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Better Markets vs. Wall Street: The Real Battle Over Dodd Frank Will - Again - Be Fought Over Rules at the Regulatory Agencies; Following One of our Recommendations, Wells Fargo Denies Top Execs 2016 Bonuses but Needs to do Much More if it is Serious About Putting Customers First; Still Debunking the Myth that Bank Lending Has Decreased Because of Dodd-Frank

Better Markets vs. Wall Street: The Real Battle Over Dodd Frank Will - Again - Be Fought Over Rules at the Regulatory Agencies.

When the Dodd-Frank Act was signed into law in 2010, the chief lobbyist for the Financial Services Roundtable (FSR) was asked for his thoughts on what seemed to be a major defeat for the largest financial institutions in the country. His response: "Halftime." In other words, while the law may have been signed, the industry knew that the battle over passing the rules required to implement the law was just beginning and they were prepared to fight for years at the regulatory agencies to weaken and gut the law.

What they weren't expecting was Better Markets, which was founded in October 2010 to fight them every step of the way and fight for strong financial reform rules that protected the American people from another financial crash. Since then, Better Markets has participated in more than 225 rulemakings, in addition to initiating or participating in numerous lawsuits, fighting the industry in the court of public opinion and taken many other actions to stop the industry from killing the financial reform law.

One academic study, which studied only two rulemakings, found that Better Markets has been remarkably effective, indeed, decisive in fighting for financial reform:

> "[T]he smaller groups such as Better Markets were serious opponents for their better-resourced counterparts in the self-regulatory alliance. The best evidence comes from the industry groups that Better Markets decided to challenge. The law firm most regularly retained by the industry associations, Gibson Dunn, clearly took the amicus briefs from Better Markets seriously. In the case on position limits, the attorneys at Gibson Dunn issued a direct reply within twenty-four hours to the amicus brief filed by Better Markets in support of the CFTC. Another prominent law firm, Cadwalader, regularly tracked Better Markets, Inc., in its blog updates for financial-services clients."

Now, seven years later, President Trump – contrary to candidate Trump's promises to the American people – claiming he's going to "do a big number" on Dodd-Frank has many people anticipating a huge battle over the law in Congress. The problem with that view? As Gillian Tett in a recent column in *The Financial Times aptly put it,* "Congress is not the only game in town...top of the list: deregulation."

Better Market in the News:

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Letter to the editor: You don't have to change the law to weaken it.

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While rolling back the Dodd-Frank law will require Congress to act, there are nonetheless many ways in which many of the same goals can be accomplished. Referring to the White House, she writes:

> "But what it can do is install regulators who stealthily change how rules are interpreted and implemented. This could have a dramatic impact...Or consider what might happen to credit guidelines and stress tests if the White House puts pro-finance, anti-deregulation officials into the four Fed governor positions that will come vacant in the next couple of years, as men such as Dan Tarullo, a regulatory hawk, leave."

Not so fast. Just like last time, when they try to use the regulatory process again to kill financial reform they will be met head on by Better Markets. The rulemaking process – which includes trying to undo rules – is governed by laws that requires the agencies to follow strict procedures that include public input and detailed findings that can withstand court scrutiny. The President and the anti-reform, pro-Wall Street regulators he appoints to the agencies can't just repeat rules or ignore the law or issue an executive order. They have to follow the law like everyone else, assuming there's someone like Better Markets there to challenge them.

We had a front row seat to watch what the industry did over the last seven years. We were paying attention. We are now going to run their playbook against them, except we're fighting for the protection of the American people, rather than Wall Street profits and bonuses.

Following One of our Recommendations, Wells Fargo Denies Top Execs 2016 Bonuses but Needs to do Much More if it is Serious About Putting Customers First.
In a December 2016 Op Ed in the American Banker, we detailed the concrete actions Wells Fargo had to take to back up its self-serving claims that it was going to put its customers first after their egregious, years-long, illegal practice of ripping off millions of their customers (see "How Wells Fargo Proves It's Not a Wall Street Villain"). These recommendations were communicated to the highest levels of Wells Fargo and we encouraged them to take the right actions proactively rather than only after forced to do so by regulators, prosecutors and civil lawsuits.

Now, months later, we just learned that Wells has killed the 2016 bonuses for eight senior executives and is clawing back compensation since 2014. Wells Fargo stated that this was an effort to demonstrate that it is holding managers accountable for the criminal conduct that happened at the bank for years. However, this was done at the insistence of the Board of Directors, which is still conducting an investigation.

Frankly, if this was a serious and genuine move to restore the trust and confidence of customers, the Board wouldn't have had to require the executives to give up their bonuses. As we said last December,

> "**Top executives must take initiative** and announce that they are voluntarily giving up a significant portion of their bonuses for 2016. In addition, regardless of rank, any performance pay related to the fraudulent and illegal actions must be clawed back from anyone who improperly benefited financially."

Nevertheless, kudos to the Board of Directors for taking the bonuses away from the executives who should have voluntarily given them up. Wrongful and illegal behavior will never stop until bankers are hit where it really hurts them: their wallets and pocketbooks.

However, as we detailed in the Op Ed, Wells Fargo has a lot more to do to ensure its illegal business practices have ended, won't reoccur and that customers' interests are put first and protected. Specific action is required, not just empty words, PR spin or feel-good TV commercials.

We will continue to communicate with Wells Fargo and will closely watch their upcoming announcements, including regarding the Board's investigation and report. We hope there are more actions to come and that there is a significant overhaul of the practices and culture at Wells Fargo. If they are looking for good ideas, they know there's an list of recommendations in the Op Ed that will make clear to everyone that Wells Fargo is finally serious about putting customers first.

Still Debunking the Myth that Bank Lending Has Decreased Because of Dodd-Frank

Because the myth is so pervasive that the Dodd-Frank Act and other financial regulations have decreased lending and hurt the economy, we will again call attention to yet more evidence that proves this claim to be baseless. It is nothing more than industry propaganda that gets repeated by industry shills and then reported in the media as if there isn't a mountain of evidence disproving it.

At the press briefing for the release of the 4th Quarter Banking Profile, Federal Deposit Insurance Corporation Chairman Martin Gruenberg reported that,

> "The banking industry had another largely positive quarter. Both quarterly and full-year earnings were up from the prior year, loan balances increased, overall asset quality improved, and the number of unprofitable banks and 'problem banks' continued to fall."

And to those who say that small and community bank lending has been hit particularly hard, we offer this video, posted on *The American Banker* website, which posed the question, "How much has regulation really curbed lending?" to Joo- Joo-Yung Lee, head of North American financial institutions at Fitch Ratings. The quick answer: not much.