



Wednesday, October 27, 2021

Chopra Reorienting CFPB's Focus to Competition, Tech, Large Institutions

Client Report: CONSUMER37

Executive Summary

As [anticipated](#), HFSC's hearing today with CFPB Director Chopra skidded over a wide range of policy issues. Chairwoman Waters (D-CA) again lauded Mr. Chopra, urging him to prioritize foreclosure protection, consumer-data ownership, fair lending, and [bigtech](#). In unsurprisingly sharp contrast, Ranking Member McHenry (R-NC) castigated the agency's design, leadership, and agenda. However, the hearing was generally non-confrontational even though Director Chopra announced several significant policy initiatives. These include prioritizing enforcement actions for the largest providers and taking a hard look not only at competitiveness when it comes to bigtech, but also in other arenas. Although he did not indicate any specific initiatives, Mr. Chopra argued that retail-finance interest rates do not appear competitive; if this question is pursued, the Bureau could intervene across an array of disclosure, M&A, and product arenas. The new director also wants to find ways to restore relationship lending, noting its importance not only with regard to rate setting, but also ensuring fairness in the small-business arena above and beyond that possible from new disclosures ([see FSM Report SBA40](#)).

Analysis

Opening Statements

Reps. Waters and McHenry's statements tracked the comments noted above. Rep. Perlmutter (D-CO), chairman of the Consumer Protection Subcommittee, highlighted consumer data ownership.

Federal Financial Analytics, Inc.
2101 L Street, NW – Suite 300, Washington, D.C. 20037
Phone (202) 589-0880
E-mail: info@fedfin.com www.fedfin.com

© 2021. Federal Financial Analytics, Inc. All rights reserved.

Testimony

Director Chopra emphasized mortgage-market practices as forbearance ends, economic equality, and the threat posed by bigtech. As in the bigtech order, the Bureau will now also focus on competition in sectors under its jurisdiction, looking specifically at payments and mortgage, credit-card, and savings rates. He did not make clear here how he plans to proceed. The Bureau now will also focus on repeat offenders and ways to restore relationship banking in an era of big data.

Q&A

- **Mortgage Servicing:** Chairwoman Waters again emphasized the need for borrower protection, leading Mr. Chopra to say that borrower protection here is his top priority. He is also working with bank regulators to identify illegal foreclosures.
- **Consumer Data Ownership:** Reps. Meeks (D-NY), Lynch (D-MA) and Torres (D-NY) want rulemaking prioritized in this area, with the director agreeing to do so and again linking this to competitiveness as was done in the Biden competition order ([see Client Report MERGER6](#)). Rep. Loudermilk (R-GA) asked for attention to less reliance on screen-scraping as a guide to CFPB action.
- **Small-Business Data Collection:** Director Chopra defended the pending proposal ([see FSM Report SBA40](#)) under questioning from Rep. Sessions (R-TX), noting also the need to restore relationship lending. Rep. Williams (R-TX) said the rule would lead to racial profiling and other Republicans raised concerns related to regulatory burden.
- **Fair Lending:** Rep. Casten (D-IL) asked about the need to enforce anti-discrimination rules in algorithmic underwriting, leading the director to reiterate his comments during the [Trustmark action](#). He also said that failure to sanction discrimination here adversely affects the competitiveness of compliant lenders.
- **Enforcement:** As noted, the director will prioritize enforcement against large firms engaged in nationwide finance. He also agreed that remediating companies should be given some recognition in enforcement actions and that no-admit/no-deny orders are inappropriate.
- **QM:** Rep. Posey (R-FL) asked if the [recent delay](#) signals a policy shift; the director contested calling this a delay. Rep. Sherman (D-CA) suggested the need for

additional QM revisions, leading the director to say that this is currently hard to tell, also noting he has yet to consider how the QM rule should be structured.

- **Bigtech:** Under questioning from Rep. Lucas (R-OK), Mr. Chopra said he fears that bigtech could take over the U.S. dollar and global payment flow, with these firms also hurting competition and taking advantage of opacity. Rep. García (D-IL) is particularly concerned about bigtech opening an ILC.
- **Credit Reporting:** Rep. Lucas also asked if Mr. Chopra supports a public credit bureau; he does not at this time. The agency is instead focused on FCRA compliance and disputes.
- **Crypto:** Under questioning from Rep. Cleaver (D-MO), the director cited his positions on crypto risk while at the FTC. The Bureau has crypto jurisdiction when it comes to retail payments, with the agency having no plans to ban crypto.
- **Abusive practices:** Reps. McHenry and Barr (R-KY) strongly opposed the agency's retraction of prior UDAAP guidance ([see FSM Report UDAAP7](#)), leading Mr. Chopra to say that it lacked sufficient clarity.
- **Small-Dollar Lending:** Rep. Rose (R-TN) suggested that small-dollar lending be advanced, a broad point with which Mr. Chopra agreed.
- **Whistleblower Protection:** Mr. Chopra agreed to work with Rep. Green (D-TX) on his legislation, H.R. 5484, to protect CFPB whistleblowers.