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Volume 3, Issue 2

Welcome!

Welcome to the second issue of *All Consuming* for 2022.

Have you taken our survey? There is still time. Is this information valuable? Do you like a monthly publishing schedule? Are there any topics you would like discussed or changes you would like to see? Your input is important, and we value your opinion tremendously. You can access the survey **here** or at the bottom of this e-newsletter.

Thanks for reading.

Angela L. Beblo, Co-editor of *All Consuming*

Nicholas P. Mooney II, Co-editor of *All Consuming*

Bruce M. Jacobs, Chair, Spilman Consumer Finance Litigation Practice Group

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Buying Virtual Real Estate in the Metaverse Now has Its Own Mortgage

"A Vancouver firm has provided one of the first lending solutions for the whole new world we need to learn about."

Why this is important: A Vancouver firm now is offering mortgage loans for people purchasing virtual property in the metaverse. If you've been watching the recent popularity of non-fungible tokens and virtual property, the thought of a mortgage loan on virtual property isn't that much of a stretch. Virtual property is exactly what it sounds like -- virtual real estate that exists in one of a number of virtual worlds. While they exist completely virtually, they have many of the same characteristics of earthly real estate. They can be developed with virtual structures. Location, just like in the physical world, drives up prices of some virtual parcels. There also already have been disputes over the uses of neighboring parcels. And, the prices commanded for some parcels are well into the six figures. It isn't surprising that a company has stepped forward to offer financing for the purchase of virtual property. Like their real world counterparts, these virtual mortgages are secured by the title ownership in the property. **Expect to see more examples popping up of virtual property taking on characteristics of traditional real property transactions and ownership.** --- Nicholas P. Mooney II

CFPB Issues Request for Information on Convenience Fees

"The CFPB has found several areas where back-end fees might obscure the true cost of a product and undermine the competitive market."

Why this is important: Have you ever had the experience of choosing a new service provider or buying a new product, and when the bill arrives, finding one or more "surprise" fees included in the cost? The CFPB wants to hear about these experiences -- from individuals, organizations, attorneys, academics, small businesses, financial institutions, and government officials. Comments must be submitted by March 1, 2022. In a recent interview, Director Rohit Chopra talked about "junk fees," such as the "resort fee" on a hotel bill, or a "convenience fee" charged with concert tickets, i.e., fees charged after the consumer's choice is made, thereby shielding the true price of the product or service. But to be clear, the CFPB's information request focuses on consumer financial products -- credit cards, deposit accounts, remittances, prepaid accounts, mortgages, and other kinds of loans. And, the request includes a number of questions to aid the commenter in providing "stories, data, and information about fees." **If you work in a financial services institution, now is a good time to examine the types of fees your organization might be charging -- whether they are fully disclosed, and whether the fee is representative of the marginal cost of the service for which it is charged.** --- Debra Lee Allen

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What 2022 Holds for the Forbearance and Foreclosure Landscape

"The duo shared their experiences of the market from 2021, discussing the forbearance and foreclosure landscape, and how the market will be impacted by these forces in 2022."

Why this is important: According to various reports from real estate experts, default notices, scheduled auctions, or bank repossessions spiked 34 percent in the third quarter of 2021 following nearly a year and a half of foreclosure moratoriums -- and this trend may continue in 2022. However, reports show that there is some silver lining. Approximately 3.8 to 4.2 million U.S. homeowners were in forbearance in 2021, with that number dropping significantly to around one million so far in 2022. Another 250,000 forbearances are predicted to expire in 2022. With forbearance exits on the rise to start the year, foreclosure activity has declined 60 percent from 2019. **Despite mortgage delinquency rates roughly triple their pre-pandemic levels, a tight housing market continuing in 2022 and successful exits from forbearance thus far, the "forbearance equals foreclosure" narrative trumpeted throughout the pandemic appears incorrect.** --- Bryce J. Hunter

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New Tool Lets Consumers Create Their Own Experian Credit Report

"Nearly 50 million Americans have little to no credit history."

Why this is important: Businesses that lend money to individuals always face the risk of potential non-payment by the individual. Without a crystal ball to figure out who will repay a loan or account, a number of businesses rely on credit scores as a way to determine if an individual's past payment history is sufficient enough for the business offer -- or to continue to offer -- credit now. Credit scores have a large impact on the interest rates that individuals are qualified to receive for a myriad of financial products – from mortgages to car loans to student loans to credit cards and beyond. The use of credit scores, however, is imperfect and can be problematic for those who have no or little credit history. Experian recently "launched a new tool that allows consumers with no credit history to create a credit report using transactions that aren't typically scored in credit reporting." This tool is aimed at helping roughly 50 million Americans: approximately 28 million people with no credit and approximately 21 million people with limited credit history. The new tool allows those individuals to use non-traditional accounts, such as bill payments and subscription services, to build a credit score. The new product does require the individual to create an Experian membership. **Only time will tell (1) if the data used for this new process is as accurate, or more accurate, than the current FICO modeling and (2) if the**

product results in more individuals having access to credit or, at the very least, access to lower interest rates or higher lines of credit. --- Angela L. Beblo

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Credit Bureaus Failing to Respond to Consumer Complaints, Federal Agency Says

"May be in violation of the Fair Credit Reporting Act."

Why this is important: In January, the CFPB released its annual report of credit and consumer reporting complaints. The CFPB decided to publish the independent report regarding complaints received about the nationwide consumer reporting agencies ("NCRAs") because of the significant increased volume of such complaints. In 2020, more than 50 percent of complaints received by the CFPB were about the NCRAs. In 2021, the percentage increased to 60 percent. And, this is just a fraction of the millions of complaints received by the NCRAs annually. The CFPB concludes the NCRAs are failing to meet their statutory obligations, but the report describes a number of factors contributing to the rise in complaints. For example, a significant number of complaints relate to medical debt furnished to the NCRAs. Consumers are often unable to determine if the debt is accurate or even if it is theirs due to delays in billing, insurance issues, and coded pricing. NCRAs report that a significant portion of complaints come from credit repair companies, who offer a dispute processing service to the consumer. While the NCRAs are to respond to third-party complaints, they claim these form complaints are many times non-meritorious disputes that deplete resources otherwise available to resolve meritorious complaints. Consumers often file multiple complaints about the same credit, with each NCRA, and also with furnishers. The volume of complaints has, over time, created an entirely automated system, from the information provided by furnishers, to the issuance of credit reports, to the complaint process, to the response. Even the CFPB complaint process is automated with a discrete list of categories for describing the consumer's issue. It is no wonder consumers do not feel they are receiving meaningful responses to their complaints. **The havoc that an inaccurate credit report can wreak on a consumer's ability to obtain credit, employment, insurance, and housing is real and cannot be underestimated. But, the solution is not to simply focus on enforcing NCRA statutory obligations. ---** Debra Lee Allen

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Reverse Mortgage Industry Analysts: 2022 Lending Limit Welcome, with Risks

"Late last year, the new Home Equity Conversion Mortgage maximum claim amount was announced to be $970,800 as of January 1, 2022."

Why this is important: Home Equity Conversion Mortgages ("HECM") are often called reverse mortgages. The Federal Housing Administration runs an HECM program that allows lenders to make government-insured mortgage loans to qualifying individuals. Separate from the HECM program, some lenders make reverse mortgage loans that are not government-insured. On January 1, 2022, the Maximum Claim Amount for a government-insured HECM increased to nearly $1 million. This will make it possible for more potential borrowers to consider an HECM. However, the article reports on some concerns by those in the industry that this increase in what is essentially the lending limit for a government-insured HECM may have negative effects. For example, they worry that the non-government-insured reverse loan mortgage market will be disrupted as a higher lending limit will attract people to HECMs. This may hurt innovation for new reverse mortgage products and also may put more of the risk of loss on the federal government instead of splitting it between the government and private sector. Those and other potential concerns may be warranted. **However, the increase in the lending limit along with other factors, such as the potential increase in interest rates for traditional mortgages, all may combine to make this a great time for HECM lenders.** --- Nicholas P. Mooney II

More Than Half of Starbucks Sales Now Driven By Rewards Customers

"The study, which featured the results of a census-balanced survey of more than 2,400 U.S. adults about their restaurant habits, found that more than half of consumers in their early forties and below use loyalty programs, and that share jumps to about six in 10 for Gen Zers."

Why this is important: As an avid Starbucks fan, I find myself anticipating each Monday's email from Starbucks to see the "Star" challenge. The weekly challenges absolutely impact my personal decisions about how many times that week I will be hitting the drive thru and what I will be ordering. I am apparently not alone. According to a recent article, Starbucks' reward program drives 53 percent of store spending and there has been significant growth in the past year of individuals participating in the rewards program. "Additionally, increases to the chain's rewards programs are helping the brand to boost customer frequency while incentivizing digital ordering, a more labor-efficient model." Data shows rewards members visit Starbucks three times more often than non-reward members. **Research shows that reward/loyalty programs drive consumer spending and it explains the dramatic increase in these types of programs over the past decade. Only time will tell if such programs are effective long-term.** --- Angela L. Beblo

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