Bloomberg Businessweek

February 14, 2022

Are You Ready for Some Gambling?

How the NFL quit worrying and embraced sports betting 40

Bloomberg Businessweek

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◀ Braun does business from a second story office in Borough Park, Brooklyn

PHOTOGRAPH BY PHILIP MONTGOMERY FOR BLOOMBERG BUSINESSWEEK

FEATURES

CORRECTION

"50 Companies to Watch" (Jan. 17, 2022) incorrectly stated FedEx Corp.'s female board membership. The correct figure is 33.3%.

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■ COVER TRAIL

How the cover gets made

1

"This week we've got a Super Bowl cover."

"Ugh. Sports. Not for me."

"Well, this is really more about how the NFL has started to embrace sports betting."

"Oh, well, I do love a wager."

"Yeah, so do the fans! Even though they're mostly losing money."

"That's because they're not properly watching the spreads and leveraging the most-high-res data to really make that fully educated play. Anyway, for the cover we could do a sort of speech-bubbly thing of fans in the stadium and all their mostly losing bets."

"That should work… but which fans should we show? Rams or Bengals?"

"It's like you don't even understand the basics of a hedge."

Cover: Photograph by Allen J. Schaben/Los Angeles Times/Getty Images

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ECONOMICS: PHOTOGRAPH BY IRINA ROZOVSKY FOR BLOOMBERG BUSINESSWEEK


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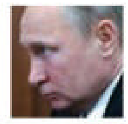
● Global coronavirus cases have topped

400m

Almost 5.8 million people have died, and 10.3 billion vaccine doses have been given. In Hong Kong, residents face a shortage of fresh food; strict antivirus controls in mainland China, which supplies more than 90% of the city's food, have slowed deliveries.

● President Joe Biden said  the controversial Nord Stream 2 natural gas pipeline would be scrapped if President Vladimir Putin orders an  invasion of Ukraine, potentially exacerbating Europe's energy crisis. Russia has amassed more than 100,000 troops along the border, though Putin has repeatedly said he has no plans to invade.

● Freestyle skier Jesper Tjader of Sweden competed in the Beijing 2022 Winter Olympic Games at the Big Air Shougang stadium on Feb. 9.

● Meta Platforms threatened to pull Facebook and Instagram out of Europe if it's unable to keep transferring user data to the U.S.

Lawmakers in the EU were unperturbed. French Finance Minister Bruno Le Maire responded that "life is very good without Facebook."

● Peloton will slash about 2,800 positions, or

20%

of its global workforce. The exercise bike maker named Barry McCarthy as CEO. That move, coming amid takeover speculation, helped lift the stock 25% on Feb. 8.

● The U.S. seized about $3.6 billion in Bitcoin stolen during a 2016 hack of the Bitfinex currency exchange.

As part of the recovery, the largest financial seizure ever, authorities arrested a New York married couple accused of enriching themselves off a cache of stolen cryptocurrency worth around $4.5 billion.

● SoftBank plans an IPO in the U.S. next year for its Arm semiconductor business, after a

$40b

sale to Nvidia fell through because of opposition from regulators.

● "We saw it happen. It was a violent insurrection for the purpose of trying to prevent the peaceful transfer of power after a legitimately certified election."

Senate Minority Leader Mitch McConnell criticized the Republican National Committee on Feb. 8 for calling the Jan. 6 uprising "legitimate political discourse" and censuring representatives Liz Cheney and Adam Kinzinger for participating in the House Select Committee investigating the attack.

● Amazon.com is more than doubling the maximum base salary it pays employees, to $350,000.

The e-commerce giant also raised the monthly fee for its Prime shipping and streaming service for the first time since 2018, to $14.99 from $12.99.

● It was all a "huge misunderstanding." That's how Chinese tennis star  Peng Shuai described the fallout from a social media post last year alleging an affair with a retired top Communist Party official that was at times coercive. Speaking for the first time in an international news interview overseen by a Chinese sports official, Peng also hinted she might retire from the sport.

BIDEN: ALEX EDELMAN/GETTY IMAGES. PUTIN: MIKHAIL KLIMENTYEV/GETTY IMAGES. OLYMPICS: GABRIEL BOUYS/GETTY IMAGES. MCCONNELL: TOM WILLIAMS/GETTY IMAGES. PENG: VISUAL CHINA GROUP/GETTY IMAGES

A Pick-Me-Up for President Biden: Lower Drug Costs

As talks continue on what might be salvaged from President Joe Biden's stalled tax-and-spending plan, one of its smaller pieces is worth singling out: a proposal to cut the prices Americans pay for prescription drugs. As it stands, it's a good first stab, but Biden should press further. Doing so would serve the public and strengthen the president's popular support.

The existing system must strike any outside observer as absurd. U.S. pharmaceutical companies charge their domestic customers vastly more than they demand of buyers in the rest of the world. Medicare is expressly barred from doing what foreign equivalents take for granted: using its bargaining power to get better prices.

In short, producers are granted government-enforced monopolies for new drugs and are generously assisted by research carried out at taxpayers' expense—yet the U.S. suspends this public-private partnership at the point of sale. This leaves manufacturers free to maximize their profits, with their most powerful customer's hands tied, rendering treatments unaffordable for many of the people who need them. That's some deal.

To sustain it, the industry invests heavily in Washington, securing the support of Democratic and Republican lawmakers alike. Earlier plans for pricing reform were sharply scaled back in the version of Build Back Better passed by the House in November. The current proposal calls for Medicare to negotiate, in the first instance, the price of just 10 drugs, with the stipulation that new drugs won't be included. (An earlier version had up to 250 in its sights.) The plan has other drawbacks, too—in particular, it indicates a standard negotiated discount, rather than seeking to weigh price against value.

Still, it's a start. It would save $80 billion over 10 years, according to the Congressional Budget Office. More important, it would establish the principle that Medicare can press down on drug prices without causing the industry to collapse.

Critics say the changes would reduce the companies' revenue and profits. True: That's the idea. And they say this would affect future innovation. So it might. The CBO reckons that one fewer drug would come to market in the first decade after the bill's passage, and nine fewer over the following 20 years. But the goal can't be to maximize innovation regardless of cost. Granting patents in perpetuity would boost profits and might summon more innovation, by gouging the public more deeply and making drugs even less affordable. The challenge is to get the balance right. As things stand—just look at what the U.S. is paying—the balance is far too skewed in the companies' favor.

Lawmakers have been induced to look away, but Biden could use this cause to rally voters regardless of party to his side. At a minimum, he should campaign for the current proposal, but it would be better to advance the ball. Broaden the list of drugs whose prices can be negotiated—aiming in due course to make drugs not on the list the exception rather than the rule. Adopt value for money as an explicit factor guiding those negotiations. Counter the effect on innovation by using some of the savings to boost research, especially in the institutes and labs that seed the real breakthroughs. Make the case and dare the industry's pals in Congress to disagree.

The president needs a pick-me-up. Here's a prescription that might work. Ⓑ *For more commentary, go to bloomberg .com/opinion*

AGENDA

▶ Security Talks

The Munich Security Conference will bring together global leaders from Feb. 18-20 to discuss the many security threats around the world, from tensions on the Russia-Ukraine border to the future of Iran's nuclear program.

▶ The Federal Reserve releases minutes from its last meeting on Feb. 16. It was a closely watched gathering: Chair Jay Powell laid the groundwork for a series of rate increases.

▶ NATO members' defense ministers meet Feb. 16-17 in Brussels. Secretary General Jens Stoltenberg recently announced he'd be departing to head Norway's central bank.

▶ The Symposium on Energy Outlooks, in Riyadh on Feb. 16, will chart a path to reduce greenhouse gas emissions and make access to fuel sources more affordable.

▶ Leaders of the EU and the African Union will meet for a summit in Brussels Feb. 17-18. The agenda will include vaccine production, education, governance, and climate change.

▶ It's a big week for European bank earnings. Standard Chartered and Commerzbank report numbers on Feb. 17, followed by NatWest Group a day later.

▶ The Singapore Airshow from Feb. 15-18 is Asia's main showplace for the aviation industry, which has been badly battered by travel restrictions during two years of the pandemic.

ILLUSTRATION BY LAN TRUONG

The Case for Covid Zero

PHOTO ILLUSTRATION BY 731; PHOTO: GETTY IMAGES

● China's alternative is a massive surge in infections that could bring global supply chains to a halt

● By James Mayger

Over the past two years, China's zero-tolerance policy of lockdowns, mass testing, and strict border quarantines for Covid-19 has prevented a huge number of deaths at home and ensured that everything from iPhones and Teslas to fertilizer and car parts continued to flow to the rest of the world.

If consumers and businesses want to continue to buy goods made in China without having to endure shortages and further price hikes, they should want China to stick with its "Covid-zero" policy, as Chinese President Xi Jinping does.

Yet that's not the message you hear outside of China. Criticism of Beijing's determination to squash every outbreak is increasing–criticism that emphasizes the damage to China's economy, the risks posed to global supply chains, and even the threat to Olympic athletes' human rights.

Gita Gopinath, a senior official at the International Monetary Fund, told media last month that authorities need to "recalibrate" their response to Covid outbreaks, warning the disruptions caused by more lockdowns could have "very important consequences for global supply chains." A Goldman Sachs report from January posited that if multiple provinces were hit with the omicron variant this winter and the government imposed a national lockdown, growth in China could plunge to 1.5% this year, the lowest since 1976.

Those concerns are real. There are serious economic, fiscal, and human costs from the attempt to halt the spread of Covid-19 within China, and these could get worse if outbreaks continue to spread.

But in truth, the risks to both China and the rest of the world pale next to the human and economic toll if the country were to abandon Covid zero, allowing the virus to spread more or less unchecked among a population of 1.4 billion people who, despite an impressive 87% vaccination rate, are highly vulnerable.

A surge in infections after China reopened might be worse than in other countries currently battling the omicron variant. Its own vaccines have been shown to be less effective than the mRNA shots used elsewhere, and its success so far in protecting almost everyone from infection means the nation faces a "huge immunity gap," according to Yanzhong Huang, a senior fellow for global health at the Council on Foreign Relations.

China would face a "colossal outbreak" on a scale beyond anything any other country has yet seen, with more than 630,000 infections a day if it were to reopen in a manner similar to that of the U.S., according to modeling by researchers at Peking University. Even if deaths could be kept to the low levels achieved in South Korea or Japan, China would still likely see many more people die than the 4,636 official Covid deaths over the past two years. (In the U.S., which has less than one-third the population, the number recently surpassed 900,000.)

China has had repeated outbreaks since the virus first appeared in Wuhan, but these have all been quashed by government controls such as the lockdown of the city of Xi'an, which kept 13 million people indoors for about a month through late January. Repeated rounds of mass testing and contact tracing have so far been enough to curb recent outbreaks of the omicron variant in Beijing, Tianjin, Hangzhou, and elsewhere.

While these restrictions have led to temporary shutdowns of ports and factories, the country's industries have so far come through the pandemic remarkably unscathed. Exports hit records in 2020 and 2021, and if it had not been for that constant stream of goods, prices of U.S. imports would have risen even faster, and shortages of products, both essential and luxury, would have been even more pronounced.

That steady supply may be difficult to maintain when China does eventually reopen its borders and gets rid of internal Covid controls. Australia, which had for a long time maintained a Covid-zero policy like China's, suffered a spike in infections and deaths in January after most of the country ended lockdowns and it scrapped mandatory border quarantine for everyone entering the country.

At whatever point China looks to do the same, unless the virus has mutated into something even less harmful than the omicron variant, the reaction of the Chinese is likely to be similar to that of Australians: People will stay home to avoid getting sick, or because they're ill or have been in close contact with someone who is–especially if hospitals were to become overrun with the sick and dying. That's what many Chinese chose to do in the early days of the pandemic in 2020, even without the government forcing them to.

If infections and deaths were to spike across the nation, the blow to supply chains would be worse than anything seen so far during the pandemic. Globally, there's no ripple effect from supermarkets in Sydney having to limit purchases or shut temporarily because they can't get workers; if absenteeism forced factories and ports across China to slow or shut down, that would feel like a giant wave crashing.

Even if they are only temporary, shortages of a broad range of goods would push up already elevated inflation and drag on a global economic recovery that's looking more fragile than it did before omicron's advent. (The IMF recently downgraded its forecast for world growth in 2022 to 4.4%, from 4.9%.)

Although omicron has breached Beijing's defenses, it's seen as a certainty by many that the policy of trying to contain Covid will continue through 2022 and even beyond. The government acknowledges the policy has costs but still believes these are outweighed by the benefits, according to a recent IMF report.

Even access to better vaccines might not be enough to push China to change track, because relying on shots alone isn't effective at stopping infections as mutations can evade immunity, according to Wu Zunyou, the chief epidemiologist at the Chinese Center for Disease Control and Prevention. "We previously thought Covid-19 could be basically contained through vaccines, but now it seems that there's no simple method to control it except with comprehensive measures," he told the state-backed *Global Times* newspaper recently. He said China will continue its current policies as long as imported infections have the ability to trigger large-scale outbreaks.

Yet as the past two years have demonstrated, temporary and isolated shutdowns don't mean manufacturers and exporters stop working and goods don't get onto ships. So the longer China sticks with Covid zero, the better it'll be for the rest of the world. **B**

1 BUSINESS

$100 Oil Is About to Get Messy

Edited by James E. Ellis and Benedikt Kammel

● With crude near its highest price in a decade, businesses are rushing to pass along costs

Isaac Larian, founder of MGA Entertainment Inc., thought he'd withstood the worst of last year's tsunami of costs from supply chain snags and labor shortages. But now the maker of Bratz and L.O.L. Surprise! dolls and Little Tikes toys is bracing for a second wave of profit destruction: $100-a-barrel oil. "It's just a disaster," says Larian, who like many toymakers has some material costs closely tied to the price of oil and natural gas. "There's not much you can do."

Analysts see crude soon topping the century mark, and prices could even spike to $150 if Russia-Ukraine tensions escalate to create a supply shock, JPMorgan Chase & Co. economists Joseph Lupton and Bruce Kasman said in a report. The name of the inflation game for companies is to pass along such cost increases as much and as quickly as possible. But since the pandemic hit, that hasn't been easy. A labor shortage has pushed up wages, and a deluge of imported merchandise has clogged the supply chain, driving up freight costs and creating a scarcity of goods that's powering pricing. Now companies and consumers are seeing more cost pressure as oil and natural gas climb to their loftiest levels since 2014, and all indicators point toward still higher energy prices ahead.

MGA's profit margin sank 5 percentage points in 2021, and it will fall further with the multipronged impact of higher energy prices, says Larian, who founded his company in 1979 and built it into America's largest privately held toymaker. Shipping rates and the costs of plastic resins will rise again this year, he says—bad news for toys like MGA's Cozy Coupe: The iconic, bubble-shaped car that toddlers power with their feet is 80% plastic. Even worse, consumers' buying power will be zapped as they pay more to fill their tanks and heat their homes. "We're dealing with a consumer that's stretched, and there will be a point where the price elasticity will take hold," Larian says. "If a $10 doll suddenly becomes $25, there are people who can't afford to buy it."

Crude oil has jumped to more than $90 a barrel, a 60% surge from the average price in 2019, before Covid-19 ripped through the world and caused major market imbalances. And the price of oil may rise an additional 30% or more, according to Wall Street banks.

Oil-producing countries have been slow to restore capacity that was shuttered during the height of the pandemic. Shareholders of U.S. drillers, including Exxon Mobil Corp. and Chevron Corp., haven't supported large investments to boost capacity. Those companies also see a clear shift of the Biden administration toward green energy and away from the fossil fuels they produce. Wide-scale adoption of electric vehicles could take away a major portion of the oil producers' business, making them even more reluctant to sink new wells to add capacity, says Philip Orlando, chief market strategist at Federated Global Investment Management Corp.

Orlando and his team saw the clouds gathering around oil and predicted it would double when it slumped to a low of $35 in October 2020. They later lifted their forecast after crude demand bounced back quicker than expected.

There are companies that do well when oil prices spike—energy producers and the industrial companies that supply the drillers. For other businesses it's all about protecting the bottom line, Orlando says. Manufacturers, retailers, packaged goods companies, and passenger carriers all have to find ways to pass energy costs along to already price-shocked customers. "They're just trying to recover the incremental costs from wages, transportation, and raw commodities," Orlando says. "They are entitled to make a profit."

"If a $10 doll suddenly becomes $25, there are people who can't afford to buy it"

At first glance, trucking companies, railroads, parcel couriers, and maritime shippers would seem to be among those hardest hit by higher oil. But many of those businesses long ago tamed the volatility of crude prices by setting up fuel surcharges that pass cost gyrations automatically to their customers.

United Parcel Service Inc. saw a record profit last year even though fuel and labor are its two largest costs, says Chief Financial Officer Brian Newman. The company has union workers under contract, keeping its labor costs stable. On fuel, it adjusts a surcharge every week to reflect the increase or decrease in gasoline and diesel prices.

UPS raised prices aggressively over the last two years, including on shipments by Amazon.com Inc. The e-commerce giant, which paid UPS about $11.4 billion last year to deliver its packages, raised its annual Prime membership by $20 earlier this month, to $139.

"Effectively, we have fuel surcharges around the world in all aspects of the business," Newman says. "It's been a long-standing practice with our customers—international and domestic—that we basically say 'As fuel moves, we'll pass that on.'"

Union Pacific Corp., the largest publicly traded railroad company, posted a record profit last ▶

PHOTOGRAPH BY MAGGIE SHANNON FOR BLOOMBERG BUSINESSWEEK. PROP STYLIST: CODY ROGERS

◀ year and passed along about $336 million of fuel surcharges to customers in the fourth quarter alone. And Maersk, the Denmark-based maritime shipper, reported a 2021 profit of $18 billion, compared with $509 million in 2019, after raising prices and passing fuel costs to customers.

For companies that find it harder to make customers absorb fuel price increases, including airlines and cruise lines, hedging is a riskier way to manage oil's volatility. Financial instruments that lock in a future price are expensive and only pay off if oil surpasses a certain level. And that would-be solution can turn into a bigger problem if oil drops below the locked-in rate.

The U.S. airline industry has a poor record on hedging fuel costs, and all the major carriers except Alaska Air Group Inc. and Southwest Airlines Co. have abandoned the practice, says Nat Pieper, senior vice president for fleet, finance, and

How High the Moon?

Crude oil futures, price per barrel

DATA: COMPILED BY BLOOMBERG

alliances at Alaska. Hedging is more like disaster insurance than a solution to rising oil prices, Pieper says. "We're not in it to make money. I don't get a bonus if we hedge successfully," he says. "You can't manage it totally, but it at least puts some barriers around" the cost of oil.

Alaska keeps hedges on about half of its fuel consumption. The program has been in the money since 2015, thanks in part to last year's hedges, which saved the company about $60 million. This year the airline has 42% of its fuel consumption hedged at $72 a barrel and will likely top last year's gains. But even if the hedges are in the money, they only cover a portion of fuel, Pieper said. That's why airlines always prefer lower crude prices.

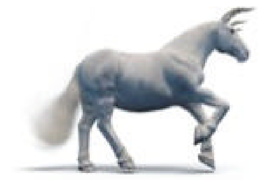
It's not just big corporations that are getting squeezed. The profit margin at Thomson Plastics Inc., which molds plastic resins into parts for autos, riding lawnmowers, and all-terrain vehicles, has sunk to 5% or less from the midteens before the pandemic. The oil surge has pushed up freight costs, and the natural gas increase last year had already driven up plastic-resin prices, says Steve Dyer, chief executive officer of the company, which employs about 250 workers and has $70 million in annual sales. Those costs will only rise more along with crude this year, he figures.

Plastic resins, made from natural gas liquids, jumped to as much as $2 a pound, from about 80¢ before the pandemic, Dyer says. When overall inflation hovered at around 2%, Thomson could absorb higher costs through productivity gains. But natural gas has more than doubled, to $4.25 per million British thermal units on Feb. 8, from a low of $2.07 in 2019. Now it's a free-for-all to push costs to customers, and the company is stuck between its raw material suppliers and the manufacturers it sells plastic parts to. "No one gets out alive," Dyer says. "Quite honestly, the pricing we're passing along is about survival."

Even Dyer's workers have had to adjust to oil's rise. The company is offering employees a workweek of four 10-hour days to cut down on their commuting costs to the plant in Thomson, Ga. "We pull our workforce from a six-county radius into our location," he says, "and when you have people driving 30 to 50 miles [each] way into work—on a weekly basis, $4-a-gallon gas becomes a problem in their life," he says.

For many companies, passing costs along can be tough. Cliff Wixson, who founded a heavy-equipment repair service near Phoenix in 2008, recently lost a customer who balked after Wixson increased the charge for a field technician by $20, to $150. The higher price only made up for last year's fuel and labor cost jumps and won't cover even higher gasoline prices this year. Yet he's stuck with his current technician rate because another price increase could push away more customers. "It ultimately puts a pinch on my profit," he says. "Now I have to be creative and figure out different ways to absorb that cost."

When companies pass along higher expenses, the consumer ends up bearing the full brunt, says Federated Global Investment Management's Orlando. The firm estimates that for every penny increase in the price of gasoline, U.S. consumer spending drops by $1.18 billion a year. With gasoline having risen by about $1.30 a gallon since the beginning of 2021, a back-of-the-envelope calculation puts the drag at more than $150 billion, or 0.8% of the economy, he says. "It probably hurts



the lower-skilled, lower-wage workers worse, because they are disproportionately spending more on gasoline and home heating oil," Orlando says.

Rosa Simeon, 45, is one of those consumers sensitive to the recent wave of price increases. She drives as much as 30 miles from her home in Garland, Texas, to clean houses for higher-paying customers in the northern suburbs of Dallas. She's tried to raise her price to $120 a day from $100, but many clients have balked. Now, with gas on the rise, she's willing to accept a customer closer to her home who'll pay her old, pre-pandemic rate rather than shoulder the added cost of driving across town.

For Simeon, gas isn't the only worry. The costs of food, clothing, electricity, and fast-food restaurants have all increased as well. She's spending $140 a week at the grocery store on items that used to cost $100. When she returns home, the single mom has to cook for her two children instead of taking them out for a hamburger and giving herself a break. "Gasoline has almost doubled, and I can really feel the difference," she says. "Life is tough right now."

With interest rates poised to rise, which should tamp down inflation, MGA Entertainment's Larian worries that efforts to slow the economy could end up pushing it into recession—ushering in a repeat of the stagflation of the late 1970s, when he founded his toy company. "We're headed that way," he says. "The prices are just going to keep going up and up, not just on toys but everything. You've got to keep pushing prices up, and the consumer, unfortunately, is going to suffer." —*Thomas Black*

THE BOTTOM LINE Oil prices have jumped 60% since before the pandemic. If customers or consumers are unwilling to swallow the cost increases, businesses could see their profits shrink.

Airbus to Qatar: Sorry. Not Sorry

● In a sign of its growing leverage over customers, the plane maker is canceling the contentious carrier's orders

For more than two decades, Airbus SE and Qatar Airways have been locked in a tumultuous relationship. The Gulf airline's chief executive officer, Akbar Al Baker, has always relished a good fight, ridiculing the plane maker's managers in public or refusing to take aircraft because of a perceived defect. Each time, Airbus endured the torment because the carrier is among its best customers, with billions of dollars' worth of planes on order.

Now the two are airing their grievances in public once again—only this time Airbus is fighting back. The companies are facing off in court in a high-stakes showdown that's being closely watched in the industry, because it stands to redefine the relationship between manufacturers and airlines.

It all started with flaking paint on an Airbus A350 aircraft. The airline, the biggest buyer of Airbus's most advanced model, which has a list price of more than $300 million, noticed the deterioration on a plane due to get a new livery in late 2020. Airbus recommended the jet be sent to its main facility in Toulouse, France, for further investigation, while maintaining that the model was safe to fly.

The dispute rumbled on last year, with Qatar eventually grounding 21 of its 53-strong A350 fleet after the local regulator revoked their airworthiness certificates and refusing to take delivery of new aircraft on order. In December the airline took the matter to the High Court in London, seeking compensation that now totals $700 million and counting. Airbus responded by canceling Qatar's order for 50 of its popular A321 aircraft, plus two A350s—moves Airbus says it can do under its contract provisions, but Qatar disputes.

The escalating conflict points to the changing power dynamics in a pandemic-ravaged industry. The collapse in air travel has put considerable financial strain on airlines. By contrast, Airbus's huge order book—particularly for its A320 narrowbody family—has largely shielded it from the worst impacts of the slump. Its position was further strengthened by the prolonged grounding of archrival Boeing Co.'s competing 737 Max after two fatal crashes.

Aircraft manufacturing remains essentially a duopoly between Airbus and Boeing, giving customers little choice. Airbus's dominance has only grown as Boeing struggled to respond to huge demand for the A321, the biggest narrowbody variant that's capable of serving lengthy routes. Last year, Airbus cemented its status as the world's top aircraft maker by handing over 611 planes, almost twice as many as its U.S. competitor. "Airbus has ▶

● Damages Qatar Airways seeks over the grounding of its Airbus A350s with peeling paint

$700m

ILLUSTRATION BY PETER CROWTHER

◀ now got into a position relative to Boeing that is nearly unassailable," says Sash Tusa, an analyst at Agency Partners in London. "It has never had that before."

Airbus used this strength to put pressure on customers to take planes during the depths of the pandemic, even after some pleaded to cancel orders given their financial straits. It gained further confidence when it won orders for narrowbody jets last year from Air France-KLM and Qantas Airways Ltd., previously loyal Boeing customers.

It may feel more emboldened to head into battle with Al Baker given the waning might of Gulf carriers. The region's three main airlines—Emirates, Qatar, and Etihad Airways—have historically been big buyers of widebody aircraft that helped transform their desert airports into global hubs. But with aircraft increasingly able to fly distances that don't require a Gulf stopover and the world targeting a shift from fossil fuels, the region's importance to plane makers may have peaked.

While Qatar quickly turned around after Airbus's slap and bought narrowbody 737 Max jets from Boeing, those planes don't have the same range. And Airbus can find alternative takers for the canceled A321s with ease; new orders face a several-years wait for delivery. Given that the Boeing order isn't finalized, Qatar could theoretically abandon it if the dispute with Airbus is resolved.

Qatar says the surfaces of the A350s have serious defects. To make its point, the airline took the unusual step of publishing footage online that showed considerable paint flaking on four aircraft, exposing rivets and some of the copper mesh that covers the carbon-fiber body. Large sections of the fuselage were damaged on one of the jets. Unlike traditional aluminum aircraft, the A350 and Boeing's rival 787 are built from composite materials that don't conduct electricity, requiring additional protective layers to dissipate lightning.

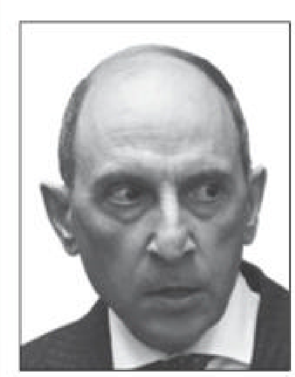
Airbus, which doesn't dispute that the paint is flaking off, says the issue is caused by the differing thermal properties of layers that make up the shell. The composite material of newer planes doesn't expand and contract like metal and paint.

The plane maker has proposed fixes ranging from touch-ups to a full repainting of the affected aircraft. It's also looking at longer-term measures, including changing the type of copper foil used for the lightning conductor layer.

Airbus top management traveled to Qatar several times last year to seek an agreement with Al Baker. Returning from a trip in September, Airbus CEO Guillaume Faury was confident he'd sorted out the issue. But tensions flared up soon thereafter, with each side accusing the other of not sticking to its promises, according to people familiar with the discussions.

Faury said Airbus is working on a technical fix, while dealing with the "unfortunate legal situation." Al Baker publicly has laid into Airbus, accusing it of making false statements and pointing to

● Faury



● Al Baker

other airlines that suffered similar paint adhesion issues on their A350s. "Airbus is climbing up a very tall tree and wouldn't know how to then get down and convince people that the issue is only paint," he said in London in November.

According to the lawsuit, the Qatar Civil Aviation Authority grounded the aircraft as "a precautionary measure to prevent any untoward incident or accident caused" by the surface degradation.

The QCAA didn't respond to a Bloomberg request seeking a copy of the grounding notice. The European Union Aviation Safety Agency considers the planes airworthy and hasn't received the analysis from Qatar, says Janet Northcote, a spokeswoman for the regulator. Airbus says it hasn't, either.

Other airlines, including Finnair Oyj, have noticed the paint issue, though none has stopped flying the A350. A Finnair spokeswoman described the problem as "cosmetic only" and said in an email it was addressed in connection with routine maintenance. The oldest A350 aircraft in Finnair's fleet have been more affected, and the paint technology has advanced for newer models, she says.

Qatar Airways is seeking $618.4 million from Airbus for the grounding of the 21 A350s through Dec. 17 plus $4.2 million for each day the aircraft continue to be idled. Airbus says Qatar is trying to squeeze money out of it for aircraft underutilized during the pandemic, a view the airline denies.

The dispute threatens to become an expensive, yearslong distraction for both sides. The fight has already driven the airline into the arms of Airbus's main rival. And Qatar wields considerable extra clout because it owns big stakes in other airlines, including IAG (owner of Aer Lingus, British Airways, and Iberia), where Airbus is trying to land a big order for narrowbody jets. For Qatar, having its marquee aircraft grounded risks disrupting its growth plans, particularly in the year when the emirate is hosting the FIFA World Cup.

Whatever the outcome, Airbus has put its customers on notice that the days when it would meet their every demand are over. For an industry long accustomed to getting its way, that's potentially a rude awakening. Says Willie Walsh, head of the International Air Transport Association: "I would hate to think that one of the suppliers is taking advantage of their current market strength to exploit their position, and that is something we are watching very closely." *—Charlotte Ryan and Siddharth Philip, with Chris Jasper and Katharine Gemmell*

THE BOTTOM LINE Given that a jet can cost hundreds of millions of dollars, plane makers have long been accommodating to airline complaints. Airbus's hard line against Qatar reflects a new attitude.

ILLUSTRATION BY AISHA FRANZ. FAURY: MARLENE AWAAD/BLOOMBERG. AL BAKER: JASON ALDEN/BLOOMBERG. ZARAMELLA: CHRISTOPHER DILTS/BLOOMBERG

BW Talks Luca Zaramella

The worldwide habit of snacking is here to stay, says Zaramella, Mondelēz International Inc.'s chief financial officer. That means the maker of Oreos and Cadbury chocolates remains busy, even in these unsettled times. —*Taylor Riggs*

● Graduated from Ca' Foscari University in Venice, Italy, with a degree in business and finance ● Joined Mondelēz in 1996 ● Has worked in Italy, Brazil, Luxembourg, Switzerland, the U.K., and the U.S. ● After stints as corporate controller and treasurer, named CFO in 2018

Did the pandemic change Mondelēz?

If I look back at the last couple of years and look at the numbers, it seems like the pandemic didn't happen to our business. But the reality is we changed the way we operate. We took the opportunity of the pandemic to refocus on a simpler portfolio. We became even more cautious about spending our capital. And for a company that is complex and has almost 100,000 employees around the world, we learned how to handle it remotely.

Is it harder to deal with labor now that Covid's led workers to voice demands?

A relationship with unions and with our employees is critical for success. We had a strike in the U.S. last year that had a very positive resolution for us and the employees themselves. We try to be fair as much as possible, but obviously we want to protect the viability of a business in the long run. So we made a series of concessions that were right and got in exchange a few things that we were looking for in terms of sustainability of cost and flexibility.

Are you worried about inflation?

I'm worried about prices, particularly around logistics and transportation. We try to pass those to consumers. The big question is, how long are bottlenecks impacting the supply chain going to last? So we announced price increases around the world to ensure we retain our margins and can sustain our brands. In the U.S. we just announced [hikes] of 6%.

Will consumers accept higher prices?

We use revenue growth management—optimizing pack size, providing multiple choices. Making a product available in smaller sizes is critical, and we optimize promotional spending. So if you look at the market, you'll see prices going up and volume going up. The old concept of elasticity—higher price/lower volume—is not necessarily there anymore.

● Edited for clarity and length

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The 1,000th Unicorn Joins the Herd

There are more $1 billion startups than ever

Hubert Palan signed on to Zoom from his home in Oakland, Calif., on Feb. 2 and prepared to address the 400 or so employees at his startup, Productboard Inc. As chief executive officer, he had big news: Productboard had just raised a new round of funding at a valuation of $1.7 billion. That meant the company could now officially call itself a unicorn—the term for a startup that investors deem worth $1 billion or more.

Palan, a wide-smiling 43-year-old father of two from the Czech Republic, tried to make the video call a celebratory moment. "I was jumping around

Edited by Joshua Brustein

ILLUSTRATION BY PETER CROWTHER

over Zoom," he says. "I was like, 'Yay!'" He took out a unicorn-shaped Christmas ornament, which he'd decorated with a small sticker of the Productboard logo and attached to a long chain. He hung the ornament around his neck. He whooped and cheered, along with his staff—though he couldn't hear them because they were all on mute.

Becoming a unicorn may have been a big deal for Productboard, but it's a distinction that means far less within the tech industry than it once did. The term emerged almost a decade ago, a time when startups worth $1 billion were rare and treasured, something only the luckiest of founders and investors would ever glimpse with their own eyes. Now the production of unicorns is reaching the scale of industrial agriculture.

Productboard was particularly notable in one way, though: It became the 1,000th unicorn, marking the first time the herd has crossed into four digits, according to startup-tracking service CB Insights. That same week, six other companies became unicorns. On the day of Productboard's internal announcement, Dune Analytics, a Norwegian crypto analytics startup, gained its horn by raising a cheeky $69,420,000. In January, 42 startups became unicorns and four became "decacorns"—the clumsy nickname given to startups worth $10 billion or more. "When you have 1,000 unicorns," says Brian Lee, who oversees research at CB Insights, "that's almost an oxymoron."

It's hard not to see the number of billion-dollar startups as proof that the private markets are overheated—something people have been saying for years. Even in the face of volatile public markets, inflation, and rising interest rates, the mood among private market investors appears to be as ebullient ▶

◀ as ever. Some of that undaunted growth is valid, says Lee: As more of the world's services become digital, software companies become more valuable, and infrastructure such as Amazon Web Services makes it easier than ever to start a tech business.

In the past, companies the size of the most valuable unicorns—ByteDance, SpaceX, and Stripe—would probably have already gone public. Today entrepreneurs feel less pressure to do so, given how easy it is for them to raise the money they need from private funders. Staying private allows many companies to avoid the additional scrutiny and potential loss of control that comes with an initial public offering. Plenty of investors are eager to get in early on rapidly evolving industries such as crypto, pushing up valuations. "You can't discount the power of FOMO," Lee says. "People are willing to go in with more capital."

The term "unicorn" dates to a 2013 article that Aileen Lee, a venture capitalist who'd just started a firm called Cowboy Ventures, wrote for the news site *TechCrunch*. Her article was about lessons investors could take from examining the few U.S.-based tech companies that had reached a $1 billion valuation. Looking at private and public U.S. software companies founded since 2003, she identified 39 of them, representing the top 0.07% of venture-backed startups. They included Airbnb, Dropbox, Facebook, Groupon, LinkedIn, Tumblr, Twitter, Uber, YouTube, and Zynga. About four unicorns had been created each year during that decade, mostly in consumer software services. Despite the fascination with young founders hitting it rich from their dorm rooms, Lee found that the people who started unicorns tended to be in their 30s. Of all the list's founding CEOs, not one was a woman.

When she was writing the article, Lee toyed around with using terms such as "monster hit" and "home run" to describe the megastartups. But "unicorn" seemed like an appropriate word for a distinction that, as she wrote, was "extremely rare and pretty awesome."

The name stuck. In 2015, *Fortune* ran a cover story, "The Age of Unicorns," in which it analyzed privately held startups with billion-dollar-plus valuations. Illustrated with a full-page image of a ▶

Unicorns Through the Years

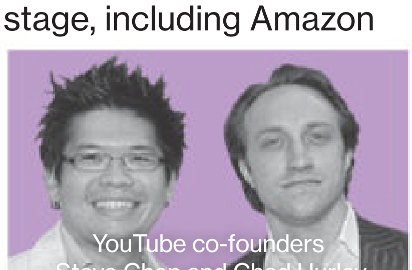
There have always been hot startups, but the numbers keep getting bigger

The First Batch

Twitter co-founders Jack Dorsey and Biz Stone

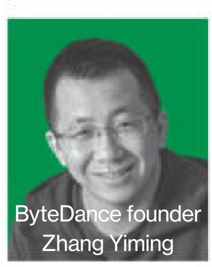
There's no clear-cut way to identify the first unicorn. Aileen Lee's list comprised 39 companies, but it only considered those founded since 2003. It also included public companies, while the term today usually refers to pre-IPO startups. By that standard some of the biggest technology companies in the world skipped right over the unicorn stage, including Amazon ($438 million at IPO) and Microsoft ($777 million).

Tumblr founder David Karp



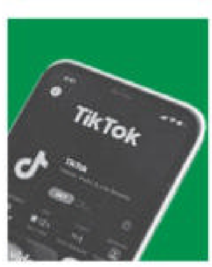
YouTube co-founders Steve Chen and Chad Hurley

The Biggest One



ByteDance founder Zhang Yiming

The most valuable private company on Lee's original unicorn list was Twitter, clocking in at about $10 billion. Today's biggest unicorn is another social media darling: TikTok parent ByteDance, worth $140 billion. ByteDance's initial focus was a news aggregator, Toutiao, which remains popular in China. Its most famous product, though, came from its 2017 acquisition of Musical.ly, whose tech it adapted into the app that became TikTok.



The Worst Flop

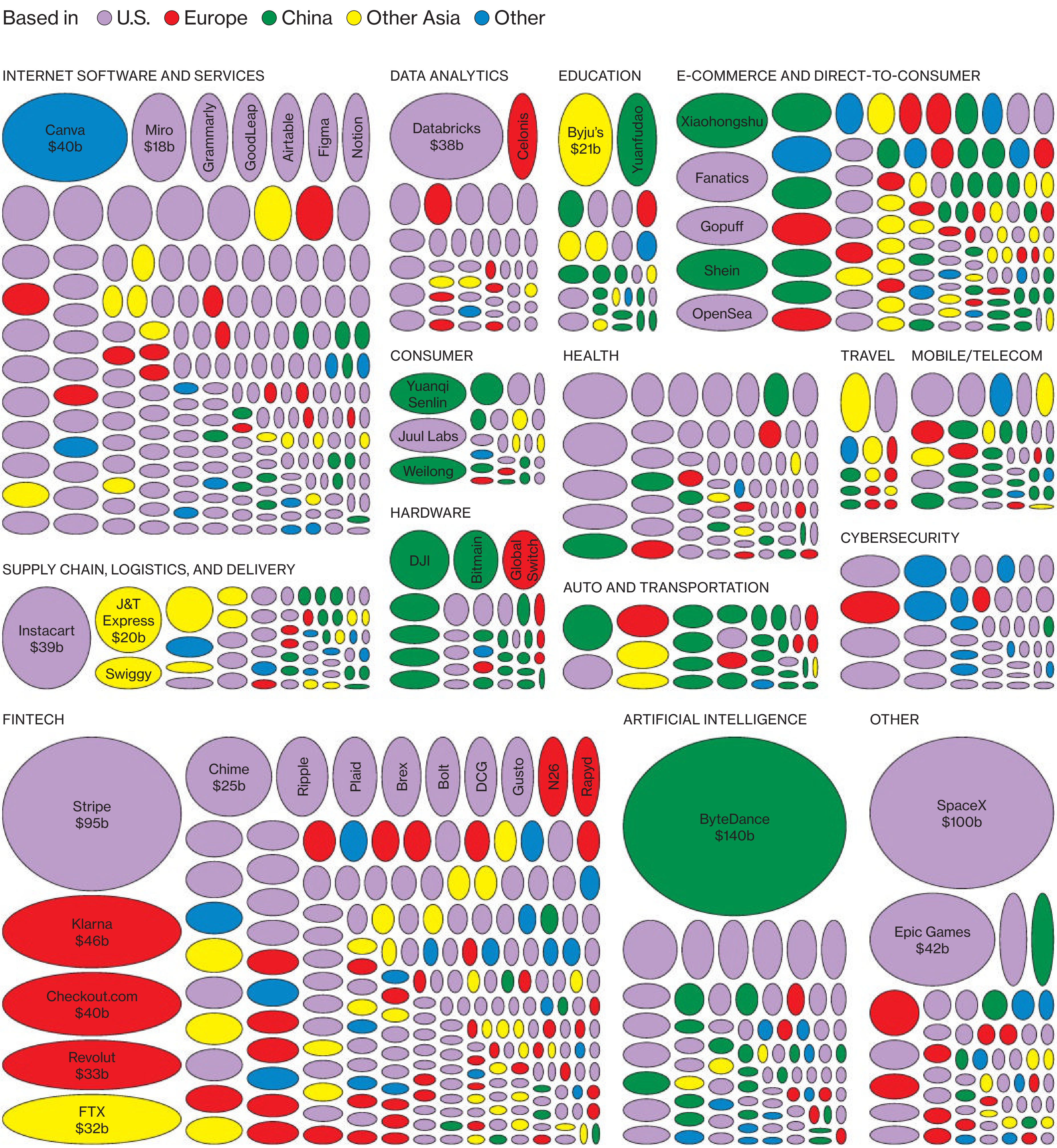
Holmes

Companies leave the unicorn list in one of two ways: They graduate by going public or being acquired, or they fail. One of the most spectacular implosions was WeWork, whose largest investor valued it at $47 billion shortly before a planned IPO collapsed suddenly—the company eventually recovered enough to go public with a new CEO at a far-reduced valuation. But it's hard to think of a bigger fall than Theranos, the blood-testing startup founded by Stanford dropout Elizabeth Holmes. Theranos, once worth $9 billion, crashed after a *Wall Street Journal* investigation revealed how overheated Holmes's claims about its technology had been. In January she was convicted of fraud and faces up to 20 years in prison.

BLOOMBERG (1), GETTY IMAGES (6), ILLUSTRATIONS BY PETER CROWTHER (3)

The Shape of Today's Herd

The most common focus for companies on the original unicorn list was consumer internet services. Nine years later, there are more companies in financial technology than in any other category, led by payment-services provider Stripe Inc. The U.S. continues to be the leading home for $1 billion startups, but there are more Chinese unicorns in categories such as education, hardware, and transportation. ——*Minh-Anh Nguyen*



DATA: CB INSIGHTS

What's a Unicorn Worth?

My Little Pony brand value	$302,000,000.00
The Last Unicorn all-time box office	$6,455,330.00
Lisa Frank Inc. annual sales estimate	$5,710,000.00
The Unicorn Tapestries, 1922 purchase price	$1,100,000.00
Narwhal tusk	$18,500.00
Unicorn mascot costume	$849.99
Pokémon Rapidash card	$9.57
Unicorn frappuccino	$4.95

DATA: BRAND FINANCE, THE NUMBERS, DUN & BRADSTREET, NEWS REPORTS, BOONE TRADING, ANDERSON'S, POKÉMON PRICES, FAST-FOOD MENU PRICES

◀ white unicorn in a Zuckerbergian hoodie, the piece fretted that there were already too many unicorns for the label to matter anymore. "Is this boom for real?" *Fortune* asked on the cover. The count at the time: 80.

In the years since, the answer has become a resounding yes. In 2022 unicorns are being minted at a rate of more than one a day.

There's a shocking amount of investment money looking for a home—$621 billion into startups of all kinds in 2021. That's more than double the 2020 amount and exceeds the capital raised through IPOs over the same period, which itself was a record. Low interest rates and record-breaking paydays when private companies finally go public or get acquired have caught the hungry eyes of investors who have traditionally focused on public markets.

Covid-19's reshaping of the economy accelerated the boom. The number of unicorns had been growing steadily until the end of 2020, when the global count was 569. Then, in the next year, it almost doubled. "Covid created so much personal loss and pain, but it has put tremendous mojo in the sales of software of all kinds," says Aileen Lee. "The ease and efficiency of software—it's becoming the glue that runs how we communicate and how we do business."

She's quick to point out that more unicorns exist now in part because there are just so many more startups; the milestone is still a sign of rare success. "It's so freaking hard" to get to $1 billion, Lee says—"it still takes timing, luck, superb execution, and longevity." Reaching that valuation is a strong predictor of further success, she says, adding that she hopes more companies run by women or people of color will reach that level, because it's a "life-changing" event.

Some of today's unicorns are making their mark primarily by serving other tech companies. Productboard builds tools for product managers—the people who coordinate designers, software engineers, and marketers building, say, a new feature in an app or a specific fix for a major enterprise client.

Its customers have included several unicorns, such as Zoom Video Communications Inc. and UiPath Inc., though those companies outgrew their horns when they went public in 2019 and 2021, respectively.

● Palan

In Productboard's early days, Palan and Daniel Hejl, his co-founder, tried not to worry too much about the unicorn label, but potential investors were always asking whether they thought they'd eventually be worth a billion dollars. It was hard not to daydream. Palan says he would think things like: "When we become a unicorn, it's going to be awesome. The best people are going to come work with us."

Actually, hiring is still as cutthroat as ever, and Palan suspects that being a unicorn isn't unusual enough to tip the scales in recruiting. "The goal posts got pushed," he says. "You're playing this constant catch-up."

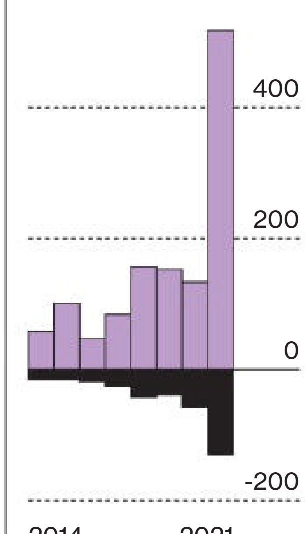
Nonetheless, when the Productboard team gathered after its Zoom meeting on Feb. 2., the mood was enthusiastic. Local employees gathered at Productboard's office in San Francisco's South of Market neighborhood, eating lunch from unicorn plates under a rainbow of unicorn balloons. Executives received bottles of bubbly with celebratory labels, while rank-and-file employees got unicorn T-shirts, candles, and robes with little unicorn icons. "It's super cheesy, but it's great," Palan says of the fanfare.

Afterward, employees clinked glasses at a happy hour, grilled Korean barbecue at YakiniQ in San Francisco's Japantown, and wandered over to private-room karaoke down the block. The next morning, Palan was still beaming. Sure, there are 999 other unicorns, but it still feels special. "It's not like there's 1,000 unicorns in the product management space," he says. "That would suck." —*Ellen Huet*

▼ Unicorns

■ New

■ Went public, got bought, or fell below $1 billion valuation



THE BOTTOM LINE Investor enthusiasm for startups has turned the $1 billion valuation from an almost impossible achievement into a commonplace milestone.

PALAN: COURTESY PRODUCTBOARD. ILLUSTRATION BY PETER CROWTHER. DATA: CB INSIGHTS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Stock Knower

Facebook is still cool, right?
Asking for a friend. 😂😂😂😂😂

Analysts, Read The Room

Wall Street's designated experts on Facebook parent Meta Platforms didn't see the trouble coming

If you have a teenager in your house, you've known for a while that the Facebook app isn't as cool as it used to be. Even so, Wall Street has held its parent company, renamed Meta Platforms Inc. last year, in the highest esteem. For years, analysts' price targets kept climbing, at times implying double-digit returns. Growth estimates suggested little to worry about. Until Feb. 2 anyway.

On that day, the two story lines—the popular one about a company losing its edge with young consumers and the one among investors about an unstoppable tech colossus—crashed into each other. Meta reported the first-ever quarterly drop in Facebook's daily active users. It's getting stiff competition from video-sharing apps such as TikTok. That, combined with slower revenue growth in the current quarter than analysts had expected, resulted in a 26% plunge in the share price on Feb. 3, wiping out $251 billion from the valuation of Meta. It was the biggest one-day dollar drop in market history—though the company is still the eighth most valuable in the U.S. at about $631 billion.

How most of Facebook's 62 analysts—who spend their lives crunching numbers—failed to see such a dismal report coming could be a case study on what you miss when looking at consensus expectations. "You can't blindly accept what anyone with a financial model and a microphone says about the company," says Marshall Front, chief investment officer at Front Barnett Associates. "You may pay a high price for that. If everyone thinks the stock is a 'buy,' by the time the last analyst has gone from a 'hold' to a 'buy,' it's usually the right time to lighten up."

The bigger a company, the more analysts cover it, talking to high-level executives, producing research notes, updating recommendations, and giving clients other important information. Yet sell-side analysts—those who typically work for brokerages—are known for rarely being skeptical: Only about 5% of all recommendations on S&P 500 stocks are "sells," data compiled by Bloomberg show, with "holds" a more preferable way to express doubt. (Bloomberg LP, which owns *Bloomberg Businessweek*, sells company research and analysis to financial professionals.)

It would've been especially hard to put out a negative rating for Meta, which has posted share gains in every year but one since its 2012 initial public offering, when it was called Facebook. Two psychological pitfalls stand in the way, says Stephen Weitzel, managing partner and portfolio director at Reveille Wealth Management. One is the idea that a stock that's gotten this far will likely keep on climbing. The other is when everyone else has a "buy" projection, it's safer to advise something similar. "Facebook has been one of Wall Street's darlings, and no one has wanted to stand up and say that something has changed," Weitzel says. "Why does anyone follow the herd? It's harder to go against the grain." As the economist John Maynard Keynes observed, it's often better for one's reputation to "fail conventionally."

A 2007 study by researchers from Emory University's Goizueta Business School in Atlanta and KDI School of Public Policy and Management in South Korea found evidence of herding among sell-side analysts. It concluded that researchers are more willing to stand out from the crowd when upgrading their recommendations. Analysts tended to follow each other when downgrading—suggesting a reluctance to be more negative than the crowd.

Edited by
Pat Regnier

PHOTO ILLUSTRATION BY 731; PHOTOS: GETTY IMAGES, ALAMY

Before earnings season kicked off, 84% of analysts covering Meta Platforms advised buying it, in one of the highest levels of bullishness for companies covered by a similar number of analysts. Only two—both in Europe—recommended selling. A measure of how much analysts disagreed with each other on their price targets showed there was relatively little argument. The standard deviation from the mean sat at 0.1, below 60% of readings for the S&P 500 members that are covered by at least 30 brokerage firms. The lower the number, the more analysts' price targets are clustered together around the average reading.

Of course, investors may have been complacent about Meta, too. For the past few years, many have thought of the tech giants together as a single trade—buy them when you are bullish on risk and growth, sell when you are bearish. The recent decoupling of Meta's performance from Apple Inc.'s and Amazon.com Inc.'s is a reminder that companies have their own particular issues.

Analysts covering Meta underappreciated two major ones. Recent changes to Apple's software for iPhones, which require that companies like Meta ask users for permission to gather data, made it hard to deliver targeted ads. The new privacy feature will slash $10 billion from Meta's sales in 2022, the company said, or about 8.5% of Meta's 2021 revenue.

The other problem was Facebook user growth, and signs of trouble were brewing for months. In October a former data scientist at the company disclosed hundreds of internal documents. Some showed that the number of new teen sign-ups was falling and that young people were taking much longer to join Facebook than previously. Meta has acknowledged that it faces tough competition from TikTok while pointing out that its products are still widely used by teens. Chief Executive Officer Mark Zuckerberg declared in October that attracting young people was the company's new "North Star." Some 2.8 billion people use one of its apps—including Instagram and WhatsApp—on an average day.

Although analysts were off on many financial metrics heading into the earnings session, their success should be measured over the long term, says Oliver Pursche, senior vice president and adviser at Wealthspire Advisors. "Yes, everyone was wrong, but they were wrong this quarter," says Pursche, who pays for sell-side research. "Let's see what happens in subsequent quarters. It's not a nail in the coffin for them."

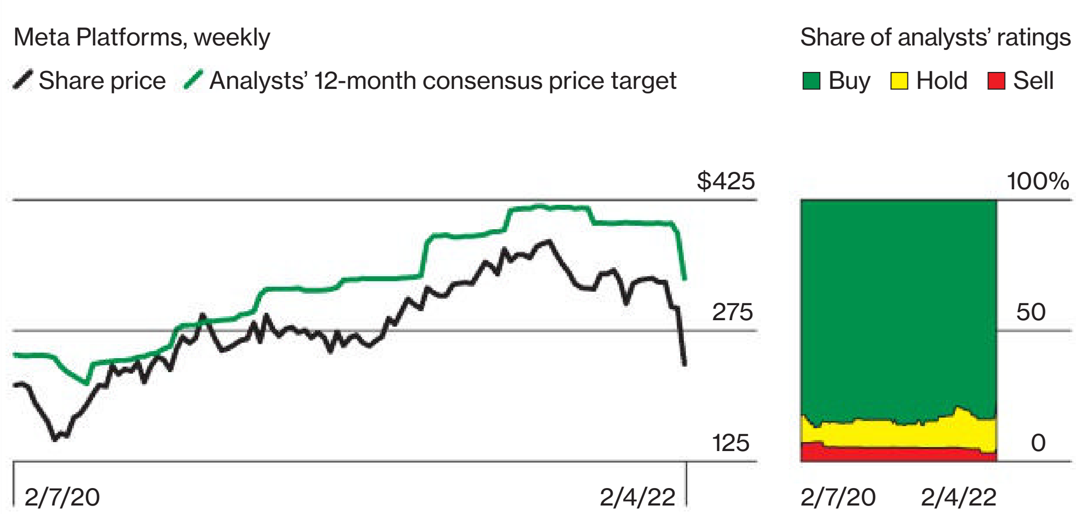
While analysts who advised clients to buy Meta ahead of its 26% plunge could be in for some tough conversations, data compiled by Bloomberg show that the two in Europe who recommended selling shares have been saying so since 2015 and 2019, respectively—so the calls may not have been that useful to their clients. Even after the post-earnings plunge, shares are up about 190% since the beginning of 2015.

Beyond the psychological factors, the risk of ruining the relationship side of the business discourages analysts from being skeptical, says James Angel, a finance professor at Georgetown University's McDonough School of Business. A bearish analyst may lose access to company executives, making it harder to do the job. And the job isn't entirely about number crunching. An analyst also provides value to the brokerage firm by helping organize meet-and-greets between company executives and big clients. "Companies are less likely to cooperate with analysts who say that their stocks are overvalued," Angel says.

In the dot-com era, relationships famously got too cozy. Regulators banned some prominent analysts from the industry for allegedly hyping companies their firms wanted business from. That led to tighter rules for the research business.

To Front, who started on Wall Street in 1963, the rise of index fund investing and computer-driven trading has also shifted the rules of the game. When investing was more about picking individual stocks, the demand for in-depth sell-side research was higher, and so was the appeal of being a brokerage analyst. Front, who relies on in-house analysis for financial decisions, remembers that Wall Street knew some of its top analysts by their first names. "The nature of the market has changed, and so has the nature of the job," he says. "Years ago, sell-side analysts were kings. It's not the same these days."
—*Elena Popina and Jess Menton*

Forecasting Facebook



DATA: COMPILED BY BLOOMBERG

THE BOTTOM LINE More than 80% of analysts had recommended buying Meta Platforms before a disappointing earnings report triggered a 26% decline in the stock.

Disaster Suits Are An Asset Class

● Funds are helping finance class-action claims in a new twist on ESG investing

Anderson Krenak is a member of the Indigenous Krenak people who live along the banks of the River Doce in Brazil's Minas Gerais state. On Nov. 5, 2015, his life changed forever when a mining company's dam collapsed, unleashing a torrent of mud filled with mine waste into the surrounding countryside and waterways, destroying the Krenak heartland. The flood killed 19 people and spread pollution hundreds of miles to the Atlantic.

With his old way of life through fishing and hunting now impossible, Krenak, 38, is seeking compensation as one member of a 200,000-strong suit in the U.K. that's demanding $7 billion in damages from Anglo-Australian mining giant BHP Group Ltd., which owns half of Samarco, the company that owned the dam. "It's not just a matter of getting a financial compensation but of sending a message that miners cannot come to our country to do damage," he says.

But ecological lawsuits with large potential payouts also have big costs, and that's created some unlikely alliances between investment funds and marginalized communities looking for an acknowledgment of their suffering. At least part of the financing for the mine dam case can be traced to North Wall Capital, a firm with headquarters far from the River Doce, on posh St. James's Street in London. It describes itself as an investor in "special situations," which include helping bring litigation to court. North Wall has provided PGMBM, the law firm that's marshaling some 700 lawyers to take on BHP, with a loan secured against the revenue from winning or settling this or other PGMBM cases. BHP, which declined to comment, has called the U.K. suit unnecessary, because it duplicates matters covered by legal proceedings in Brazil and a compensation plan the company has helped set up.

Other special-situation funds, including Brazil-based SPS Capital, have provided funding specifically for the dam case. "In theory, Brazilian law provides for legal aid," says Pedro Martins, a PGMBM lawyer working on the BHP case. But in reality, "there is not enough muscle to fight against large corporations that can throw as much money as is needed to hire the best lawyers in the country."

Funds like SPS are drawn to litigation funding by the potential of outsize returns. Although the payout is determined on a case-by-case basis, typically funders and lawyers involved in these cases can get three times their investment back, or 30% of the winnings when things go well, according to industry participants. That arrangement could leave a few tens of thousands of dollars each for the Brazilian claimants, who live in a region where the monthly household income is less than $250.

Litigation financing, as it's known, is more complicated than a David vs. Goliath story. The business sits at the confluence of two megatrends in

◀ Anderson Krenak and his son

JONNE RORIZ/BLOOMBERG. ILLUSTRATION BY PETER CROWTHER finance: rock-bottom interest rates and the surge in environmental, social, and governance-based investing, or ESG. As funds have looked for more lucrative targets, long-shot lawsuits seeking redress for people who haven't been able to hire high-powered lawyers suddenly seem like a good bet. What's more, putting an ESG label on a fund can help attract investors. Assets in sustainable mutual funds and ESG-focused exchange-traded funds rose 53% globally last year, to $2.7 trillion, according to Morningstar Inc.

Litigation finance is a small but fast-growing sector, estimated by FTI Consulting to be worth about $13 billion in 2021. Its recent history suggests it may not be an automatic choice for ESG marketing. Funds in the sector often finance cases about far more mundane disputes, including high-profile divorce battles and even a lawsuit over one firm's secret method of valuing legal cases. But investment managers are seeing the marketing potential in big payout cases that have a social impact. Fabian Chrobog, the founder and chief investment officer of North Wall, says he may offer investors the opportunity to participate primarily in ESG-related litigation in the future. When North Wall first raised money to invest in lawsuits, he says, the managers didn't have ESG in mind, "but it ended up being invested in 100% ESG-compliant litigation."

Establishing what counts as ESG is complicated. The European Union and the U.K. are rolling out regulations to codify environmentally friendly investment. Rules that cover social- or governance-themed investments are lagging, leaving the field open for fund managers to brand investments as they see fit.

In the meantime, firms are betting that financing litigation will deliver better returns than other alternative-asset classes. "It's one of the few asset classes where actually pursuing a strong ESG bent could over the long term generate alpha," says Chrobog. ("Alpha" is finance industry jargon for an investment that beats the market.) Funds and their clients also like the fact that payoffs from court cases provide a kind of diversification–they don't depend on the ups and downs of the market.

Kabwe, Zambia, home to more than 225,000 people, ranks as one of the most toxic places on Earth. The city was once the site of Africa's largest lead mine, which churned out tens of thousands of tons of the metal near communities of poor residents and mineworkers. Although the mine shut in 1994, decades of despoilment have resulted in thousands of cases of lead poisoning among local inhabitants, causing health issues that include brain damage, reduced life expectancy, and death, a lawsuit alleges.

More than 100,000 women and children who live or have lived in the area have been affected, the filing states. On their behalf, 13 plaintiffs are suing the mine's former manager, Anglo American South Africa, which is alleged in the lawsuit to have managed the mine but failed to prevent exposure to the toxic metal. A spokesman for Anglo American says the claim is "totally misdirected and opportunistic," adding that "any responsibility in relation to the Kabwe mine site belongs elsewhere." The spokesman adds that Anglo American stopped being involved with the mine in 1974.

A small London-based litigation finance company called Augusta Ventures is funding the Kabwe suits. The $2 trillion asset management giant, Pacific Investment Management Co., best known for its bond funds, has a stake in Augusta, according to a person familiar with the matter, who declined to be named because the investment isn't public. A spokesman representing the plaintiffs says no dollar amount has yet been put on the claim. Pimco declined to comment.

● Estimated size of the litigation finance market

$13b

Making money from financing these types of cases is anything but straightforward. With revenue of $30.9 billion in 2020, Anglo American Plc, parent company of the South African business, can afford for the litigation to run for years. A hearing is scheduled to take place in the first half of 2022 to determine whether the case should proceed to trial, a spokesman for the claimants says.

In the Brazil case, Martins and his colleague Tomas Mousinho spent four months in late 2018 traveling nonstop around Minas Gerais searching for people to participate in the class action. When they were done, 40 English barristers were sent to Brazil to collect statements from the 200,000 people that ended up agreeing to participate, Mousinho says. The claim against BHP was struck out of English courts last year on the grounds that the case was an abuse of process. But in July, London's Court of Appeal agreed to reopen the lawsuit, with judges saying they believed it had a "real prospect of success," court documents show.

So the chance for a big payday for the funds and lawyers remains, though Anderson Krenak says that something has been lost which money can't replace. "Krenak people see the river as a family member who is in a coma and one can no longer have contact with," he says. —*Will Louch, Lucca de Paoli, and Mariana Durao*

THE BOTTOM LINE Financing lawsuits can be attractive to some investors, both for the returns and as a way to potentially make money even when other markets are down.

Stuck With A Cash Guzzler

● Soaring prices for used cars leave many Americans no choice but to pay up for repairs

As the cost of a used car has soared, mechanics are finding themselves inundated with ailing high-mileage vehicles, overhauling engines on autos once bound for the junkyard and having delicate conversations with desperate customers.

The dramatic climb in new- and used-car prices has changed the calculus of when to repair and when to replace. And it's put mechanics in an uneasy position as financial advisers, often offering the final word on whether a clunker is worth fixing. Americans who before the pandemic would buy another car rather than pay a few thousand dollars for a repair are now having to shell out $5,000 or more.

In Athens-Clarke County, where the University of Georgia's affluent student body belies the 25% poverty rate, garage owner Kevin Thain says his crew is working customers through end-of-service-life decisions on a weekly basis. It isn't unusual lately to see fixes running over $10,000. "We'll look at the vehicle, and if it's got smoke coming from under the hood, or making a whappity-whappity-whap sound, they'll ask me, 'Is this car worth fixing or not?'" he says. "You hate to be like the doctor calling the family into the consultation room, but sometimes we are that."

The high cost of vehicles and gasoline is rippling through the U.S. workforce, eating away at the earnings gains they've made in a tight labor market. Used-car inflation amounted to 37% in 2021, while new car prices jumped 12%, according to data from the Bureau of Labor Statistics. The average list price of a used vehicle in December topped $28,000 for the first time, according to Cox Automotive, whose

● Shear and her children

PHOTOGRAPHS BY IRINA ROZOVSKY FOR BLOOMBERG BUSINESSWEEK. DATA: BUREAU OF LABOR STATISTICS; COX AUTOMOTIVE

Edited by Cristina Lindblad

Kelley Blue Book is a go-to guide for people buying or selling a used vehicle. Some data suggest the peak is past, but Cox chief economist Jonathan Smoke says prices won't drop sharply: Wholesale used-vehicle values should fall only 3% by yearend, he wrote last month.

The surge is changing kitchen-table economics, particularly for low-income households. A nonprofit that assists Athens's poor, the Ark, reports that clients are increasingly choosing jobs with a shorter commute or within walking distance. A thousand miles west, in Lincoln, Neb., factories a half-hour outside of town can't find enough workers willing to make the drive, so a local franchise of staffing agency Express Employment Professionals is looking into starting a pickup and drop-off service.

But millions of American households are still desperate to keep vehicles running so they can commute to work, fetch groceries, or take the kids to school. In a country with vast rural expanses and spotty public transportation, a reliable car is essential. Vehicles for Change, a Maryland-based charity that equips the poor with cars, estimates that having access to a vehicle bumps up its clients' pay as much as $8,000 a year.

Dixon Collins, 58, operates a small garage in Athens set among buy-here-pay-here car lots and a waste-hauler's yard. Goats bleat in a pen behind his metal shop. He points to a black Chevy Tahoe in his lot that had $5,000 of work done on it, despite having clocked 300,000 miles. His customers are using credit cards and loans from family members to pay for repairs, he says. "What people would not even think about spending on a car before, they're spending on it now."

Nationwide, the average cost of a repair performed at a franchised car dealership rose 10% in 2021, and 20% from two years ago, according to dealer software provider Xtime Inc., a unit of Cox Automotive. (The big jump also reflects rising costs for labor and parts.)

People used to balk at a repair if the price hit $1,500 and would instead buy a replacement vehicle, says Ross Colket of Colket Automotive Technical Services in suburban Philadelphia. The tipping point now is closer to $2,500, he says. Colket approaches customers cautiously when breaking the news that a repair will run into the thousands: He describes each needed fix methodically. "You ease into it," he says. "You give them the description of what's going on with the car, and I save the price of it for the tail end." He's been putting people on repair schedules, too, so they can spread the work over time.

In suburban Seattle, garage owner Bryan Kelley's relatively affluent customers used to

● An employee in Collins's garage

consider buying a new car when a repair's cost hit $3,500. "I don't know where that number is right now," says Kelley, owner of Valley Automotive Repair & Electric. "I'm seeing $4,000 and $5,000 repairs more often than I ever remember."

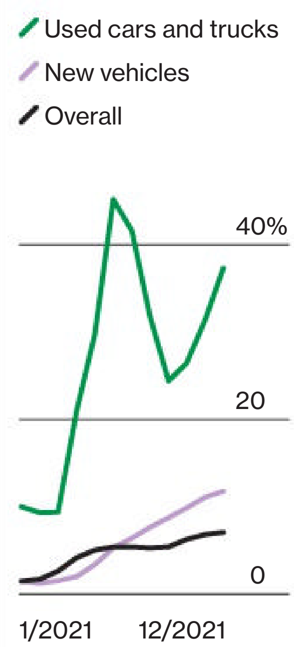
Higher prices for goods and services of all kinds are weighing on the unemployed and poor. Nationwide, the average cost of a gallon of gas is up 40% from a year ago, to $3.41, according to the American Automobile Association. Some 72 million adults reported that paying their usual household expenses was "somewhat" or "very" difficult in the U.S. Census Bureau's most recent Household Pulse Survey, ended on Jan. 10. That's about 12 million people more than in a similar survey through mid-August.

In Georgia, Chayney Shear fires up her 2010 Ford Fusion four nights a week to make the 60-mile round trip from the Atlanta suburb of Suwanee to a retail distribution center in Jefferson. The car has no power steering and more than 200,000 miles on it, and the 22-year-old single mother of four worries about what would happen if it broke down. "The prices for used cars, they're horrible," she says. "They're charging what they truly aren't worth."

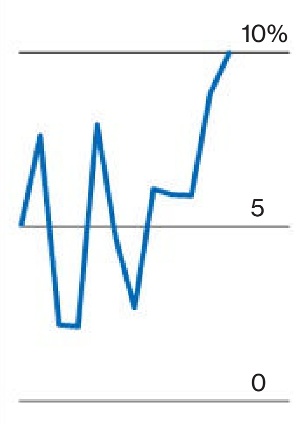
Amber Coleman of Lawrenceville, Ga., is reluctantly shopping for a used car, sifting through unattractive possibilities like a five-year-old Honda Pilot with a bit less than 100,000 miles on it. A local dealership wanted almost $30,000 for that one, which was out of the question. She reached her tipping point when the Kia service center inspecting her 2016 Sorento called to tell her the vehicle needed a new engine. "I immediately went into panic mode," Coleman, 44, recalls. "I said, 'I don't have $9,000 to give anybody.'" —*Michael Sasso and Raeedah Wahid*

THE BOTTOM LINE For many commuters, a 37% jump in used-car prices, plus the rising costs of repairs and gasoline, is eating into any earnings gains they've made in a tight job market.

▼ Consumer price index, year-over-year change



▼ Average cost of an auto repair at a franchised car dealership, year-over-year change



Chile Tries to Reinvent Itself

● Delegates to a constitutional convention are eyeing a green future, but investors are leery

Constanza San Juan is feeling optimistic. She sits on a committee of Chile's constitutional convention that on Feb. 1 voted to nationalize the country's mineral wealth—its deep veins of copper, lithium, magnesium, and silver—a notion that has mining companies and markets hyperventilating. The idea is sufficiently radical that few believe it will be endorsed by the required two-thirds of the full convention. But San Juan, a 36-year-old historian, not only hopes it will—she wants it to go further.

In her view, the problem isn't that Chile, dubbed the cradle of neoliberalism, is contemplating state control of resources. It's that people still envision its future as based on mining rather than green endeavors. Her wish list also includes better pensions, health care, and education. Asked during a break between sessions where the money for all that would come from, she said, "We'll have to see. The reason I came here is to bring structural changes to our economic model."

Chile has embarked on a nearly unparalleled voyage of self-discovery that will serve either as a template or a warning for countries trying to tackle climate change and inequality. It's elected 155 delegates to write a new constitution, and some three-quarters of them lean left—though perhaps not as much as San Juan.

Among other resolutions that have passed committee votes: annulling existing water-use rights, banning mining and forestry on Indigenous lands, ending free-trade agreements, and eliminating the Senate. Almost 80 proposals have arrived from outside the convention with 15,000 signatures each, meaning they must be considered. They include legalizing cannabis and enshrining constitutional rights for animals and glaciers. The most popular, which protects individual retirement pensions, is called "Don't mess with my money."

◀ Many communities must have potable water trucked in

All of this is happening just as the country's most left-wing government in half a century, a coalition of socialists and communists, is about to take office. Its central figures—President-elect Gabriel Boric and his closest aides—are in their mid-30s, as are the two top figures at the constitutional convention. It's not just an ideological shift, but also a generational one—and with a better gender balance. The head of the convention and many of Boric's most powerful ministers are women.

When the new government takes office in March, Chile will once again, despite its remoteness, thrust itself into the global consciousness. It has abundant natural resources, an economy that's avoided the booms and busts characteristic of South America, and a population of 19 million that says its future should be based more on government-assured justice and equality than the free market. "It's clear that what's under way is a remaking of the Chilean economic model," says Aldo Mascareño, a sociologist at the Center for Public Policy, a Santiago think tank. "This radicalism is happening precisely because of the success of our current model, which came with too much inequality, and also there was a failure to listen to the population."

● San Juan

● Fontaine

From the outside, Chile has long been admired as a country that slipped the cruel bonds of dictatorship three decades ago and built a healthy democracy underpinned by a sound economy. But in late 2019 a small increase in public transit fees sparked a shocking explosion in street violence that played out against the backdrop of an historic "megadrought." It suddenly became evident that President Sebastian Piñera and the elite he represented were out of touch. The population was increasingly disgusted at the way unregulated markets had contributed to an unequal distribution of resources, whether wealth or water, while issues like climate change and minority rights were neglected.

To defuse tensions, the government organized a referendum asking Chileans whether they wanted to craft a new constitution to replace the one dating from the dictatorship. That document enshrined

FROM LEFT: ADRIEN VAUTIER/LE PICTORIUM AGENCY/ZUMA PRESS. ALEXANDRA GONZÁLEZ PORTILLA. COURTESY BERNARDO FONTAINE. CRISTOBAL OLIVARES/BLOOMBERG. DATA: CENTRAL BANK OF CHILE

◀ Separation ponds at a lithium mine in the Antofagasta region

neoliberal economic principles propagated by Milton Friedman and his band of "Chicago Boys."

Now there's fear the country will lurch too far in the other direction. Chile's peso has weakened 16% against the U.S. dollar since the makeup of the assembly was announced on May 16. Many of the delegates are neophyte activists; as a result, some Chileans say they hope the new president and his youthful ministers can be the grownups in the room and impose some restraint. Boric, who won election promising gradual change, has sought to allay market fears by appointing as finance minister the seasoned former head of the central bank, Mario Marcel.

The irony in the convention's antimining sentiment is that Chile's copper and lithium reserves—among the world's biggest—are very much in demand to help move humanity away from fossil fuels toward renewable energy. The government forecasts that investments in mining projects could total about $70 billion this decade. Last year, copper accounted for more than half the value of Chile's exports.

Some investors are worried. "The market hadn't considered that the initially approved proposals would be this radical," says Klaus Kaempfe, portfolio solutions director at Credicorp Capital. "Looking ahead to the final votes, we really hope to see a little sanity."

At a time when many Chileans are enjoying their summer holiday, the convention is working at full tilt. The goal is to have a complete draft of the constitution ready in July, followed by a popular referendum before the end of the year. Delegates gather daily at the former Congress building in downtown Santiago. There are a few suits, but dress is mostly casual. At times, it can feel like a university debating society. There's applause at the end of some votes. During deliberations on the mining proposal, members of the convention held up signs that read "Stop the looting."

Conservatives are a frustrated minority because their proposals hardly ever make it out of committee. One of them is Bernardo Fontaine, 57. "A Pandora's box has been opened, where the spirit of the constituents is very radical," he says.

Fontaine, an economist who's held senior management posts at several big companies, is among those hoping Boric and his aides will be a voice of moderation, even though the convention is technically independent. "We need Boric's political group to exercise leadership and set limits on the debate to direct the rules toward a path of common sense," Fontaine says. He worries that the radical proposals that do get through might pass in the referendum.

Boric will have to step carefully. He's supported the constitutional process since its beginning and also wants to put Chile on a path to greater equality and a green future. He's pledged to raise taxes, boost spending on social services, and reintroduce a state-run pension system. The former university student leader allied himself with Chile's 100-year-old Communist Party to win the presidency, but he's not a leftist of the old school. Like green politicians in Northern Europe, his preoccupations include human rights and government transparency.

Some analysts say Boric could become the face of Latin America's new left, inspiring other candidates in the region. Gustavo Petro, a leftist who's leading in the polls to win the presidency of Colombia in May, said recently that he'd like to form an alliance with Boric and others to fight climate change and "transition Latin America toward economies that are decarbonized, productive, and based on knowledge."
—*Valentina Fuentes and Ethan Bronner*

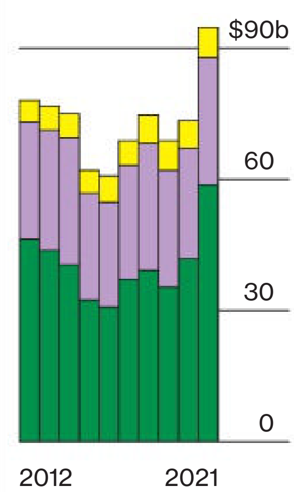
THE BOTTOM LINE As a 155-member convention rewriting Chile's constitution seeks an alternative to a neoliberal economic model, President-elect Boric is also promising a more progressive tilt.

▼ Value of Chilean exports of goods

■ Mining

■ Manufacturing

■ Agriculture, forestry, and fishing



The Peril of Fighting Covid

● As more Americans accept that the virus is here to stay, Democrats risk a drubbing

With the omicron wave receding across the U.S., frustration with pandemic lockdowns and restrictions is on the rise. Among almost every segment of society—the vaccinated and unvaccinated, Republicans and Democrats, city dwellers and their country cousins—growing numbers of Americans are becoming resigned to living with Covid-19, even if it means accepting that more people will get sick and die. The Biden administration, though, hasn't changed its message. "The president's goal is to defeat the virus," White House press secretary Jen Psaki told reporters in January.

That disconnect is emerging as a central political challenge for President Joe Biden as he prepares to deliver his State of the Union address on March 1. With disapproval of his handling of the crisis steadily increasing, he's well out of step with the public—including, crucially, many Democrats. That unpopularity risks sinking the party's candidates in elections this fall and imperils its slim hold on Congress. A survey of battleground states from Cygnal, a Republican polling company, found that most voters are now more concerned about the economic toll of Covid than the health impact. "This is driven by independent and suburban voters really souring in their view of the country's direction and President Biden's handling of the crisis," says Cygnal President Brent Buchanan.

Worries about contracting Covid remain widespread, with half of respondents in a new poll from Monmouth University saying they fear catching the virus. At the same time, though, 70% agree with the notion that "it's time we accept that Covid is here to stay and we just need to get on with our lives." That sentiment was shared by a majority of those who say they've had Covid (78%) and those who haven't (65%), as well as by Republicans (89%), independents (71%), and almost half of Democrats (47%).

The disparity between fearing Covid and wanting to normalize everyday life has a simple explanation: Vaccine skeptics have worn down Americans' will to continue trying to beat the disease, says Patrick Murray, director of Monmouth's Polling Institute. "The desire to move on and accept having to live with Covid is being driven by the recognition that a sizable core segment of the public refuses to get vaccinated, so we're not going to get to herd immunity," he says. The administration is "still in emergency mode, but the public is saying, 'You know what? Drop it. It's time to move on.' " Indeed, the number of respondents who told Monmouth they think the country will never get the outbreak fully under control stands at 28%, vs. 6% a year ago.

Although battles over mask mandates and school closings haven't gone away, there are indications that Americans are adjusting to life under endemic Covid even absent a formal government declaration. On Feb. 4 the U.S. Bureau of Labor Statistics reported that employers added 467,000 jobs in January, far exceeding forecasts, and upped numbers from November and December, painting a picture of an economy that's been much more resilient amid omicron than experts believed. Data from reservations app OpenTable show restaurant bookings have almost returned to pre-crisis levels. And the Transportation Security Administration reports that almost twice as many people have passed through its checkpoints this year as did so by this time in 2021 (though traffic is about 78% of the 2019 level).

Biden isn't alone in grappling with pushback over Covid, with governments worldwide facing increased anger as the pandemic enters its third

Edited by David Rocks

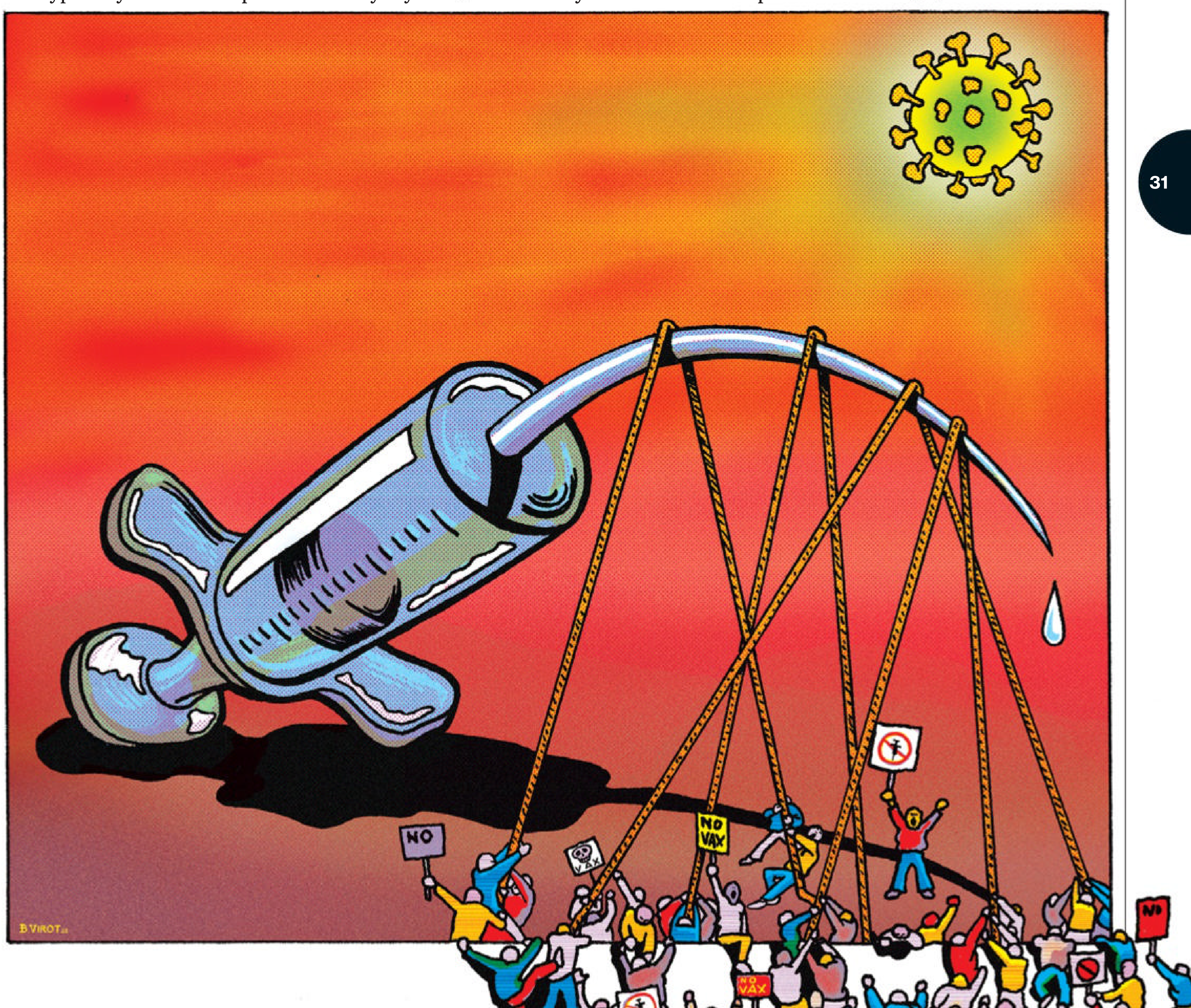
ILLUSTRATION BY BAPTISTE VIROT

year. On Feb. 6, Ottawa's mayor declared a state of emergency after truckers occupied the city center to protest vaccine mandates. And thousands of people have joined recent marches in at least a half-dozen European countries, a reflection of frustration with shutdowns, vaccine rules, and masking requirements.

It's easy to understand why the Covid-weary are becoming more vocal about their displeasure. In the U.S. scattershot adherence to regulations, even among Democrats supportive of masking, has fueled growing anger. On Feb. 6, Stacey Abrams, the former minority leader in the Georgia House of Representatives who's running for governor, tweeted a picture of herself, maskless, smiling before a class of masked kindergartners. She quickly deleted the tweet, but not before a furor arose and her Republican opponent pointed out the hypocrisy. Monmouth pollster Murray says he expects Super Bowl Sunday to be another source of frustration, as parents of school-age kids forced to wear masks bristle at the sight of 70,000 mostly unmasked Cincinnati Bengals and Los Angeles Rams fans cheering on their teams.

As exhaustion with Covid sets in, Biden and other Democrats sticking to a hard line risk further alienating the suburban swing voters who powered Democratic gains in 2016 and 2018. Last November in Virginia, many such people, fed up with continuing restrictions, elected Republican Glenn Youngkin governor. Strategists in both parties say that without a course correction, congressional Democrats could suffer losses as well. "Parents are really mad, and they're going to hold someone accountable," says Liesl Hickey, a Republican strategist who studies suburban voters. "It'll be K through 12 parents that fuel a GOP tsunami in the fall."

One way for Biden to escape would be to ▶



◀ follow the lead of Democratic governors who've started to accept that Covid won't soon disappear. Colorado's Jared Polis used his State of the State address on Jan. 13 to endorse the idea that "putting this pandemic behind us means learning to live with the curveballs that Covid-19 may throw." On Feb. 7 four governors announced an end to their states' requirements that students and school employees wear masks, and Massachusetts followed suit on Feb. 9. It's a deliberate effort to treat the virus as a part of everyday life. "We're in a different place than we were six months ago," Connecticut's Ned Lamont said when lifting his state's rules.

Biden's State of the Union address will therefore carry more than the usual symbolic power—for better or worse. He can declare victory for the vaccinated and begin preparing Americans for an exit strategy, or he can let millions of viewers tune in to see masked faces in a half-empty House chamber, reminding them that "normal" is still a long way off. Democrats' chances of maintaining power in the midterm elections will almost certainly hinge on the public's coming to think that their old life is in sight again. "If we're walking into November still talking about Covid restrictions, then we're missing where voters are," says Brian Stryker, a partner at Impact Research LLC, a Democratic polling company. "And we're stuck in the past." —*Joshua Green*

THE BOTTOM LINE With approval of Biden's handling of Covid sliding, Americans are itching to return to normal, threatening Democrats' slim hold on Congress.

Explaining Nukes To the NRC

● The industry says regulators aren't prepared to evaluate reactor technologies just coming online

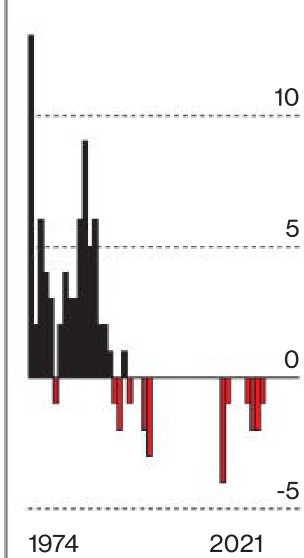
The nuclear power industry is betting its future on a new generation of reactors small enough to fit on a truck—an emerging technology that mostly uses alternatives to water for cooling, runs at lower pressure than traditional units, and costs far less than the behemoth power plants and cooling towers that define the nuclear landscape today. But advocates of the idea insist that the folks in Washington who police their business lack the tools they need to assess the rapidly evolving technology.

Congress has ordered the Nuclear Regulatory Commission to replace a rules framework that dates to the 1950s. The new guidelines aren't expected until at least 2025, so for now the agency is operating as it has for decades, evaluating plants that bear scant resemblance to those the regulations were meant to assess. To prove the safety of designs, for instance, the commission demands data from similar plants, but none of the smaller installations have been built in the U.S., so there's no performance history. And the rules are geared toward so-called light-water reactors, which split uranium atoms to create steam that drives turbines. The newer technology typically uses substances such as molten salt and lead, or gases like helium, to keep the core from overheating. No company employing these technologies has won a construction license, and only one design—a water-cooled model from NuScale Power LLC—has been approved.

Today's rules are "really a square peg in a round hole for these advanced reactor designs," says Amy Roma, a partner with the law firm Hogan Lovells who's worked on dozens of license applications. "It's complicated, and you have to remember, too, that the NRC is developing this framework largely divorced of actually understanding—in depth—the technology." The NRC declined to make any commissioners or staffers available for an interview on the subject.

Proponents of the micro-plants, which started to spark serious interest about a decade ago, say that because nukes release no carbon, they can move the Biden administration toward its goal of net-zero greenhouse gas emissions from power generation by 2035. In that respect, the U.S. Department of Energy has gotten ahead of the NRC. The department is asking Congress for as much as $4 billion over seven years for advanced reactor development. Beneficiaries include TerraPower, a startup founded by Bill Gates that's working on a project in Wyoming; X-energy, which is planning a high-temperature, gas-cooled reactor

▼ Annual change in the number of nuclear generating units in the U.S.



COURTESY X-ENERGY. DATA: U.S. ENERGY INFORMATION ADMINISTRATION in Washington state; and Kairos Power, which last September applied for a construction license to build a 35-megawatt salt-cooled test reactor in Tennessee. Advanced reactors "have enormous promise" and will continue to have support from the agency, Energy Secretary Jennifer Granholm said during a Jan. 25 meeting with her advisers.

But with the accidents at Three Mile Island, Chernobyl, and Fukushima Daiichi still fresh in many people's minds, these plants face staunch opposition. Environmental groups say that small reactors—some have a capacity of only 1.5MW, about 0.1% the size of a traditional plant—still produce enough radioactive material to present a contamination risk. And building more plants, even small ones, will add to the pile of toxic waste that no one can figure out what to do with. "To the extent that there will be efforts to weaken the regulatory envelope, we will aggressively push back," says Geoff Fettus, an attorney with the Natural Resources Defense Council.

Globally, more than 70 small modular reactors, with a total capacity of about 12 gigawatts, have been proposed or are under development in at least five countries, according to the International Atomic Energy Agency. The only one that's been built is a floating reactor in the Russian town of Pevek, on the Arctic Sea, where it's used to power mining operations. Gregory Jaczko, who served as NRC chair from 2009 to 2012, says the lack of movement on such plants around the world suggests we would be wrong to count on them as a way out of the climate crisis. "They're just not ready," he says. "And by the time they could be ready, they're not going to be useful."

The infrastructure bill passed in November includes $2.5 billion for research into advanced reactors as well as $6 billion in federal subsidies for plants in operation. And the Democrats' Build Back Better package stuck in the Senate includes a $35 billion nuclear production tax credit. In December, Senator Joe Manchin (D-W.Va.), and Senator John Barrasso (R-Wyo.), the top members of the Senate Committee on Energy and Natural Resources, introduced legislation to fund advanced reactors near shuttered fossil fuel power plants, saying the idea could give a lift to struggling communities.

The NRC says at least two dozen developers are working on new designs. NuScale's 50MW model, backed by as much as $1.3 billion from the Energy Department, was greenlighted after receiving 17 exemptions from current licensing requirements, though developers would still have to obtain a construction and operating license to build one. In January, after almost two years of review, the commission rejected an application from Oklo Power LLC for a 1.5MW reactor expected to run on radioactive waste, citing a "significant" lack of safety information. Oklo says its technology is ready and the decision simply

▲ X-energy's proposed plant in Washington, with four helium-cooled reactors

highlighted the commissioners' adherence to the old rules. "It's not surprising, because we're doing something new," says Chief Executive Officer Jacob DeWitte, who plans to submit a revised application this year. "It's a departure from what they're used to seeing."

Almost 100 nuclear reactors operate in the U.S. today, producing about 20% of the country's electricity. In recent years the aging nuclear fleet has struggled financially amid competition from low-cost natural gas and renewables. The industry has pressed policymakers to preserve the existing fleet and scale up next-generation plants.

In 2019, Congress passed a law requiring the NRC to develop a licensing framework for advanced reactors by 2027. Since then lawmakers from both parties have demanded that the NRC implement new regulations faster, noting that at least 50 reactor designs are under development, spurring the commission to accelerate its target date to 2025. The deliberate pace makes sense, says Stephen Burns, who chaired the commission from 2015 to 2017. It has studied the new reactors for years but has repeatedly decided against updating its licensing rules, largely because the technology hadn't yet been scaled up and there was no guarantee it ever would be, he says. "It wasn't clear who was really going to be coming in the door," Burns says. "Are we going to spend the money to do this for something that may or may not come along?" —*Daniel Moore, with Will Wade*

THE BOTTOM LINE Opponents say even small installations generate too much toxic waste, but advocates insist the diminutive plants could help wean us from carbon-based fuels.

GOODBYE, PLAN. HELLO, SCENARIOS

● Leaders can prepare themselves better by considering multiple outcomes

Imagine that you're at an elevation of 28,000 feet (8,534 meters) on Mount Everest, trudging the final thousand feet to the top, and something goes horribly wrong: a whiteout disorients you, some crucial equipment fails, or a friend collapses. Nearby climbers leap into action, with only seconds to respond in the low-oxygen environment.

The lesson for leaders? Preparation for that scenario would have occurred weeks earlier, down in oxygen-rich air, when the head of the expedition would have guided climbers through possible situations and trained them accordingly.

Douglas Hicks, dean of Oxford College at Emory University, has used this Everest analogy in his introduction to leadership class since 1999. The scenario was originally part of his teaching on how leaders should approach extreme crises. But he recently realized that his trusty Himalayas hypothetical was particularly relevant for bosses now rolling into the third year of the pandemic. "We've moved into a time in which scenarios can change very, very quickly, and they can flip back and forth in a six-week period," Hicks says. Add in the rapidity of social media trends, and "it's possible to shift from a really positive outlook to a negative one and back again in minutes or hours, instead of days or weeks."

Edited by Rebecca Penty and Bret Begun

ILLUSTRATION BY KATYA DOROKHINA

To adjust to this turbulent environment, leaders are turning increasingly to a strategy that was previously reserved for unlikely or extreme events: Rather than follow a plan, they identify a handful of scenarios that might arise and the one or two responses each might require. It's hard to understate what a big shift this is for executives. "The pandemic has shut the door on the value of meticulous planning," says Theodore Klein, a 40-year veteran of executive management who's the managing partner at Boston Strategy Group and has taught management at Boston University and Boston College. "Ambiguity, unintended consequences, and rapidly changing environments are now the norm, and executives must incorporate new leadership styles."

● How to plot scenarios

Scenario leadership has been widely employed by school districts for generations. Will tomorrow be a snow day? Who knows. But if the roads ice overnight, parents, teachers, employees, and students know what the school will do: By 6 a.m., a school official will determine whether it should close or open two hours late. Messages will shoot out to parents via text and email, and local news stations will announce the updates in real time. Bus drivers will grab their delayed-opening timetables. Hundreds of working parents will swiftly email their bosses and call in babysitting favors from neighbors. All of this will happen with less than 90 minutes' notice, affecting tens or hundreds of thousands of people.

It turns out this scenario approach is well suited for business environments, too. A surprising level of consensus has emerged among managers and executives about how to do it, even if they use widely differing vocabulary and imagery to articulate their contingency planning.

First, teams gather to brainstorm all of the possible scenarios that might emerge in the next two years. Could the world shut down? Could pandas take out your Asia supply chain? Hicks says the need for this type of creative foresight has required people in C-suite roles to be substantially more imaginative.

Kandi Gongora, chief transformation and people officer at Goodway Group, a digital marketing company based in New York City, recommends assigning a "cognitively diverse team" to imagine each scenario and then identifying the resources each would require and the actions that would follow. An engineer might point out that employees need a way to connect to the internet if power or internet service goes down; an organizational psychologist might emphasize that highly stressed employees can only be counted on for a couple hours of focused work a day.

> "The pandemic has shut the door on the value of meticulous planning"

Gongora then has her team envision the "cone of uncertainty" for each scenario, which resembles the map meteorologists use to forecast a hurricane's path. The intention is to scope out how each scenario would affect clients, employees, and the business and anticipate how the event may change direction or behave unpredictably. For example, in a hurricane, some of the areas in the cone inevitably emerge sunny and dry while neighboring regions may find themselves flooded or without power despite not being hit directly.

The key, says Nick Drewe, chief executive officer of e-coupon hub Wethrift, is to clearly identify the trigger points that determine when action should be taken in each scenario. You're familiar with this, too: Most school districts announce storm closures by 6 a.m. or 6:30 a.m. The time is the trigger point. "You want to get very clear on defining when each trigger will be put into action," Drewe says. His team uses bubble diagrams to visualize the "what-ifs" and "sub-what-ifs."

This process of developing scenarios is essential training for up-and-coming managers, who learn to stop crossing their fingers and instead anticipate changing conditions, says leadership strategist Jeffrey Deckman. "It breaks the pattern of using past trends to develop future plans and also teaches how conditions dictate actions, which drive results," he says.

Deckman has teams think through and discuss what capabilities and resources are needed to thrive under those conditions, such as manpower and financing. Think of the guide to the ensuing scenarios not as a strategic plan, but as "a living document that keeps up with emergent changes," says Deckman, who advises that it should get reevaluated monthly.

● How to actually lead by scenario

Before you reach for your Xanax, know that there's no need to drown in the details of three dozen plans stemming from a dozen scenarios. Leadership today is like being the head coach in a never-ending football season. At every game, the team may need to employ an almost infinite combination of plays and responses, but it's safe to say the players don't memorize every string of possible events. (Only chess masters do that.) Football players memorize playbook strategies and master a common vocabulary, and then react on instinct. They know the general outlook for each scenario and respond within it. ▶

◀ You don't need dozens of detailed plans; instead, well-trodden responses to similar prior events, such as weather, health, or safety emergencies, can inform responses to new scenarios in real time. "We use those as precedents to find our way," Hicks says. Sharing the scenarios and expected responses with employees—particularly midlevel managers—is imperative, he says, so action is taken. "The more it's communicated, the better." —*Arianne Cohen*

GO BIG OR GO HOME

● Skyline Tent made its name in the wedding world by branching out beyond its local area

Kirk Thomas and Caroline Shea got engaged in August 2019. Shea, then 23, wanted the wedding to be outdoors on her grandfather's 2,500-acre lakefront property outside Birmingham, Ala. She envisioned an elaborate, nature-inspired affair for 400 people, and she hired a wedding planner and design team to make it happen.

When you have a wedding planner and a design team—and a grandpa who's a commercial contractor—you don't just buy a few backyard barbecue tents at Home Depot. You hire a company such as Skyline Tent Co. to transport guests to a world that pushes the boundaries of exactly what it means to be outdoors.

Twin brothers John and Miles Hingeley started Skyline in 2004. Anyone who reads glossy wedding magazines or spends time on certain corners of Instagram and TikTok knows their work. Skyline, based in Charlottesville, Va., is one of the U.S. tenting companies most sought after by people hosting elaborate weddings or other events where a planner might need to ask: "Where do you think the restroom trailer should be parked?"

Its services are so in demand that, if you want to hire the company, you should make sure everyone is OK with a long engagement. Even in nonpandemic times, the logistics of tenting an event such as the Shea-Thomas nuptials is complicated. Nine months before the April 2021 wedding, John Hingeley, the company's president, toured Dick Shea's property with a drone to get a lay of the land. "If the foundation isn't right, the rest of the wedding isn't right," says Neillie Butler, Shea's wedding planner. "It's like a house." Hingeley, Butler, and Skyline project manager Gordon Miller assessed whether there should be one big tent or several smaller ones, what sort of terrain Skyline would be working with, and if they'd need to build a road to get equipment on-site. (Skyline crews have constructed roads up mountains and bridges over rivers.) Could there be, as Caroline Shea wanted, multiple bars? A stage for the band? Would it be possible for the couple to bid guests farewell by sailing away on an antique boat?

For the Hingeleys, the answer is almost always yes. "They really don't see obstacles," says Al Dyess, chief executive officer of CE Rental Inc., a holding company that's been an investor in Skyline since 2017. "They are very focused on, 'What is the best solution?'"

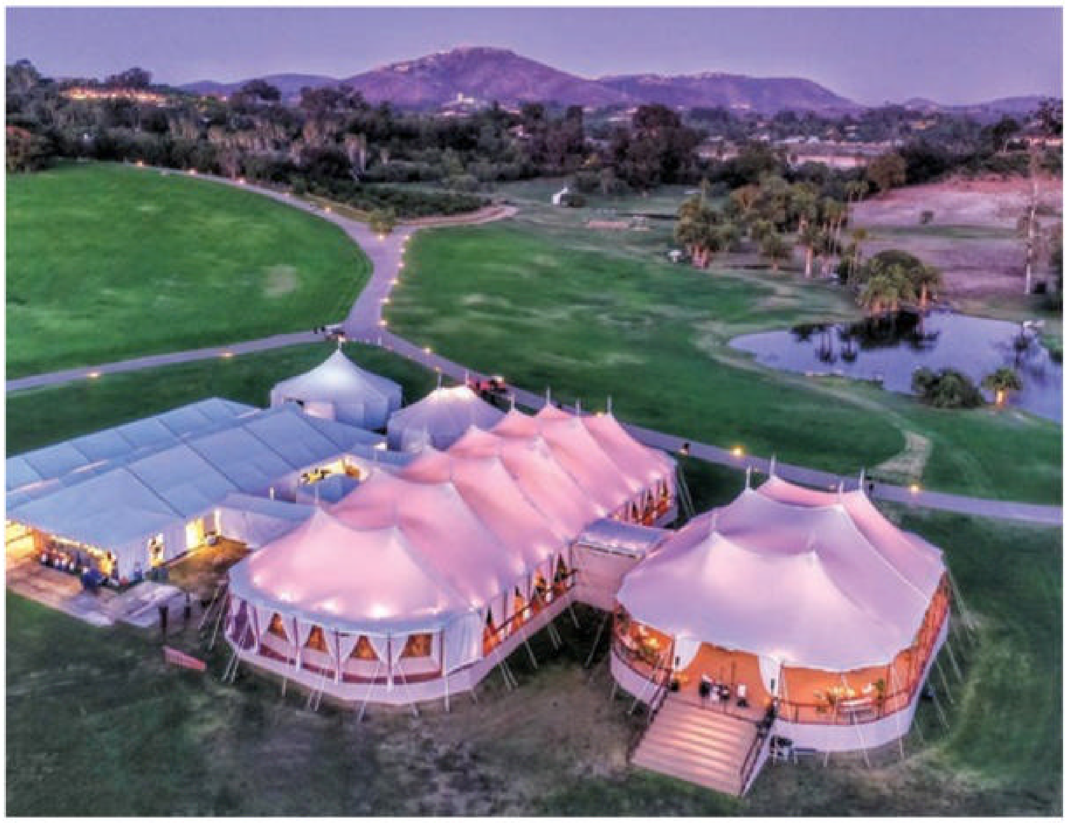
Skyline didn't start as a tenting company. The Hingeleys were in construction and supplemented their income by renting a modest 20-by-20-foot tent for backyard parties. Tenting "wasn't really a master plan," John says. But he and Miles accumulated inventory, and by 2007—when their younger brother, Jay, joined the business—they were tenting for the University of Richmond and wealthy clients in Virginia.

If the 1980s and '90s were about lavish parties in ballrooms, the late 2000s were about the great outdoors. Some of this was an inevitable shifting of trends, but some of it was practical: Tents can be customized in ways that catering halls can't. "A tent," says Jill Lafferty, former editor of *InTents* magazine, "creates a blank room where you can do anything."

Skyline branched into the Carolinas, becoming one of the only companies of its kind that could offer an extensive inventory beyond its home base. The Hingeleys bought a 30,000-square-foot warehouse in 2008, which let Skyline expand its offerings to include heat and air conditioning units, glass walls, and custom flooring and handrails. To clean the tents, the company spent $150,000 on a massive, custom-built washing machine. The tents are hung from a 42-foot-high clothesline to dry.

In 2009, Martha Stewart featured sailcloth tents made by Sperry in *Weddings* magazine. Skyline was the first in Virginia to offer them. But it was tenting Gwyneth Paltrow's 2018 wedding to Brad Falchuk in Amagansett, N.Y., that gave Skyline a new level

PHOTO: J. HINGELEY. BOOK: COURTESY HARPER COLLINS LEADERSHIP



▲ A wedding tented by Skyline in Rancho Santa Fe, Calif.

of exposure, including mentions in *People*, on Paltrow's Goop website, and across social media.

That much publicity is unusual. Many clients ask Skyline to sign nondisclosure agreements, which is why it won't detail what the buffet of options costs. Officially, John says, "we are efficient, flexible, and extremely loyal to our customers. Our mission is to add value to every project." Event planners who hire a company like Skyline typically have a budget starting around six figures. "If your total event budget is $400,000, you can still have a really nice event, and we can be involved with it," John says. The company doesn't disclose revenue. According to the American Rental Association, the industry is expected to take in $55.9 billion this year, up 11% from 2021.

Today, Skyline has 30 to 50 employees and hires seasonal workers. Special events make up only 40% of the business. Smaller local projects in Virginia and other work for governments, corporations, higher education, and music festivals account for the other 60%. During the pandemic, Skyline pivoted to Covid-19 response support. It tented military bases, hospitals, universities–and later restaurants, workplaces, and vaccination sites. The biggest issue it's having now is a familiar one: navigating supply chain problems and meeting demand.

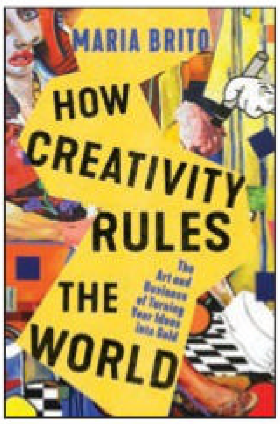
The Hingeleys and their team aren't daunted. "John and I are usually at that first meeting making big promises," says Pierce Woodsmall, a Skyline planning and design consultant. "But then there is the peril of those promises–can we live up to them?"

Indeed, Caroline Shea's answer would be yes, and she's not alone. The main attraction at her wedding was a 1,000-pound tent–held up by 27 metal poles–that withstood fierce winds in the days prior to her tying the knot. Her wedding day was sunny with a light breeze. After the ceremony, guests walked across a footbridge to the reception. "This is absolutely stunning," one said. Another asked, "Where are we?" —*Anna Katherine Clemmons*

IMPROV IN THE C-SUITE

● Saying "yes, and" can lead to creative leadership solutions

In her new book, *How Creativity Rules the World*, art adviser Maria Brito tells executives to emulate jazz musicians and painters to help them respond to change and uncertainty. Here's an edited excerpt.



Artists react, improvise, and make hundreds of moment-to-moment decisions about the best way to bring a project to a successful conclusion. Improvisation in art refers broadly to the practice of suddenly composing or inventing something new through a responsive departure from preformed plans or expectations. Improvisation in business is about reacting creatively to possibilities not previously envisioned.

You have to be able to harness your tried-and-true methods and structures, the steps that you mapped out to get to your goal, and the knowledge you already have about your business to embrace the contingencies that will arise. You must take care of them quickly, sometimes in ways you hadn't considered. This is improvisation. Improvisation isn't a substitute for planning, but rather an instrument to be used in situations that catch us off-guard or when our strategies haven't prepared us for an unforeseen circumstance. ▶

◀ The paradox of improvisation is that the more prepared and competent you are, the more creative and unpredictable you can be. The greater your preparation, the easier it is to relinquish control. If you trust that you know enough about your craft or your business to come up with a new gesture, as abstract impressionist painter Jackson Pollock did, you can experiment wildly with a method you have used before to see what happens. Leave a percentage of your project to chance, but be mindful that improvisation is not for every project. Know how to balance the stakes.

An impromptu move can add that quality of surprise that keeps your clients wanting more, or it can save you at a moment's notice. Using these elements of improvisation regularly will help you achieve mindfulness—the state of being present, focused, and aware. Mindfulness will increase your emotional intelligence, which will also lead to intuitive insights and creative breakthroughs.

When you accept the idea that there is improvisation in business, you become a leader in charge, not a leader in control. Too often, people think the leader should know everything and tell everyone what to do. A great leader, who is innovative and always looking toward the future, knows that sometimes their job is to ask the right questions and not have all the answers. It leaves room for improvisation. When you improvise, if you have the underlying knowledge, you give yourself permission to innovate and to move the needle quickly.

Bob Kulhan is an adjunct professor at Duke University's Fuqua School of Business. He teaches improvisation to students and executives. He asserts that in business, improvisation is "about reacting, being focused and present in the moment at a very high level." We live in a time of constant change and uncertainty. The ability to react is necessary to finding solutions that fulfill the demands of the marketplace. One of the improvisational techniques taught by Kulhan, borrowed from American actor and coach Del Close and adapted to business, is the "yes, and" improv method. It starts with one person presenting an idea, or "offer"; the second responds, "Yes, and," adding something. This can go back and forth multiple times and helps move your creativity forward.

In 2011, two years after I had opened my business, improvisation served me well. An important client who lived in London called and said, "I want to buy a piece by Banksy. And I want to buy it directly from his studio. It is a gift for my husband's birthday." I got chills all over. I wanted to please the client, but her request seemed impossible. Banksy, the British street artist, prankster, and provocateur, always operated anonymously. I had no connection to him. Still, I answered, "Yes, sure, I'll arrange something for you." A million thoughts raced through my mind: How could I find his studio manager? Did he have one? Does Banksy even exist?

I had a deadline to meet, which was fast approaching: the husband's birthday. There was an email address listed on Banksy's website, but I had a hunch that wasn't my route. I closed my eyes for 10 seconds. In my mind, I saw the face of a Brooklyn-based street artist I had done business with. I had no idea if he knew Banksy, but I immediately texted him to explain the situation. He called me back right away wanting to know who the client was and what I needed.

An hour later, I had an email from that street artist introducing me to Banksy's studio manager, a woman in East London who replied cheerfully. We hopped on the phone, and she told me that Banksy had created a series of large paintings on wooden panels, some of which were sold, and the others were going to a museum show. "But I have one left that is a beauty," she said.

When I told my client, she asked, "Can I go and see the work at the studio myself?" Her request made me sweat profusely. The situation was quickly becoming more complicated. But I said, "Of course you can! Let me figure out the best way to do it." I asked the studio manager if she'd be amenable to my client's visit, and, thankfully, she agreed. A couple of days later, following cryptic instructions worthy of an FBI operation, my client went to Banksy's studio. She loved the painting, and later that day, I helped her close the sale.

► *Taken from* How Creativity Rules the World *by Maria Brito. Copyright © 2022 by Maria Brito. Used by permission of HarperCollins Leadership. www.harpercollinsleadership.com*

Use these five elements when improvising in business:

- Be present and focused in the moment so that you know exactly when to improvise.
- React quickly to what's being given to you.
- Be aware and adapt to how people around you react to your improvisation. That's how you know if you're moving in the right direction or if what you're saying is not well taken.
- Practice being a good communicator across the board. Choose the right words so that everyone understands what your improvisation is about.
- Practice the "yes, and" technique.

ILLUSTRATION BY KATYA DOROKHINA

What are the stories that define climate change?

Get ready for the Super Bowl of gan

By Peter Robison

Bengals' longest punt: over/under 52.5 yards

Will either team use all

Will any

Will any quarter be scoreless?

Coin toss winner wins game

Whether any points will be scored in first 3, 5, 6, 7,

Jersey number of first player to score a touchdown: over/under 9.5

Will there be three unanswered scores in the game?

First pass by Joe Burrow will be incomplete/compl

mbling. There's a football game, too

and Ira Boudway

Will there be overtime?

six timeouts in regulation?

offensive lineman have a receiving touchdown?

Player to commit first turnover

10, or 13 minutes

Game decided by exactly 3 points

Will any non-QB throw a touchdown?

Which number will be higher: total points scored or yardage of longest field goal?

lete

A decade ago, one knowledgeable authority had deep reservations about the idea of the National Football League ever embracing legalized gambling. It would create a corrosive atmosphere in which every penalty or dropped pass—the normal ebbs and flows of games—"inevitably will fuel speculation, distrust, and accusations of point-shaving or game-fixing." The moralist was none other than NFL Commissioner Roger Goodell, declaring the league's opposition to expanding sports bookmaking outside of Nevada.

The position was born, in part, out of experience. In 1946 the league learned just before the championship game that two players from the New York Giants had been offered bribes to throw the game to the Chicago Bears. (One of them was benched for the game, and both were later suspended; the Bears won, 24-14.) Since then the league had periodically been forced to suspend players whose associations with gamblers raised the existential issue of the game's integrity. "We should not gamble with our children's heroes," Goodell's predecessor, Paul Tagliabue, told Congress in 1991.

If all that sounds starchy or quaint, perhaps it's because the league today isn't just gambling with those heroes—it's turning them into a kind of human inventory for an ever-expanding array of bets hyped in commercials and pumped to smartphones during every game. Since May 2018, when the U.S. Supreme Court overturned the ban Goodell once favored, sports betting has been legalized in more than two dozen states, plus Washington, D.C. More than 100 million Americans now live in places where they can legally wager on the Feb. 13 Super Bowl. What's on offer isn't just the usual bets about who will win or by how many points. Heavily marketed apps such as DraftKings and FanDuel will let Super Bowl viewers bet, during the game, on a nacho platter of options—things like whether Cincinnati Bengals quarterback Joe Burrow's first pass will be complete or incomplete, which player will commit the first turnover, and what color of Gatorade will be poured on the winning coach's head.

The speed with which the NFL—along with every major American professional league and the National Collegiate Athletic Association—has embraced activities it previously shunned has been breathtaking. Major League Baseball, an early investor in DraftKings Inc., is talking up the potential for in-game bets to drive fan engagement. Major colleges are entering into marketing partnerships with sportsbooks. An email last month from the Louisiana State University athletics department to supporters, including students, urged them to download the Caesars Sportsbook app. "Your App is Ready, Louisiana," the email said, providing a link to a promotional code that offered a $300 one-time bonus after an initial bet of $20.

Whatever Goodell's initial skepticism, the NFL is now all in. Dallas Cowboys owner Jerry Jones and New England Patriots owner Robert Kraft both invested in DraftKings. At a half-dozen NFL stadiums, fans can watch the action—and bet on their phones—from lounges sponsored by the apps. Celebrities like Ben Affleck and Jamie Foxx headline betting ads shown during games. Alas, in California, where the Los Angeles Rams will meet the Bengals at SoFi Stadium in Inglewood in Super Bowl LVI, a November ballot fight looms and online sports betting has yet to be legalized.

The league says it's taken strong measures to counter any corruption or threats to the game's integrity. That includes the monitoring of betting lines, player education efforts, and the hiring of law enforcement officers as security consultants. Alongside the ads from betting companies promising quick riches, the NFL airs "bet responsibly" ads developed with the National Council on Problem Gambling. The league gave the NCPG the largest donation in its history, $6.2 million.

In an era that's seen states across the U.S. abandon their qualms over other vice industries, such as marijuana and casino gambling, in exchange for desperately needed tax revenue, sports betting has broad support from government and the public alike. Within weeks of the Jan. 8 introduction of gambling apps in New York, the companies had signed up 1.5 million accounts from 1.1 million customers, almost 90% of them new to regulated sports betting. For people who don't lose their shirts, it's fun and fast-paced, just like the games they watch.

On any given Sunday, as the saying goes around the NFL, any team has a chance to win. Should fans begin to doubt that, and the league be perceived as merely a vehicle for gambling, the game will lose fans, says Declan Hill, author of *The Fix: Soccer and Organized Crime*. The NFL's core audience is especially susceptible to the risks of betting. "Sports gambling is the crack cocaine for young males between the ages of 14 and 35," Hill says. "We're going to have a dramatic and exponential rise in the number of gambling addicts. Gambling is as addictive as alcohol and narcotics."

Hill's book presented evidence of international gambling syndicates that had infiltrated sports across the world. At the 2006 World Cup, he reported, gamblers bribed members of the Ghana team to lose a match to Brazil by more than two goals. (Brazil won, 3-0; Ghana's soccer authorities denied the allegations.) Since then, match-fixing scandals have rocked leagues in countries including China, Germany, and Turkey. Surely that can't happen in American professional leagues, with their relatively highly paid players? Perhaps not yet, Hill says, but with the nexus of sports and gambling, it's possible to imagine the interests of owners, bookmakers, and players meeting in new ways. In Italy there's even a term for it—*Il Sistema*, the exchange of favors among soccer teams over the course of a season.

The NFL has been knocked around a lot lately—by the crisis of concussions and brain injuries, which drove down participation in youth football; the handling of Colin Kaepernick's protest, which split the game's fans into opposing camps; and the falloff in attendance because of the pandemic. Yet most fans say the play on the field, particularly this postseason, has been great. And then last week came the bombshell

PREVIOUS SPREAD: KATELYN MULCAHY/GETTY IMAGES

“Fantasy was the wedge that drove the media companies and the league to get comfortable with it. And the motivation for getting comfortable with it was money, of course”

from former Miami Dolphins head coach Brian Flores, who filed a lawsuit claiming discrimination in the league’s hiring practices. The suit included the explosive claim that the team’s billionaire owner, Stephen Ross, had offered him a $100,000 bonus for each game he lost. Ross called the allegations “false and malicious.” The news raised the possibility that the NFL, the Dolphins, and Ross himself will be sued—by gamblers who claim they lost money in the belief the team was playing to win.

Well before the Supreme Court’s ruling, Goodell and other league executives saw where the ball (and the money) was headed. In 2017, Jonathan Kraft, the son of Robert Kraft and the co-chair of the NFL’s digital media committee, invited Goodell to a Boston suburb for a daylong session with Jason Robins, a co-founder of DraftKings. The Krafts had taken an equity stake in the company in 2013. The son of a schoolteacher and an economics professor, Robins grew up in South Florida, a sports fan who often played in fantasy leagues, season-long contests in which groups of friends pick imaginary teams comprising real players. DraftKings, founded in 2011, turned the contests into quick-moving daily games in which participants could compete for pots of money based on athletes’ performances.

The fantasy sites proved enormously popular with fans. With huge advertising buys on television and radio, they seeded the market in a kind of soft launch for gambling. “Fantasy was the wedge that drove the media companies and the leagues to get comfortable with it,” says John Skipper, the former president of ESPN. “And the motivation for getting comfortable with it was money, of course.”

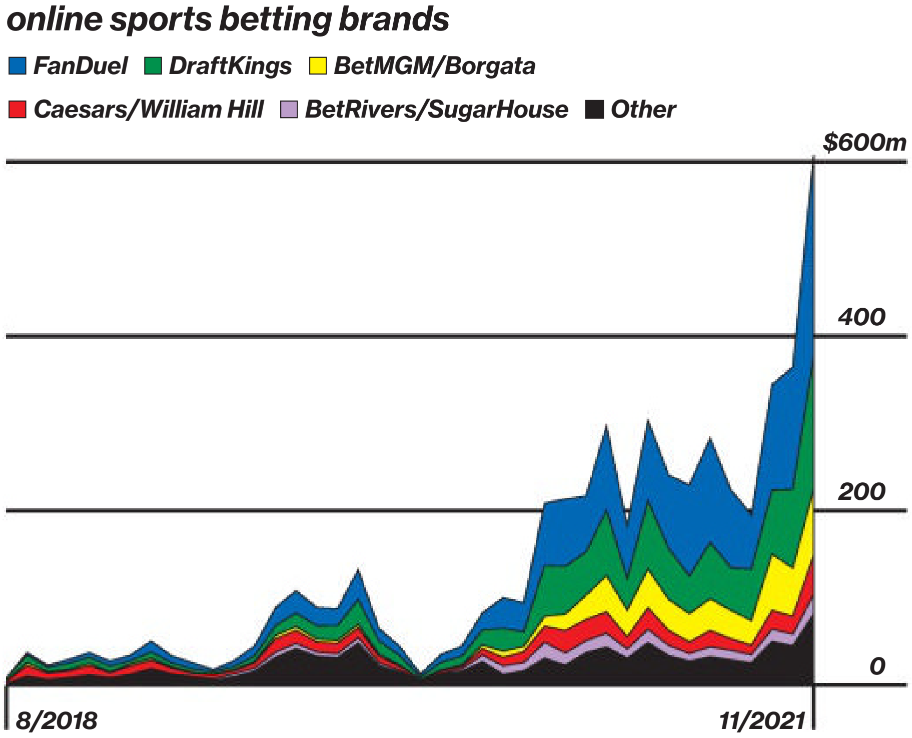
The NFL began to see gambling as an opportunity to lure younger fans. “All these leagues have been skewing older,” says Andrew Brandt, a former Green Bay Packers vice president who’s now executive director of the Jeffrey S. Moorad Center for the Study of Sports Law at Villanova University. “And what do younger audiences want? They want mobile, they want data, and they seem to like gambling.”

The NFL has said it expects to reap $1 billion a year from its deals with sports betting companies by the end of the decade. That’s a significant shot in the arm for a league that, according to multiple reports, saw revenue decline $4 billion in 2020, to $12 billion, because of the pandemic. Last year analysts at Goldman Sachs Group Inc., which advises the NFL on its media properties, said the online betting apps could even upend the traditional broadcast and pay-cable markets and become the primary way people watch games.

The apps in turn are powered by little-known data providers that weave together the back-end technology and sell data to the sportsbooks. One of them is Genius Sports, based in London. Genius pays the NFL for the right to act as a middleman between the league and the sportsbooks. A six-year distribution deal it signed last April is worth $120 million a year to the NFL, with half to be paid in Genius equity, according to *Sports Business Journal*. As a sign of its ambition, Genius last year recruited David Levy, former president of Turner Broadcasting System Inc., as chairman. The company also handles data for the U.K.’s Premier League and Nascar.

Genius’s job is to transmit livestreams and statistics from games to sportsbooks around the world—the NFL-authorized record of every penalty and dropped pass. It’s also to innovate, giving the house ever more imaginative options to keep gamblers around the world on their phones during games. In-game wagers are an increasingly lucrative part of the market, accounting for most of the revenue at many sportsbooks. One popular variety is the proposition bet, or prop bet—a wager on a single event that may not directly ▶

Gross U.S. gaming revenue from online sports betting brands



DATA: EILERS & KREJCIK GAMING

◀ affect the game's outcome. Want to bet that Rams receiver Cooper Kupp will collect at least nine catches? How about picking the fastest player on the field? Genius is often the wizard behind the curtain, collecting the data, calculating the odds, and updating them in real time for customers such as DraftKings and FanDuel, which then blast them out to customers' phones.

It may come as a surprise to learn that the outfit doing all this, and paying for the privilege, is also expected to ferret out suspicious activities. The Genius contracts with leagues often include "integrity services" to help spot tampering with games—whether by gamblers, players, league employees, bookmakers, or insiders at the betting companies themselves.

Unlike the U.K. and other countries with legalized online sports betting, the U.S. has no central industry regulator. Oversight is spread among a patchwork of state and tribal governments—many of them captives of the industry who don't understand the new technology, says Keith Whyte, executive director of the NCPG, the recipient of the big donation from the NFL. Whyte himself is the former research director of the American Gaming Association, the industry's main lobbyist. "If NCPG was an anti-gambling or an abolitionist organization, I wouldn't have been a good fit," he says.

This vacuum of governmental authority demands effective self-regulation by the NFL and its partners. Genius's integrity unit is run by Stephen Thurley, a 2014 graduate of the University of Plymouth in the U.K. Before joining Genius in 2016, he spent two years as an analyst at Football Radar, a London company that tries to forecast the outcome of matches using statistical modeling. He and his colleagues work from an access-controlled section of Genius's two-story office in a brick building in Holborn, West London.

Thurley, whose degree is in psychology, oversees 30 people around the world who monitor feeds from 100 to 150 bookmakers. They try to spot unusual flows of money, typically reflected in the odds bookmakers are offering. Some of this is automated; if the betting line shifts enough that a team moves from, say, a 7.5-point to a 9.5-point favorite, it triggers an alert. If there's no apparent reason, such as an injury that's been publicly announced, someone on Thurley's team will investigate further. His department has relationships with bookmakers, both regulated and unregulated, which provide intelligence about who's betting and why.

One analyst is dedicated full-time to the NFL, Arash Daghighian, a former NFL statistics auditor who monitors games and sends a weekly report to the league recapping the betting patterns. One of the people at the NFL who gets the reports is Sabrina Perel, a former attorney for the Kroll corporate investigations firm in New York who's been the NFL's chief compliance officer since 2013. No one at Genius or the league would discuss what's in the reports, though Perel says the league asks to receive a call if the analysts see "something immediately alarming." And have they? "We have had calls," she says. "We would certainly expect that to happen. It means everybody is doing their job."

Testifying to a congressional commission in 2018, Hill, the author of *The Fix*, laid a tape measure across a 12-foot table. He moved his hand to show Las Vegas's share of worldwide sports gambling at the time. It went about 5 inches. Then he swept his hand across the table to suggest the rest of a market worth up to $1.5 trillion—most of it global bookmakers, legal and illegal, that few Americans have ever heard of. Over the preceding decades, they'd created a vast pool of liquidity allowing bets in obscure sports, from caber tossing in small Scottish towns to second-division women's Australian basketball.

Along with that has come scandal. In 2012 the former head of China's soccer association was sentenced to prison for accepting bribes and fixing matches, among more than 50 officials, coaches, and players convicted of corruption. Tampering was so rife in professional baseball in Taiwan that the country has fielded only five teams recently, down from 11 in 1997. Authorities in South Korea have investigated and charged players for match-fixing in soccer, volleyball, baseball, and motorboat racing. The soccer association in Belgium reported in 2018 that three 15-year-old girls had been offered $50,000 each to throw matches. Tennis has been marred by repeated match-fixing. "We have a blueprint, and America is just going through it relatively late in the day," Hill says.

Perel, the NFL's compliance officer, says the league has developed an online training course laying out the risks of corruption and the new betting markets. In the most recent season, it was viewed by 15,000 people across the league—players, referees, coaches, trainers, medical consultants, and office staff. Workshops for players include presentations by "bad guys" who sought "to groom folks and bring them into their fold and try to fix games," she says. Personnel are also told about the risks of sharing inside information, even things

"That kind of action—high-stakes, high-speed—is a lot more like playing a slot machine that happens to be based on a sporting event"

they might not consider relevant, like the length of the national anthem at this year's Super Bowl. (Yes, there's a bet for that.) Beginning in 2020, the NFL security unit started hiring what it calls "sports betting integrity representatives," with a goal of having them in every city where it has a team. Some are former law enforcement officers. Their role is "to manage mitigation as well as any particular issues or concerns that might come up," Perel says.

It's not just the NFL: This FanDuel sportsbook is in Footprint Center, home of the NBA's Phoenix Suns

It's hard to fix a game in a team sport without involving a number of players, or at least a star. But the proliferation of prop bets that pay out on a single occurrence means that a journeyman player, or a referee, doesn't even have to throw a game—it may take only a blown snap or an extra penalty or two. Genius integrity chief Thurley says the company monitors prop bets, too, but believes that bookmakers usually set the betting limits low enough on them that it would be hard for anyone to make a killing. Others in the industry agree. "You would stick out so aggressively," says Chris Grove, chief executive officer of American Affiliate Co. in Las Vegas, which recruits new customers for sportsbooks. "If we have $2 million in action on a next-drive bet and our total average market on next-drive is, like, $30,000—Houston, we've got a problem."

Still, the limits aren't always so small, especially when bets can be placed across multiple bookmakers. In January the Football Association said it was investigating a yellow card issued to Arsenal midfielder Granit Xhaka in the 86th minute of a match the previous month against Leeds United. The *Sun* reported that a single bettor had staked £65,000 ($88,000) on him getting a yellow card in the match and the bet had paid out £250,000. Multiple reports have said the player (who's carded relatively frequently) isn't a target of the inquiry.

Whyte, executive director of the national gambling council, says about 2% of the U.S. population has a gambling problem. That may seem small, but it's more than 6 million people, most of them with parents, children, spouses, or other family members whose lives are also affected. Among those who have gambled in the past 12 months, the figure is 5%. That's due in no small part to the explosion in apps, optimized like social media to hit the brain's pleasure centers. "That kind of action—high-stakes, high-speed—is a lot more like playing a slot machine that happens to be based on a sporting event than actually a skilled bet," Whyte says. For many sportsbooks, the win rate for in-play bets is often twice as high as for bets placed pregame.

Despite all that, the NFL's great experiment is in high gear. In some ways football is returning full circle, to the 1920s, when the owners of some of the most storied teams were bookmakers themselves. Tim Mara, who bought the New York Giants for $500 in 1925, booked bets under a striped umbrella at racetracks, according to *Interference: How Organized Crime Influences Professional Football*, by the journalist Dan Moldea. Art Rooney owned a Pittsburgh tavern where sports fans booked their bets and remained a gambler himself after purchasing the Steelers in 1933, Moldea writes. Charles Bidwill, an associate of Al Capone's mob who bought the Chicago Cardinals in 1933, was a bootlegger, gambler, and racetrack owner, according to the author. Next season, Bidwill's grandson, owner of the Arizona Cardinals, will open a Vegas-style BetMGM sportsbook outside the team's stadium with dozens of TVs, betting kiosks, and indoor-outdoor drinking.

There's even a gambling story to tell about one of football's most mythic figures, George Gipp, a star halfback for the University of Notre Dame Fighting Irish. His purported deathbed request—likely fictional—to "win just one for the Gipper" inspired a famed locker room pep talk by his coach, Knute Rockne, and a Hollywood film starring Ronald Reagan. Moldea recounts that the sportswriter Grantland Rice often described another event, this one at halftime of a 1920 game. The Irish were losing by three points, and Rockne spotted Gipp with a casual look, puffing a cigarette.

"Gipp, I suppose you haven't any interest in this game?" Rockne asked fiercely.

"Listen, Rock," replied Gipp, "I've got five hundred dollars bet on this game; I don't aim to blow any five hundred!"

The Irish won. *—With Chris Palmeri*

MATT YORK/AP IMAGES


Federal
Correctional
Institution
Bank Fee
Purchase Price: $ 50000.00
Purchased Percent 45 %
Purchased Amount: $ 74950.00
Payment Frequency: DAILY
Remittance $ 2499.99
Debit Amount
$1,884.27

NIGANS

JONATHAN BRAUN, A DRUG SMUGGLER AND LOAN SHARK, WAS GRANTED CLEMENCY JUST BEFORE DONALD TRUMP LEFT OFFICE. NOW HE'S FREE AND BACK IN BUSINESS

BY ZEKE FAUX, WITH ZACHARY R. MIDER
ILLUSTRATIONS BY CHRIS BURNETT

Before he went to prison, and before he was released on orders from President Donald Trump, Jonathan Braun was a prolific predatory lender. In eight years he advanced almost $80 million to small-business owners across the U.S. He targeted those desperate enough to accept extreme interest rates—often higher than 1,000% a year—and when they inevitably fell behind, he squeezed them for more money. He bullied some and menaced others. “You suck, you’re dead, you’re a piece of shit, you should drop f---ing dead,” Braun told one of his clients in an exchange caught on video. Often he would use dubious legal tactics to drain their bank accounts.

Even as borrowers complained in court that they’d been frightened by his threats and ruined by his ripoffs, Braun faced no punishment. It wasn’t that the authorities were unaware of him. In fact he’d been operating as a loan shark while out on bail after a 2010 arrest on unrelated federal drug-trafficking charges, wearing an electronic ankle bracelet monitored by the U.S. Department of Justice. His trial was delayed for years without explanation.

Braun’s improbable career as a government-supervised predatory lender seemed to come to an end in 2020, when he

PREVIOUS SPREAD: BRAUN: FACEBOOK. DERSHOWITZ: AP PHOTO. TRUMP: WHITE HOUSE. PHOTOGRAPH BY PHILIP MONTGOMERY FOR BLOOMBERG BUSINESSWEEK was finally sent to a prison north of New York City to serve a 10-year sentence for the drug charges. While he was there, New York's attorney general sued him for usury, fraud, and harassment related to his lending. But then, in January 2021, he secured a last-minute grant of clemency from Trump. His sentence was commuted, and he was released. "Pardon Frees a Drug Smuggler Known for Violence and Threats," as the *New York Times* put it in a front-page story.

Trump didn't explain why Braun had been freed. A statement put out by the White House misspelled Braun's first name, exaggerated the amount of time he'd spent in prison, and didn't mention the attorney general's ongoing lawsuit. "Upon his release, Mr. Braun will seek employment to support his wife and children," it said. According to someone with knowledge of the arrangement, Braun told his probation officer he'd be working for the president of a cleaning service.

"EITHER HE'S CRAZY, OR HE KNOWS HE'S COVERED"

Braun works in a second-floor office above a bakery and a Judaica shop in Brooklyn's Borough Park

But among Braun's associates and rivals, there were murmurs that he'd gone right back to lending money to very desperate people. A few months ago, tipsters began sending me the names of companies they said he'd started running. A search of court records revealed a network of at least a dozen entities that advance money at high rates and frequently sue borrowers. Tallying the debts in the cases showed the companies had loaned at least $17 million since Braun's release, and that's just the loans that ended up in court. Braun's name wasn't on any of the legal papers, but the tipsters told me he was in charge of the whole operation. They pointed me to an address in Borough Park, an Orthodox Jewish neighborhood in central Brooklyn.

One source said Braun had been arriving there each day around 10 a.m. in a white Bentley Bentayga SUV. And so, on a Thursday morning in November, I waited across the street from a two-story brick building with a bakery and a Judaica shop on the ground floor.

At 10:47 a.m., I spotted him: a thin, balding man of 38, with a reddish tan. He was wearing a blue track jacket and driving a white Bentley just like they said. He steered the SUV toward the building, stopping to honk 10 or so times at someone blocking the ramp to an underground garage. When he looked up, his close-set eyes were unmistakable. Braun was back.

The Justice Department has a backlog of 18,292 requests for presidential pardons or commutations. Government lawyers vet the applications—looking for nonviolent offenders who are serving unfairly long sentences, prisoners suffering from critical illness or old age, and people who've shown that they've changed their ways—then pass them along to the White House.

Braun was an unlikely candidate. Prosecutors had accused him of being a high-volume drug trafficker who'd coordinated with the Hells Angels and other organized crime groups to move $6 million of marijuana a week across the Canadian border into the U.S. At times, the prosecutors said, he'd resorted to violence. He also was still facing the lawsuit from New York Attorney General Letitia James, who'd called him a "modern-day loan shark." While he was in prison, he was sued by someone who said Braun had cheated him on illegal sports bets. Braun denies all the allegations.

Luckily for Braun, Trump's approach to clemency was as erratic as the rest of his presidency. Although ▶

◀ administration loyalists dispute this, Trump seems mostly to have ignored the formal process. Instead he gave out pardons and commutations to whomever he felt like, including personal friends and those who'd paid large fees to associates of his. According to the *Federal Sentencing Reporter*, a legal journal, only about 25 of Trump's 238 pardons and commutations went through official review. To pick one particularly egregious corruption allegation stemming from this approach: John Kiriakou, a former CIA officer convicted of leaking secrets to reporters, told me an associate of Rudy Giuliani's offered to sell him a pardon for $2 million. Giuliani denied this; a Trump spokeswoman didn't return calls.

Braun's family seemed eager to curry Trump's favor. They turned to Alan Dershowitz, the TV jurist and Harvard Law School professor who represented Trump in his first impeachment trial. Dershowitz was helping several others seeking commutations, including real estate fraudsters and a death row inmate. He told me Braun's father regularly called him on Fridays before sundown, appealing to their common Jewish faith.

Associates of Braun's say he's bragged about paying millions of dollars to various Trump-connected intermediaries to secure clemency. But Dershowitz told me he'd taken on Braun's case for free, as he did for many other convicts. "No lawyer in American history has ever done a higher percentage of pro bono cases in his career than me," Dershowitz said. "Not John Adams, not Abraham Lincoln, not Thurgood Marshall." Later in the conversation he acknowledged that he may have received a small fee from a Jewish organization to cover his expenses. He said he couldn't remember who paid him or exactly how much it was.

Braun's release surprised many in his field, which is euphemistically called the merchant cash-advance business. It's an industry of fast-talking salespeople who frequently operate from modest offices in Manhattan's financial district and the outer reaches of Brooklyn, dangling offers of quick money to desperate small-business owners. Among those working in the lower rungs of the business are stock scammers, mortgage fraudsters, and gangsters. Their interest rates are higher than what Mafia loan sharks once charged, but they get around usury laws by saying they're not lending at all—they're buying the money that businesses will make in the future, at a discount. Courts generally accept this reasoning.

I'd been hearing about Braun since 2014, when I started writing about his industry. Even rivals who defended the ethics of charging 1,000% interest rates described his tactics as unconscionable. These lenders complained that Braun would find and cheat their customers before they could collect on their own loans. But they were afraid of him and would clam up if I asked them to speak on the record. It seemed his drug-trafficking background worked to his advantage—anyone with Google could see that he stood accused of whipping an associate with a belt and that one of his co-defendants had been found dead of a gunshot wound in a torched car in Los Angeles. (They'd also see that Braun had been dubbed a "mama's boy drug dealer" by the *New York Post,* because he'd been living with his parents.)

Some suspected that Braun was an informant and that he must have at least the tacit support of law enforcement. "He's fearless," one cash-advance executive told me in 2018. "Either he's crazy, or he knows he's covered."

When I looked into Braun's lending operation, I learned that he was one of the most frequent users of an arcane legal instrument called a confession of judgment, which used the New York state court system to grab money from borrowers' bank accounts. Before getting a loan, his customers would have to sign a statement giving up their right to defend themselves in court. Armed with one of these confessions, Braun could accuse the borrowers of not paying, even without proof, then legally seize their assets before they knew what had happened. Many of his customers told me he'd abused this power by taking more than he was owed.

Braun's aggressiveness also made him terrifying to those in hock to him. Some said he would threaten to beat them or harm their families. "You don't know who you're f---ing dealing with. We can get you wherever we want," he told one borrower, who started carrying a gun, court papers say. "We know where you live," he said to another. "We'll go after your family."

Back then, with Braun ignoring my calls and emails, I stopped by his 12th-floor office in a shabby tower in downtown Manhattan. He berated me in front of about a dozen employees. "What are you, Inspector F---ing Gadget?" he yelled, spittle flying.

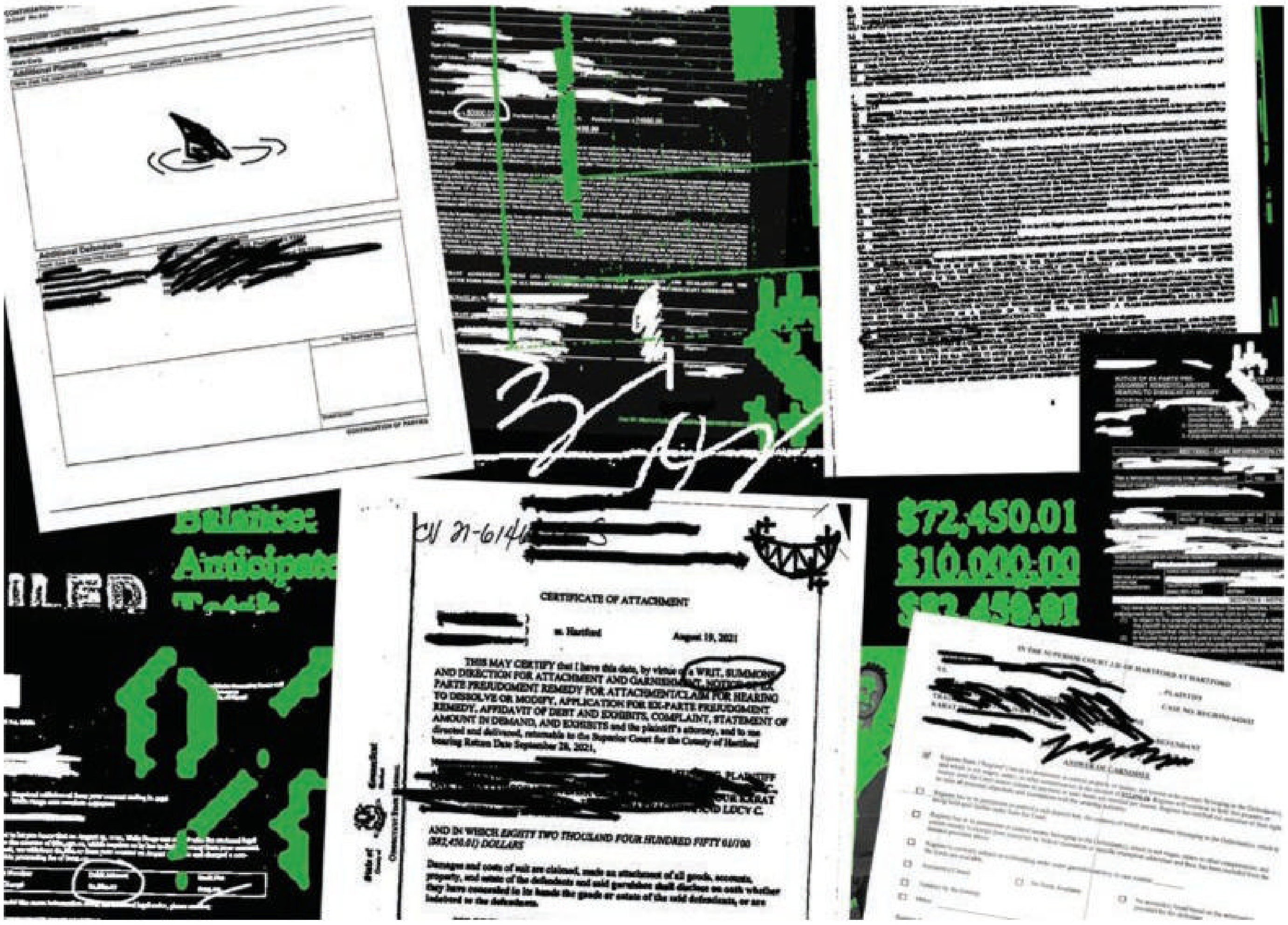
Then he told me he needed a cigarette and asked me to follow him to the roof. I suggested street level instead. Once we got downstairs, and he'd been calmed by one Newport after another, Braun turned plaintive. It seemed that his gangster talk was mostly an act, or at least that he could turn it off when it suited him. In a conversation that lasted almost two hours, he denied he'd ever cheated or threatened anyone. He suggested I wanted to hurt his family and said I was harassing him. Then he said I should come work with him.

In December 2018, I published my story about Braun, part of a series I wrote with Zachary Mider about abuses in the cash-advance industry. The series began with a *Bloomberg Businessweek* cover story and spurred an uproar among New York state lawmakers, who sharply limited confessions of judgment. A few months later, the delays in Braun's drug-trafficking case finally ended. The timing may have been a coincidence, but Braun didn't seem to think so. On May 28, 2019, his sentencing hearing was held at a federal courthouse in Brooklyn. He stared at me as he walked in.

"Zeke Faux," he said, slowly.

Braun was facing a potential decades-long sentence, but he didn't look worried. Two drug traffickers had told me by then, in letters sent from prison, that Braun was an informant, and a person who'd spoken extensively with him had said he expected to be let off with time served because of the information he'd provided. Braun's lawyer told the court ▶

THE LEGAL SHAKEDOWN



Jared Alfin has powers that many of his fellow debt collectors can only dream of. Alfin, a lawyer who works for companies that make high-interest short-term loans to small businesses, can order a borrower's bank account frozen without warning and without a judge's say-so. He simply drafts some boilerplate legal papers and has them dropped off at the bank. Until Alfin relents or a judge intervenes, the money is untouchable—no withdrawals, no checks, no transfers. Last year, court records show, he pursued more than 180 small-business owners across the country this way.

This power flows from a feature of Connecticut law that plays normal court procedure in reverse. Typically, if you sue someone for money, a court has to rule in your favor before a defendant must hand over assets. Alfin uses what's known as a prejudgment attachment to lock up people's money before he's won—in fact, before defendants even know they're being sued.

His biggest client for these services is a group of a half-dozen related companies including Matrix Advance, Gofund Advance, and Bridge Funding Cap, court records show. The companies are managed from Borough Park, Brooklyn, and overseen by Jonathan Braun, according to people with knowledge of the matter. Braun denies wrongdoing in his cash-advance dealings and says he isn't involved in the Borough Park operation.

Alfin, a partner at Hassett & George PC in Simsbury, Conn., wouldn't discuss specific clients or say whether he's had any contact with Braun. And he says prejudgment attachment is a normal and appropriate part of commercial litigation. "I just simply file papers for different clients," he says. "I don't think I am doing anything improper."

Court records show that last summer Alfin locked up about $14,600 in two bank accounts belonging to Lucy Barrachina. She employs four people at a pharmacy in Dickinson, Texas, a city near Houston. Barrachina had missed payments on a loan from Matrix, and a representative there demanded immediate cash to have the funds released. "I told him, 'But we have payroll, we have to pay our employees, we cannot do that,'" Barrachina says. Instead, she agreed to add an extra $10,000 onto a loan balance that was already costing her more than 700% annualized. "I regret it so much that we got in touch with them," she says.

Not long ago, cash-advance companies often relied on a different legal instrument to raid customers' bank accounts, a confession of judgment filed in a New York court. A 2018 Bloomberg News series highlighted abuses of that tactic, finding that confessions were sometimes forged or altered, or deployed against borrowers who hadn't missed payments, and that they helped destroy thousands of small businesses nationwide. Braun was one of the most aggressive users.

After New York lawmakers curtailed the use of confessions in 2019, the industry explored alternatives. Some lenders turned to courts in Utah or Texas, where confessions or similar instruments can still be used. Some tried arbitration schemes in which hand-picked arbitrators quickly ruled in favor of lenders.

Others turned to Connecticut, where long-standing state law allows courts to restrain a defendant's property at the start of a case to prevent that person from moving assets out of reach. Ordinarily, that kind of restraint is granted by a judge after a hearing attended by both parties, and the plaintiff must demonstrate he's likely to prevail. But Alfin—the only lawyer in the state routinely seeking prejudgment attachments on behalf of the cash-advance industry, according to a review of court records—doesn't need to bother with pretrial hearings. Buried in the fine print of his clients' loan agreements is a clause waiving the borrowers' right to such a hearing. That means that whenever a client wants, Alfin can freeze a borrower's property, as long as he obtains a written affidavit stating that money is owed.

Alfin says this type of waiver is common in commercial lending in Connecticut and isn't as onerous as the New York tactic. By itself, a prejudgment attachment cannot be used to drain bank accounts, only freeze them temporarily, and defendants can demand a hearing to free them up. That would, of course, require a small-business owner in Texas or Minnesota to swiftly hire a lawyer in Connecticut while lacking access to a bank account. Asked if any of his cash-advance cases had resulted in such a hearing, Alfin says he can't recall one.

The Borough Park companies, which began using the Connecticut tactic shortly before Braun's release from prison, have sought in excess of $10 million from more than 100 small businesses this way, court records show. To get access to the state's legal system, the group's companies claim a "place of business" at a rented mailbox in a strip mall in Avon, Conn. Alfin says Braun "is not a member or employee" of any of these companies.

In Barrachina's case, court records show she agreed to borrow $50,000 from Matrix in August, though she said she actually received far less after fees were deducted. She agreed to pay back $2,500 a day, starting immediately, until she'd paid $74,950.

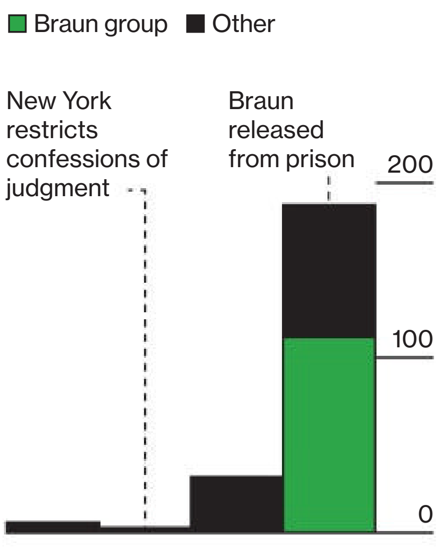
Barrachina says she had trouble keeping up and asked her contact at Matrix for a lower daily payment, but the company refused. Within days of the first missed payment, Alfin froze her accounts at two banks. She says she learned what was going on only when she discovered she didn't have access to her money. She says she was left with no other option and agreed to take on more debt to have her accounts unfrozen. But her trouble didn't end there. About $1,900 remained frozen for months after she settled, the result of an apparent mix-up at one of her banks.

Alfin says he's using the law exactly the way Connecticut legislators envisioned. "The purpose of the prejudgment remedy is to secure assets so that the assets are not dissipated," he says. Shane Heskin, a lawyer in Philadelphia with White & Williams LLP who represents small-business owners, disagrees. Cash-advance firms are strong-arming people into a settlement, regardless of the merits of their cases, he says. "It effectively makes them negotiate with a gun to their head."

—Zachary R. Mider and Zeke Faux

CONNECTICUT TRICK

Cash-advance prejudgment attachments filed in the state, by lender



DATA: BLOOMBERG ANALYSIS OF CONNECTICUT SUPERIOR COURT CASES

◀ he'd put his past behind him and was now a "successful businessperson" and a responsible husband and father.

"Your Honor, I just wanted to let you know and the court know that I'm really sorry for my wrongdoings in the past, and I've changed a whole lot since then, and I have many, many reasons to continue to do good in the future in my current lifestyle," Braun said.

But the judge, Kiyo Matsumoto, said she'd received anonymous letters alerting her to civil lawsuits against Braun. In one, a man claimed that Braun had pushed him off a deck; in another, a borrower said Braun had threatened him with violence. She asked the prosecutor, Craig Heeren, if Braun had done anything during his years out on bail that might warrant a longer sentence. Heeren said he didn't think so.

"I believe there was a fairly thorough investigation of that done," Heeren said. "We've met with Mr. Braun as well and spoken to him directly about the conduct, and he's obviously denied it."

The judge was unconvinced. She sentenced Braun to 10 years. Braun's friends and family members looked shocked. Matsumoto told Braun he could take a few months to get his affairs in order before reporting to prison. As everyone walked out of the courtroom, Braun confronted me again. "This guy's a c---sucker!" he yelled. "F--- you! You know what you do!"

The minimum-security prison in Otisville, N.Y., where Braun served his one-year stint, has long been a favored destination for Jewish white-collar criminals unlucky enough to wind up behind bars. An Orthodox rabbi holds services in a chapel lined with Hebrew texts. Lawrence Dressler, a lawyer who served time for mortgage fraud and now blogs about goings-on at Otisville under his prison nickname, Larry Noodles, recalled celebrating holidays with meals that included challah, freshly made hummus, and gefilte fish. Among Braun's fellow inmates were former Trump lawyer Michael Cohen and state Assembly Speaker Sheldon Silver. Braun, who attended services at Young Israel of Staten Island on the outside, seems to have coped well enough. Two men who were there at the time said that his visitors came in Bentleys, clad in Gucci, and that he had another inmate cook him meals with contraband vegetables.

On Jan. 20, 2021, the day of Joe Biden's inauguration, Braun walked out of Otisville. He told a friend that he planned to stop for a mani-pedi on his way back to Brooklyn. His family sent out last-minute invitations for a "Freedom Bash." That night, at an event space in Borough Park, Avi Perets, a popular Israeli singer, performed as merchant cash-advance salesmen buttonholed Braun and asked him for advice.

Within a few months, the tips about him started coming to me, in direct messages, texts, and late-night calls. "Let me know if you need any info on Jon Braun," one wrote. "You're not even at the tip of the iceberg," another texted. I started calling around to anyone in Braun's circles, and eventually eight of his current and former business partners and friends shared details of Braun's new operation in Borough Park. Most asked for anonymity, because they're afraid of him.

They told me that on the second floor of that brick building on Brooklyn's 13th Avenue about two dozen men work the phones. Some sweet-talk potential borrowers; others browbeat those who've fallen behind. Most use aliases when speaking with clients, and some don't even know each other's real names. Braun sits in a windowless room off the main bullpen—sometimes puffing on a vape pen, sometimes Newports—and reviews borrowers' bank statements.

He doesn't talk to customers on the phone much anymore, according to the current and former business partners, and he's careful not to sign his name to any documents. Two of his cousins serve as his top lieutenants. But it's Braun, the sources said, who decides who gets a loan, how much they're charged, and how to collect the debts.

The customers are truckers, contractors, cleaners, and butchers, in big cities and small towns from Texas to New York. In interviews, the borrowers said they'd known they were taking on costly debt. But some said salespeople tricked them by promising they'd get a second, cheaper loan once they paid back the first one or ripped them off by holding back as much as a third of the loan proceeds for hidden fees. The better loans never materialized. It sounded a lot like Braun's old lending business.

"These guys prey on people like me—people who've put so much money in their business that it's affected their credit," said Brian Massey, a mechanic in Memphis. He said he was promised a $20,000 loan on good terms and ended up with $7,000 at an annualized interest rate of 3,424%. In January, overwhelmed by the payments on that debt and other cash advances, he closed his shop and took a job as a security guard, he said.

Others also recounted having to lay off employees, borrow money from others, or close their doors. One, an executive recruiter, took his own life in May, leaving a note citing financial distress, according to an investigator's report, though the recruiter's friends told me his main concern had been a larger debt he owed to a Mafia-connected loan shark in Florida.

Braun rarely uses confessions of judgment to collect his debts now that the tactic is heavily restricted in New York. But he's found a similar maneuver in a neighboring state. In more than 100 cases in a Connecticut court, companies associated with Braun—including Matrix Advance, Bridge Funding Cap, and Gofund Advance—have used a legal procedure called prejudgment attachment. It relies on a clause deep in the fine print of the documents that borrowers must sign to get a loan, which

"FROM WHAT I'VE HEARD, HE'S A LEGEND"

allows a lawyer to go into their bank accounts and make their deposits inaccessible. With Braun essentially holding their money hostage, the borrower will usually agree to a settlement on his terms.

That's what happened to Marvin Jackson, a trucker in Round Rock, Texas, who'd named his company Amazing Grace Carrier Inc., after his grandmother's favorite song in church. He agreed to borrow $15,000 from Fundura Capital in June and pay back $799 a day. After fees, Jackson received only $11,000, and three weeks later, after he'd missed payments, Fundura used prejudgment attachment to have his bank account locked. It sued him for $25,495—more than twice what he'd received. Jackson quickly agreed to a settlement. "I'm a small business trying to get off the ground. They were trying to bury me," he said.

Sruly Getter, a former electrician who's now one of Braun's top salesmen according to the sources familiar with the business, signed one of the court documents in Jackson's case. But when I called him, he denied any connection to Braun. "I have no idea who's Jonathan Braun," Getter said. This was less than convincing, because based on a description from one of the tipsters, I was pretty sure I'd seen him arriving at the Borough Park building in his own Bentley. Pressed, he admitted only to knowing of Braun. "From what I've heard, he's a legend," he said.

Other salesmen's stories weren't much more credible. Joseph Kroen, a former car salesman who's signed court papers for some of the companies in the network, acknowledged that he'd worked with Braun, but he said Braun was only a consultant who advised him on how to best deal with people. "He knows what people want, he knows how to read people, he knows how to make people live in peace," Kroen said. A third salesman said having Braun as a consultant was like getting stock tips from Warren Buffett. "You would be stupid not to take his advice," he said.

One of my tipsters gave me Braun's new phone number, and in November I called. First he hung up on me. When we talked later, he said he knew all about my recent reporting. He said that he'd heard recordings of me asking questions based on what he said was false information and that he knew who my sources were. He even texted over a photo of me sitting in the office of his brother-in-law, who also runs a merchant cash-advance company. Someone had snapped it surreptitiously. "You went to my drug-addicted, alcoholic brother-in-law, and I don't know what his issue is with me, but he made up a whole bunch of stuff," Braun said. The brother-in-law denied the substance-abuse claims but said he didn't want to say more, because his mother would be mad.

Braun did acknowledge working for a business that does consulting for cash-advance companies, but he wouldn't say which ones. He said he didn't file prejudgment attachment cases in Connecticut, and he denied cheating anyone, ever. "I definitely do not break the law whatsoever," Braun said. "I go out of my way to not be involved in any shenanigans at all."

Despite the devastation Braun's borrowers allege he's caused them, the court system rarely holds him back. More often, it helps him collect his debts. The contracts the borrowers sign are filled with so much punitive fine print that they allow him to do pretty much anything he wants. Even in a 2018 case, in which a judge ruled that Braun's company had defrauded a plumber, the penalty was simply to pay the money back.

The federal prosecutors in Brooklyn who handled Braun's drug-trafficking case declined to comment on whether they've looked into his loans. A criminal investigation by the New York City Police Department before Braun's prison sentence went nowhere. A detective, Joseph Nicolosi, interviewed others in the cash-advance industry about Braun, even stopping a private jet on the tarmac at a New Jersey airport to talk with his associates, according to some of the people involved. In August 2020, a lawyer, who was representing a different group of Braun's associates, said at a court hearing in a civil case that a federal prosecutor in Manhattan was planning to file criminal charges based on Nicolosi's findings. But a year and a half later, no criminal case has materialized, and no one I talked to said they'd heard from authorities since Braun had gotten out of prison. Nicolosi and the Manhattan prosecutor, Louis Pellegrino, declined to comment.

While Braun was in prison, the Federal Trade Commission sued him over his lending practices. He denied any wrongdoing in the case, which is pending. He's missed deadlines to respond to the New York attorney general's lawsuit against him, and the state is now seeking a $77 million default judgment. But it might be hard to collect that money from someone who knows all the ins and outs of debt-collection law, especially because the AG can't resort to the kinds of legal tricks Braun uses. Braun's associates say he keeps no assets in his name, anyway. If he's assessed a penalty, he can plead poverty and avoid paying it.

That doesn't mean he's broke. He was photographed recently wearing Gucci slippers and what looked to be a Patek Philippe Aquanaut watch, worth about $120,000. He's building a 20,000-square-foot mansion in Lawrence, N.Y., on Long Island's south shore. On paper, his wife owns it, but he's bragged about it to friends. One Otisville inmate remembers Braun spreading out the blueprints on a table in a common room and ostentatiously reviewing the details. Plans filed with the village's buildings department show that it will have 10 bedrooms, 14 bathrooms, and two elevators, one of them for cars. A rendering depicts a Bentley parked outside.

In July, Braun traveled to Miami for a relative's wedding. Another guest says they heard him bragging about the money he was making from cash advances. During the toasts, Braun smirked as the best man joked about his time in prison. "I see Itzik from Israel, Mr. Krys from Mexico, Camilo is here from Colombia, but most amazingly, Jon Braun is here all the way from Otisville!" the best man said. "Thank you, President Donald J. Trump." Ⓑ

THE ENVY O

INVESTORS POURED A BILLION DOLLARS INTO NG YU ZHI'S NICKEL-TRADING COMPANY. HE'S NOW ACCUSED OF TAKING THE MONEY AND SKIPPING THE NICKEL

BY MATTHEW CAMPBELL AND CHANYAPORN CHANJAROEN
PHOTOGRAPH BY JULIANA TAN

Not long after the novel coronavirus arrived in Singapore, forcing the hyper-connected city-state to shut its borders for the first time, a rumor circulated among its many wealthy people—and among others who weren't so well-off. A little-known investment manager was apparently delivering an astonishing 15% quarterly profit to anyone who invested with him, by trading nickel.

As word spread, more and more Singaporeans clamored to give their money to the investment manager, a 34-year-old ex-accountant named Ng Yu Zhi. Soon Ng's fund, Envy Group, had raised almost S$1.5 billion ($1.1 billion) from hundreds of clients. He certainly seemed to be making good on the hype, returning steady gains quarter after quarter and giving every appearance of great success, with a mansion in one of Asia's most expensive neighborhoods, a 126-foot yacht, and a fleet of luxury cars.

His clients included some of Singapore's most successful citizens: senior lawyers, former bank executives, and businesspeople who should have known better than to invest in what appears, in retrospect, to have been a Ponzi scheme, and not a particularly sophisticated one. They weren't the only people who failed to ask enough questions. According to legal filings, Ng made more than a thousand transfers from Envy's corporate and investor funds to bank accounts he likely controlled, misappropriating hundreds of millions of dollars before being stopped.

Investment scams occur all over the world and can last far longer than Envy survived; Bernie Madoff ran a giant Ponzi scheme under the noses of investors and regulators for decades. Still, the allegations against Ng are awkward for Singapore, which is navigating a sensitive national transition. With its stable politics, relatively open borders,

F SINGAPORE

and respected legal system, the city is closer than ever to displacing Hong Kong as Asia's main financial center, a development that would turbocharge its already robust economy. Yet despite Singapore's orderly reputation, it's seen more than its share of high-profile scandals in recent years, including the collapse of Noble Group Ltd., a commodity trading company accused of cooking its books, and an alleged fraud at Hyflux Ltd., a water utility that entered a court-mandated debt restructuring in 2018, infuriating retail investors.

To some in the city, the apparent ease with which Ng operated suggests that its authorities need to keep a closer eye on the rising tide of cash that's sloshing in. "I absolutely think Singapore needs to step up its enforcement and oversight of white-collar crime," says Mak Yuen Teen, a professor of accounting at the National University of Singapore Business School. In the Envy case, "there were many red flags indicating possible fraud. So we have to ask, 'Where were the circuit breakers?'"

Trusting Ng would prove to be catastrophic. Singapore police arrested him last February and accused him of running perhaps the largest scam, in terms of dollars lost, in the small country's history. According to police and forensic accountants appointed to examine Ng's books, the trades he claimed to be making had simply never occurred. Instead, they say, he was engaged in an elaborate fraud, transferring S$475 million of investors' money to himself and using it to enjoy a lifestyle that was lavish even by the standards of the setting for *Crazy Rich Asians*. Ng has yet to enter a plea in response to the 75 charges against him, and he declined to provide a comment for this story, citing ongoing police investigations.

Until a few years ago, little about Ng would have marked him as bound for the world of high finance. Soft-spoken and unfailingly polite, with a round, full face, he studied accounting at one of Singapore's public universities then joined audit firm KPMG LLP. One of the main clients he worked with was BHP Group, the world's largest mining company, and Ng found that he was fascinated by the metals business, with its huge, liquid markets, real-world industrial needs, and 24/7 volatility. He began trading commodities on the side, and in 2015 he left KPMG to develop his interest into a full-time career.

It was a fortuitous moment to start a trading company. Global commodity prices had declined by roughly half from their 2008 peak, offering the potential for huge profits to anyone with the courage and capital to ride them back up. And there were few better places to do it than Singapore. Always a busy regional hub, the city was emerging as a global financial contender, attracting investments not only from other parts of Southeast Asia but increasingly from India, China, and beyond. Everyone seemed to want a piece of its success. Over the next several years, billionaires including Ray Dalio and Sergey Brin would open local offices to invest their personal wealth; British vacuum-cleaner tycoon James Dyson also set up one and spent a reported S$74 million on a ▶

◀ five-bedroom downtown penthouse.

Ng incorporated Envy Group in 2015, taking its name from a slightly cringey line KPMG used in its training sessions: that the company's goal was to be "the envy" of other accounting providers. He decided to focus on nickel, which was an unusual strategy for a small commodities outfit. The trade was dominated by a handful of well-connected operators, making it challenging to build a business from scratch. But Ng saw nickel as seriously undervalued, with markets failing to price in its growing utility: It's so crucial to rechargeable batteries that Tesla Inc. co-founder Elon Musk once asked suppliers to "please mine more."

Business was excellent, as far as anyone outside of Envy could tell. Nickel prices went on a bull run for most of the second half of the 2010s, and Ng steadily expanded his client list, sometimes with help from Veronica Shim, a successful wealth manager who was impressed enough by Ng that she invested with him herself and offered Envy's trades to her own clients.

Singapore is a flashy place. On Orchard Road, the main shopping drag, chauffeur-driven Bentleys pull up outside flagship stores for the likes of Harry Winston and Dolce & Gabbana; at the waterfront Marina Bay Sands casino, high rollers can wager millions before retiring to a 6,400-square-foot "Chairman Suite" on the 53rd floor. But even in a city where the rich delight in showing off their success, Ng stood out. Envy operated from a luxuriously appointed office, arranged around a fully stocked bar from which visitors might be offered a glass of 21-year-old Hibiki whisky, a Japanese treasure that can sell for more than S$200 per pour. Ng liked to meet clients and colleagues at top-drawer sushi restaurants, roaring between engagements in vehicles from a fleet that included a Ferrari, a Lamborghini, and Singapore's only Pagani Huayra supercar, which he'd spent more than S$7 million to buy.

His home life was no less luxurious. Ng and his Chinese-born wife, Coco Cai, rented a mansion near the lush Botanic Gardens, and he was in the process of buying two others. The pandemic hardly dented their lifestyle. In December 2020, she told *Prestige*, an Asian society magazine, how a team of salespeople from Italian jewelry brand Bulgari had come to their home to present a "curated selection" of new pieces "flown in specially for her." Cai bought four.

Ng did little marketing, but news of the outsize returns he was delivering to investors was spreading, discussed at birthday parties and on golf courses or passed between yacht owners at the Sentosa Cove marina, where Singapore's super rich keep their vessels. In turn, more and more members of the city's financial elite sought to entrust him with their money. From Pek Siok Lan, the general counsel of state investment company Temasek Holdings Pte Ltd., came S$5.6 million. Arun Murthy, former global head of commodities at Standard Chartered Plc, put in a little less than S$1 million. Finian Tan, one of Singapore's most prominent venture capitalists, was a major backer; he and partners invested a total of S$26 million.

Few, if any, were perturbed by a March 2020 decision by the Monetary Authority of Singapore, the nation's main market watchdog, to place Envy on its "investor alert list," which flags companies that may be "wrongly perceived as being licensed or regulated by MAS," and thus appear to be safer. One Envy investor, who asked not to be identified discussing his loss, says it didn't seem like a major concern: Dozens of funds are placed on the list each year. Nor did it stop hundreds of less wealthy investors, including restaurateurs and doctors, small-business owners and retirees, from giving Ng their money, swelling the total handed over to Envy to almost S$1.5 billion by early 2021. In a city where so many people seemed to be finding ways to get rich, why shouldn't they?

CAI ON THE COVER OF *PRESTIGE*

The tropical sun was barely over the horizon when a team of officers from the Commercial Affairs Department, the antifraud unit of the Singapore Police Force, arrived at Ng's mansion last Feb. 16. He was already up, preparing to send his daughter to school. The officers let him shower and change before taking him to gather documents from Envy's office and then to a police station.

It turned out Ng had been on investigators' radar for at least several months. The MAS had received tips about Envy's operations in mid-2020 and referred the matter to the police later that year. Once Ng was in custody, officers held him for more than two days, questioning him at length about Envy's operations. After his release, according to people familiar with the matter who asked to remain anonymous in order to describe private conversations, Ng told staff and investors that his detention was the result of a misunderstanding—one that might result, at most, in a slap on the wrist for Envy. Many believed him, one of the people says. Ng appeared more relaxed about the police's interest in Envy than most of his employees, giving every impression he had little to worry about.

That outward calm was shattered on March 22, when prosecutors filed their first criminal charges against Ng, accusing him of channeling S$300 million of investor money to his own accounts. (Subsequent legal filings pushed the alleged total to just under a half-billion Singapore dollars.) The charges outlined the broad strokes of what police and, later, a team of court-appointed accountants from Ng's alma mater, KPMG, concluded was an audacious but simple fraud. Put simply, Envy had almost never bought any of the nickel it claimed to be trading, and the returns investors thought they were receiving were in fact drawn from new clients' deposits—a classic Ponzi structure. Indeed, Poseidon Nickel Ltd., the Australian mining concern that Ng told investors he was sourcing the metal from, informed KPMG auditors that it had "no business relationship" with Envy and had

PUT SIMPLY, ENVY HAD ALMOST NEVER BOUGHT ANY OF THE NICKEL IT CLAIMED TO BE TRADING

never entered any transaction with it.

When they looked over Envy's purported contracts with Poseidon, the accountants, led by Bob Yap, one of Singapore's best-known restructuring specialists, noticed what they dryly described in an update for the court as "numerous irregularities" in the documents. For one thing, the name of a "director" whose signature appeared on two contracts on behalf of the Australian company did "not appear to match the initials or names of any of Poseidon's directors in the relevant period."

Meanwhile, according to the auditors, investor money was being moved in tranches of S$200,000 to accounts likely controlled by Ng, sometimes in dozens of wire transfers per day. Two of Singapore's major banks, Oversea-Chinese Banking Corp. and United Overseas Bank Ltd., were concerned enough by Ng's activities to close his accounts well before his arrest. Other lenders, including DBS Group Holdings Ltd. and HSBC Holdings Plc, filed suspicious-transaction reports with the authorities but continued doing business with him. DBS and HSBC declined to comment on Ng's accounts; spokespeople for both lenders said that they have comprehensive systems for flagging suspicious transactions and cooperate fully with law enforcement. An MAS spokesperson said in a statement that the agency expects banks to "implement robust measures to monitor for suspicious transactions" and would take action against firms that fell short of regulatory requirements.

As they dug further, investigators concluded that everything about the nickel deals had been faked, and not especially well. In communications with investors, Envy had said it was selling cargoes to a trading operation called BNP Paribas Commodity Futures Ltd., a London-based unit of the French bank. But U.K. corporate records indicated that this entity had ceased operations in February 2019. Envy's records nonetheless contained 11 trading statements from after that date—documents that would have to have been forged.

The investigation did find that Envy had conducted one genuine nickel deal. In July and August of 2020, the company spent S$42 million to buy more than 2,000 metric tons of the commodity from Raffemet Pte Ltd., a large trading house. Ng went to a local warehouse to inspect the load, with colleagues recording a video of him looking over loads of nickel pellets. Envy sent the video to its investors, then sold the nickel right back to Raffemet.

Ng is awaiting trial in somewhat more straitened conditions than he enjoyed before his arrest. Out on S$4 million bail—one of the largest in Singapore history—he's swapped his mansion for a serviced apartment. After recent court hearings, he's departed not in a souped-up sports car but an Audi sedan. He'll soon face a difficult choice. If he opts to contest the charges against him, he could remain free for years, albeit without the ability to leave Singapore, as the case winds its way through the courts. If he pleads guilty, he'll likely receive a lengthy sentence, though one that's shorter than the 20-year maximum he'd probably face if convicted at trial.

The broader damage of Envy's collapse is still being tallied. Several investors, who asked not to be identified in order to avoid being publicly associated with Envy, say they don't expect to recover the bulk of what they lost. It's not clear how much will be raised from ongoing sales of Ng's assets, including cars, art, and jewelry. The same is true of a lawsuit filed against him by the KPMG auditors, who are seeking more than S$500 million in damages.

Whatever the ultimate financial cost, the Envy scandal will nudge along efforts to prevent fraud in Singapore as it becomes a more important global hub. Ravi Menon, managing director of the MAS, acknowledged not long before Ng's arrest that detecting financial irregularities is "an area that needs to be addressed." The national stock exchange recently expanded its enforcement mechanisms, making it mandatory for public companies to institute whistleblower policies and giving itself the power to require a director or executive to resign. Other proposals would give regulators more tools to ensure that accounting companies comply with anti-money-laundering regulations.

But even the most finely tuned regulatory systems can be frustrated by a sufficiently audacious swindler, especially one that's in tune with the psychological needs of his marks. To win the confidence of so many sophisticated people, Ng appears to have grafted the timeless appeal of get-rich-quick schemes onto a more particular desire: to share in the spoils of a city rising faster than almost any other. Above all, Ng's investors "trusted the individual," says Chenthil Kumarasingam, a partner at the law firm Withers KhattarWong, who advises on white-collar crime but wasn't involved in the Envy case. "He made a very good show of living a lifestyle that everybody aspired to." —*With Joyce Koh and Yoolim Lee*

Where to Buy a Vintage Watch

Your guide to finding the best options in a booming market—and getting the best deal

By Mark Bernardo

Photograph by Joanna McClure

Watches from WatchBox (from top): Rolex GMT-Master II, F.P. Journe Octa Chronograph, Audemars Piguet Royal Oak Ultra Thin, Patek Philippe Complications Chronograph, H. Moser & Cie. x MB&F Endeavour Cylindrical Tourbillon, and Rolex Submariner Date

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Edited by Chris Rovzar
Businessweek.com

Wristwatches and other luxury goods have been sold and traded online at least since EBay was founded in San Jose in 1995, ushering in the age of the digital marketplace. Chrono24, one of the leading players in the secondhand timepiece business, was introduced in 2003. But a burst in interest in collecting, combined with the pandemic's effects on in-person commerce, caused a rocket-like acceleration in the trade of vintage watches. According to McKinsey & Co., sales of pre-owned watches, which reached $19 billion in 2019, were forecast to grow to more than $30 billion by 2025. New versions of sought-after models are increasingly difficult to come by, which has also boosted the secondary market. Where does one go for the best prices, best selection, and most trusted authentication? Read on.

FOR DEEP-POCKETED SUPERCOLLECTORS

WatchBox

Drawing on the massive resources of its founding company, Philadelphia-based Govberg Jewelers, WatchBox Co. offers a feast of pre-owned models. Global Chief Executive Officer Justin Reis says its top four brands are historical titans Audemars Piguet, Rolex, and Patek Philippe, plus indie-market hit-maker F.P. Journe. There's also a selection from red-hot independents such as H. Moser & Cie., Greubel Forsey, and De Bethune, in which WatchBox bought a majority stake in 2021. In contrast to many of the others listed here, WatchBox is not a marketplace; it owns all of the watches it sells on its site. In 2021, on track to earn $300 million in revenue and already having offices in Dubai, Hong Kong, Singapore, and Switzerland, WatchBox secured an additional $165 million in equity capital. Reis told industry publication *WatchPro* that the average selling price for a piece sold on WatchBox has risen from $8,000 to $20,000 since the site's introduction.

FOR IN-THE-KNOW TRADERS

Chrono24

This online emporium for pre-owned luxury watches, founded in 2003 in Germany, has experienced steady growth in recent years. It's worked with more than 3,000 vetted dealers across 100 countries and with about 10 times as many private sellers, all resulting in roughly half a million watches for sale at any given moment. Like EBay, Chrono24 offers an escrow payment program; it also has a 14-day money-back guarantee. When customers set up an online account, they can begin assembling a personalized watch collection—essentially a wish list of desired timepieces that sellers can access. Another bonus is the online estimated-worth calculator with a user-friendly graphic that shows the trajectory of a watch's value over any chosen time frame, based on a variety of pricing data. "Luxury watches are a financial commodity," says Tim Stracke, Chrono24's co-CEO and co-founder, "in that a lot of decision-making goes into when to buy. Our mission is to provide as much of that intel as possible."

FOR UNLOVED TREASURES

ShopWorn

If you're seeking a watch that's a personal favorite but didn't necessarily set the market on fire, you might want to check out ShopWorn, whose distinction is that it sells watches (along with jewelry and handbags) that were unsold inventory from an array of authorized retailers and brands. These are gently used watches that may have been tried on at the shop but never found a permanent home, and as you'd expect, many are no longer in current production. That includes models from Corum's Admiral's Cup series, Carl F. Bucherer's Patravi TravelTec collection, and rare finds from fondly remembered brands such as Romain Jerome. They're

Watches from the Hodinkee Shop, including a Rolex Oyster Perpetual Datejust, Nomos Ahoi Atlantic, and Breitling Chronomat B01 Chronograph

COURTESY HODINKEE

COURTESY CHRONO24

The Wrist Winners

Which watches are being sought and bought on Chrono24. *By Chris Rovzar*

In 2021, 100 million users browsed for watches on Chrono24. As usual, Rolex was the most favored brand, followed by Swatch Group's Omega. Seiko, Breitling, and Audemars Piguet rounded out the top five. "Rolex, Omega, and Audemars Piguet have proven to be exceptionally stable in value," says Chrono24's Tim Stracke. "Seiko, on the other hand, is an interesting newcomer." The Japanese watchmaker was a pioneer of quartz, or battery-powered, watches; but in recent years, it's steered toward higher-quality mechanics offered at many price points. Also new to the top five is Breitling, a Swiss watchmaker specializing in diving and aviation watches, particularly chronographs.

Notably absent from the list is Patek Philippe, which makes some of the most coveted timepieces around. "Patek was less in demand," says Stracke. He calls it "a consequence of the discontinuation of the Nautilus in stainless steel," after which market prices exploded for the watch. List prices for that Nautilus have since tripled.

The model that was most often searched for and bought was the Rolex Datejust ❶, followed by the Submariner ❷, also from Rolex. The Omega Seamaster ❸ and Speedmaster ❹ came in third and fourth. And the Rolex Daytona ❺ slipped to fifth from the top position in 2020. This, too, is a result of limited availability for new models, causing secondhand prices to soar out of reach for many.

heavily discounted and guaranteed to be completely authentic, because ShopWorn acquires them and their documents directly from the watchmaker. "Authenticators can only do so much," says CEO Larry Birnbaum. "Unless you're sending the watch to the brand that made it, no one else can tell you 100% that it's authentic. With us, the consumer can be comfortable it is."

FOR INTRIGUING PROVENANCE

Analog/Shift

Analog/Shift shines a light on the lesser-known corners of the vintage watch space, says longtime collector James Lamdin, who founded the company in New York in 2012. "Whether it's an obscure 1970s diving watch like an Aquadive Depth Gauge or a design-forward avant-garde dress watch like the Cartier Tank Américaine, we love telling stories about less famous timepieces that are also an integral part of the tapestry that is the history of horology," he says. London-based Watches of Switzerland Group acquired Analog/Shift in 2020 as part of its ambitious move into the U.S. market—and to serve as the European megaretailer's in-house resource for pre-owned and vintage timepieces. It now offers a curated selection of vintage watches at its flagship store in New York's SoHo neighborhood.

FOR THE BIGGEST INVENTORY

EBay

EBay Inc. sold more than 2 million watches in 2019, and on average about 150,000 live listings for luxury watches can be found on its site on any given day. And yet the most familiar name on our list is also the one that's had to do the most work to burnish its reputation as a trusted seller of luxury goods, as evidenced by its own in-house customer satisfaction stats. To head that effort, EBay turned to former TrueFacet CEO Tirath Kamdar to be its general manager of luxury. As of 2020, EBay offers a post-sale authenticity guarantee for all timepieces costing more than $2,000, which amounts to the online marketplace covering the cost of shipping the watch to an expert third-party authenticator who verifies its bona fides before it ever reaches the buyer. Kamdar proudly reports that since the establishment of the authenticity guarantee, EBay's customer satisfaction percentage, which had been mired in the 60s, has soared into the 90s. "We've become a very safe place to transact high-value items," he says. That trust factor is one of three prongs EBay is focusing on to set its watch business apart, alongside access to an inventory of scarce models such as Rolex Submariners and its recently established, dedicated in-house team of watch experts.

FOR THE FAIREST PRICE

TrueFacet

EBay's Kamdar started this New York-based online outlet in 2014 with his childhood friend Chris Chan. Today, TrueFacet still offers individuals and retailers a platform to buy and sell pre-owned watches and jewelry at competitive prices. The jewelry segment is still somewhat larger, averaging around 55,000 in inventory, compared with about 40,000 watches. The company arrives at its prices through the use of software that weighs factors such as consumer demand for each item and market trends that may affect their value, then calculates the average online price for each item. Like others in its space, TrueFacet prides itself on authentication, claiming that every piece sold is vetted by an expert at its New York City headquarters. A year after its founding, TrueFacet introduced its concierge program, which lets prospective customers reach out via text message to one of the company's experts for advice on a purchase, or even to track down a specific coveted item. In addition to what TrueFacet calls its certified preloved items, it also displays

Watches from Analog/Shift (clockwise from top): Audemars Piguet Royal Oak "Jumbo," Blancpain Fifty Fathoms Mil-Spec 1, Rolex Cellini King Midas, Doxa Sub 300T Sharkhunter, Rolex GMT-Master "OCC," Omega Speedmaster, Universal Genève Tri-Compax Moon Phase, Rolex Explorer "Blackout," A. Lange & Söhne Datograph, and Patek Philippe Perpetual Calendar Moon Phase Chronograph

COURTESY ANALOG/SHIFT

new watches from select authorized partners in its Brand Boutique, including fashion brands Fendi and Versace and high-watchmaking houses Arnold & Son and HYT.

FOR OPTIONS AMONG THE CLASSICS

Hodinkee Shop

Online watch magazine *Hodinkee* (which provides content for Bloomberg) has been aggressively expanding its retail business for several years and offers a plethora of buying options, including a series of limited-edition timepieces made in partnership between the Hodinkee Shop and major watch brands. It now sells new watches from dozens of makers, whether mass-market brands Apple and Swatch, sport-luxury giants TAG Heuer and Omega, or high-horology maisons Grand Seiko and Vacheron Constantin. This year, Hodinkee added pre-owned and vintage watches to its portfolio when it acquired another online retailer, Atlanta-based Crown & Caliber, whose sales transactions since its founding in 2013 number more than 75,000. Hodinkee Chief Operating Officer Russell Kelly, who was hired away from watchmaker Tudor to help manage the company's growing commercial ventures, says the Hodinkee Shop is mostly about offering multiple options—a new Omega Speedmaster, a pre-owned Speedmaster, or even a limited-edition Speedmaster that sold out last year.

FOR A WIN-WIN DEAL

Bob's Watches

Although Bob's Watches also sells favorites such as Breitling, Omega, Panerai, and Patek Philippe, the Rolexes are its main draw. The site has been an exchange for used and pre-owned Daytonas, Submariners, and other key models since its founding in the 1990s by Bob Thompson, who sold it in 2010 to current CEO Paul Altieri. One of the largest online watch resellers in the U.S. ($45 million in revenue in 2019), Bob's says it offers the best deal for both buyers and sellers. Each timepiece on the site carries two prices: a "seller" price that Bob's will pay to purchase it from you and a "buyer" price that spells out how much you'll pay for it. Bob's promises not only that all its watches are authentic but also that every pre-owned Rolex has been serviced with authentic Rolex parts by a licensed Rolex provider. Unlike most of the other sellers on this list, Bob's doesn't offer a payment plan, per se, but works directly with a third-party finance provider called Klarna, which customers have the option of signing up with to stagger their payments.

FOR SWIFT SERVICE

SwissWatchExpo

The family-owned SwissWatchExpo was founded in 2009 by CEO Eugene Tutunikov's parents, starting out with 60 watches and growing to an inventory of about 3,000 in 2021. The company displays almost every watch listed on its site in its Atlanta showroom, which also serves as the e-commerce distribution center, where customers can inspect prospective purchases up close before buying. Each timepiece is photographed in its actual condition—a rarity for a selection of this size—which means browsing the website is essentially a tour of the actual showcases, so there are no surprises. Tutunikov says the website offers the largest number of watches available to ship the same day. Among the almost 40 brands sold, Rolex is well represented, with an array of pre-owned Daytonas, GMT-Masters, Submariners, and Yacht-Masters; rare finds from Audemars Piguet, Breitling, Cartier, and Patek Philippe (including a white-gold Nautilus Moon Phase) are also among the regular inventory. B

Don't Be a Square

Shaggy ball pillows can shake up your living room's generic geometries. *By James Gaddy*
Photograph by Takamasa Ota

Interior designers love a four-cornered pillow, and for good reason: It lies flat, and covers are easy to swap. Best of all, it's fun to karate-chop the top of one so it looks plump and soft. But ball-shaped pillows are making some noise as work-from-homers look for something, anything to change the scenery. These sheepskin orb pillows ($420 each) are a collaboration between Oaxaca footwear brand Huaraches and Casa Ahorita, a boutique in Mexico City founded by gallerist and writer Su Wu. Not quite pouf or bolster, the pillows are made with zero-waste sheepskin and hypoallergenic fill to be simultaneously playful and seriously comfortable.

THE COMPETITION

- A duo of midcentury orb pillows from Kardiel ($190) are offered in two sizes—including one about as big as a basketball—and come clad in velvet or other materials.
- Canadian designer Therma Kota uses 100% genuine shearling for her $305 sphere pillow, available in cream, moss, and gingersnap.
- The three pillows in the $3,100 set at H. Gallery in Utrecht, Netherlands, have fabric that resembles the texture of a tennis ball but are closer to the size of a bowling ball.

THE CASE

At 15 inches in diameter, Huaraches and Casa Ahorita's pillows have the proportions of a medicine ball at your local gym, but they're as light and squishy as a beanbag chair. That feeling is accentuated by the supershaggy material, so they're great for resting arms and heads during long stretches on the sofa. Decorators will warn you that storing spherical-shaped cushions is difficult, and it's true that they can eat up space, which is why they're probably better suited for deep couches to serve as accents rather than the main event. Where they shine most, however, is in the nursery: In tests, the only ones having more fun with these frolicsome pillows than toddlers were puppies. *$420; comingsoonnewyork.com*

Counter Movement

Kitchens designed to celebrate cooking, rather than hide it away, are becoming real estate selling points

By James Tarmy

COURTESY DOUGLAS ELLIMAN

Covid has changed how we live and where we live, and it's beginning to change how we *design* where we live.

"So many people stuck at home used their kitchen and realized they actually like to cook," says Joe Nahem, co-founder of the interior design company Fox-Nahem. "They'd never done it before—they have a lot of help or eat takeout. But now we're seeing the kitchen as a place to hang out."

It turns out that once people actually start to cook, form and function can change dramatically. "We've done those kitchens where a panel goes down so you see literally nothing—even the toaster is hidden," Nahem says, referring to what the media has lately been calling the invisible kitchen. "But the minute you take it out and put it on the counter, it throws the whole kitchen off."

The dominant trend in recent years—an endless unbroken expanse of marble and hidden panels, where everything down to the burners on the stove is obscured from view—is being met with a demand for kitchens that let it all hang out. These kitchens feature open shelves, with glass-paned cabinets instead of ones tucked behind wood paneling, and countertops that accommodate different uses. Imagine: Wood blocks for chopping and marble for pastry-making sitting side by side.

"White kitchens were big," says Benjamin Ginnel, a broker at Ginnel Real Estate Inc. in Westchester, N.Y. "Now I feel like people are going more bold on colors and materials. We're seeing a lot more lacquered colors with beautiful wood islands and marble counters and brass hardware." Rather than the austere aesthetic, he says, "these are bold choices."

Invariably, most of these bold kitchens aren't in open-floor-plan interiors. One reason everything got hidden away in the first place, brokers say, is that homeowners didn't want to see their stand mixer from all corners of the house. With a wall in place, those visual constraints disappear. "A lot of clients like the separation," says Tal Alexander, a broker with Douglas Elliman Real Estate in New York. "In a post-Covid world, it's much more in demand than it previously was."

But even the richest homebuyers are running into inevitable supply chain issues, and luxury houses that have more utilitarian kitchens are still in the minority. It's easier to get an invisible-looking one, especially in the Hamptons and other posh enclaves.

"Certain builders have constructed hundreds of houses out here, and they all have the same kitchen," says Rima Mardoyan Smyth, a broker for Douglas Elliman Real Estate in the Hamptons. "Everything is hidden. You need roller skates to get from the stove to the fridge. It's basically a showoff kitchen for takeout food."

Suddenly, houses across the country whose distinctive kitchens might have been considered a liability before the pandemic have a selling point.

"Maybe it's safer to do a neutral kitchen, but that doesn't mean it's better," says Gary Bobolsky, a broker with Sotheby's International Realty in Santa Fe, N.M. He's currently representing a $4 million house that has a sprawling eat-in kitchen with a medley of green surfaces, open and closed shelving, and funky hardware. The kitchen is "different, but it's super tasteful," he says. For every person who isn't enchanted by it, he continues, he has many more who walk in and say, "Oh my God, I love it." B

VERY VISIBLE KITCHENS
A riotous mix of colors and materials can make for a fun, functional cooking space. Clockwise, from left: An eat-in kitchen inside a $15 million loft on Manhattan's Wooster Street includes glass-paned cabinets; a restored kitchen in a $13.5 million house in Sag Harbor, N.Y., is lined with open shelving; and the kitchen in a $4 million Santa Fe home has custom cabinetry and bright green counters.

COURTESY DOUGLAS ELLIMAN. MARSHALL ELIAS/SOTHEBY'S INTERNATIONAL REALTY

Older Isn't Always Better

The current bounty of superaged Scotch is great in theory. Until you actually try to get your hands on it. *By Brad Japhe*

Good things come to those who wait. Perhaps nowhere is this saying more apt than in the world of whisky, where patient maturation often pays dividends in the form of a dram with unrivaled elegance—and price.

The past year stretched this reality to new extremes. Independent bottler Gordon & MacPhail unveiled the oldest Scotch ever, an 80-year-old single malt from the Glenlivet, which sold at auction for $193,000. Yamazaki, likewise, released a 55-year-old spirit that went down as history's most senior Japanese offering. (Dekanta listed a bottle of it for $950,000—and it's out of stock.) To say these venerable expressions come at a premium is a comical understatement.

So while whisky prices almost always follow the rule that older equals costlier, there's another principle to be considered when you're shelling out a sizable fortune to enjoy an aged product: the law of diminishing returns. The link between age and quality isn't always linear. There's a point where the opposite may be true—something to keep in mind if your goal is to enjoy the spirit and not merely hold it as an investment.

To that end, here's an organoleptic appraisal of five recently released extended-age statements along with younger alternatives that drink similar, especially when factoring in the ability to, you know, buy it. If good things come to those who wait, then great things come to those who contemplate.

To Have or to Hold: Your Whisky Buying Guide

IF YOU CAN'T GET ...
THE GLENDRONACH AGED 50 YEARS

The historic Highland producer is responsible for some of the most celebrated sherry-bombs on the planet. In January it unleashed the mother of them all: 198 half-century-old bottles from one ex-Pedro Ximénez finishing cask, priced at $25,000 each. Cherry, date, and walnut are eventually joined on the palate by Turkish tobacco and threads of Mediterranean spice, after which fresh-baked French pastry unfolds.

... THEN BUY
THE GLENDRONACH 1993 MASTER VINTAGE

At a little more than half the age and a fraction of the price (about $700), the 1993 Master Vintage is exceptional. Although not nearly as complex or robust as its eldest sibling, there's plenty of character: You'll still detect the same notes of walnut and ripened cherry that typify the house style. Even the 15-year-old GlenDronach Revival is a worthy adjunct, readily available for less than $100.

IF YOU CAN'T GET ...
SINGLETON 54 PARAGON OF TIME II

Parent company Diageo Plc's oldest release is not a terrible dram, but for a 1966 vintage slumbering decades in European oak, it's less sophisticated than you might expect. The Singleton's herbal, minty quality is certainly seductive but also somewhat muted. With only 235 bottles available worldwide, you're probably never going to encounter it, anyway—even if you had the $41,000 in disposable cash to get it.

... THEN BUY
THE BALVENIE TUN 1509 BATCH NO. 8

The latest iteration of Balvenie's Tun 1509 can be had for exactly 1/100th the price of the Singleton. It doesn't hold an age statement, but it does exert some similarly earthy, herbal undertones. If you're a Diageo loyalist, consider instead a 43-year-old Xpedition Oak ($4,700) from Talisker, the distillery's oldest expression, which was released last summer. It swirls with orchard fruit and a tantalizing honey-inspired waxiness.

COURTESY COMPANIES (4)

IF YOU CAN'T GET ...
YAMAZAKI 55

Let me save you the trouble: You're not going to find this bottle. There were only 100 produced. But as someone who's had the good fortune to sample it, I can say it's not the best liquid I've ever tasted from the Osaka, Japan-based distillery. It might not even be in the top three. But it's masterfully complex, announcing itself on a wave of frankincense and myrrh before retreating with persistent treacle and menthol smoke.

... THEN BUY
YAMAZAKI SHERRY CASK 2016 EDITION

If you want something better, you can still secure a bottle of Yamazaki Sherry Cask 2016 edition for the relative bargain of $6,000. But if "reasonable" isn't your cup of matcha, the supremely limited Yamazaki 1984 Vintage Malt is a showstopper of epic proportions—and $24,000. The distillery's cedar- and honeysuckle-imbued 18-year-old flagship is nothing to scoff at either, even as its price has quietly crept up to more than $1,000.

IF YOU CAN'T GET ...
THE GLEN GRANT DENNIS MALCOLM 60TH ANNIVERSARY EDITION

Bottled at 52.8% alcohol by volume from a single ex-Oloroso sherry cask, the Speyside producer's 60-year-old is entirely energetic for its age—much like the master distiller it's honoring. A dark fruit potency deepens the nutmeg and Christmas spice at its core, while an alluring creaminess in the mouthfeel ensures you'll sit and ponder it—and its $29,000 price tag—long after each sip.

... THEN BUY
DOUGLAS LAING OLD PARTICULAR GLEN GRANT 25 YEAR OLD

Independent bottlings, in which third-party specialists age spirit from established distilleries, remain a great way to get your hands on rare and old whisky at a relatively low price. This 25-year-old Glen Grant single malt from Douglas Laing is a prime example, with its honey-hued biscuity appeal. Found online for $300, it's a crisp pour with lingering threads of maple-syrup-slathered pancakes.

IF YOU CAN'T GET ...
GORDON & MACPHAIL GENERATIONS 80 YEAR OLD

Elgin's legendary independent bottler has consistently pushed the age envelope. This particular Scotch was laid into an especially hardy sherry butt at the Glenlivet distillery on Feb. 3, 1940. More than 80 years later, a single bottle from that barrel sold at auction for $193,000. Its nuanced notes of rancio and worn leather are almost irrelevant; what you're ponying up for is a piece of history.

... THEN BUY
PRIVATE COLLECTION 1973 FROM LINKWOOD DISTILLERY

Just about any of Gordon & MacPhail's Private Collection bottlings are a good match for when one's enthusiasm for superaged Scotch surpasses one's spending power to acquire it. A 47-year-old offering sourced from Speyside's Linkwood Distillery is a great place to start. Full-bodied and pleasantly fruity for about $2,200, it's a fraction of the price of the 80-year-old bottle.

But What About Bourbon?

Unlike most other kinds of whiskey, bourbon requires primary aging in virgin and charred oak, which is responsible for the caramel- and vanilla-laden sweetness that characterizes the style. The flip side, however, is that it's hard to achieve balance when you're aging it for very long, which is why you rarely see American whiskeys with age statements comparable to their Scottish and Irish counterparts. Here are some notable and recent exceptions to that rule.

MICHTER'S 20-YEAR KENTUCKY BOURBON

Assertive yet graceful, rich yet pleasantly piquant—and incredibly limited. This year the Kentucky distillery dropped a mere 582 bottles that were supposed to retail at $750 a pop, but you won't find one for less than 10 times that price. Seek out the latest Blue Run 14 Year (about $500) for a similar depth of flavor.

VERY OLDE ST. NICK ANCIENT CASK 13-YEAR BOURBON

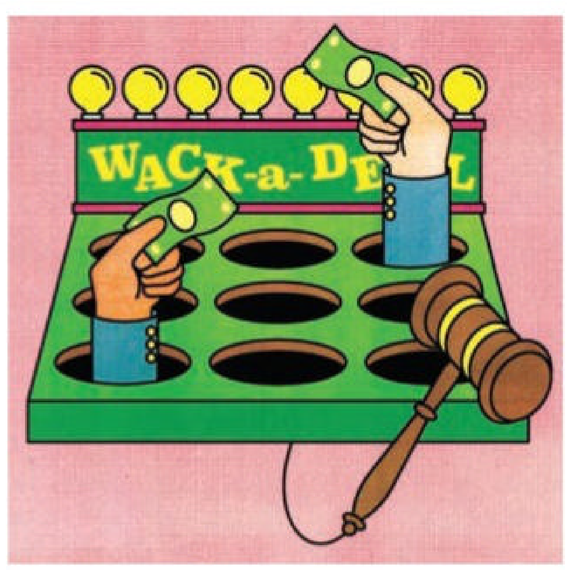
Now under the purview of Preservation Distillery, Olde St. Nick was once produced by legendary Kentucky families like the Van Winkles. The hot, 107.5-proof whiskey bursts out of the glass with toffee and cinnamon spice. A deal, even at $500. Less of a cult sensation but a rival when it comes to balance and richness, Bardstown Bourbon Co. Discovery Series #6 ($130) uses 17-year Tennessee spirit in its latest no-age-statement blend.

COURTESY COMPANIES (7). CUP: GETTY IMAGES

Tougher Scrutiny Doesn't Mean All Deals Are Off

By Brooke Sutherland

Lockheed's $4.4 billion takeover of Aerojet is at risk of collapse after the Federal Trade Commission sued to block it. But this is unlikely to be a landmark moment in antitrust enforcement that will dissuade future dealmakers.



Allowing a major defense contractor to purchase the only remaining independent maker of rocket boosters in the U.S. could thwart rivals' ability to gain access to critical components and put their intellectual property at risk, according to the FTC. Lockheed could "jack up the price the U.S. government has to pay, while delivering lower quality and less innovation," Holly Vedova, director of the FTC's Bureau of Competition, said in a Jan. 25 statement. "We cannot afford to allow further concentration in markets critical to our national security and defense."

Lockheed Martin Corp. and Aerojet Rocketdyne Holdings Inc. have 30 days from the FTC's action to decide whether to fight the regulator in court, but the rally in Lockheed's shares on the news suggests shareholders are content to let this one go.

This is the second major merger litigation brought by FTC Chair Lina Khan, who along with her antitrust counterparts at the U.S. Department of Justice has promised much tougher scrutiny of takeovers. Nvidia abandoned its $40 billion purchase of British chip company Arm from SoftBank Group after the FTC sued to block the deal in December. The FTC's emphasis on the perils of overconcentration in markets "critical to our national security and defense" feels notable, though. After a surge of defense dealmaking in recent years, including Northrop Grumman Corp.'s $9.2 billion purchase of rocket booster company Orbital ATK in 2018, further consolidation was always going to be tricky. Meanwhile, the economic importance of semiconductors has become painfully obvious amid the crippling shortages during the pandemic, with the FTC citing a need to protect "critical infrastructure markets" in announcing its suit over the Nvidia Corp.-Arm Ltd. deal.

The sheer volume of transactions awaiting approval after last year's record for deals will limit the number of deals that regulators can effectively challenge. It makes sense that they would focus on the most controversial ones. Frontier Airlines' proposed combination with Spirit Airlines, for example, is likely to draw close scrutiny, particularly in light of the tens of billions in government aid provided to the industry during the pandemic. That still leaves a fairly wide middle ground. Indeed, big deals are still getting announced and approved. The DOJ in 2021 allowed the two largest aircraft lessors, AerCap Holdings NV and General Electric Co.'s Gecas arm, to combine. The Surface Transportation Board also allowed Canadian Pacific Railway Ltd. to proceed with a $30 billion takeover of Kansas City Southern.

It's a tougher antitrust environment for some industries. For others, there's reason to think it's still business as usual. Ⓑ —*Sutherland is a columnist for Bloomberg Opinion*

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