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**Subject:** CFPB Unveils Sweeping Payday Loan Protections

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## PUBLIC POLICY

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Thursday, June 2, 2016

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### TOP NEWS

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#### **CFPB Unveils Sweeping Payday Loan Protections**

The U.S. government's consumer finance watchdog on Thursday released a long-awaited proposal that would see payday, auto title and other lenders be forced to carry out strict borrower reviews as part of an effort to reform the industry at the national level.

#### **Calif. Regulators Float Methane Rule For Oil, Gas Sector**

California air regulators have proposed regulations that would clamp down on methane emissions from upstream oil and gas facilities, part of the state's aim to slash emissions of the short-lived but potent greenhouse gas by 40 to 45 percent by 2025.

#### **US Dings UAE On Foreign Investment Hurdles**

A U.S. Trade Representative official has voiced concerns about the United Arab Emirates' lingering barriers to foreign investment, saying Wednesday at the country's third World Trade Organization trade policy review in Geneva, Switzerland, that the UAE should examine the effects of its market restrictions.

#### **Calif. Assembly Rejects State Bar Dues Legislation**

The California State Assembly on Tuesday strongly rejected passage of a bill reauthorizing membership dues for the California Bar, as lawmakers from both sides of the aisle said the legislation doesn't go far enough to reform the besieged arm of the state judicial branch.

#### **Wyo. Defends Ban On 'Open Land' Data-Gathering**

Wyoming officials on Tuesday asked a federal judge to toss a lawsuit filed by conservation groups that alleges the state Legislature passed trespassing laws that improperly prevent private citizens from entering "open land" to collect information about agricultural pollution.

#### **Fattah Associate's Girlfriend Pressed Over Alleged Bribes**

The girlfriend of a former Stradley Ronon Stevens & Young LLP government affairs specialist was pressed Wednesday on whether she'd known about alleged bribes he made to Rep. Chaka Fattah, D-Pa., that prosecutors say resulted in her landing a job in the indicted congressman's West Philadelphia district office.

### ANALYSIS

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### LAW FIRMS

Bingham McCutchen  
Brune & Richard  
Buchanan Ingersoll  
Cleary Gottlieb  
Clifford Chance  
Cravath Swaine  
Curtin & Heefner  
DLA Piper  
Dentons  
Dinsmore & Shohl  
Dorsey & Whitney  
Drinker Biddle  
Fennemore Craig  
Fox Rothschild  
Gupta Wessler  
Jones Gregg  
Kelley Drye  
Kirkland & Ellis  
Latham & Watkins  
Marshall Dennehey  
McConnell Valdes  
MoloLamken LLP  
Morgan Lewis  
Nelson Mullins  
Paul Weiss  
Quinn Emanuel  
Schnader Harrison  
Shearman & Sterling  
Sidley Austin  
Skadden  
Squire Patton Boggs  
Stradley Ronon  
Susman Godfrey  
Thompson Coburn

## SEC's In-House Courts Safe For Now After 2nd Circ. Win

The U.S. Securities and Exchange Commission can rest easy for a while after the Second Circuit found private equity magnate Lynn Tilton must face the agency's in-house court before challenging the tribunal's constitutionality, with experts saying it could be a long time before the U.S. Supreme Court ever gets to the merits of the issue.

## BANKING & SECURITIES

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### SEC Beats Tilton's 2nd Circ. Challenge To In-House Court

A divided Second Circuit panel on Wednesday ruled private equity magnate Lynn Tilton can't challenge the constitutionality of the U.S. Securities and Exchange Commission's administrative court until the agency has wrapped up a \$200 million fraud case against her and her Patriarch Partners firms.

### EU Watchdog Questions Capital Test For Market Exemptions

Using a capital-based test to decide if a company trading commodity derivatives should be exempt from stringent financial market regulation has "significant drawbacks," the European Securities and Markets Authority has said in response to calls to use the standard from the European Commission.

### ECB Rebuts Calls For More Leniency In Bank Rules

European regulators should not weaken banking rules to appease calls from the industry to go easier on smaller firms, a member of the European Central Bank's executive board said in a speech Wednesday.

### FDIC Expects Bank Failures To Continue Declining

The Federal Deposit Insurance Corporation expects that the annual number of bank failures will continue declining, after the annual total went down to single digits in 2015 from a triple-digit high during the recession, Chairman Martin J. Gruenberg said at a press conference Wednesday.

### Treasury Further Restricts North Korea's Access To US Banks

The U.S. Department of the Treasury on Wednesday proposed to further restrict North Korea's access to the U.S. financial system and designated the reclusive country as being of "primary money laundering concern" under the Patriot Act.

## ENERGY & ENVIRONMENTAL

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### Murray Energy Says EPA Hiding Docs In Coal Jobs Suit

Murray Energy Corp. on Tuesday told a West Virginia federal judge that the U.S. Environmental Protection Agency has been hiding documents central to its suit over the agency's alleged failure to assess the impact of air regulations on jobs.

### Feds Tell 11th Circ. Water Rule Fight Belongs In 6th Circ.

The federal government has told the Eleventh Circuit it must dismiss a group of states' challenge to the controversial Clean Water Rule because the Sixth Circuit has already determined it has jurisdiction to hear arguments against the plan.

### Lawsuit Over Fracking Law Challenge Dismissed

A Pennsylvania state judge has agreed to toss a lawsuit accusing a group of environmental organizations including Clean Air Council and the Delaware

Wachtell Lipton

William J. Olson PC

## COMPANIES

American Cable Association

American Civil Liberties Union

American Insurance Association

Apple Inc.

Assisted Living Concepts, Inc.

Audi AG

BTI Consulting Group Inc.

CA Inc.

Community Financial Corp.

Consumer Bankers Association

Delaware Riverkeeper Network

Deutsche Bank AG

Environmental Defense Fund Inc

FCA US LLC

Facebook

Federation for American  
Immigration Reform

Ford Motor Company

General Motors

Google Inc.

Hanover Legal Personnel Servic  
Inc.

Immigration Reform Law Institut

Lippman Jungers LLC

Manpower Inc.

Metropolitan Water Reclamation  
District

Mexican American Legal Defens  
and Education Fund

Microsoft Corporation

Mitsubishi Motors Corp.

Murray Energy Corp.

NBCUniversal Inc.

National Congress of American  
Indians

National Immigration Law Cente

Natural Resources Defense  
Council

PepsiCo Inc.

Pew Charitable Trusts

Planned Parenthood Federation

Porsche

Public Company Accounting  
Oversight Board

Riverkeeper Network of launching meritless litigation to stop hydraulic fracturing from moving forward in a Butler County town.

## HEALTH & LIFE SCIENCES

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### Louisiana Bans Common Abortion Procedure

The most common method of second-trimester abortion will soon be outlawed in Louisiana, after Democratic Gov. John Bel Edwards enacted a ban against dilation and evacuation abortions, nonprofit advocacy group Center for Reproductive Rights said Wednesday.

### 3rd Circ. Revives Challenge To Pittsburgh Abortion Buffers

The Third Circuit on Wednesday revived an anti-abortion group's lawsuit challenging the city of Pittsburgh's ordinance imposing 15-foot buffer zones outside the entrances to hospitals and health care facilities, finding that the city failed to provide evidence that the zones were necessary.

### Pa. Readies 1st Interim Regulation For Medical Pot

The Pennsylvania Department of Health's chief said Wednesday that the state's first temporary regulation for a newly legalized medical marijuana program will focus on growers and producers, as part of an expected 18- to 24-month program implementation.

## TRANSPORTATION & INFRASTRUCTURE

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### Shippers Sue Coast Guard Over Great Lakes Pilot Rates

Shipping companies and trade groups are accusing the U.S. Coast Guard of botching the rates they must pay Great Lakes boat pilots for the 2016 season, saying the cargo firms are being overcharged, according to a lawsuit filed Tuesday in Washington, D.C., federal court.

## EMPLOYMENT

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### EEOC Ups Penalties For Title VII Notice Posting Violations

The U.S. Equal Employment Opportunity Commission on Wednesday increased the maximum penalty for employers that violate notice posting provisions of Title VII and other statutes from \$210 to \$525 per violation.

### Skadden Gets \$660K Fees After Win In Calif. Judicial Pay Row

A California judge on Wednesday awarded Skadden Arps Slate Meagher & Flom LLP \$659,759 in attorneys' fees for winning a suit alleging California's chief fiscal officer had illegally withheld automatic raises from 3,000 active and retired state judges, roughly half of what Skadden argued its work was worth.

### NJ Agency Must Face Suit Over Worker Classification Laws

A New Jersey federal judge on Tuesday refused to toss a trucking company's lawsuit contending that state statutes classifying its drivers as employees, rather than independent contractors, violate federal law, rejecting the state labor commissioner's arguments that a related administrative dispute precludes the litigation.

## PRIVACY & CONSUMER PROTECTION

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### China Told Cybersecurity Regs Will Hobble Foreign Insurers

More than two dozen business groups in North America, Asia and Europe

Redflex Traffic Systems

State Bar of California

Takata Corp.

Timbervest LLC

Toyota Motor Corporation

Tribune Publishing Co.

U.S. Chamber of Commerce

Viacom Inc.

Volkswagen

Wal-Mart Stores Inc.

## GOVERNMENT AGENCIES

Army Corps of Engineers

California Environmental  
Protection Agency

California Public Utilities  
Commission

California Transportation Agency  
Centers for Medicare & Medicaid  
Services

Commodity Futures Trading  
Commission

Consumer Financial Protection  
Bureau

Equal Employment Opportunity  
Commission

European Commission

Federal Aviation Administration  
Federal Bureau of Investigation

Federal Communications  
Commission

Federal Deposit Insurance Corp

Federal Trade Commission

Financial Crimes Enforcement  
Network

Indian Health Service

Internal Revenue Service

International Trade Commission

National Highway Traffic Safety  
Administration

Office of the Comptroller of the  
Currency

Securities and Exchange  
Commission

Small Business Administration

U.S. Coast Guard

U.S. Department of Homeland  
Security

U.S. Department of Justice

urged the head of China's insurance regulator to not adopt a set of cybersecurity rules, saying Wednesday that several provisions would put foreign institutions at a disadvantage to local insurers.

### **FCC Can't Impose ISP Privacy Rules, Small Providers Say**

The Federal Communications Commission does not have the authority to slap internet service providers with privacy rules, a trade group of small and medium-sized cable operators has told the FCC, saying the proposed rules would also be deeply burdensome to the hundreds of small providers it represents.

### **Ruling Could Make Chicago Mayor's Private Emails Public**

An Illinois state court judge ruled Tuesday that Chicago Mayor Rahm Emanuel cannot assert a blanket privacy exemption to the Illinois Freedom of Information Act in order to withhold emails and texts stored on his personal devices, potentially leaving the communications open to being read by the public.

## **PRODUCT LIABILITY**

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### **New Cars Being Sold With Faulty Takata Parts, Dems Say**

Senate Democrats on Wednesday said four major automakers, including FCA US LLC and Volkswagen AG, have confirmed they are continuing or plan to sell new cars equipped with possibly defective Takata Corp. air bag inflators, despite a mandated recall of the parts by 2018.

## **GOVERNMENT CONTRACTS**

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### **SBA Makes Major Small-Biz Contracting Tweaks**

The U.S. Small Business Administration finalized a rule Tuesday with a host of tweaks to federal small-business contracting regulations, including clarifying the agency's "nonmanufacturer" and business affiliation rules and easing subcontracting limits and requirements for how joint ventures can qualify as small businesses.

### **No End In Sight For Ill. Budget Crisis**

After the Illinois General Assembly reached the end of the spring legislative session without a budget for the second year in a row, there's little reason to believe that the stalemate will end before the beginning of the next fiscal year, experts say.

## **INTERNATIONAL TRADE**

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### **CFTC Lets Shanghai Exchange Off Hook For Not Registering**

The U.S. Commodity Futures Trading Commission's clearinghouse oversight arm said Tuesday it will not recommend action against the Shanghai Clearing House for not registering with the agency, on the condition the Chinese exchange applies for a permanent exemption from Commodity Exchange Act requirements within six months.

### **China, US Slated To Roll Out Formal Ivory Trade Ban**

The ivory trade will feature as a hot topic of discussion in Beijing next week as the United States and China meet to discuss how much progress they've made on implementing a nearly complete ban on both legal and illegal trading, Catherine Novelli, U.S. undersecretary of state for economic growth, energy

U.S. Department of State  
U.S. Department of the Treasury  
U.S. Environmental Protection Agency  
U.S. Senate  
U.S. Supreme Court

and the environment, told reporters Tuesday.

## TAX

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### **OECD Seeks Input On Treaty Changes To Fight Tax Evasion**

The Organisation for Economic Cooperation and Development announced Tuesday that it is soliciting public comments on the creation of a multilateral instrument to modify bilateral tax treaties in connection with its efforts to combat tax base erosion and profit shifting.

### **Illinois Senate Unanimous In Vote Against Tampon Tax**

Illinois lawmakers decided to abolish the so-called tampon tax on feminine hygiene products after the state's senate unanimously passed the bill on Tuesday.

### **Wal-Mart's Tax Suit Shouldn't Have Proceeded, 1st Circ. Told**

The government of Puerto Rico blasted a federal court for preventing it from collecting an alternative corporate income tax from a Wal-Mart subsidiary, telling the First Circuit on Tuesday that the court improperly assumed jurisdiction over the retailer's suit challenging the tax.

## IMMIGRATION

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### **Conservative Groups Seek Rehearing In Ariz. License Suit**

A handful of conservative groups urged the Ninth Circuit on Tuesday to rehear a ruling permanently blocking Arizona from refusing to issue driver's licenses to so-called Dreamers on the grounds that the state had encroached the federal government's exclusive power to classify immigrants, saying only Congress, not agency policy, preempts state laws.

## NATIVE AMERICAN

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### **IHS Seeks Tribes' Input On Health Program Expansion**

The Indian Health Service said Wednesday it will reach out to Native American tribes for suggestions on the potential expansion of a community health program in Alaska to federally and tribally run health facilities nationwide.

## TELECOMMUNICATIONS

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### **Public Needs More Insight On FCC Proposals, O'Rielly Says**

Republican Federal Communications Commissioner Michael O'Rielly increased his calls Tuesday to reform the agency's proposal process, urging the FCC to change how it handles more-minor proposals and saying the public should have more and earlier insight on changes before the agency acts on them.

### **FCC Names Auction Transition Head, Shakes Up GC Staff**

The Federal Communications Commission's deputy chair for the Telecommunications Bureau will take over the post-incentive auction transition as a deputy chair for the auction's task force, the agency announced Wednesday, one of several staff moves at the commission.

### **Media Writers Urge FCC To Protect Ads In Set-Top Box Plan**

A union representing writers for TV, radio and film has told Federal

Communications Commission officials that its plan to unlock the TV set-top box would help content creators but that benefit could be jeopardized if the commission fails to bar third-party devices from altering or replacing embedded advertising.

## EXPERT ANALYSIS

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### **Democrats And Republicans Unite To Challenge TCPA**

In a recent Law360 Expert Analysis article, we predicted that the Federal Communications Commission's restrictions on the communication of important information to cellphone users would be challenged for burdening far more speech than is necessary to serve any significant governmental interest. Now, a spate of recent suits has motivated a serious First Amendment challenge to the Telephone Consumer Protection Act in a new context — political calling, say Bradley Androozzi and Justin Kay of Drinker Biddle & Reath LLP.

### **The Latest Roadblock For Insider Trading Enforcement**

In *U.S. Securities and Exchange Commission v. Committee on Ways and Means*, the Second Circuit will address the scope of the speech or debate clause in connection with an insider trading investigation involving developments in health care legislation. But regardless of which side prevails, the clause's protections will likely limit insider trading allegations linked to legislative channels, say Justin Shur and Lauren Weinstein of MoloLamken LLP.

### **Beverly Hills Could Drive Autonomous Vehicle Revolution**

On your next visit to Beverly Hills, California, the driver of your shuttle might be a software program. Small affluent cities like Beverly Hills are ideally situated to move the low-speed urban component of the autonomous vehicle landscape forward, and the city's forthcoming driverless shuttle program could incentivize other cities to follow suit, says John Swenson at the Scali Law Firm.

### **The Resurrection Of The Miscellaneous Tariff Bill**

There is every reason to hope that, by reviving the Miscellaneous Tariff Bill, the new American Manufacturing Competitiveness Act of 2016 has created an efficient and transparent process for identifying hundreds of nuisance tariffs that are needless burdens on the U.S. economy, say Greg Mastel and Jennifer McCadney at Kelley Drye & Warren LLP.

### **Defining Proportionality: Amended Rule 26's First 6 Months**

Case law from the first six months after the amendments to Federal Rule of Civil Procedure 26(b)(1) shows that while courts will limit the scope of discovery when it is truly disproportionate to the needs of the case, they will also order production of easy-to-obtain information, says Samantha Southall at Buchanan Ingersoll & Rooney PC.

## LEGAL INDUSTRY

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### **How To Bump Profits Per Partner Above \$1 Million**

Joining the elite club of law firms that bring in more than \$1 million in profits per partner is not an easy feat and the majority of the largest firms in the country by revenue fail to make it happen. Here, experts offer four tips for boosting PPP to new heights.

## How To Be Indispensable Without Being A Rainmaker

Rainmakers who consistently bring in new clients may find it easy to be deemed indispensable by their colleagues and higher-ups, yet it's still possible for others to become an equally integral part of their firm. Here, experts tell Law360 common ways non-rainmaker attorneys can stand out.

## Can BigLaw Close The Gender Gap? Stanford Paper Says Yes

Stanford Law School students have identified a multitude of causes behind the slow pace of progress for women in the legal industry as well as recommendations on how firms can overcome them, according to a paper released to the public Wednesday.

## GCs More In The Mood To Refer Their Firms

Clients are becoming happier with their outside counsels, according to a new survey that found 40.1 percent of general counsels in 2015 would recommend their primary law firm to a peer, up from 33.3 percent the year before.

## Clifford Chance Latest To Hike Associate Pay In The UK

The race to increase pay for associates in London amid a fierce fight for talent there continues, with Clifford Chance LLP revealing Wednesday it has shaken up its associate pay structure and expanded remote working in the city.

### JOBS

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