CFPB’s Chopra: ‘We will be litigating’

By Kate Berry July 26, 2022 11:11 PM

Rohit Chopra, the director of the Consumer Financial Protection Bureau, has prodded banks to drop overdraft fees, hit large corporate wrongdoers with enforcement actions and set his sights on regulating Big Tech firms.

In a wide-ranging interview with American Banker, Chopra detailed the dangers of Big Tech firms moving into financial services and the urgent need to bring them into the regulatory fold, an area that could help banks navigate a changing world revolving around real-time payments.

Rohit Chopra, director of the Consumer Financial Protection Bureau, said in a July interview with American Banker that the agency will use its enforcement powers not only to push settlements but to litigate cases against well-heeled companies.

He also addressed the Federal Deposit Insurance Corp.'s decision to further a request for information related to a review of bank merger processes, a vote that sidelined former Chair Jelena McWilliams and ultimately led to her resignation. Chopra dismissed the brouhaha, which drew congressional complaints, as nothing more than majority rule.

Chopra has drawn considerable fire from political and corporate opponents to his initiatives in his time in office, with the U.S. Chamber of Commerce notably saying his "radical agenda and reckless approach" exceed his legal authority. In the interview, which was part of an outreach campaign with individual consumer finance journalists that were all scheduled to be published on Wednesday, Chopra defended his actions to date as deliberate and carefully chosen stances that are meant to benefit consumers.

Here are six of the most impactful insights from the interview, which you can read in full here.

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1 CFPB “willing to prove its case in court”

Since taking over the CFPB in October, Chopra has shifted the agency’s focus to enforcement actions against large companies, particularly those he categorizes as “repeat offenders.”

Chopra said that approach was shaped by his tenure as a member of the Federal Trade Commission, where he said commissioners saw their role as strong-arming small firms into settlements in the hope that larger companies would get the message and change their ways. But that often didn’t happen.

The fact that companies that have been sued by the CFPB — such as TransUnion and MoneyGram — are pushing back may be a good thing, he said.

“I think it's important that the agency really be willing to prove its case in court,” Chopra said. “I think we have more credibility when we can really litigate cases against well-resourced firms, who aren't going to easily just back down and, in fact, will be willing to spend the money sometimes to litigate.

“Now, that being said, of course we are going to resolve most matters through settlements,” Chopra continued. “We have done a number of settlements, some of them very large. But I do believe that we will be litigating perhaps more than others have been willing to.”

Andrew Harrer/Bloomberg

2 Chopra defends FDIC majority push for bank merger reform

Chopra **stood firm** in asserting that the **brouhaha** over the FDIC board's three-member Democratic majority is nothing more than an example of majority rule. He said former Chair McWilliams refused to advance the proposal, and the majority outvoted her.

Republicans, however, have called Chopra the chief architect of a "**hostile takeover**" of the FDIC board. Sen. Patrick Toomey of Pennsylvania went so far as to compare Chopra's role in the incident to that of **King Louis XIV** of France.

"There was an assertion that essentially one person could override a supermajority of the board without any legal justification whatsoever," Chopra told American Banker. "I am glad that

3 No putting the Big Tech genie ‘back in the bottle’

A regulator has only so much time to effect change, and Chopra said he has been laser-focused on the financial products and services offered by Big Tech giants.

“If we don't really analyze and address some of the issues that affect consumers and the financial system with Big Tech’s entry, I think it will be really hard to put the genie back in the bottle,” **Chopra said**.

turn over details about their payments businesses in October. The Big Tech firms may use SKU-level data on individual product purchases that could shut out banks from competing, he said.

“Google Pay, Apple Pay and others primarily attach to the existing banking rails, especially where there is a credit card or debit card number,” Chopra said. “What happens when that moves outside of the banking rails and what is the implication for the banking system of that?”

4 Real-time payment apps are raising concerns

Widespread fraud on real-time payment platforms has become ubiquitous despite efforts to reduce errors and improve authentication.

Though Chopra would not comment specifically about Zelle, the peer-to-peer payment app that has been combating accusations of fraud for years, lawmakers have called on the CFPB to scrutinize Zelle’s parent, Early Warning Services, which is owned by seven top banks including JPMorgan Chase and Bank of America.

“We are trying to look at this holistically beyond one single app about what really can be done both by consumers, the industry and policymakers to really rein some of this in,” Chopra said. “In some cases, smaller banks that have enrolled or participate may not have a lot of leverage to dictate on certain types of policies.”

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5 Banks that rely on overdraft fees are in the crosshairs

Nearly a dozen top banks have modified their **overdraft fee** processes or dropped them entirely in the past year, signaling a big shift of momentum in favor of consumers.

Chopra said the CFPB continues its probe of overdraft practices with a focus on the largest banks that rely heavily on such fees for income.

“We are increasing our supervisory scrutiny of the institutions that are most dependent on [overdraft] as part of their deposit account fee revenue,“ Chopra said.

Lawmakers such as **Sen. Carolyn Maloney** of New York and **Sen. Elizabeth Warren** of Massachusetts have urged banks to lower overdraft charges because the cost of such fees disproportionately affects low-income consumers. The rash of announcements so far this year could save consumers an estimated $2 billion a year, according to Pew Charitable Trusts.

6 Not starting from scratch on qualified mortgage rule

With interest rates on the rise, the CFPB wants to ensure that consumers have a shot at refinancing a home loan or obtaining a streamlined loan modification. The bureau has no plans to revise the definition of what constitutes a qualified mortgage, Chopra said, ending speculation that the bureau would make further changes.

harder look at that," he said. "With respect to QM, there was a lot of work to put together in recent years and there are places in a targeted manner related to streamlined modifications and streamline refinancing. I hate to see people missing out on a refi cycle because it makes a big difference to a household."

The QM rule was **rejiggered** in 2020 under former CFPB Director Kathy Kraninger, a Trump appointee, who eliminated its main component — a 43% debt-to-income ratio limit — and replaced it with a pricing threshold.