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China's Cryptocurrency Ban: What It Means for Bitcoin, Coinbase and the US

"On Sept. 24, China's Central Bank declared all crypto-related transitions illegal, citing concerns about gambling fraud and money laundering."

Why this is important: On September 24, China continued its long string of crackdowns on cryptocurrency by declaring that all crypto-related transactions are illegal. China is a large player in crypto mining with approximately one-half of all mining traditionally occurring there. The U.S. government hasn't officially responded to China's move, but members of Congress have expressed their support for cryptocurrency and characterized China's crackdown as an opportunity for the U.S. **The article doesn't discuss this, but one wonders if China's crackdown is in any way related to its development and testing of a digital yuan and the desire to export its own digital currency beyond its borders. ---** Nicholas P. Mooney II

Senate Confirms Rohit Chopra to Lead the Consumer Financial Protection Bureau

"The Senate narrowly approved President Joe Biden's pick to run the Consumer Financial Protection Bureau, giving the bureau a director who is likely to embrace an aggressive 'watchdog' role, similar to how the agency operated under former President Barack Obama."

Why this is important: On September 30, the U.S. Senate confirmed Rohit Chopra as the new director of the CFPB. Chopra previously had served as the CFPB assistant director between 2010 and June 2015, and had concurrent duties as the student loan ombudsman between October 2011 and June 2015. During that time, the CFPB actively pursued suits against for-profit colleges for alleged violations of the Consumer Financial Protection Act and Fair Debt Collections Practices Act based on their student lending practices that resulted in some of those schools seeking relief in the bankruptcy courts. Also during Chopra's prior service, the CFPB initiated enforcement actions against debt relief servicers and their payment processors for alleged violations of the Telemarketing Sales Rule that prohibits charging advanced fees. In recent months, other federal regulators have filed lawsuits and administrative actions, which are substantially similar to CFPB enforcement actions initiated while Chopra acted as CFPB assistant director, that impact debt collection industries, Fintech, payday and auto lenders, as well as other lender groups. **Given these recent federal enforcement actions, lending industries can anticipate an active CFPB with a sole director who will not need to reach a consensus with commissioners on initiating investigations and enforcement actions and who has the support of an administration that shares his views about consumer protection.** --- Bryce J. Hunter

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Department of Education Revises Student Lending Policy; State Regulators Announce Support

"The regulators had urged the Department of Education to rescind preemption policies."

Why this is important: In August 2021, the U.S. Department of Education issued a new legal interpretation that state licensure and affirmative obligation laws relating to federal student loan servicing companies and debt collection are not preempted by federal law. "The legal interpretation replaces a policy made in 2018 by the Trump Administration that attempted to prevent state financial regulators from supervising federal student loan servicers and providing consumer protections under state law." As a result of the interpretation, both the Conference of State Bank Supervisors ("CSBS") and North American Collection Agency Regulatory Association ("NACARA") publicly declared their support of the DOE's legal interpretation. **While there are numerous state and federal court decisions on preemption of various state laws under the Higher Education Act, servicers and collectors should review their current licensing, policies, and procedures in light of the DOE's recent interpretation to determine the potential impact moving forward, as the DOE clearly has indicated a preference for concurrent state and federal oversight.** --- Angela L. Beblo

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Coadjute Creates First UK Cryptocurrency for Mortgage Transactions

"Coadjute has developed a stablecoin cryptocurrency to enable the movement of money between parties during a property transaction."

Why this is important: A step in the evolution of distributed ledgers and virtual currencies is the development of real-world use cases. UK firm Coadjute's creation takes that step. Coadjute is developing a system that it intends to roll out next year in which the buyer and seller of real property participate in the transaction on a distributed ledger and using a stablecoin that Coadjute creates specifically for property transactions. Stablecoins are pegged to certain government currencies, in this case the Pound sterling. Coadjute's system requires the buyer and seller to lock in funds in their traditional bank accounts when heading into a property transaction. Coadjute then issues a certain amount of stablecoins representing the parties' funds, and those coins are recorded on a ledger for the transaction. As all of the steps are completed leading up to the final closing, those steps are recorded on the ledger, which is updated in real time and available for the parties to view. When the steps are completed, the stablecoins are transferred from buyer to seller, and the stablecoins are converted back into traditional money. Coadjute expects its system to reduce the likelihood of fraud as the buyer, seller, and their funds can be verified at the outset of the process. It also plans for its system to simplify and speed up transactions as all participants can continually monitor the status of transactions and the progress of the parties' steps. **Coadjute isn't the first to create a use case for distributed ledgers and virtual currencies, but its program is an example of how these technologies are working their way into our lives and business.** --- Nicholas P. Mooney II

Consumer Loan Complaints Reveal Racial and Economic Disparities

"Newly analyzed CFPB data show lower-income consumers reported more problems."

Why this is important: The CFPB's report, which provides insight into how nearly one million complaint patterns varied based on race and wealth, from 2018 to 2020, is the first of its kind. The report indicates that lower income, predominantly Black and Hispanic communities had a higher rate of complaints about credit reporting and delinquent loan servicing; while wealthier, predominantly white communities tended to file complaints about loan origination and servicing of performing loans. **Loan originators and servicers may find the CFPB's report helpful in assessing whether such disparities exist with their own customers, and, if so, in developing and implementing new policies and**

procedures to reduce or eliminate these racial and economic disparities. --- Tai Shadrick Kluemper

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School Systems Find Digital Payments' Visibility, Cost Effectiveness Make the Grade

"Digital payments for students are also proven to reduce errors and simplify transactions for both online and in-person events."

Why this is important: Readers of *All Consuming* and its sister e-newsletter *Decoded* will remember that we previously reported on how the COVID-19 pandemic caused businesses and consumers to seek out and become adept at using digital contactless payment options in daily commerce. This article explains how that same practice has taken hold in education institutions. When schools transformed into online, virtual learning centers, they struggled to monitor and collect tuition and fees. Those that developed digital payment options found it easier to manage this issue. Despite the fact that students are returning to in-person learning, the popularity of digital payment options is continuing and, in fact, increasing. Digital payment options benefit schools, and they also benefit student and parents. They remove the need for students to physically exchange cash or checks with schools and allow parents to monitor schools' bills. Some platforms, like SchoolCash Online, also allow parents to monitor upcoming school-related events and activities. At bottom, the pandemic taught people to seek safety, but people also seek convenience. **Regardless of the pandemic's lifespan, it's a safe bet that payment options like these will continue to be preferred for education and other expenses. ---** Nicholas P. Mooney II

FHFA Extends Multifamily Forbearance Indefinitely

"Forbearance for Fannie Mae and Freddie Mac mortgages was set to expire September 30."

Why this is important: Multifamily property owners who are struggling to make mortgage payments due to the COVID-19 pandemic now will have access to forbearance programs indefinitely in the case of loans backed by Fannie Mae and Freddie Mac, until otherwise instructed by the Federal Housing Finance Agency ("FHFA"). Landlords must still comply with various tenant protections including (1) informing tenants in writing about tenant protections available during the landlord's forbearance and repayment periods; (2) agreeing not to evict tenants solely for the nonpayment of rent while the property is in forbearance; (3) allowing the tenant flexibility to repay back rent over time and not in a lump sum; (4) not charging the tenant late fees or penalties for non-payment of rent; and (5) providing the tenant at least a 30-day notice to vacate. **While the latest extension is indefinite, the FHFA may extend or sunset its policies based on updated data and the impacts of COVID-19.** --- Bryce J. Hunter

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Women Carry Two-Thirds of Student Loan Debt. How Does the Pay Gap, Plus This Debt, Affect Women Workers?

"The same report also showed women college graduates earn 74 percent of what men graduates earn."

Why this is important: Since 1987, the cost of higher education has increased more than 100 percent, while income has increased only 14 percent. This means most individuals desiring to obtain a post-high school degree likely will need to accrue some form of student loan debt. Indeed, currently there are more than 44 million student loan borrowers who owe $1.7 trillion in federal student loan debt. Unfortunately, this debt burden is not shared equally among genders or races. According to a recent study by the American Association of University Women ("AAUW"), women owe two-thirds of the federal student loan debt and only earn 74 percent of the salaries of male graduates. In addition, "[m]ore than 70 percent of Black students go into debt, compared to 56 percent of white students. Furthermore, one-third of Black graduates borrow $40,000 or more, compared to 18 percent of all graduates." The current administration has announced several targeted loan forgiveness programs, but these programs account for a very small amount of the overall federal student loan debt owed. "AAUW believes that individuals should urge the federal government to simplify repayment approaches, cancel student debt, eliminate and address the gender pay gap, expand Pell Grants, hold institutions accountable in addressing the financial needs of students, increase funding for public colleges and universities, among other suggestions." **Given the continued focus on federal student loan debt, borrowers and servicers**

should continue to monitor the administration's announcements and submit comments to the appropriate Congressional committees on proposed legislation. --- Angela L. Beblo

How Request-to-Pay Functions are Taking the Real-Time Payments Space by Storm

"PYMNTS research demonstrates that 70% of U.S. consumers who have used real-time payments services likely would use them again if they were available for free."

Why this is important: A recent survey revealed the extent to which consumers are taking to real-time payment services. Approximately 70 percent of consumers who have used those services would use them again, and 25 percent of those consumers would use the services even if they had to pay for them. This article discusses an increasingly popular aspect of those services -- the request to pay feature. This feature allows someone who is owed a payment to send a message to a potential payor to ask them to settle the bill and lets the payor agree to pay the requested amount, deny the request, or suggest another amount. **This feature is touted as removing any doubt by the payor that she or he is paying the right person and giving the payee better control over her or his receivables.** --- Nicholas P. Mooney II

Featured Spilman Attorney Profile

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Hugh Wellons is a Member in our Roanoke office and Chair of the Community Banking Group. His primary areas of practice are corporate law, banking and finance law, securities, and biotechnology law. Hugh's experience includes counseling a large variety of businesses, including large public companies, small closely held businesses and financial institutions; advising clients on matters such as corporate governance, mergers and acquisitions, securities and regulatory compliance, and biotechnology; handling mergers and acquisitions, securities filings, regulatory compliance and corporate governance issues for community banks in Virginia, North Carolina and West Virginia; serving as lead counsel on approximately 10 initial public offerings, 5 secondary public offerings, 20 acquisitions by larger companies and 10 private offerings; serving as lead counsel on approximately 15 financial institution mergers; serving as lead counsel on regulated industry transactions, including transactions in energy and financial sectors; and preparing Hart-Scott-Rodino filings and other anti-trust filings for the Department of Justice.

Hugh has been named to the "Leaders in the Law" list by Virginia Lawyers Weekly. He also has been recognized by The Best Lawyers in America® as "Lawyer of the Year" 2012 and 2016 in Roanoke, Virginia in Banking and Finance Law. And, he was recognized by The Best Lawyers in America® as "Lawyer of the Year" 2014 and 2017 in Roanoke, Virginia in Financial Services Regulation Law. Hugh also has been nominated by his peers for inclusion in The Best Lawyers in America® in the areas of Banking and Finance Law, Biotechnology Law, Financial Services Regulation Law and Securities/Capital Markets Law.

He is a member of the Virginia Bar Association. He is past chair of the American Bar Association Section of Science and Technology; immediate past chair of American Bar Association Section of Science and Technology, Life Science Division; and past chair of the American Bar Association Committee on Biotechnology.

Hugh is a frequent lecturer on corporate matters, including corporate governance, securities law, strategic transactions, business formation, exit strategies, venture capital and other funding concerns, and biotechnology.

He received his B.A. and M.B.A. from Duke University and his J.D. from Washington & Lee University. He is admitted to the Virginia State Bar.

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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