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November 3, 2020

How Virginia's 2020 Fairness in Lending Act Reforms Small-Dollar Loans

"The law closes regulatory loopholes, caps interest rates, and provides lessons for other states."

Why this is important: Earlier this year, the Virginia General Assembly, on a bi-partisan basis, passed the Virginia Fairness in Lending Act that contains comprehensive new rules for payday, vehicle titles, installment, and open-end credit. The new law was designed to maintain widespread access to credit and ensure that every loan made in Virginia has affordable payments, reasonable time to repay and fair prices.

Virginia was one of 35 states that allowed payday loans and one of 22 states that permitted high-cost auto title loans secured by a borrower's vehicle, loans that cater primarily to consumers with damaged credit scores who need help paying regular bills or expenses. Proponents of the law claim that it levels the playing field so lower cost lenders that offer transparent installment loans can compete in the marketplace, such as non-bank installment lenders and financial technology companies. Lenders that offer loans in physical locations or maintain an online presence will be required to obtain a Virginia license, and any illegal high-cost loans will be null and void. The law goes into effect January 1, 2021. --- [Bryce J. Hunter](#)

Major Student Loan Servicing Change Will Impact 1 Million Borrowers

"Cornerstone, one of the Education's Department's key student loan servicers, abruptly terminated its contract with the government's Office of Federal Student Aid, effective immediately."

Why this is important: Numerous companies contract with the U.S. Department of Education to service the federal student loans owed by more than 42 million federal student loan borrowers. As part of its ongoing overhaul of the servicing of student loans, the U.S. Department of Education extended current servicing contracts through December 2021 (previously set to expire at the end of 2020) and awarded new contracts to several companies. Cornerstone, the servicing name of the Utah Higher

Education Assistance Authority, holds a servicing contract with the U.S. Department of Education. Despite the extension, due to the various changes and financial losses, Cornerstone chose to terminate its contract. Approximately one million student accounts currently serviced by Cornerstone will be transferred to other servicers. The U.S. Department of Education states that the servicing transition should be seamless, but borrowers should be aware of the transfer and pay close attention to future correspondence regarding their accounts. --- [Angela L. Beblo](#)

Beyond Bitcoin: A New Case for Novel Payment Systems

"In his latest book, economist Robert Townsend surveys how 'distributed ledger' technologies can help emerging economies and many industries."

Why this is important: This article is important for two reasons. First, it discusses the new book by MIT economist Robert Townsend on distributed ledger technology. Second, it discusses some of the principles and findings of Townsend's work. Broadly speaking, distributed ledgers are the record-keeping mechanisms for memorializing cryptocurrency transactions, among other things. The article highlights the example of the Townsend Thai Project, which collected financial data from hundreds of households in Thailand over a 20-year period. Globally, approximately 1.7 billion people lack access to reliable banking services, including more than 7 million people in the U.S. alone. The unbanked are forced to deal in cash without a safe and adequate way to save money and with credit carrying higher interest rates, increased fees, and more risk. In Thailand, distributed ledger companies have stepped into the void, allowing people to transfer value in a matter of seconds at the cost of pennies. Thailand isn't unique in this regard. There is also the wildly popular M-PESA money transfer system that has been in use in Kenya for more than a decade. This system allows Kenyans to transfer value by their mobile phones. Such a system provides a much-needed money transmitting service. 90 percent of Kenyans who lack bank accounts have a mobile phone through which they access M-PESA. These electronic money transfer systems can provide the same type of new opportunities for people worldwide. Of the 1.7 billion unbanked in the world, it is estimated that over two-thirds have mobile phones. --- [Nicholas P. Mooney II](#)

FHA Extends Relief for Reverse Mortgage Borrowers in Pandemic to End of 2020

"A new Mortgagee Letter signed by FHA Commissioner Dana Wade extends the date from October 30 to December 31, 2020, during which time a borrower may request an initial 6-month COVID-19 forbearance or make the initial request for an extension to a HECM due and payable period."

Why this is important: The U.S. Department of Housing and Urban Development and Federal Housing Administration recently took another step to assist borrowers during the COVID-19 pandemic. Specifically, HUD and FHA announced on October 20, 2020 that homeowners who experience financial hardship due to COVID-19 (with FHA-insured mortgages) are now permitted to request an initial forbearance, or a Home Equity Conversion Mortgage ("HECM") extension, through December 31, 2020. The deadline was previously October 30, 2020. Specifically, under Mortgagee Letter 2020-34, "[t]his ML extends the date by which Mortgagees must approve the initial COVID-19 Forbearance or HECM Extension provided in ML 2020-06." The FHA explains that "[d]ue to the continued COVID-19 pandemic and its impact on borrowers across the country, HUD recognizes the need to extend the deadline for approving a COVID-19 Forbearance or a HECM Extension beyond the October 30, 2020, date provided in ML 2020-06." This action is just one of many that HUD and FHA have taken recently to provide relief during the pandemic. --- [Wesley A. Shumway](#)

China Halts Ant Group's Giant IPO After Dust Up with Billionaire Jack Ma

"Ant Group's highly anticipated IPO has been suspended following a meeting between the company's billionaire co-founder Jack Ma and regulators in China, an abrupt move that threatens what was due to be the largest share sale in history."

Why this is important: Hot off the presses. We were set to tell the readers about the Ant Group's record-setting \$34.4 billion IPO and how the Group's dual listing on the Hong Kong Stock Exchange and Shanghai's Star Market follows China's encouragement that Chinese companies list at home and not on

the New York Stock Exchange. As we were finalizing this issue of *All Consuming*, news broke that the IPO is on hold. The article reports that the Shanghai Stock Exchange released a statement that the listing was being postponed "because of 'major issues' that might cause [the IPO] 'not to meet the listing conditions or disclosure requirements.'" The IPO also has been halted in Hong Kong because of what the Ant Group is calling "'recent changes' in regulations" as well as a meeting between Jack Ma and Chinese officials. That meeting may have resulted from criticisms Ma made last week about Chinese regulators "stifling innovation." --- [Nicholas P. Mooney II](#)

New Report Uncovers 5 Million Student Loan Servicing Errors, Jeopardizing Loan Forgiveness and Costing Borrowers Thousands

"The report uncovered problems by Affiliated Computer Services, a company that used to be the primary loan servicer for the U.S. Department of Education's federal student loan portfolio."

Why this is important: The Public Service Loan Forgiveness ("PSLF") program was created in 2007 to provide forgiveness of federal student loan debt to public service workers after such workers had been employed in the public sector for 10 years. Every so often, articles about the Public Service Loan Forgiveness program circulate and provide insight into the frustration that student loan borrowers have claimed for years. Recently, the American Federation of Teachers and the Student Borrower Protection Center issued a [scathing report](#) about the servicing errors committed by a former servicer for the U.S. Department of Education, claiming that the servicers' failures are directly responsible for causing harm to borrowers due to the servicer's failure to enroll, qualify and manage the accounts of students that may have been eligible for the PSLF program. As a result of the claimed errors by the former servicer, borrowers to this day have trouble proving that payments made on their student loans are eligible payments under the PSLF program. The U.S. Department of Education has attempted to improve the process, and there are currently Congressional proposals to establish a dispute resolution process for borrowers, which is currently lacking. --- [Angela L. Beblo](#)

Survey: Most Americans Support Payday Lenders, Higher Fees Than Congress Demands

"New public opinion polling indicates that a significant majority of Americans broadly support non-bank lending sources for those who don't have access to traditional banking or good credit."

Why this is important: Although nearly 27 percent of American adults have obtained a loan or cash advance in the past year, at least 40 percent of Americans have credit scores below 700, and it is nearly impossible for these individuals to obtain loans from traditional financial institutions. The households finding it most difficult to access credit during the global pandemic tend to be younger, have lower income, be less educated, Black or Hispanic, and working-age disabled, according to the Federal Deposit Insurance Corporation. Although non-banking lending sources like payday loans are often riskier, nearly 70 percent of those polled believe that unbanked or credit-challenged individuals need access to these lending sources, and nearly two-thirds of Americans support allowing lenders to charge more than the annual interest rate cap. This new poll is surprising, given the general opposition to nonbank lending, especially among legislators who seek to place limits on the interest these nonbank lenders can charge. This new poll may suggest that efforts to cap the interest on nonbank lenders are not supported by the American majority. But, if the voice of the majority is heard and less effort is made to regulate the interest nonbank lenders can charge, it may also allow such lenders to take advantage of an already financially vulnerable population. --- [Tai Shadrack Kluemper](#)

The Post COVID War has Started: The Leading Group of Digital Banks Against Big Tech and Fintech

"Yet despite this mammoth behavioral shift, most banks' proportion of digital sales hasn't increased so much."

Why this is important: What is the next war for gaining bank customers? It looks to be banks that embrace digital technology vs. Big Tech and fintech companies. To set the stage, digital banking is the new benchmark for bank performance. For every one time that a customer visits a bank branch, customers access banking apps 50 to 80 times. Banks face growing competition from recent expansion of

the reach of Big Tech and fintechs. For example, Amazon has focused on increasing each customer's participation in the Amazon experience by investing in payments and lending. Fintechs, who already were quicker to adapt to the new constraints of operating in a COVID-19 world, stand to gain as more customers switch to online banking. On the other hand, several banks are keeping pace with Big Tech and fintechs. There are several banks that are embracing the digital experience and are enjoying the rewards. However, the article cautions that "not many banks are doing a good job at all" in the area of delivering the full bank experience to their customers' mobile phones. --- [Nicholas P. Mooney II](#)

Featured Attorney Spilman Profile



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Bryce is a member in our Roanoke office. His practice focuses on banking and financial services law, including securities law, finance transactions, creditors' rights, debt restructuring, and consumer law compliance. His experience includes representing and counseling financial institutions on banking regulatory compliance and securities matters, including Sarbanes-Oxley, Dodd-Frank, and the CARES Act; assisting with formations and mergers/acquisitions of national and state-chartered banks; and extensive experience representing financial institutions, public and private companies, and individuals in a wide variety of corporate matters, including corporate governance, transactions, mergers and acquisitions, creditors' rights and debt collection, tax matters, and regulatory requirements. Bryce was formerly Senior Vice President, Secretary and Counsel of National Bankshares, Inc. where he performed a variety of general counsel activities.

He has been nominated by his peers for inclusion in *The Best Lawyers in America* in the area of Banking Law and was listed in Virginia Super Lawyers as a "Rising Star."

Bryce received his B.A. from Dickinson College and his J.D. from The College of William and Mary Marshall Wythe School of Law.



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