



Government Relations Working Group Government Update

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I. ASSOCIATION UPDATE

IPA Accepting Nominations for its First Community Service Awards

You Asked. We Listened. Submit your nominations for the inaugural IPA Community Service Awards. Nominations are due by 5pm Eastern on October 30, 2020.

Volunteer of the Year honors the payments professional who demonstrates a deep commitment to voluntarism.

Best Local Community Service recognizes work that payments companies do to directly support their communities.

Best Nonprofit Digital Campaign recognizes the ways in which payments companies use their technological expertise to raise money, bring awareness, or gather other resources to support the mission of organizations that have a positive impact on people's lives.

Financial Empowerment Award recognizes payments companies' efforts to help their customers and communities improve their financial situations through efforts such as financial literacy programs, savings programs, or innovative lending programs.

Learn more and submit your nominations [here!](#)

IPA Webinar: Potential Threats to FinTech in 2021

Next year (2021) is shaping up to be a year where policymakers make earnest attempts to learn more about the rapidly evolving payment sector. While 2020 is not over yet, it will likely be remembered as a year for the history books. With the emergence of COVID-19, policymakers focused on responding to the public health crisis and resulting economic impact by stabilizing the economy with direct federal financial support via a variety of avenues – including electronic payments. The emergence of electronic payments during the national crisis has fundamentally shifted the policy landscape for the entire banking ecosystem.

Join us on October 14th, as part of the IPA's Fall Semester series of webinars, we'll explore Potential Threats to Fintech in 2021. We'll also breakdown different product segments like digital wallets, cryptocurrency, POS lending, wage advance, and others and highlight the potential impact the various electoral outcomes could have on the payments community. We hope you'll join us!

Register [here!](#)

II. AGENCY AND REGULATORY NEWS

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC)

FDIC Releases Report on Household Banking

On October 19, the FDIC released its biennial survey and report, [How America Banks: Household Use of Banking and Financial Services](#). The findings presented in this report come from the *FDIC Survey of Household Use of Banking and Financial Services*, a survey the FDIC has conducted biennially since 2009 in partnership with the U.S. Census Bureau. The most recent survey was conducted in June 2019, collecting responses from almost 33,000 households on bank account ownership, the primary methods banked households use to access their bank accounts, bank branch visits, use of prepaid cards and nonbank financial transaction services, and use of bank and nonbank credit.

Notably, the report found that nearly 28 percent of unbanked households used prepaid cards in 2019, which may provide them with a connection to the banking system. About one in three (31.1 percent) Black unbanked households used a prepaid card in 2019, as did one in six (16.7 percent) Hispanic unbanked households.

Other key findings include:

- Nearly 95 percent (124 million) of U.S. households had at least one bank or credit union account in 2019, while 5.4 percent (7.1 million) of households did not.
- Mobile banking continued to increase sharply in 2019, more than doubling as the primary means of access since 2017 and leading all other methods of account access, including tellers, ATMs, and online banking.
- Nearly half of unbanked households reported they did not have a bank account because they did not have enough money to meet minimum balance requirements, and approximately one-third of unbanked households stated they did not have an account because they did not trust banks.
- The number and percent of all unbanked households declined from 2017 to 2019. Approximately 14 percent of African-American households and 12 percent of Hispanic households did not have bank accounts in 2019. This is the lowest percentage of unbanked household for these groups since the FDIC began conducting the survey. However, among white households, less than 3 percent were unbanked.

Further, the FDIC's [economicinclusion.gov](#) has detailed survey findings, the ability to generate custom tables and charts (including localized data) using 2019 and earlier years of survey data, and to download data and documentation.

The full report and additional information can be found [here](#).

Financial Crimes Enforcement Network (FinCEN)

FinCEN Issues Advisory on Unemployment Insurance Fraud During the COVID-19 Pandemic

On October 13, the Financial Crimes Enforcement Network (FinCEN) issued an advisory to alert financial institutions to unemployment insurance (UI) fraud observed during the COVID-19 pandemic. It contains descriptions of COVID-19 related UI fraud, associated financial red flag indicators, and information on reporting suspicious activity.

The full advisory can be accessed [here](#).

First Bitcoin "Mixer" Penalized by FinCEN for Violating Anti-Money Laundering Laws

On October 19, the Financial Crimes Enforcement Network (FinCEN) announced that it has assessed a \$60 million [civil money penalty](#) against Larry Dean Harmon, the founder, administrator, and primary operator of Helix and Coin Ninja, convertible virtual currency “mixers,” or “tumblers,” for violations of the Bank Secrecy Act and its implementing regulations.

Mr. Harmon operated Helix as an unregistered money services business from 2014 to 2017 and Coin Ninja from 2017 to 2020. Mr. Harmon is currently being prosecuted in the U.S. District Court for the District of Columbia on charges of conspiracy to launder monetary instruments and the operation of an unlicensed money transmitting business in connection with his operation of Helix.

Read the news release [here](#) and the assessment [here](#).

III. CONGRESSIONAL NEWS

None.

IV. MISC.

PayPal Files Appendices in Prepaid Rule Litigation

On October 9, PayPal filed appendices of all the docs that they have cited in the filings in the ongoing suit against the CFPB over the Prepaid Rule. The CFPB’s proposed and final rule make up the majority of the appendices. PayPal additionally cites several comment letters, news articles, and studies.

The appendices can be accessed on the IPA’s [PayPal v. CFPB webpage](#).

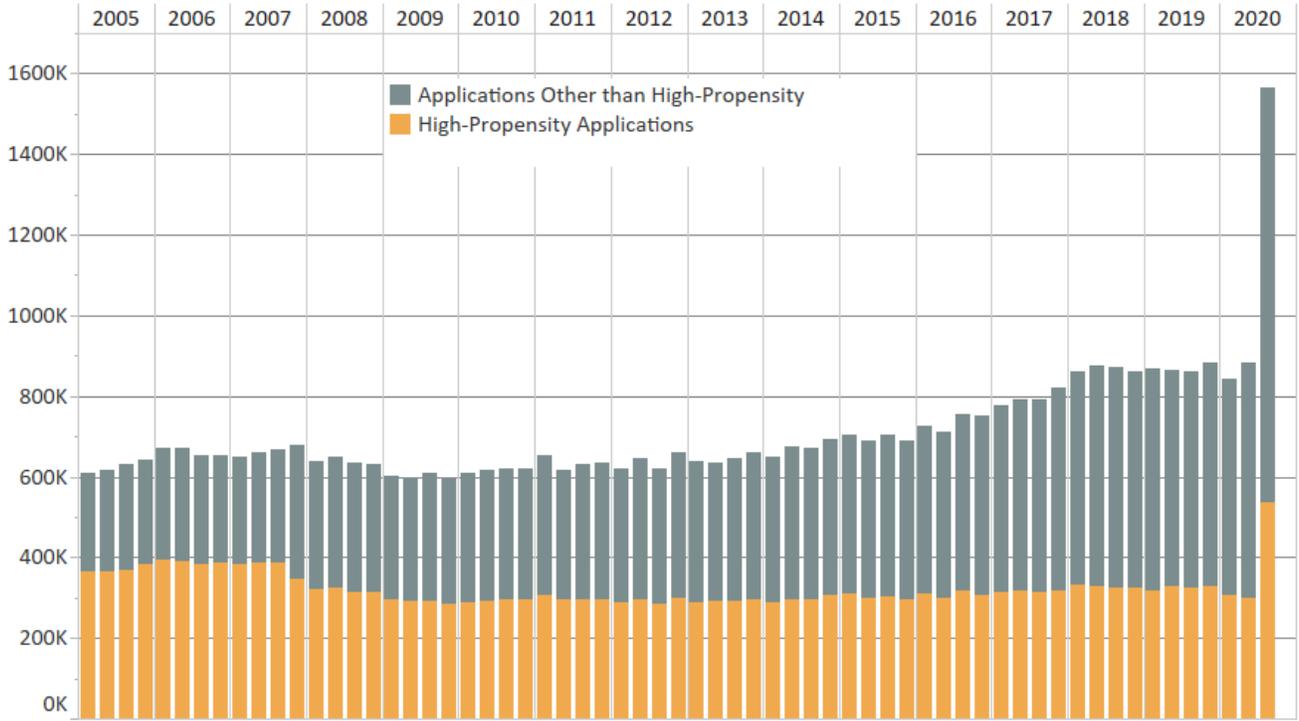
U.S. Census Bureau’s Business Formation Statistics Show 77.4% Increase in New Business Applications in Q3 2020

On October 14, the U.S. Census Bureau released seasonally adjusted business application and formation statistics for the third quarter of 2020. The Business Application Series describe the business applications for tax IDs as indicated by applications for an Employer Identification Number (EIN) through filings of the IRS Form SS-4. The Business Formation Series describe employer business formations as indicated by the first instance of payroll tax liabilities for the corresponding business applications.

Business Applications for the third quarter of 2020, adjusted for seasonal variation, were 1,566,373, an increase of 77.4 percent compared to the second quarter of 2020.

This sizable increase in business formations brings along with it an increased fraud threat, particularly in the PPP loan and unemployment insurance benefit space.

Quarterly Business Applications
 (Seasonally Adjusted)



Massachusetts Governor’s Budget Proposal Includes Real Time Tax Collection Proposal

The Governor of Massachusetts’ Revised Fiscal Year 2021 Budget Recommendation (October) includes language to implement “Real Time” or daily remittance of sales tax, requiring third party processors of credit/debit transactions to remit to the Commonwealth, on a daily basis, the portion of a sale that is attributable to sales tax, with a new effective date of July 1, 2024. Any vendor subject to the collection of sales tax, including meals and local option meals tax, room occupancy tax, and marijuana tax, will be required to separately identify the tax and non-tax amounts for which payment is sought from a third party payment processor. The third-party payment processor will then directly pay the identified tax portion to the Department of Revenue (DOR) on a daily basis. There is no set threshold for size of vendors impacted by this proposal.

The budget proposal can be found [here](#).

V. STATE NEWS

None.

VI. FEDERAL BILLS, AND LAWS

NEW FEDERAL LAWS

None.

PENDING FEDERAL BILLS

H.R. 189—Financial Institution Customer Protection Act of 2019

Summary: This bill specifies that a federal banking agency cannot request or order a financial institution to close a customer account unless the agency has a valid reason for doing so, and that reason cannot be only reputational risk.

Introduced: Jan. 3, 2019

Status: The bill was referred to the House Committee on Financial Services on Jan. 3, 2019.

Sponsor: Rep. Blaine Luetkemeyer (R-MO); 0 co-sponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/189/all-actions?q=%7B%22search%22%3A%5B%22hr+189%22%5D%7D&s=2&r=1>

H.R. 758—Cooperate with Law Enforcement Agencies and Watch Act of 2019

Summary: The bill would protect institutions from regulatory action for keeping accounts open at the request of law enforcement.

Introduced: Jan. 24, 2019

Status: The bill was received in the Senate, read twice, and referred to the Committee on Banking, Housing, and Urban Affairs on March 12, 2019.

Sponsor: Rep. J. French Hill (R-AR); 2 co-sponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/758/cosponsors?q=%7B%22search%22%3A%5B%22hr+758%22%5D%7D&r=1&s=1>

H.R. 907—To Clarify Exclusions from the Definition of a Deposit Broker

Summary: The bill would amend the Federal Deposit Insurance Act (“FDIA”) to clarify the exemptions from the definition of a “deposit broker.” Specifically, the bill would amend FDIA Section 29(g)(2)(I) to provide that a deposit broker does not include an agent or nominee (i) whose primary business purpose is not the placement of deposits with an insured financial institution; or (ii) who is an exclusive agent of an insurance company or insured depository institution affiliated with an insurance company, provided that the agent or nominee is, among other things, contractually prohibited from placing funds with any other unaffiliated depository institution.

Introduced: Jan. 30, 2019

Status: The bill was referred to the House Committee on Financial Services on Jan. 30, 2019.

Sponsor: Rep. Darin LaHood (R-IL); 2 co-sponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/907/text?r=55&s=1>

H.R. 1423—Forced Arbitration Injustice Repeal (FAIR) Act

Summary: The bill would prohibit forced arbitration agreements and any agreements that would preclude class action lawsuits.

Introduced: Feb. 28, 2019

Status: Received in the Senate and Read twice and referred to the Committee on the Judiciary on September 24, 2019.

Sponsor: Rep. Johnson, Henry C. “Hank,” Jr. (D-GA); 222 cosponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/1423>

H.R. 2514—COUNTER ACT OF 2019

Summary: This bill would make changes to the Bank Secrecy Act and anti-money laundering laws. It would require the financial regulators and Financial Crimes Enforcement Network to each appoint a civil liberties and privacy officer who would need to consult on any new regulations. It would create a public-private information sharing program between FinCEN and the financial services industry, and it would require AML training for examiners.

Introduced: May 3, 2019

Status: The bill passed the House of Representatives on October 28, 2019 and was received in the Senate and referred to the Senate Banking Committee on October 29, 2019.

Sponsor: Rep. Emanuel Cleaver (D-MO); 2 co-sponsors, 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/2514?q=%7B%22search%22%3A%5B%22hr2514%22%5D%7D&r=1&s=2>

H.R. 2630—CASH ALWAYS SHOULD BE HONORED (CASH) ACT

Summary: This bill would make it unlawful for any physical retail establishment to refuse to accept cash as payment.

Introduced: May 9, 2019

Status: The bill was referred to the House Committee on Energy and Commerce on May 9, 2019.

Sponsor: Rep. David Cicilline (D-RI); 10 co-sponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/2630>

H.R. 4501— CONSUMER TRANSACTION ACCOUNT PROTECTION ACT OF 2019

Summary: This bill would specify that consumer transaction account deposits of an insured depository institution shall not be considered to be funds obtained through a deposit broker.

Introduced: September 26, 2019

Status: The bill was referred to the House Committee on Financial Services on September 26, 2019.

Sponsor: Rep. Roger Williams (R-TX); 1 co-sponsor. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/4501?r=11&s=1>

H.R. 4767—FINANCIAL SERVICES INNOVATION ACT OF 2019

Summary: The bill requires federal regulators to create Financial Services Innovation Offices (FSIOs) within their agencies to foster innovation in financial services. Companies would also be able to apply for an “enforceable compliance agreement” with the FSIOs that, if accepted, will allow them to provide an innovative product or service under an alternative compliance plan.

Introduced: Oct. 21, 2019

Status: The bill was referred to the House Financial Services Committee and in addition to the Committee on Agriculture, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. On Nov. 11, 2019 it was referred to the Subcommittee on Commodity Exchanges, Energy, and Credit of the Committee on Agriculture.

Sponsor: Rep. Patrick McHenry (R-NC); 1 co-sponsor; 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/4767?q=%7B%22search%22%3A%5B%224767%22%5D%7D&s=1&r=1>

H.R. 6116— CONSUMER FINANCIAL PROTECTION COMMISSION ACT

Summary: The bill would eliminate signatures for swipe, dip, or tap point-of-sale transactions.

Introduced: March 5, 2020

Status: The bill was referred to the House Financial Services Committee.

Sponsor: Rep. Blaine Luetkemeyer (R-MO); 25 co-sponsors; 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/house-bill/6116/cosponsors?r=4&s=1&searchResultViewType=expanded&KWICView=false>

H.R. 6241— TOUCHLESS TRANSACTIONS ACT OF 2020

Summary: The bill would convert the leadership structure of the CFPB from a sole director to a commission. The commission would be made up of 5 members who are appointed by the president and approved by the Senate to serve 5-year terms. No more than 3 members of the commission would be allowed to be from the same political party. The name of the Bureau would also be changed to the Consumer Financial Protection Commission.

Introduced: March 12, 2020

Status: The bill was referred to the House Financial Services Committee.

Sponsor: Rep. French Hill (R-AR); 10 co-sponsors; 4% chance of enactment (according to [govtrack](#)).

S. 142—The American Data Dissemination Act

Summary: The bill would impose privacy requirements on providers of internet services similar to the requirements imposed on federal agencies under the Privacy Act of 1974.

Introduced: Jan. 16, 2019

Status: The bill was referred to the Senate Commerce, Science, and Transportation Committee on Jan. 16, 2019.

Sponsor: Sen. Marco Rubio (R-FL), 0 co-sponsors, 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/142/text?q=%7B%22search%22%3A%5B%22S.142%22%5D%7D&r=1&s=3>

S. 149—Stop Senior Scams Act

Summary: The bill would establish an advisory council made up of federal regulators and industry representatives from, among others, gift card and prepaid card companies, to collect and review information in the development of model materials to provide to retailers, financial services companies, and wire-transfer companies to be used to educate employees on how to identify and prevent scams affecting seniors.

Introduced: Jan. 16, 2019

Status: Passed the Senate on June 16, 2020 by unanimous consent and was sent to the House of Representatives for further consideration.

Sponsor: Sen. Robert Casey (D-PA); 2 co-sponsors, 83% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/149/text?q=%7B%22search%22%3A%5B%22S.149%22%5D%7D&r=1&s=2>

S. 189—The Social Media Privacy Protection and Consumer Rights Act of 2019

Summary: This bill requires online platform operators to inform a user, prior to a user creating an account or otherwise using the platform, that the user's personal data produced during online behavior will be collected and used by the operator and third parties.

Introduced: Jan. 17, 2019

Status: Read twice and referred to the Committee on Commerce, Science, and Transportation on Jan. 17, 2019

Sponsor: Sen. Amy Klobuchar (D-MN); 3 co-sponsors, 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/189/text?q=%7B%22search%22%3A%5B%22S.189%22%5D%7D&r=1&s=1>

S. 453—A Bill to Amend the Consumer Financial Protection Act of 2010 to Subject the Bureau of Consumer Financial Protection to the Regular Appropriations Process

Summary: The bill would amend the Consumer Financial Protection Act of 2010 to subject the Consumer Financial Protection Bureau to the regular appropriations process.

Introduced: Feb. 12, 2019

Status: Read twice and referred to the Committee on Banking, Housing, and Urban Affairs on Feb. 12, 2019.

Sponsor: Sen. David Perdue (R-GA); 18 cosponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/453>

S. 3108— CONSUMER TRANSACTION ACCOUNT PROTECTION ACT OF 2019

Summary: This bill would specify that consumer transaction account deposits of an insured depository institution shall not be considered to be funds obtained through a deposit broker.

Introduced: December 19, 2020

Status: The bill was referred to the Committee on Banking, Housing, and Urban Affairs on December 19, 2019.

Sponsor: Sen. Doug Jones (D-AL); 2 co-sponsors. 4% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/3108?q=%7B%22search%22%3A%5B%22brokered+deposits%22%5D%7D&s=4&r=2>

S. 3962— ASSET GROWTH RESTRICTION ACT OF 2020

Summary: The bill would strike the current legal framework for brokered deposits and replace it with an authorization for the FDIC to limit the asset growth of financially troubled banks by regulation, rule, or order.

Introduced: June 15, 2020

Status: The bill was referred to the Committee on Banking, Housing, and Urban Affairs on June 15, 2020.

Sponsor: Sen. Jerry Moran (R-KS); 0 co-sponsors. 1% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/3962?s=7&r=9>

S. 4159 — E-SIGN MODERNIZATION ACT OF 2020

Summary: The bill would remove the requirement that consumers “reasonably demonstrate” that they can access the disclosures that are the subject of the consent, through a website or e-mail, for example, after they’ve specifically asked to go paperless.

Introduced: July 2, 2020

Status: The bill was marked-up and approved by the Commerce Committee on September 16, 2020.

Sponsor: Sen. John Thune (R-SD); 3 co-sponsors. 15% chance of enactment (according to [govtrack](#)).

Details: <https://www.congress.gov/bill/116th-congress/senate-bill/3962?s=7&r=9>

The *Government Update* is issued by the Innovative Payments Association twenty times a year as a service to members.

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