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Volume 2, Issue 14

Mobile Payment App Complaints are Surging as More Americans Go Cashless

"Top complaints include trouble with digital wallets, scams and customer service issues."

Why this is important: Roughly four in five Americans already were using digital payment apps prior to the pandemic, according to this report, and the demand for cashless payments has only increased in the past year. These cashless payment systems, however, do not have the same fraud protection under federal law. **While complaints continue to funnel in (this report indicates more than 9,000 complaints were filed in the past four years), businesses that rely on these systems must brace themselves, not only for a slew of legal challenges under existing laws, but also for attempts to introduce new legislation to address the gaps in the law.** --- [Tai Shadrick Kluemper](#)

Senators Call for Consumer Protections Against 'Involuntary' Medical Debt

"Sens. Chris Murphy (D-CT), Chris van Hollen (D-MD), Tammy Baldwin (D-WI), Cory Booker (D-NJ), Elizabeth Warren (D-MA), and Richard Blumenthal (D-CT) penned a letter to CFPB to share concerns about the cost burden many Americans could face as a result of COVID-19."

Why this is important: Senators Elizabeth Warren, Richard Blumenthal, Cory Booker, Tammy Baldwin, Christopher Murphy, and Chris Van Hollen sent a letter to the Consumer Financial Protection Bureau, asking it to review the issue of consumer debt for medical care. The Senators asserted that the COVID-19 pandemic exposed "the many cracks that remain in our health care system." The letter asserts that while COVID-19 relief packages have assisted in limiting costs Americans face through the pandemic, those who sought medical treatment outside their networks "may bear the full cost of their COVID-19 treatments." The letter provided the CFPB with a number of recommended actions on the issue of consumer debt for medical care, including "[p]rohibit all furnishing of medical debt collection items to credit reporting agencies, or, at a minimum, prohibit reporting medical debts to the credit reporting agencies for the first year to give consumers time to resolve any insurance coverage or billing disputes or apply for financial assistance." Additionally, the Senators asked the CFPB to "[r]equire debt collectors to

disclose in their communications with patients any applicable financial assistance, charity care programs, as well as potential coverage such as Medicaid and the Affordable Care Act plans." Further, the letter recommends the CFPB "[r]equire debt collectors to refrain from collecting or reporting if individuals note they are appealing an insurance coverage denial, disputing the provider's billing, or applying for financial assistance." **Should the CFPB act on these recommendations, this could spell a wave of change in the area of medical debt.** --- [Wesley A. Shumway](#)

Mortgage Servicers Brace for Fallout as Covid Bailout Comes to an End

"An estimated 7.25 million borrowers have participated in forbearance programs at one point or another throughout the coronavirus pandemic, representing 14% of all homeowners with mortgages."

Why this is important: For the past 18 months, more than 7 million borrowers participated in the government's mortgage forbearance program. That program is scheduled to end, and as early as September, borrowers will be required to resume making their payments, sell their homes, or go into foreclosure. Mortgage servicers and others have been worried about a deluge of foreclosures and nonperforming loans. However, the article highlights some of the procedures that mortgage servicers have put in place as well as guidelines that Fannie Mae, Freddie Mac, and the CFPB have issued to alleviate this worry. **These new procedures and guidelines, coupled with an improving economy, signal that, while there will be foreclosures in the fall and winter, there may be fewer than originally feared.** --- [Nicholas P. Mooney II](#)

Bitcoin Doomed as a Payment System and Its Novelty Will Fade, Says Federal Reserve Board of Governors Member

"US thus doesn't need a central bank digital currency, says bigwig."

Why this is important: The United States will not be adopting a U.S. digital currency if Randal Quarles, a member of the U.S. Federal Reserve's Board of Governors and its Vice Chair for Supervision, has a say in the matter. According to Quarles, cryptocurrencies such as Bitcoin are similar to gold in the fact that they are rare and their prices fluctuate. But unlike gold, there are not any other uses for these cryptocurrencies outside of their monetary value. While less critical of stablecoins due to their ability to improve international payments, Quarles believes that the U.S. dollar's role as "the dominant currency in international financial transactions" won't be challenged by any digital currency. **However, with many companies beginning to officially accept digital currencies as legal tender and other countries, such as England and Japan, considering creating their own digital currency, it may be too early to make that statement.** --- [Kellen M. Shearin](#)

Online Payment Fraud is Costing Business Owners Billions

"Businesses are set to suffer over \$206 billion in losses from identity fraud in the period between 2021 and 2025, according to new figures."

Why this is important: Although fraud prevention systems are effective, they are not cheap. Businesses are expected to invest more than \$11.8 billion in fraud detection and prevention systems in 2025, up from \$9.3 billion in 2021. And the investment in an ever-changing e-commerce market does not stop there. According to this report, businesses must continue to reshape their online platforms to accommodate developing payment trends, which in turn may require investment in identity theft software and password managers. **Long story short, the cost of doing business is on the rise for online retailers.** --- [Tai Shadrack Kluemper](#)

U.S. Supreme Court Rules "Concrete" Injury Needed to Sue for FCRA Violations

"On June 25, 2021, the Supreme Court of the United States ruled in the case of TransUnion LLC v. Ramirez that a plaintiff must suffer a 'concrete' injury resulting from a defendant's statutory violation of federal law such as the Fair Credit Reporting Act to have sufficient standing to sue under Article III of the United States Constitution and that plaintiffs in a class action lawsuit must prove that every class member has standing."

Why this is important: The *Ramirez* opinion (594 U.S. ____ (2021)), follows the Court's decision in *Spokeo, Inc. v. Robins* (136 S.Ct. 1540 (2016)) in further shaping Article III standing requirements for consumer class actions. According to the Court, Article III standing requires a showing of concrete harm. "[U]nder Article III, an injury in law is not an injury in fact. Only those plaintiffs who have been concretely harmed by a defendant's statutory violation may sue [a] private defendant [for] violation in federal court." The *Ramirez* lawsuit alleged a violation of the FCRA for a class of more than 8,000 consumers, based upon certain inaccuracies in the consumer's credit report. Plaintiff could show that approximately 1,800 class members actually suffered concrete harm. However, for the remaining 6,332 class members, inaccurate information, without dissemination of the credit report, was insufficient for standing under Article III. **The *Ramirez* decision will further narrow the parameters for class actions alleging violation of consumer protection statutes.** --- [Debra Lee Allen](#)

Neobanks Could Get Slammed by Biden's Toothier CFPB

"After a four-year hiatus, the bureau's coming back and newcomers are just as likely to be targets as established institutions."

Why this is important: The current administration has made clear that supervision by enforcement is returning. During his 2020 campaign, President Biden announced his intent to increase oversight of the financial services industry. The CFPB may be bringing back familiar faces from the Obama administration to do this. Federal Trade Commissioner Rohit Chopra, who was the CFPB's first Student Loan Ombudsman under former Director Cordray, has been nominated by President Biden to be the CFPB's director. The article notes that the CFPB is hiring "a significant number of new enforcement attorneys." These moves should signal to financial service companies that increased enforcement is on its way. Neobanks that may be new to bank supervision may be unprepared for this brand of supervision by enforcement. The article reports that neobanks should be prepared to be examined on a "litany of consumer protection laws and regulations that have been on the books for years." They also should be ready for the new leadership to seek to apply existing laws and regulations in novel ways that have not previously been attempted. **The bottom line is that financial services industries, including neobanks that have not faced these issues before, need to be prepared for a more active CFPB and its likely deployment of a supervision by enforcement model.** --- [Nicholas P. Mooney II](#)

Virginia HB2099

"An Act to amend and reenact §§ 8.01-251, 8.01-458, and 55.1-339 of the Code of Virginia, relating to limitations on enforcement of judgments; judgment liens; settlement agents."

Why this is important: Effective July 1, 2021, creditors of consumer debts and other types of debt will have less time to enforce their judgments. Execution and action on judgments obtained prior to July 1, 2021 will continue to be enforceable for 20 years from the date of a judgment, unless the period is extended as provided in another Virginia statute. For judgments obtained on or after July 1, 2021, however, the time to execute and bring action on a judgment will be reduced to 10 years from the date of judgment, unless extended. Further, a settlement agent or title insurance company may release a judgment lien after complying with certain statutory procedures if the obligation secured by the judgment lien has been satisfied by payment made by the settlement agent. **With the significantly reduced enforcement period, creditors should consider whether to put procedures in place to extend outstanding judgments and should work with their management teams, accountants, and legal counsel to prepare procedures.** --- [Bryce J. Hunter](#)

Featured Spilman Attorney Profile

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Gerald Titus is a Member in our Charleston, West Virginia office. He defends and advises trucking companies and other commercial vehicle operators in litigation and regulatory matters. His other practice areas include business litigation and products liability defense.

Gerald has been nominated by his peers for inclusion in *The Best Lawyers in America* in the area of Commercial Litigation, and he has been listed by *West Virginia Super Lawyers* as a "Rising Star." He is a member of the Defense Trial Counsel of West Virginia and the West Virginia State Bar Future of the Law Subcommittee, and he is past-president of the American Inns of Court, Judge John A. Field, Jr. Chapter.

He received his B.A. and J.D. from Washington and Lee University. He is admitted to the West Virginia State Bar, West Virginia Supreme Court of Appeals, United States Supreme Court, United States District Courts for the Northern and Southern Districts of West Virginia, and United States Court of Appeals for the Fourth Circuit.

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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