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**Subject:** Scaled-Down Crowdfunding Bill Disappoints, Attys Say

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## PUBLIC POLICY

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Friday, June 17, 2016

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### TOP NEWS

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#### [Scaled-Down Crowdfunding Bill Disappoints, Attys Say](#)

A bill modifying equity crowdfunding rules that passed the U.S. House Financial Services Committee on Thursday contains incremental improvements, attorneys say, but some were disappointed that the annual million-dollar fundraising limit wasn't raised and hope it will be lifted in the future.

#### [House Passes \\$576B Defense Funding Bill](#)

The House voted to pass the \$576 billion funding bill for the U.S. Department of Defense on Thursday, the third of the must-pass funding bills, despite continuing criticisms from the White House about the use of contingency funding.

#### [44 GCs Say Big Biz Needs 'Certainty' Of 9 Justices](#)

The general counsels of 44 major corporations including Spotify, Ameriprise Financial and Estée Lauder urged the U.S. Senate on Thursday to consider Judge Merrick B. Garland's nomination to the U.S. Supreme Court.

#### [Pa. Legislators Set New Rules For Fracking](#)

Pennsylvania's legislature on Wednesday reached a bipartisan deal on new rules for hydraulic fracturing at oil and gas wells that the governor said would strengthen environmental protections at extraction sites in the Keystone State.

#### [Block Anthem-Cigna Deal, Calif. Insurance Head Tells DOJ](#)

California's top insurance official pressed U.S. Department of Justice officials to reject a merger worth an estimated \$50 billion between Anthem Inc. and Cigna Corp., saying Thursday the deal will harm Californians by reducing quality of care and driving up insurance costs.

#### [Philly City Council OKs Sugary Drinks Tax](#)

Philadelphia's city council on Thursday approved by a 13-to-4 vote a new 1.5 cent per ounce tax on sugary drinks and diet soda, which the council said would raise approximately \$91 million over the next year and make it the first major U.S. city to pass a sugary drink tax.

### LAW FIRMS

Akin Gump  
Arnold & Porter  
Ashurst LLP  
Baker Botts  
Ballard Spahr  
Blank Rome  
Cadwalader Wickersham  
Choate  
Cravath Swaine  
Crowell & Moring  
DLA Piper  
Davis Wright Tremaine  
Dechert  
Dickinson Wright  
Dickstein Shapiro  
Drinker Biddle  
Dugan Brinkmann  
Ellenoff Grossman  
Fish & Richardson  
Fitzpatrick Cella  
Flaster/Greenberg  
Franczek Radelet  
Gibson Dunn  
Haynes and Boone  
Hogan Lovells  
Hughes Hubbard  
Kellogg Huber  
Kramer Levin  
Lamb McErlane  
Lowenstein Sandler

## Senate Panel Advances 4 Federal Judges, Hints At Floor Votes

The Senate's Judiciary Committee advanced the nominations for two district judges for Louisiana, one for Indiana and one for the Seventh Circuit Thursday, in the first committee votes on judicial nominees since May.

## Lowenstein Atty Gets NJ Gov.'s Nod For State AG

New Jersey Gov. Chris Christie has nominated Chris Porrino, the co-chair of Lowenstein Sandler LLP's litigation department and Christie's former chief counsel, as the state's next attorney general, the governor announced Thursday.

## BANKING & SECURITIES

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### FSOC Properly Labeled MetLife A SIFI, DC Circuit Told

A council of financial regulators urged the D.C. Circuit Thursday to reverse a federal judge's ruling liberating MetLife from its designation as a systemically important financial institution whose collapse could threaten the broader U.S. economy, contending that the lower court seriously misconstrued the council's guidelines for the SIFI labeling process.

### SEC Asks 2nd Circ. If It Can Restart Duka Case

The U.S. Securities and Exchange Commission on Thursday asked the Second Circuit to clarify whether the agency can immediately revive its in-house case accusing ex-S&P executive Barbara Duka of mortgage-debt ratings fraud after the circuit court lifted an injunction on those proceedings.

### House Dems Push For No-Loopholes Payday Lender Rule

House Democrats said Thursday that the Consumer Financial Protection Bureau's final rule for regulating the payday loan market should be tough enough to prevent lenders from using tactics they have developed to skirt state restrictions on the loans.

### Senate Panel Moves To Ease Pot Banking Restrictions

A U.S. Senate panel on Thursday moved forward legislation that would, in part, bar federal banking regulators from punishing banks for providing financial services to marijuana businesses in states where the drug is legal.

### SEC Requires Input On SIPC Broker-Dealer Fee Changes

The U.S. Securities and Exchange Commission on Wednesday said it needs public comment input before ruling on a proposal to change how broker-dealer fees replenish the Securities Investor Protection Corp.'s fund, which fronts money to repay investors during liquidations of brokerage firms.

### SEC Proposes Updates To Mining Disclosure Rules

The U.S. Securities and Exchange Commission proposed rules Thursday that are meant to modernize the disclosure requirements for mining companies, the latest step in Chair Mary Jo White's bid to update a disclosure system that is outdated in some sectors.

## ENERGY & ENVIRONMENTAL

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### Calif. Fuel Groups Win OK To Update Carbon Rule Challenge

A California federal judge on Monday told a group of fuel industry advocates that they can amend elements of their failed challenge to the state's Low Carbon Fuel Standard, agreeing that the application of recent updates to the

Mayer Brown

McAndrews Held

McCarter & English

McDermott Will

Murphy PA

O'Melveny & Myers

Orrick Herrington

Pepper Hamilton

Petrillo Klein

Polsinelli

Quarles & Brady

Robbins Russell

Sam Bernstein

Schulte Roth

Sidley Austin

Simpson Thacher

Sullivan & Cromwell

Wiley Rein

Williams & Connolly

WilmerHale

Winston & Strawn

Wong Cabello

## COMPANIES

3M Company

AMC Networks Inc.

AT&T Inc.

ATS Corporation

Advocate Health Care Inc.

Aetna Inc.

Alamo Broadband Inc.

Alpha Natural Resources, Inc.

American Bar Association

American Cable Association

American Civil Liberties Union

American Hospital Association

American Legislative Exchange Council

American Medical Association

Ameriprise Financial, Inc.

Anheuser-Busch Inbev SA/NV

Anthem Inc.

Apple Inc.

Arch Coal Inc.

Baker Hughes Inc.

CIGNA Corporation

CIT Group Inc.

rule could further affect fuel manufacturers.

## Bill Seeks End To Coal Industry Self-Bonding For Cleanups

The U.S. Senate Energy and Natural Resources Committee's top Democrat introduced legislation Thursday to bar coal companies from using self-bonding to pay for the cleanup of mining operations, saying the recent wave of coal bankruptcies threatens to stick taxpayers with multimillion-dollar remediation costs.

## CPP Stay Doesn't Stop EPA's Clean Energy Incentive Program

Despite a Supreme Court stay of the Clean Power Plan, the U.S. Environmental Protection Agency on Thursday unveiled a proposal to help states and tribes meet the plan's carbon dioxide reduction goals through early investments in renewable energy.

## FERC Floats Rule To Guard Critical Energy Grid Info

The Federal Energy Regulatory Commission has moved to implement regulations that require the designation, protection and sharing of so-called critical energy infrastructure information, the agency said on Thursday.

## \$32B Interior, Environment Bill Clears Senate Committee

The Senate Appropriations Committee narrowly moved forward Thursday a \$32.03 billion spending bill that funds Native American health and education programs and federal land management agencies but blocks implementation of the so-called Waters of the United States rule.

## FERC Finalizes Electricity Pricing Fixes For Power Markets

The Federal Energy Regulatory Commission on Thursday finalized a rule establishing pricing requirements for real-time wholesale electricity sales to align prices with when power is actually dispatched, which the commission claims will better ensure that rates are just and reasonable.

## France Becomes First Major Nation To Ratify Paris Accord

French President Francois Hollande on Wednesday became the first head of a major country to ratify the landmark Paris climate change accord, starting what supporters hope is a string of similar actions.

## TRANSPORTATION & INFRASTRUCTURE

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### \$4B Maritime Trade Plan Aims To Boost Great Lakes Region

Officials from several U.S. states and Canadian provinces around the Great Lakes unveiled a \$3.8 billion proposal Wednesday to accelerate dredging projects to clear harbors and waterways and strengthen port infrastructure with the hopes of boosting ocean cargo shipping and trade.

## INSURANCE

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### Autism Care Coverage Row To Be Aired Before Pa. Justices

The Pennsylvania Supreme Court has accepted an appeal over insurers' ability to avoid covering in-school services for patients on the autism spectrum.

## EMPLOYMENT

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### Senator Says New Joint Employer Standard Hurts Businesses

## CTIA

Cablevision Systems Corporation  
Center for Constitutional Rights  
CenturyLink Inc.  
Chimerix Inc.  
Comcast Corporation  
Competitive Carriers Association  
Constellation Brands, Inc.  
Consumer Federation of America  
Consumer Reports  
Council Of Better Business Bureaus Inc.  
Cummins Inc.  
DISH Network Corporation  
Deloitte Touche  
Edgeworth Economics LLC  
English Premier League  
Enzo Biochem, Inc.  
Facebook  
Genzyme Corporation  
Google Inc.  
Grupo Modelo SAB de CV  
Halliburton Company  
Home Box Office Inc.  
Hulu LLC  
Humana Inc.  
Independence Blue Cross Inc.  
Institute for Justice  
Johnson Controls Inc.  
LexisNexis Group  
Liberty Media Corp.  
LinkedIn Corp.  
Lyft Inc.  
McGraw Hill Financial Inc.  
MetLife Inc.  
Microsoft Corporation  
National Association of State Regulatory Utility Commissioners  
National Cable & Telecommunications Association  
National Immigration Law Center  
Netflix Inc.  
Nike Inc.  
North American Electric Reliability Corp.  
NorthShore University  
HealthSystem

The head of the U.S. Senate's Small Business and Entrepreneurship Committee argued Thursday against a recent National Labor Relations Board decision that reset how to determine whether two entities are joint employers, saying during a hearing that the change would hurt small businesses.

### [NJ Senate Committee Pushes \\$15 Minimum Wage Bill Forward](#)

New Jersey's Senate Budget and Appropriations Committee on Thursday advanced legislation that would gradually increase the state's minimum wage to \$15 an hour, a measure supporters say will provide an economic boost to workers living in poverty and what opponents say will deliver a blow to small businesses.

### [EEOC Gives Guidance On Employee Wellness Program Notices](#)

The Equal Employment Opportunity Commission on Thursday offered employers an example of how to notify employees about the purpose of and limits on wellness programs, part of new rules issued under the Americans with Disabilities Act and following at least two discrimination lawsuits over the programs.

## COMPETITION

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### [Texas Rep. Asks FTC To Eye Austin's Rules For Uber, Lyft](#)

A Texas state representative has asked the Federal Trade Commission to investigate what he called anticompetitive regulations enacted by the city of Austin, Texas, governing ride-hailing apps like Uber and Lyft.

### [Merger Remedies Key To Enforcement, DOJ Official Says](#)

The U.S. Department of Justice Antitrust Division sees effective merger remedies as central to its merger enforcement policy, and remedies should completely solve the antitrust violations arising in a transaction, not simply limit them, a department official said on Thursday.

## PRIVACY & CONSUMER PROTECTION

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### [Baylor Faces New Suit Over Handling Of Sexual Assaults](#)

Three women alleged Baylor University was "deliberately indifferent" to allegations of sexual assault and sexual harassment on campus and involving student-athletes in a lawsuit filed in Texas federal court Wednesday after the school released a report by Pepper Hamilton LLP finding failures with the school's policies.

### [Groups Clash On New Facial Recognition Privacy Code](#)

The stakeholder group crafting a voluntary privacy code of conduct for the commercial use of facial recognition technology wrapped up its efforts Wednesday by finalizing guidelines that were praised by the industry but panned by consumer groups as "weak" and "flawed."

### [Transgender Student To Take Part In Locker Room Lawsuit](#)

A transgender student at the center of a battle over the U.S. Department of Education's policy on the use of gendered facilities was given permission Wednesday to intervene in a federal lawsuit challenging her access to the female locker rooms at an Illinois' high school.

## PRODUCT LIABILITY

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[Peabody Energy Corporation](#)

[PhRMA](#)

[Raymour & Flanigan Furniture](#)

[Revolt Media & TV LLC](#)

[SanDisk Corporation](#)

[Sierra Club](#)

[Southern Poverty Law Center](#)

[Southwest Bancorp, Inc.](#)

[Spotify Technology SA](#)

[Stryker Corporation](#)

[Texas Trial Lawyers Association](#)

[The Boeing Company](#)

[The DIRECTV Group, Inc.](#)

[Time Warner Inc.](#)

[Uber Technologies Inc.](#)

[United States Telecom Association](#)

[UnitedHealth Group Inc.](#)

[Universal Health Services Inc.](#)

[Univision Communications Inc.](#)

[Verizon Communications](#)

[Viacom Inc.](#)

[XO Communications LLC](#)

[Yelp Inc.](#)

## GOVERNMENT AGENCIES

[Army Corps of Engineers](#)

[Bureau of Indian Affairs](#)

[Bureau of Indian Education](#)

[Bureau of Land Management](#)

[California Environmental Protection Agency](#)

[Consumer Financial Protection Bureau](#)

[Equal Employment Opportunity Commission](#)

[European Commission](#)

[Executive Office of the President](#)

[Federal Acquisition Regulatory Council](#)

[Federal Communications Commission](#)

[Federal Deposit Insurance Corp](#)

[Federal Energy Regulatory Commission](#)

[Federal Reserve System](#)

[Federal Trade Commission](#)

[Financial Crimes Enforcement](#)

## 11th Circ. Greenlights Torture Claims Against Ex-Bolivian Prez

The Eleventh Circuit ruled Thursday that family members of civilians killed in attacks in Bolivia are not barred from pursuing their Torture Victims Protection Act claims against a former president and defense minister because they had exhausted their remedies in Bolivia.

## INTERNATIONAL TRADE

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### Brussels Charts 8% Rise In Duties Against EU Exports

The European Commission on Wednesday reported an 8 percent rise in duties taken by non-European Union countries against EU exports in 2015 as trade defense actions become more complex in the face of ongoing global economic and financial crises.

## TAX

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### EU Countries Move Toward Deal On Financial Transactions Tax

Efforts to impose a tax on certain financial transactions in several eurozone nations got a boost on Thursday when Austria's finance leader announced that the countries have set a September deadline to mark additional progress on the proposal.

## IMMIGRATION

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### Texas Loses Case Over Syrian Refugee Resettlement

A Texas federal court on Wednesday threw out a suit over the resettlement of Syrian refugees in the state, ruling that a Texas agency didn't have a basis to enforce a consultation requirement of the Refugee Act.

## TELECOMMUNICATIONS

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### AT&T, Comcast Float Apps Alternative To Set-Top Box Plan

Industry representatives from the likes of AT&T Inc., Comcast Corp. and the National Cable & Telecommunications Association floated an alternative Wednesday to the Federal Communications Commission's plan to unlock set-top boxes, one that would employ apps allowing video viewing on third-party devices.

### Sen. Panel OKs Small-ISP Net Neutrality Reporting Exemption

The Senate Commerce Committee approved a bill Wednesday that matches an already-passed House version to exempt internet service providers with up to 250,000 subscribers from enhanced disclosure requirements under the Federal Communications Commission's new net neutrality rules.

### Trade Group Slams FCC Network Transition Rules at DC Circ.

The U.S. Telecom Association has asked the D.C. Circuit to ax portions of the Federal Communications Commission's rules regulating the transition from copper to more modern networks, saying that the agency's "regulatory roadblocks" are slowing down the process.

### Rural Carriers Group Urges FCC To Keep 5G Competitive

The Competitive Carriers Association pushed the Federal Communications Commission to adopt a tiered structure in its upcoming fifth-generation wireless rule-making, saying Wednesday that large carriers like Verizon, which has a \$1.8 billion XO fiber-optic deal pending, could soon gobble up all

Network

Financial Stability Oversight Council

Food and Drug Administration

Government Accountability Office

Indian Health Service

National Labor Relations Board

National Telecommunications and Information Administration

Nevada Legislature

Office of the Comptroller of the Currency

Securities Investor Protection Corp.

Securities and Exchange Commission

Texas Attorney General's Office

U.S. Army

U.S. Department of Agriculture

U.S. Department of Defense

U.S. Department of Education

U.S. Department of Justice

U.S. Department of Labor

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. House of Representatives

U.S. Senate

U.S. Supreme Court

United Nations

the spectrum.

## EXPERT ANALYSIS

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### The Texas Citizens Participation Act — 5 Years Later

On June 17, 2011, the Texas Citizens Participation Act was signed into law, a watershed moment that provided greater protection to Texas citizens who have been plagued with frivolous lawsuits aimed at stymieing their ability to discuss their opinions, report on governmental activities or uncover corporate wrongdoing. Today, the trend of state anti-SLAPP legislation is ongoing, says Laura Prather of Haynes and Boone LLP.

### Key Points In DC Circ. Decision Upholding Net Neutrality

The D.C. Circuit's decision this week upholding the Federal Communications Commission's 2015 Open Internet Order deals a significant blow to claims that broadband providers either must as a legal matter or should as a policy matter be left to operate largely free of traditional common carrier regulation, says Christopher Savage, co-chairman of Davis Wright Tremaine LLP's communications practice.

### The Debate Over NDAA Preference For Fixed-Price Contracts

The Senate Armed Services Committee wants to reallocate risk between the government and the contractor by shifting from cost-type contracts to fixed-price contracts, but some critics believe that its proposals likely will hinder innovation and increase costs, say Charles Blanchard and Paul Pompeo of Arnold & Porter LLP.

### Expanded Access — A Regulatory Balancing Act For Drug Cos.

Expanded access plays a valuable role in the treatment of patients, but granting access to an experimental drug outside the context of a clinical trial creates a host of ethical, operational, business and logistical challenges for any drug manufacturer and particularly for smaller companies specializing in treatments for rare diseases, say attorneys with Choate Hall & Stewart LLP.

### DOL Salary Projections May Rest On Inaccurate Assumptions

An important component of the U.S. Department of Labor's new white collar exemption rule is that the minimum required salary level will be adjusted every three years. However, the DOL's estimate of an additional 2.5 percent increase in the new salary threshold over three adjustments may not be accurate and likely understates its magnitude, say Stephen Bronars and Deborah Foster at Edgeworth Economics LLC.

## LEGAL INDUSTRY

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### 3 Pitfalls Of Boutique Mergers

For a BigLaw operation, picking up a boutique weathering tough times may seem like a good strategic move, but experts say firms must show discernment and be ready for the post-merger investment to avoid pitfalls that stand in the way of mutual success. Here, experts detail three ways big firms can inadvertently botch an acquisition of a boutique.

### 6 More Firms Make Associates' Day With Salary Hikes

Six more firms have jumped on the bandwagon of those rushing to keep up with the new associate salary pay scale set earlier this month by Cravath Swaine & Moore LLP, as the clamor continues over the hike above the

decadeslong benchmark.

### [DLA Piper Partner Fined Over Sexist Emails To Soccer Chief](#)

The U.K. Solicitors Disciplinary Tribunal fined a DLA Piper partner £15,000 (\$21,000) at a recent hearing over emails he exchanged with English Premier League executive Richard Scudamore that contained sexist comments, a representative for the tribunal confirmed on Thursday.

### [GCs Willing To Use Nontraditional Law Firms, Study Says](#)

A new study by Deloitte shows that as spending on legal services continues to grow, the majority of in-house legal departments are reviewing their legal service suppliers and can see themselves buying services from nontraditional law firms.

### [McDermott Co-Chairs To Step Down By End Of Year](#)

McDermott Will & Emery's co-chairs will step down from their respective roles and return to full-time practice with the firm by the start of 2017, the firm confirmed on Thursday.

### [Law360's Weekly Verdict: Legal Lions & Lambs](#)

Sullivan & Cromwell LLP and other firms representing two medical device companies earned the top spot on Law360's list of legal lions this week after they won a ruling at the U.S. Supreme Court discarding the Federal Circuit's strict test for awarding enhanced damages in patent cases. Meanwhile, attorneys from Sidley Austin LLP and Wiley Rein LLP ended up on the list of legal lambs for failing on Tuesday to convince the D.C. Circuit to overturn federal net neutrality rules.

### [6th Circ. Tells Blind Man ABA Is Wrong Target For LSAT Suit](#)

A legally blind Michigan man accusing the American Bar Association of discriminating against the visually impaired on the LSATs lost his appeal on Thursday when the Sixth Circuit affirmed a lower court decision saying he didn't have standing to bring the case against the accrediting body.

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