

Regulation Digest Weekly

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- Where Bank Regulators Go to Get Rich
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Marketplace of Ideas

American Enterprise Institute

- Repeal, replace, still, *Ramesh Ponnuru & Yuval Levin*
- Do I look fat in this insurance plan?, *Thomas Miller*

Center for Effective Government (Formerly OMB Watch)

- Food Safety Rules the Latest to be Weakened During Regulatory Review
- EPA's Proposed Gasoline Standards Benefit Public Health, the Environment, and Automakers
- EPA Reaches Clean Air Settlement with Tyson Foods, *Katie Greenhaw*
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Center for Progressive Reform

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- USDA's Poultry Rule Will Exacerbate Water Pollution, in Addition to Its Negative Impacts on Food and Worker Safety, *Michael Patoka*

Climate Science Watch

- Heinzerling on Obama OMB's power grab v. EPA and science-based rulemaking, *Rick Piltz*

Feature Story

Fed Board Finalizes Dodd-Frank Definition of “Significant Nonbank Financial Company”

The Federal Reserve Board published a [final rule](#) setting standards for companies that are ‘predominantly engaged in financial activities’, and defining terms such as ‘significant nonbank financial company’ and ‘significant bank holding company’ to implement regulations stemming from the Dodd-Frank Act. “The final rule provides clarity for purposes of determining whether particular companies qualify as nonbank financial companies under Title I of the Dodd-Frank Act. This is important both in the context of Council designation as well as for large bank holding companies and nonbank financial companies that are required to report their credit exposures to other significant nonbank financial companies pursuant to section 165(d).” A company will be considered predominantly engaged in financial activities if 85 percent of its annual gross revenue is composed of financial revenues. Additionally, ‘significant nonbank financial company’ will be defined as any nonbank entity that is supervised by the Board or “any other nonbank financial company that had \$50 billion or more in total consolidated assets as of the end of its most recently completed fiscal year.”

In the News

4/3/13

[Frank blames Republicans for delays in implementing Dodd-Frank reforms](#), *The Hill*

[FTC warns tenant-check websites](#), *The Hill*

[Regulators closer to supervising nonbank financial companies](#), *Washington Post*

[GAO slams poor planning by U.S. regulators of \\$2 billion review of foreclosures](#),

Washington Post

[Schapiro Hire Shows Promontory as Ex-Regulators’ Go-To Firm](#), *Bloomberg*

[Diversity Hiring Standards for Banks to Be Set by U.S. Agencies](#), *Bloomberg*

4/4/13

[FDA Warns That 'Ninja Mojo' And 'Love Rider' Contain Hidden Drugs](#), *NPR*

[U.S. Immigration Regulation Costs \\$30 Billion Annually: Study](#), *Huffington Post*

[HHS merging two medical information clearinghouses](#), *The Hill*

[Oil industry, health advocates battle over EPA gasoline rules](#), *The Hill*

[Consumer bureau fines mortgage insurers for kickback scheme](#), *The Hill*

[New regs for Friday: ObamaCare changes and safety standards](#), *The Hill*

[Interior expands offshore drilling safety rule](#), *The Hill*

[American Electric CEO Akins on EPA Regulations](#), *Bloomberg TV*

[Business Wire Calls SEC Stance a Disservice to Investors](#), *Bloomberg*

[GAO: More disclosure by political intelligence providers would aid probes of insider trading](#), *Washington Post*

[Bill to toughen review of independent agencies makes former regulator wary](#), *The Hill*

[Banks Say Stricter Securitization Rules May Hurt Lending](#), *Bloomberg*



Competitive Enterprise Institute

- CEI's Battered Business Bureau: The Week In Regulation, *Ryan Young*
- Regulation Roundup, *Ryan Young*
- Lessons From Dutch Regulatory Reform: How The U.S. Could Save \$450 billion Per Year, *Christian Rice*

Federal Regulations Advisor

- Monday Morning Regulatory Review – 4/8/13, *Leland E. Beck*

Free State Foundation

- The Challenge of VoIP to Legacy Federal and State Regulatory Regimes, *Daniel Lyons*

The George Washington University Regulatory Studies Center

- Reducing Burdens? Tier 3 Tells Another Story, *Sofie Miller*

Government Accountability Office

- Lessons Learned Could Enhance Continuing Reviews and Activities under Amended Consent Orders, *Lawrence Evans*
- Improvements Needed in SEC's Internal Controls and Accounting Procedures, *James Dalkin & Gregory Wilshusen*

The Mercatus Center

- The Federal Reserve's Expanding Regulatory Umbrella, *Hester Peirce & Robert Greene*

Penn Program on Regulation

- Updating OSHA Inspection Policies, *Adam Finkel*
- The Regulatory Week in Review: April 5, 2013, *RegBlog*
- What are Regulation's Effects on Employment?, *Cary Coglianese*
- Proposed Rule Imposes Spending Ratio on Insurers in Medicare Contracts, *Wistar Wilson*

- CFPB Reports to Congress on Fair Debt Collection Practices Act, *Aimee Martin*

R Street

- FDA lifts restrictions on OTC nicotine replacement therapies, *Joel Nitzkin*

Victims of Government

- Victims of Government: Steve's Story

[US Chamber seeking to replace provisions of Dodd-Frank reforms](#), *The Hill*
[U.S. FTC Said to Probe Macquarie's Operation of Advantage](#), *Bloomberg*
[GFI Group Files With Regulator to Create Derivatives Exchange](#), *Bloomberg*
[Feathers Fly as New Rules Loom for Kids' Apps](#), *Wall Street Journal*
[Crash-Test Ratings May Include Senior-Citizen Protection](#), *Bloomberg Businessweek*

4/5/13

[Monday's meeting announcements: EPA emissions rule hearings](#), *The Hill*
[Monday's regs today: swap deals and shower heads](#), *The Hill*
[Meningitis Deaths Prompt FDA Crackdown on Drug Mixing](#), *Bloomberg*
[Senate GOP blasts EPA for release of private business info to environmental groups](#), *The Hill*
[Regulators close small lender in Arizona, represents fifth bank failure of 2013](#), *Washington Post*
[Interior's Salazar says Mass. wind farm could break ground this year after decade of delays](#), *Washington Post*
[Boeing's Final 787 Test Sets Stage for FAA Battery Review](#), *Bloomberg*
[Senators Draft Higher Capital Requirement for Biggest U.S. Banks](#), *Bloomberg*

4/7/13

[Sugar-to-ethanol program advances for White House review](#), *The Hill*

4/8/13

[In Obamacare, online insurance brokers see potential windfall](#), *Washington Post*
[Hedge Funds Wagering on Fannie Reincarnation: Mortgages](#), *Bloomberg*
[Lead in Kids' Foods Draws Lawsuit Over Warning Labels](#), *Bloomberg*
[Mary Jo White confirmed as head of Securities and Exchange Commission](#), *Washington Times*
[Proposed FDA safety rules frustrate tree fruit farmers](#), *Washington Post*
[Mary Jo White confirmed as SEC chief](#), *Washington Post*
[Chairman Bernanke says Fed's 'stress tests' are better able to detect risks in banking system](#), *Washington Post*
[Fannie Mae profit may swell Treasury coffers as debt limit looms](#), *Washington Post*
[Ethanol industry seeks toned-down renewable fuel goals](#), *The Hill*
[Produce industry lauds proposed school nutrition regulations](#), *The Hill*
[Megabus meets with White House over seatbelt rule](#), *The Hill*
[Safety group calls for further action on combustible dust](#), *The Hill*
[Fed finalizes Dodd-Frank foreign exchange rule](#), *The Hill*
[Greenhouse gas rules will be enacted soon, says Obama aide](#), *The Hill*
[Ex-Regulatory Chief Sunstein Touts Obama Accomplishments](#), *Government Executive*

4/9/13

[US banks this week begin sending checks to 4.2M who lost homes to foreclosure](#), *Washington Post*
[HHS opens applications for ObamaCare 'navigators'](#), *The Hill*
[Unions, watchdogs press Obama pick to end secrecy on regulations](#), *The Hill*
[Reactor blackout fears spark post-Fukushima regulatory push](#), *The Hill*
[Obama budget director nominee grilled on regulatory agenda](#), *The Hill*
[Bailed-out banks haven't met goals of small-business lending program, report says](#), *Washington Post*
[Sherrod Brown and David Vitter have a new bipartisan bill to end Too Big to Fail. Here's what it does](#), *Washington Post*
[Exchange CEOs meet regulators on dark pools, internalizers](#), *Fox Business*
[Former Regulators Find a Home With a Powerful Firm](#), *New York Times*
[SEC Proposes New Exchange Tests to Curb Computer Breakdowns](#), *Bloomberg*
[Crapo Says He Opposes Setting Capital Standards With Legislation](#), *Bloomberg*
[SEC Money-Market Fund Proposal Two Months Away, Gallagher Says](#), *Bloomberg*



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[Obama Nominee Pledges Case-by-Case Review of Gas Exports](#), *Bloomberg*
[CFTC Said Probing ICAP on Swap Price Allegations: Credit Markets](#), *Bloomberg*
[Bernanke Says Fed to Press Banks to Curb Liquidity Risk](#), *Bloomberg*

4/10/13

[Madoff Investors Can't Sue SEC, U.S. Appeals Court Rules](#), *Bloomberg*
[Dimon Sees More Regulator Scrutiny After Whale Loss](#), *Bloomberg*
[Fed's Lockhart Says Too-Big-to-Fail Bailouts Still a Risk](#), *Bloomberg*
[Obama Doubles Estimate to \\$4 Billion for Health Exchanges](#), *Bloomberg*
[Labor rules assailed at testy House hearing](#), *The Hill*
[Obama administration issues new identity theft rules](#), *The Hill*

Rulemaking

Department of Health and Human Services

HHS Proposes Standards for Navigators and Non-Navigator Assistance Personnel

The Department of Health and Human Services published a [proposed rule](#) that would establish “conflict-of-interest, training and certification, and meaningful access standards applicable to Navigators and non-Navigator assistance personnel in Federally-facilitated Exchanges, including State Partnership Exchanges, and to non-Navigator assistance personnel in State-based Exchanges that are funded through federal Exchange Establishment grants. These proposed standards would help ensure that Navigators and non-Navigator assistance personnel will be fair and impartial and will be appropriately trained, and that they will provide services and information in a manner that is accessible” to people with limited English proficiency and individuals with disabilities. The costs incurred by this rule will be covered by Navigator grants and compensation provided by the exchanges. [Comments](#) are due on May 6th.

Consumer Product Safety Commission

CPSC Proposes Safety Standard for Soft Infant and Toddler Carriers

The Consumer Product Safety Commission published a [proposed rule](#) establishing standards for soft infant and toddler carriers, such as backpack carriers and slings. The proposed rule would codify existing voluntary standards for the manufacture of soft infant and toddler carriers, without an increase in stringency. This rulemaking is in response to CPSC data, which indicate that there have been 93 incidents related to soft infant and toddler carriers in the past 13 years (or 7 incidents per year), 2.1% of which have been fatal. CPSC “[s]taff could not directly attribute the two reported fatalities to product design or mechanical failure of the soft infant and toddler carrier... The primary hazard associated with use of a soft infant and toddler carrier is falling, either caregivers falling while wearing the carrier and injuring the child in the carrier, or children falling or facing the risk of falling from the carrier due to fastener problems, large leg openings, stitching or seam problems, or straps that slip.” Neither of the reported fatalities was associated with any of these primary hazard risks. [Comments](#) are due on June 19th.

Commodity Futures Trading Commission

CFTC Finalizes Rule Clarifying Dual and Multiple Associations of Persons Associated With Swap Dealers

The Commodity Futures Trading Commission published a [final rule](#) to clarify how to determine which persons are associated with swap dealers, major swap participants, and other entities registered with the Commission: “The Commodity Futures Trading Commission (Commission or CFTC) is adopting regulations to make clear that each swap dealer (SD), major swap participant (MSP), and other Commission registrant with whom an associated person (AP) is associated is required to supervise the AP and is jointly and severally responsible for the activities of the AP with respect to customers common to it and any other SD, MSP or other Commission registrant.”

Consumer Financial Protection Bureau

CFPB Issues Final Policy Statement on Disclosure of Consumer Complaint Data

The Consumer Financial Protection Bureau published a [final rule](#) “to provide guidance on how the Bureau plans to exercise its discretion to publicly disclose certain consumer complaint data that do not include personally identifiable information. The Bureau receives complaints from consumers under the terms of Title X of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The Policy Statement also identifies additional ways that the Bureau may disclose consumer complaint data but as to which it will conduct further study before finalizing its position.”



Department of Transportation

NHTSA Proposes Revisions to the New Car Assessment Program

The National Highway Traffic Safety Administration published a [proposed rule](#) seeking public comments on how the New Car Assessment Program (NCAP) can be improved to better reflect updates in technology. NCAP currently “provides vehicle safety information that enables consumers to compare the safety performance and features of new vehicles. This helps consumers in making their new vehicle purchasing decisions and encourages manufacturers to improve the safety aspects of existing vehicle designs and include new or better safety technologies in future vehicle designs. As recently as the 2011 model year (MY), NHTSA upgraded NCAP to increase the stringency of the criteria that must be met to achieve high safety ratings and to provide consumers with more vehicle safety information. These program enhancements created additional market forces to improve vehicle safety. In recognition that technology and manufacturers will catch up with the safety performance criteria in even the enhanced version of NCAP, the agency seeks to take additional steps to encourage even more vehicle safety improvements.” The areas in which the Agency is currently seeking public comment are: blind spot detection technologies; crash imminent braking; automatic pedestrian detection and braking; and a silver car rating system to rate cars based on their suitability for older occupants. [Comments](#) are due on July 5th.

Nuclear Regulatory Commission

NRC Proposes Station Blackout Mitigation Strategies in Draft Regulation Basis

The Nuclear Regulatory Commission published a [notice](#) announcing the availability of a [draft regulation basis](#) concerning nuclear power plant licensees’ station blackout mitigation strategies in response to the 2011 Fukushima nuclear power plant accident in Japan. The proposed actions largely stem from recommendations in a report entitled *The Near-Term Task Force Review of Insights from the Fukushima Dai-ichi Accident*. The draft basis regulation includes recommendations to strengthen station blackout mitigation capability at all operating and new reactors for design-basis and beyond-design-basis external events, and to enhance spent fuel pool makeup capability and instrumentation for the spent fuel pool. [Comments](#) are due on May 28th.

Department of Commerce

NOAA Proposes Rule on Dolphin-Safe Tuna Labeling Requirements

The National Oceanic and Atmospheric Administration published a [proposed rule](#) to revise existing standards for the labeling of dolphin-safe tuna products. “This proposed rule would modify the requirements for the certifications that must accompany the Fisheries Certificate of Origin (FCO); change storage requirements related to dolphin-safe and non-dolphin-safe tuna on board fishing vessels; create new requirements for processors, other than tuna canners, of tuna product labeled dolphin-safe; and modify the reporting requirements associated with tracking domestic tuna canning and processing operations. This proposed rule is intended to better ensure dolphin-safe labels comply with the requirements of the DPCIA and to ensure that the United States satisfies its obligations as a member of the World Trade Organization (WTO).” [Comments](#) are due on May 6th.

Department of Defense

DoD Finalizes Rule Implementing the Sexual Assault Prevention and Response Program

The Department of Defense published a [final rule](#) implementing and assigning responsibilities for the Department’s Sexual Assault Prevention and Response (SAPR) Program. “It is DoD policy to establish a culture free of sexual assault by providing an environment of prevention, education and training, response capability, victim support, reporting procedures, and accountability that enhances the safety and wellbeing of all persons covered by this regulation.” The rule expands the scope of the SAPR Program to include: National Guard and Reserve Component members who are sexually assaulted when performing active service; military dependents 18 years of age and older who are eligible for treatment in the military healthcare system who were victims of sexual assault perpetrated by someone other than a spouse or intimate partner; and service members who were victims of sexual assault prior to enlistment. The Department estimates that the cost of this program is “approximately \$14,819 million.”



Agencies

Environmental Protection Agency

EPA Announces Public Hearings, Comment Deadline for Proposed Tier 3 Rule

The Environmental Protection Agency published a [notice](#) announcing two public hearings, in Chicago (April 29th) and Philadelphia (April 24th), on the upcoming proposed rule Tier 3. The notice also announced that the comment period for the rule will close on June 13, although the proposal has not been published in the Federal Register. “EPA is proposing Tier 3 regulations to establish more stringent vehicle emissions standards and reduce the sulfur content of gasoline beginning in 2017, as part of a systems approach to addressing the impacts of motor vehicles and fuels on air quality and public health. The proposed gasoline sulfur standard would make emission control systems more effective for both existing and new vehicles, and would enable more stringent vehicle emissions standards. The proposed vehicle standards would reduce both tailpipe and evaporative emissions from passenger cars, light-duty trucks, medium-duty passenger vehicles, and some heavy-duty vehicles. This would result in significant reductions in pollutants such as ozone, particulate matter, and air toxics across the country and help state and local agencies in their efforts to attain and maintain health-based National Ambient Air Quality Standards. Motor vehicles are an important source of exposure to air pollution both regionally and near roads.”

EPA Seeks Comment on Permit for U.S. Navy to Transport Vessels for Sinking in Ocean Waters

The Environmental Protection Agency published a [notice](#) announcing the receipt of petitions submitted by the Basel Action Network, the Sierra Club, and the Center for Biological Diversity requesting that the EPA take action to protect human health from polychlorinated biphenyls (PCBs) that leach from ships used for Navy's [SINKEX program](#). According to the U.S. Navy [website](#), the SINKEX program uses decommissioned ships for weapons development testing and fleet training exercises. In 1977, EPA issued a general permit to the U.S. Navy for the SINKEX program in accordance with the Ocean Dumping Act, which regulates the transportation and dumping of material into ocean waters. The permit allows the Navy to transport vessels in ocean waters for sinking, so long as those vessels are sunk at least 50 nautical miles from the coast, fuel tanks are emptied to the lowest point practicable, and all materials that may degrade the marine environment are removed to the extent practicable. In a 1999 letter to the Navy, EPA defined PCB as a material that may degrade the marine environment, and instructed the Navy to remove non-liquid PCB-containing materials to the extent practicable before conducting SINKEX. The petitions received by EPA ask the permit requirements to be altered so that “all PCB-contaminated materials in concentrations of 50 ppm or greater to be removed from SINKEX vessels prior to sinking.” [Comments](#) are due on May 6th.

EPA Announces May 7th Public Meeting of the Hydraulic Fracturing Research Advisory Panel

The Environmental Protection Agency published a [notice](#) announcing a May 7th public meeting of the Hydraulic Fracturing Research Advisory Panel “to provide an opportunity for independent expert members of the ad hoc Panel to provide comment on EPA's *Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources: Progress Report*, which was released in December 2012. The meeting will also begin a broader commitment to provide opportunities to brief the panel on the latest scientific and technical developments in this emerging topic area... In response to public concern, Congress directed EPA to study the relationship between hydraulic fracturing and drinking water. In 2011, EPA's Office of Research and Development (ORD) published its *Plan to Study the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources*. EPA has requested comment from individual ad hoc panel members on its *Study of the Potential Impacts of Hydraulic Fracturing on Drinking Water Resources* as well as plan future potential activities of the panel. The *Progress Report* describes the status of EPA's ongoing research on the potential impacts of hydraulic fracturing on drinking water resources.”

EPA Announces Availability of Global Warming Potentials for Fluorinated Heat Transfer Fluids

The Environmental Protection Agency published a [notice](#) announcing the availability of “estimated global warming potentials, as well as data and analysis submitted in support of them, for eight fluorinated heat transfer fluids. We are requesting comments on the estimated global warming potentials and the data and analysis supporting them. We are also requesting comment on the cited global warming potentials for 35 other fluorinated greenhouse gases and fluorinated heat transfer fluids for which we do not currently possess supporting data and analysis. The EPA is requesting comment on the global warming potentials of all 43 chemicals as we consider adding these global warming potentials to the Greenhouse Gas Reporting rule.” [Comments](#) are due on May 6th.



Food and Drug Administration

FDA Establishes Public Docket on its Administrative Drug Detention Authority

The Food and Drug Administration published a [notice](#) announcing the establishment of a public docket on the Agency's administrative detention authority for drugs. "FDA is opening a docket for 30 days to solicit input from all relevant stakeholders regarding FDA's issuance of a regulation for the administrative detention of drugs. This docket is intended to ensure that stakeholders have an opportunity to provide comments before FDA issues regulations on administrative detention with respect to drugs and that such information submitted to FDA is available to all interested persons in a timely fashion." [Comments](#) are due on May 9th.

Department of Commerce

ITA Announces Public Meeting of Renewable Energy and Energy Efficiency Advisory Committee

The International Trade Administration published a [notice](#) announcing a May 1st public meeting of the Renewable Energy and Energy Efficiency Advisory Committee (RE&EEAC). The RE&EEAC "provides the Secretary of Commerce with consensus advice from the private sector on the development and administration of programs and policies to enhance the international competitiveness of the U.S. renewable energy and energy efficiency industries. The May 1, 2013 meeting of the RE&EEAC will consist of presentations from four industry-specific teams—renewable energy, energy efficiency, energy storage and transmission, and biofuels—on the market dynamics affecting their respective industry sectors; key export markets; challenges; and opportunities for further U.S. Government support and coordination. Additionally, the RE&EEAC will form subcommittees; receive presentations from representatives from the Overseas Private Investment Corporation and the Export-Import Bank of the United States; and receive presentations from officials from the U.S. Department of Defense (DOD) regarding DOD programs relating to the renewable energy and energy efficiency supply chain that may have linkages to promoting exports of renewable energy and energy efficiency goods and services."

Securities and Exchange Commission

SEC Announces April 16th Roundtable Discussion on Fixed Income Markets

The Securities and Exchange Commission published a [notice](#) announcing an April 16th roundtable discussion "to discuss the current market structure and potential ways to improve the transparency, liquidity, efficiency, and other aspects of fixed income markets. The roundtable will focus on the municipal securities, corporate bonds, and asset-backed securities markets." [Comments](#) are due on May 7th.

Export-Import Bank

Ex-Im Bank Receives Application for \$100+ Million to Support Boeing Exports to Ethiopia

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to support the export of commercial Boeing aircraft to Ethiopia. These exports would be used for long-haul passenger air service between Ethiopia and destinations in Asia, the Middle East, Europe, Africa, Latin America and North America. [Comments](#) are due on April 29th.

Ex-Im Bank Receives Application for \$100+ Million to Support Boeing Exports to Norway

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to support the export of commercial Boeing aircraft to Norway. These exports would be used for short-haul and medium-haul passenger air service between Norway and destinations in Europe, the Middle East and North Africa. [Comments](#) are due on April 29th.

Ex-Im Bank Receives Application for \$100+ Million to Support Boeing Exports to China

The Export-Import Bank published a [notice](#) announcing the receipt of an application for a long-term loan or financial guarantee in excess of \$100 million to support the export of commercial Boeing aircraft to China. These exports would be used to "provide short-and medium haul airline service in China and between China and other regional destinations and to provide long-haul airline service between China and various international destinations." [Comments](#) are due on May 3rd.

