

SHARE:



[Join Our Email List](#)

[View as Webpage](#)



Volume 3, Issue 3

Welcome!

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

As we all know, Russia and Ukraine are dominating headlines so we take a look at the Russia and SWIFT situation. But, we also take a serious deep dive into student loans. In addition, we look at home valuations, the payments system, fintech growth, and money mobility instruments.

Please feel free to contact us about our opinions and thoughts. We welcome your insight.

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](#)

Student Loans: Stressors and Pitfalls as Repayments Begin and CFPB Actions Against Alleged Fraudulent Conduct

By [Angela L. Beblo](#)

On March 13, 2020, near the beginning of the pandemic in the U.S., the CARES Act included a pause for all federal student loans. Nearly 90 percent of student borrowers accepted “the option of pressing the pause button on their” student loans. Thus, the U.S. Department of Education ceased loan payments, applied a 0 percent interest rate, and stopped collection on defaulted loans (including garnishments). That pause has been extended repeatedly and borrowers for certain student loans have not been required to make payments for nearly two years. Despite the pandemic pause, the CFPB has actively been engaged in investigation and enforcement activity relating to student loans.

Click [here](#) to read the entire article.

Russian Central Bank Chief Says Alternative to SWIFT Already in Place

"Russia's central bank chief said that Russia will fulfil their obligations on the SPFS system."

Why this is important: Last week, the U.S., EU, and others removed many Russian banks from the Society for Worldwide Interbank Financial Telecommunications ("SWIFT") network. That move prevents the banks from participating in the most widely used system for international money transfers. The move was intended to put pressure on Russia in response to its invasion of Ukraine. Russia's central bank governor attempted to downplay the SWIFT ban by claiming that Russia already has in place its own payment network. The governor claims Russia's System for Transfer of Financial Messages ("SPFS") will replace SWIFT. **The implication is that the SWIFT ban is a non-event. However, with only 23 foreign banks using Russia's SPFS, while more than 11,000 use SWIFT, the ban likely is more of a problem than Russia wants to let on.** --- [Nicholas P. Mooney II](#)

Consumer Financial Protection Bureau Outlines Options to Prevent Algorithmic Bias in Home Valuations

"The options will now be reviewed to determine their potential impact on small businesses."

Why this is important: This article discusses one of the issues that can arise in the home buying and financing process: bias in home valuations. Appraisals typically are conducted in connection with home buying and financing. The value that is placed on a home can impact whether a borrower gets a loan or the amount of the loan. A problem arises if an appraiser injects her or his biases about certain homes or neighborhoods. This problem has led to discriminatory statements in home appraisals and appraisal disparities for communities and borrowers of color. There's been a push to address this problem by using computer models and algorithms to improve the accuracy of home valuations and remove biases. However, this solution has been far from perfect as some computer models and algorithms have led to similar disparities. This is the latest step by the CFPB to ensure that algorithmic valuations are accurate and fair. **Ensuring that algorithmic valuations reach accurate and fair results is imperative as they already are being used with more frequency, and we expect their use to expand even further in the future.** --- [Nicholas P. Mooney II](#)

Fed's Plan to Expand Access to Payments System Raises Questions

"The latest update responds to the need to adapt to new financial technology companies that offer new payment methods, including cryptocurrencies."

Why this is important: The Federal Reserve's updated proposal adds a new chapter to the original guidelines published in May 2021 and creates a tiered system based on the risks that an institution may pose to the financial system. Financial institutions meeting certain requirements can use payment services including ACH, cash, check and wires through accounts at the Federal Reserve. Fintechs are limited in their ability to use those systems. The proposed guidelines seek to provide more information and clarity about how requests to access the Federal Reserve accounts will be assessed and respond to the need to adapt to new financial technology companies that offer new payment methods, including cryptocurrencies. **Approval would give fintechs access to one of the most efficient ways to send money in the U.S. For the Federal Reserve, it also could offer an easier way to move funds from government coffers to U.S. consumers, cutting out traditional banks in the process.** --- [Bryce J. Hunter](#)

Congress can Deliver a Big Win to Consumers and Small Businesses by Giving Fintech Firms Room to Grow

"Fed access is the most seamless and frictionless way for a provider to offer payments services."

Why this is important: This article argues in favor of allowing non-depository financial technology companies to obtain accounts with the Federal Reserve. Currently, fintech companies aren't able to obtain these accounts, which means they aren't able to obtain the Fed's settlement services and direct payment clearing services. This, in turn, means they must partner with an entity that does have an account and access to those services, which can add costs to the services the fintech company provides. The article highlights the laser focus these companies have on improving payment services by "offering consumers faster, more accessible, more transparent and lower-cost payment services." Those services benefit consumers, and making it easier for fintech companies to provide those services, which benefits consumers more. A similar move in the U.K. led to one payment technology company lowering its prices to consumers by 20 percent. **At bottom, this "leveling of the playing field" could be a huge step in allowing fintech companies to prosper, which could lead to more choices for better and less expensive services for consumers.** --- [Nicholas P. Mooney II](#)

Why FinTechs are Turning Paper Checks into 'Money Mobility Instruments'

"At a high level, money mobility is the concept and execution whereby money — from any source and across any payment method — can move in and out of accounts, including 'me to me' transactions between linked accounts."

Why this is important: This article highlights the surprising point that, as more banking goes digital, the importance of paper checks will increase. "Checks are a fraud magnet," and providing check deposit services and check cashing services come with different risks. While check depositing may keep the risk with the depositor, check cashing creates a risk for the institution. Institutions reduce the risk by relying on long-time data about customers and robust fraud and risk departments. Fintech may lack both of these assets. While they're adept at using machine learning and artificial intelligence to examine risk in digital transactions, "they come up short when it comes to examining paper-based activity that is in turn brought into the digital realm." **The articles argues that fintechs don't have "the market data, visibility or experience necessary to manage" the risks associated with checks, and that creates just the type of opening fraudsters like.** --- [Nicholas P. Mooney II](#)



This is an attorney advertisement. Your receipt and/or use of this material does not constitute or create an attorney-client relationship between you and Spilman Thomas & Battle, PLLC or any attorney associated with the firm. This e-mail publication is distributed with the understanding that the author, publisher and distributor are not rendering legal or other professional advice on specific facts or matters and, accordingly, assume no liability whatsoever in connection with its use. The views and opinions expressed in this e-newsletter are those of the authors and do not necessarily reflect the views or positions of Spilman Thomas & Battle, PLLC.

Responsible Attorney: Michael J. Basile, 800-967-8251