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Volume 2, Issue 19

## **Biden Administration Extends Student Loan Pause Until January 31, 2022**

*"The Department believes this additional time and a definitive end date will allow borrowers to plan for the resumption of payments and reduce the risk of delinquency and defaults after restart."*

**Why this is important:** The relief, which was originally enacted in March of 2020, had been set to end on September 30, 2021 after several previous extensions. In prior statements, the Department said that this additional time and a definitive end date will permit borrowers to plan for the resumption of payments and reduce the risk of delinquency. In his statement, the Department Secretary said that the administration's policy decisions give priority to support students and borrowers during this transition and ensure they have the resources they need to access affordable, high quality higher education.

The "pause" allows millions of borrowers to further allocate money elsewhere to bolster their financial security and achieve breathing room for those who had defaulted on their loans from garnishments and other collection efforts. **However, with the option of student loan forgiveness appearing to be less likely under the Biden administration, it will be critical for it and the Department to prepare borrowers to get over the psychological hurdle of repayment.** --- [Bryce J. Hunter](#)

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## **Zillow – Experts Predict What the Housing Market Will be Like in 2021**

*"We expect sales to grow 7 percent and prices to rise another 5.7 percent on top of 2020's already high levels."*

**Why this is important:** As mortgage rates remain low and housing sales remain relatively high, several individuals working in the market are forecasting how the remainder of 2021 will impact the real estate market. According to several individuals in the industry: (a) the market remains competitive and the "expectations for the housing market remain generally positive", (b) they anticipate that the market will remain seller-friendly for some time given the expected low interest rates, (c) those wishing to refinance are encouraged to do so "sooner rather than later" due to interest rates, and (d) individuals renovating

current homes will likely remain high. **Overall, their positive predictions for the housing market are strong indicators that the economy is recovering from the pandemic.** --- [Angela L. Beblo](#)

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## **CSBS Unveils Financial Regulatory System Modernization Legislation**

*"The measure seeks to replace 50 sets of state-specific money transmitter laws and rules with one single set of nationwide standards and requirements via state and industry experts."*

**Why this is important:** The number of companies operating in the payment arena has doubled since 2015. Those companies handle things as varied as prepaid cards, virtual currency, and digital wallets. However, they often are regulated by state-specific money transmitter laws and regulations that lead to contradictory results across state lines. The Uniform Money Transmission Modernization Act may be the solution. **The Conference of State Bank Supervisors is encouraging states to adopt this law as a way to achieve uniformity across state laws, provide strong consumer protections, and position states to be ready to address new developments in the financial services industry.** --- [Nicholas P. Mooney II](#)

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## **Court Denies Payday Lenders' Challenge to CFPB Small-Dollar Rule, Sets Compliance Date**

*"The court set the rule's compliance date for 286 days after issuance of the court's order, which is June 13, 2022."*

**Why this is important:** A federal district court earlier this month denied payday lenders' challenge to the CFPB's 2017 small-dollar lending rule. The court set the rule's compliance date for 286 days after issuance of the court's order, which is June 13, 2022. In October 2017, the CFPB issued a final rule covering payday, vehicle title, and similar loans designed to curb abuses or "debt traps" such as repeat short-term borrowing, default, vehicle seizure, penalty fees, and closure of bank accounts. The rule requires lenders to determine whether a consumer has the ability to repay a loan before extending credit. The court's order does not disturb the complete exemption in the rule for banks and other depository institutions that made 2,500 or fewer small-dollar loans in each of the current and previous years and for which these loans account for no more than 10 percent of revenues.

While payday lender trade associations may appeal the court's ruling, it is likely that the compliance date for the payment provisions will remain June 13, 2022. **Accordingly, it is imperative for companies with products covered under the Rule to begin revising policies and procedures, updating compliance management systems, working with vendors to ensure the complicated timing obligations of the new notice are met, and conducting audits to ensure compliance.** --- [Bryce J. Hunter](#)

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## **Uber and Lyft Face Lawsuit for Alleged Violations of the Fair Credit Reporting Act**

*"The complaint claimed the CRA that provided background checks to Uber and Lyft violated the FCRA by inaccurately reporting that the plaintiff – who had driven for Uber and Lyft for years – was listed as deceased on the Social Security Administration Death Master File."*

**Why this is important:** With Halloween a little over a month away, this article explains that the dead can't drive for Uber and Lyft. The article reports on the recent lawsuit filed by an Uber and Lyft driver who was the subject of a background check. A background check sounds fairly benign, and he likely thought he easily would pass it until the credit reporting agency that provided information for the check reported that his Social Security number appeared on the Social Security Administration's Death Master File. In other words, the driver was dead. The problem is he wasn't. The article doesn't report on Uber's or Lyft's reaction other than to say they notified the plaintiff that he no longer could drive for them (probably a sound policy). The plaintiff looked into the situation and was told by the SSA that he wasn't listed as deceased (which must have come as a relief). He claims he provided the information of his living status to the credit reporting agency, but it didn't change its records. The plaintiff then filed suit under the Fair Credit Reporting Act, claiming that the credit reporting agency failed to assure the maximum possible accuracy of the information it provided and claiming that Uber and Lyft took an adverse action

against him without providing him a copy of the credit report pursuant to FCRA. **The lesson, regardless of the time of year, is to know who's alive and who's dead and to beware that FCRA claims can rise from circumstances that don't involve an extension of credit.** --- [Nicholas P. Mooney II](#)

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## **Change to Law Makes It Easier for Service Members to Get Out of a Lease**

*"A change to the Servicemembers Civil Relief Act means that military members now may use electronic communications to break their residential leases due to permanent change of station moves or deployments."*

**Why this is important:** The Servicemembers Civil Relief Act ("SCRA") has numerous protections for military personnel, and in some instances for their families as well, while on active duty. A number of those protections revolve around military members' finances to ensure that those on active duty can fully focus on their mission. A recent change to the SCRA "means that military members now may use electronic communications to break their residential leases due to permanent change of station ("PCS") moves or deployments." By permitting electronic notification, covered individuals may be able to provide notice more easily. That is important since the notice is the date used for calculating the termination period under the SCRA. "The ability to deliver this notice electronically means that the service member may be able to deliver notice shortly before the next rent is due, providing an extra month's flexibility in scheduling." **The ability to provide electronic notice allows more flexibility for military personnel, and landlords should be aware of the change to avoid inadvertently overcharging (or attempting to overcharge) rent that is not owed.** --- [Angela L. Beblo](#)

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## **Gensler Defends SEC Crypto Policy Before Senate Against Charges of Lack of 'Clarity'**

*"Sen. Pat Toomey, a Pennsylvania Republican, criticized Gensler's approach, arguing that the SEC has not provided clear guidelines as to when a digital asset will be considered a security and therefore subject to SEC oversight."*

**Why this is important:** SEC Chairman Gary Gensler has sent a message to the crypto industry: the "Wild West" days of unregulated cryptocurrencies are ending. On September 14, 2021, Gensler testified before the Senate Banking Committee about the future of crypto, among other things, and stated that he believes the majority of crypto assets falls under the SEC's purview. According to Gensler, "the laws we have right now have a very broad definition of a security." However, many cryptocurrencies do not meet the definition of a security under the test laid out in *SEC v. W. J. Howey Co.* and therefore are in a regulatory gray area. The SEC is seeking Congressional approval to expand its jurisdiction into these areas to help address this issue. **The biggest thing that Gensler's testimony signals is that while the current regulatory landscape for crypto remains uncertain, it is clear is that we can expect the SEC to increase its enforcement efforts in the crypto space.** --- [Kellen M. Shearin](#)

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## **Featured Spilman Attorney Profile**



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Pete is Member in Charge of the Roanoke office, a member of the Atlanta office, and Chair of the Bankruptcy & Creditors' Rights Practice Group. His primary areas of practice are creditors' rights and bankruptcy, general corporate law, and corporate finance. Pete's experience includes representing secured lenders and unsecured creditors in major bankruptcy cases and workouts; representing large airlines as debtor's counsel; serving as counsel to DIP lenders; providing general corporate advice to

clients; advising and documenting loans on behalf of lenders and borrowers; and providing advice on and documenting merger and acquisition transactions.

He is listed as AV® Preeminent™ Peer-Review Rated by Martindale-Hubbell. In addition, Pete was named the Best Lawyers® "Lawyer of the Year" for Corporate Law in Roanoke, Virginia for 2022. He was nominated by his peers for inclusion in The Best Lawyers in America in the areas of Bankruptcy and Creditor Debtor Rights/Insolvency and Reorganization Law and Corporate Law. And, has been listed as a member of the Virginia Legal Elite by Virginia Business Magazine. He is a member of the Virginia and Georgia Bar Associations, American Bankruptcy Institute, Roanoke Bar Association, and was Chair and a Board Member of the Bankruptcy Section of the Atlanta Bar Association.

Pete is a graduate of Washington and Lee University and received his J.D. from George Mason University. He is admitted to the Virginia and Georgia State Bars, United States District Courts for the Eastern and Western Districts of Virginia, United States District Court for the Northern District of Georgia, United States Bankruptcy Courts for the Eastern and Western Districts of Virginia, and United States Bankruptcy Court for the Northern District of Georgia.

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