adjudicated in multimillion-dollar litigations but seem more appropriately resolved through mediation and arbitration processes, says Mac Waldbaum of Eaton & Van Winkle LLP.

More Obstacles Ahead For Pa. Net Metering Restrictions

The Pennsylvania Independent Regulatory Review Commission's disapproval of a Pennsylvania Public Utility Commission rule that would impose additional limitations on the size of systems that qualify for net metering credit means that further attempts to reform the state's net metering policy will likely have to come through legislative action and the General Assembly, which is likely receiving pressure to take action already, say attorneys at Blank Rome LLP.

LEGAL INDUSTRY

3 Ways To Bag Your Biggest Client Yet

As lawyers face fierce competition in a buyer's market for legal services, landing a role as outside counsel for a Fortune 500 company can sometimes feel like being thrown into a gladiator ring. Here, rainmakers and advisers reveal three ways to bag a big client and leave the arena victorious.

Weil, Paul Weiss, 4 Other Firms Match Cravath Pay Bump

BigLaw stalwarts Weil, Paul Weiss, Milbank Tweed and Cahill Gordon have followed Cravath in announcing a pay bump for associates, as have a defense boutique and a mid-sized firm in California, the law firms confirmed on Tuesday.

The 3 Skills You Need Now To Bring In Clients

In a competitive market full of increasingly savvy buyers of legal services, sales needs to go beyond "always be closing." To bring clients on board and keep them there, attorneys and the business development professionals should embrace a more nuanced and personal approach to making their case, according to speakers at a law firm sales conference Tuesday.

Allen & Overy Mulling Broader Partner Review Criteria

Allen & Overy LLP confirmed on Tuesday that its newly elected leaders, Senior Partner Wim Dejonghe and Managing Partner Andrew Ballheimer, are considering adding more criteria to the firm's partner appraisal process.

3 Things Legal Malpractice Attys Should Never Tell Clients

Legal malpractice attorneys are a special breed of counsel as they often defend lawyers being sued with their livelihood and good names at stake. With that in mind, legal malpractice specialists told Law360 how to avoid using certain phrases so as not to disturb an otherwise-healthy attorney-client relationship, particularly when that client is also a lawyer.

Ex-Fla. Bar Prez To Replace Longtime GrayRobinson Leader

GrayRobinson's president and managing director is stepping down after 25 years and passing the torch to a former Florida Bar president, the firm announced Tuesday, a move that will make the litigator the highest-ranking female managing partner at a Florida firm.

Australian Women Are Growing GC Presence, Study Finds

While women in Australia only hold about 5 percent of CEO positions and 10 percent of COO positions, a new study shows that female representation in Australia's general counsel roles has grown in recent years to 39 percent.

JOBS

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