



# *FedFin Client Report*

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Wednesday April 27, 2022

## **Chopra Considers Credit-Card Rules, Defends Dormant Authority**

Client Report: **CONSUMER42**

### **Executive Summary**

Today's HFSC hearing with CFPB Director Chopra plowed much ground broken yesterday before the Senate Banking Committee ([see Client Report CONSUMER40](#)), but several new furrows were also unearthed. As we noted yesterday, Mr. Chopra indicated that the agency will review rules inherited from the FRB; today, he signaled that his top priority here may be standards implementing 2009 credit-card reforms ([see Client Report CREDITCARD34](#)), a move doubtless fired up by his conclusions that credit-card fees are "junk." Democrats strongly supported an array of Bureau actions while Republicans criticized their substance, process, and even inflationary impact. Rep. Andy Barr (R-KY) also challenged the "dormant" authority the Bureau has now claimed in a procedural rule expanding its ambit to all nonbank financial companies ([see FSM Report CONSUMER41](#)); Mr. Chopra argued that this power is expressly authorized but conceded that the Bureau's reach ends when a customer is not a consumer (e.g., a merchant). Chairwoman Waters (D-CA) supported the Bureau's repeat-offender campaign, singling out Wells Fargo along with Transunion and MoneyGram. She did not, however, bring up either her own longstanding legislation to sanction non-compliant big banks or draft legislation [prepared](#) for this hearing to do so still more broadly. This report assesses these issues along with the more detailed discussion of algorithmic underwriting and disparate impact at today's session.

### **Analysis**

#### ***Opening Statements***

Chairwoman Waters also supported the CFPB's junk-fee campaign ([see FSM Report CONSUMER38](#)) and the Bureau's work on algorithmic discrimination.

Rep. Ann Wagner (R-MO) delivered the opening statement for Ranking Member McHenry (R-NC), calling the CFPB "out of control" and arguing that Democrats are using the agency to advance their agenda because they cannot pass legislation. She also reiterated GOP complaints yesterday about due process related to the FDIC RFI ([see FSM Report MERGER9](#)) and disparate-impact regulation. CFPB due process also took a drubbing.

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

## Testimony

Mr. Chopra's oral and written testimony matched that before Senate Banking.

## Q&A

- **Regulatory Process:** Reps. Huizenga (R-MI) and Barr (R-KY) argued that the CFPB is trying to affect consumer finance via press releases, not regulation; Mr. Chopra said appropriate process is always followed. Republicans such as Reps. Posey (R-FL) and Mooney (R-WV) also decried the lack of cost-benefit analysis in numerous CFPB actions.
- **Crypto:** Reps. Budd (R-NC) and Davidson (R-OH) asked about the Bureau's cryptoasset authority; the director said the agency is focused on areas where crypto assets intersect with the payment system, an issue well within the Bureau's jurisdiction. Mr. Chopra also said that DeFi may be difficult to govern but it is nonetheless covered under the Electronic Funds Transfer Act.
- **Algorithmic Finance:** Rep. Kasten (D-IL) asked Mr. Chopra if the Bureau has any ongoing investigations of "digital redlining;" the director said he could not answer. Rep. Foster (D-IL) also questioned broader discrimination risks, citing neural networks as a particular concern. Mr. Chopra agreed that AI systems lack transparency and explicability. He did not provide a timeline for [standards](#) on automated valuation models, noting that this action must be coordinated with other agencies. He subsequently suggested that underwriting is best done via a mixture of data and relationships.