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Federal Hearings Seek to Reverse Trump-Era Student Loan Rules

"The revisions include strengthening protections for borrowers harmed by misleading practices by their college."

Why this is important: Student loan debt continues to be a topic of conversation in the political arena, particularly as it relates to for-profit colleges that have faced criticism for years relating to costs versus job skills for students and graduates. The U.S. Department of Education's Office for Civil Rights recently held a multi-day public virtual hearing as part of the DOE's review of existing regulations implementing President Biden's executive order relating to student loans. As part of the hearing, the DOE sought input from a variety of stakeholders. "Much of the ire of borrowers and student loan reform advocates is focused on for-profit and online colleges." However, the DOE is reviewing a large number of agenda items in the student loan arena, not simply regulations relating to for-profit schools. **Student loan servicers and lenders should be vigilant in monitoring DOE announcements, hearings, and publications surrounding student loan reforms as they meander through the lengthy investigation, proposal, and comment periods for federal rulemaking and other regulatory changes.** --- [Angela L. Beblo](#)

Bank Regulator's True Lender Rule Undercuts Bank Regulatory Protections and Shelters Predatory Lending

"A recent rule by the Office of the Comptroller of the Currency, a federal bank regulator, threatens to upend the rights and responsibilities between banks and their nonbank lender partners, displacing state regulators and subjecting consumers to predatory loans."

Why this is important: Banks regularly enter into relationships with nonbank partners for providing services to customers and for operations. Members of Congress have expressed concerns that some nonbank lenders have attempted to use banks as vehicles to evade state laws by virtue of federal preemption. Some nonbank lenders have used a bank name in their loan documents and then claimed they are entitled to the bank's preemption rights over state regulation and consumer protection laws,

including usury limits. In the 2000s, state regulators teamed with federal regulators, including the OCC, to limit these efforts.

In October 2020, the OCC reversed its prior position by issuing the True Lender Rule (the "Rule") that seeks to displace existing limits on these partnerships by both asserting that the OCC has authority to override the courts' true lender doctrine and enacting a standard that would specifically grant preemption rights to nonbank lenders if they place the partner bank's name on the loan document and the bank funds the loan.

In recent days, Congress voted to override the Rule using the Congressional Review Act, and President Biden appears willing to sign it. **For the financial services industry, and particularly financial technology and other nonbank lending companies, repeal of the Rule could mean a return to uncertainty concerning which laws apply to a lending program.** --- [Bryce J. Hunter](#)

CFPB Releases Interpretive Rule on Resuming Military Lending Act Investigations

"The bureau says in the rule, which does not require public comment, that it is again establishing authority under the Military Lending Act and Consumer Financial Protection Act."

Why this is important: On June 23, 2021, the CFPB issued an interpretative rule that took effect on the same day without public comment. The rule rolls back the clock to September 2013, when the CFPB amended its supervisory procedures to allow examiners to review lenders for potential violations of the Military Lending Act ("MLA"). The MLA imposes certain borrower protections and limitations on loans that involve military families. In 2018, the CFPB stopped examining lenders for potential MLA violations. As of June 23rd, the CFPB is resuming its examination for MLA compliance. **This new rule is one example of the effect of the change in CFPB leadership brought about by the new presidential administration. Other examples are likely to follow.** --- [Nicholas P. Mooney II](#)

House Subcommittee Assesses Consumer Credit Reporting

"Hearing focuses on legislation and reforms to consumer protections by credit bureaus."

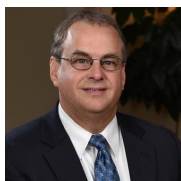
Why this is important: On May 26, 2021, the House Committee on Financial Services Subcommittee on Oversight and Investigations ("Committee") held a virtual hearing relating to consumer credit reporting and heard testimony from the three major credit bureaus and the other stakeholders. While the Committee has not committed to making any specific changes to consumer credit reporting, several recent Congressional bills have focused on changing consumer credit reporting. The Committee will hold a second virtual hearing today focusing on proposals relating to how to change credit reporting to achieve equity. **Any entity that is interested in monitoring, attending, or otherwise commenting on the discussions and topic as the Committee proceeds should monitor the Committee's news releases and hearing calendar for other upcoming events.** --- [Angela L. Beblo](#)

The Future of Cryptocurrency: Could It Replace the US Dollar?

"It's even likely that crypto will become a widely accepted form of payment, like debit or credit cards."

Why this is important: As cryptocurrency grows in popularity, some believe it may one day replace traditional fiat currency. It seems that every week a different company or country is dipping its toes in the crypto pool. With companies like Starbucks, Tesla, and Whole Foods accepting crypto as payment and El Salvador adopting Bitcoin as legal tender, the idea of government-issued crypto is becoming more likely. "Turning physical cash into a digital representation really has a lot of technological benefits in terms of payments and as a store of value." **However, it is still open to misuse by criminals in its current form. As governments around the world begin to consider the possibility of converting to digital currency, this is a concern that would have to be in the back of their minds.** Luckily, they can sit back and watch El Salvador to determine the pitfalls of adopting a national digital currency. --- [Kellen M. Shearin](#)

Featured Spilman Attorney Profile



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Jeff is Member in Charge of our Winston-Salem, North Carolina office. His primary areas of practice are complex commercial litigation, labor and employment law, class actions, trademark and patent litigation, health care law, and banking and consumer protection litigation.

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Jeff received his B.A. from The College of William & Mary and his J.D. from Wake Forest University.

Thank you for reading this issue of *All Consuming!* We hope you found the information timely and useful. If you have topics you would like us to cover or would like to add someone to our distribution list, please [email us](#).

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