

HOUSE FINANCIAL SERVICES COMMITTEE CONVENES CFPB OVERSIGHT HEARING

EXECUTIVE SUMMARY

On November 29, the House Financial Services Committee held a [hearing](#) to conduct oversight of the Consumer Financial Protection Bureau (CFPB) featuring testimony from Director Rohit Chopra. Director Chopra addressed several issues regarding the CFPB's most recent work, including its larger payments participant rule, "open banking" Section 1033 proposal, and implementation of its Section 1071 rule.

Notably, there was bipartisan agreement in support of the Bureau's Section 1033 financial data privacy proposal, with Chair Patrick McHenry (R-NC) applauding the proposal's inclusion of several aspects of the Committee Republican data privacy legislation. However, Committee Republicans were highly critical of other aspects of the CFPB's work. GOP members argued that the Section 1071 rulemaking will impose unnecessary compliance costs on small businesses while Democrats argued the rule is necessary to address discriminatory lending issues. Additionally, Republicans claimed that the Bureau is "unaccountable" to lawmakers and questioned the constitutionality of its funding structure. For their part, Committee Democrats largely defended the actions of the Bureau, touting its successes in acting to protect consumers from illicit practices.

OPENING STATEMENTS

Chair Patrick McHenry (R-NC) ([statement](#)) expressed concern about a series of scandals involving financial regulators, including a data breach at the CFPB and allegations of workplace misconduct at the Federal Deposit Insurance Corporation (FDIC), questioning Director Chopra's knowledge and actions regarding these issues. Despite disagreements, Chair McHenry noted some common ground on data privacy, particularly in relation to Director Chopra's 1033 data privacy proposal and the Committee's Data Privacy Act. He also emphasized the importance of bipartisan efforts to protect consumers' financial data privacy through legislative action.

Ranking Member Maxine Waters (D-CA) ([statement](#)) voiced disappointment that the Committee is not holding a hearing with big bank CEOs and urged reconsideration. She defended the constitutionality of the CFPB's spending structure, highlighting its bipartisan support and achievements in protecting consumers. Additionally, Ranking Member Waters accused House Republicans of "undermining" small businesses with efforts against the CFPB's small business lending rule, asserting that it would create a transparent and competitive marketplace while combatting discriminatory lending practices.

Financial Institutions Subcommittee Chair Andy Barr (R-KY) echoed Republican criticism of the Bureau for operating under a perceived lack of accountability. Further, he argued that the CFPB's funding structure is the cause of the lack of accountability.

Financial Institutions Subcommittee Ranking Member Bill Foster (D-IL) applauded the work of the CFPB for its role in protecting consumers and encouraged Director Chopra to remain "vigilant" regarding increases in scams because of technological advances.

WITNESS TESTIMONY

Director Rohit Chopra ([testimony](#)) addressed challenges in protecting financial data and reducing credit reporting errors. He highlights milestones achieved, including accelerating open banking and protecting financial privacy. Director Chopra referenced the increasing household debt, particularly in credit cards and auto loans, emphasizing the need to address interest rates and fees contributing to persistent credit card debt.

DISCUSSION AND QUESTIONS

Financial Data Privacy

- Chair McHenry applauded Director Chopra for his work on financial data privacy standards and implementation of Section 1033, asking the Director how the proposal grants consumers greater control over their financial data. Director Chopra stated that the proposal establishes safeguards to ensure consumers' permissioned data is only being used for the intended purposes. However, Director Chopra urged lawmakers to legislate on financial data privacy.
- Chair McHenry asked whether the Bureau is considering allowing the use of anonymized data for companies to create new products. Director Chopra indicated that the CFPB is seeking input on the matter.
- Chair McHenry inquired about the authority under which the CFPB is engaging in dialogue with the European Commission on consumer protection issues. Director Chopra did not directly address the question but cited the growing role of Chinese technology firms as the impetus for these discussions. Chair McHenry encouraged the Bureau to provide greater transparency into these discussions.
- **Rep. French Hill (R-AR)** questioned why the Bureau left open the possibility for additional rulemaking efforts on Section 1033, asking what other products or services the CFPB considered including in the proposal. Director Chopra stated that transaction data will be an important part of open banking and that the Bureau wants to understand the scope of financial institutions that would be covered by the collection of transaction data.
- Rep. Hill asked Director Chopra who bears liability in the event of a data breach. Director Chopra indicated that the proposed rule is tailored to ensure that the receiving firm is responsible for safeguarding such data.
- **Rep. David Scott (D-GA)** prompted the Director to comment on how the Bureau's request for information (RFI) will inform its work with respect to data brokers. Director Chopra

explained that the agency is working to ensure there is consumer protection in the data broker industry under the Fair Credit Reporting Act (FCRA), emphasizing the need to protect children's data.

- **Rep. Joyce Beatty (D-OH)** urged Director Chopra to cover electronic benefit transfer (EBT) accounts in its Section 1033 rulemaking, citing concern that consumers have difficulty accessing their account data. Director Chopra explained that the Bureau is currently accepting comment on the issue, noting that they are working with the Department of Agriculture (USDA) and state and local governments on how such a proposal would work.
- **Rep. Warren Davidson (R-OH)** questioned if the CFPB has considered alternative methods for securing consumers' account numbers aside from tokenization. Director Chopra voiced concern over the potential for decryption and the need to protect consumers from future technological advances.
- **Rep. Wiley Nickel (D-NC)** asked how the CFPB intends to ensure that the independent standard-setting body under the Bureau's open banking rule will not result in anti-competitive behavior. Director Chopra explained that the CFPB will have a degree of oversight over the standard-setting body.
- **Rep. Josh Gottheimer (D-NJ)** pressed the Director to clarify how the Bureau's open banking rule permits further improvement of anti-fraud tools. Director Chopra stated that the agency welcomes feedback on the secondary use limitations on consumer data.
- **Rep. Scott Fitzgerald (R-WI)** worried that the Bureau's recent data broker proposal's potential to capture all identity verification activities under the FCRA may impede know your customer (KYC) compliance. Director Chopra pointed out that the CFPB has not yet put forth a proposed rule but assured him that the Bureau is coordinating with prudential regulators. Citing similar concerns, **Reps. Andrew Garbarino (R-NY)** and **Byron Donalds (R-FL)** questioned where the CFPB derives its authority to establish a "data broker" definition. Director Chopra argued that many businesses meet the qualifications of a consumer reporting agency.

Overdraft Fees and 'Junk' Fees

- Ranking Member Waters prompted Director Chopra to discuss Section 1034(c) of the Dodd-Frank Act and how banks may be charging consumers fees to access their data. Director Chopra insisted that it is important that large institutions do not erect barriers for consumers when it comes to accessing their information.
- **Rep. Bill Posey (R-FL)** expressed concerns regarding the CFPB's "junk" fees efforts, arguing that the Bureau should clarify the term's definition. Director Chopra noted that the CFPB is working to assess where these fees apply under existing law. Similarly, in questioning with **Rep. William Timmons (R-SC)** — who characterized the CFPB's prospective rulemaking on overdraft fees as an attempt to implement a "government-set price" — Director Chopra insisted that any rule would be done with the intention of increasing market competition.
- **Rep. Ann Wagner (R-MO)** suggested that the Bureau's credit card late fee rulemaking would "not survive" a cost-benefit analysis. Director Chopra pointed to statute that prohibits the use of fees that are not "reasonable," and that the Bureau is evaluating whether card issuers are able to cover their costs under the Fed's rule. Rep. Wagner questioned how issuers would be

able to fulfill their requirement to offset credit risk without raising rates elsewhere in response to the credit card late fee proposal. Director Chopra suggested that issuers using risk-based pricing could increase rates for individuals who do not pay or lower their credit limit to offset credit risk.

- Rep. Wagner wondered whether the CFPB consulted prudential regulators before proposing the credit card late fee rule, which Director Chopra confirmed.
- **Rep. Roger Williams (R-TX)** asked if the intent of the CFPB’s overdraft fee rulemaking is to eliminate overdraft services. Director Chopra asserted that overdraft services have a role in the financial services ecosystem but that the goal of the rule is to examine when the fees have been levied illegally.
- **Reps. Sylvia Garcia (D-TX) and Ritchie Torres (D-NY)** asked Director Chopra what actions the CFPB is taking to combat the use of junk fees in remittance payments, referencing enforcement action taken against MoneyGram. Director Chopra affirmed the importance of remittance payments and noted that the Bureau has taken several enforcement actions against violators of the CFPB’s 2012 remittance rule. He suggested that — as more consumers send remittance payments digitally — regulators should reexamine remittance payment rules to ensure they are adequately accounting for advances in technology.
- **Rep. Vincente Gonzalez (D-TX)** asked Director Chopra if the CFPB has a plan to prevent the use of “hidden” fees in remittance payments, specifically as it relates to obscuring the fees in exchange rate adjustments. Director Chopra answered that the CFPB has taken enforcement actions against violators of remittance rules, adding that it is important for consumers to have price transparency to ensure sufficient competition between remittance providers.
- **Rep. Brittany Pettersen (D-CO)** prompted the Director to comment on changes in behavior the agency has noticed in identifying so-called junk fees. Director Chopra pointed to enforcement action taken against Wells Fargo and Regions Bank and noted that there has been a shift among market participants regarding their use of such fees.

CFPB Structure and Legal Challenges

- **Rep. Andy Barr (R-KY)** pointed out that an amendment to the House’s fiscal year (FY) 2024 Financial Services and General Government (FSGG) appropriations bill to repeal the CFPB’s funding was rejected, implying that lawmakers do not want to eliminate the agency.
- Rep. Williams pressed Director Chopra on what actions he has taken to increase transparency at the Bureau as the Supreme Court scrutinizes its funding mechanism. Director Chopra insisted that the Bureau is committed to transparency with respect to its funding and has not requested the maximum amount from the Fed.
- **Rep. Zach Nunn (R-IA)** reiterated Committee Republicans’ assertions that the CFPB’s funding structure is unconstitutional.

Digital Assets and Fintech

- Chair McHenry, Rep. Hill, and **Rep. Mike Flood (R-NE)** echoed broader concerns from Committee Republicans over the larger participant rule. They pressed Director Chopra on how many firms would be covered under the rulemaking and how it is interpreting the term “funds” with respect to digital assets. Director Chopra suggested that the rule may cover

many of the largest firms that offer nonbank payment applications. Additionally, Director Chopra asserted that judicial precedent supports including digital asset payments under the definition of funds — caveating that they do not intend to focus on digital assets used for other purposes, such as trading. Specifically, Rep. Hill inquired whether Apple, Google, Meta, PayPal, Amazon, and Square would be covered. However, Director Chopra would not confirm if those firms specifically would be covered, instead reiterating that it will likely cover the most “popular” nonbank payments apps. **Rep. Stephen Lynch (D-MA)** also expressed interest in this matter.

- **Reps. Bill Foster (D-IL) and Juan Vargas (D-CA)** echoed broader concern over the emergence of artificial intelligence (AI) and its potential to exacerbate identity fraud issues. Director Chopra urged lawmakers to act on providing a more effective digital identity verification process.
- **Rep. Sean Casten (D-IL)** asked for an update on the prevalence of fraud and scams in digital asset markets. Director Chopra could not provide a definitive answer but noted an increase in hacks.
- Rep. Casten prompted the Director to explain the concept of “pig butchering” in the context of scams and fraud. Director Chopra explained that it involves a fraudulent actor using tactics such as romance scams to build trust with a victim over time before stealing their funds.
- Reps. Davidson and Torres asked the Director to comment on how he views the role of the CFPB in digital asset regulation. Director Chopra opined that there is case law suggesting the Bureau has jurisdiction over nonbank payment apps that use digital assets.
- Rep. Davidson questioned whether “buy now, pay later” (BNPL) products share similarities with credit. Director Chopra stated that the Bureau is working to ensure that similar use cases receive similar regulatory treatment, but that issues persist with respect to credit reporting.
- Rep. Torres asked the Director if blockchain and stablecoin technologies could reduce remittance costs and increase efficiency, if properly regulated. Director Chopra acknowledged that financial innovation has led to some success in this regard and offered his willingness to work with lawmakers as they contemplate a digital asset framework.
- Rep. Torres prompted Director Chopra to comment on the risks and rewards he sees with AI and financial services. Director Chopra noted that there may be potential consumer use cases such as fraud prevention, but cautioned that Congress should be wary of allowing AI to be used without proper oversight.
- Rep. Flood questioned how the Bureau is going to determine, under its larger participant proposal, different types of transactions conducted using the same digital asset wallet. Director Chopra acknowledged that this is an area the Bureau will need to address but argued that it has existing experience in differentiating aspects of the financial services industry.
- **Rep. Mike Lawler (R-NY)** pressed the Director on why the Bureau rescinded its financial innovation regulatory sandbox and no-action letter (NAL) policies. Director Chopra explained that several of the programs are still producing work but that, after conducting a review, the Bureau determined that the many of the programs did not have an impact on innovation.

Section 1071 Rulemaking

- Ranking Member Waters asked Director Chopra whether Congress should vote to repeal the CFPB’s Section 1071 rulemaking. Director Chopra suggested that the rule would aid in combatting discriminatory practices in small business lending.
- Ranking Member Waters and Rep. Beatty prompted the Director to comment on how the rule minimizes the impact on small businesses, community banks, and credit unions. Director Chopra argued that the Bureau has taken steps to address concerns raised during the comment period and extend various compliance deadlines.
- **Rep. Frank Lucas (R-OK)** voiced opposition to the CFPB’s rule on Section 1071, specifically regarding compliance burden. Director Chopra argued that the CFPB was under a court order to complete the rulemaking but worked to minimize compliance burdens.
- Rep. Barr asked if a small business loan applicant has the right to refrain from providing information collected under the Section 1071. Director Chopra answered yes.
- Rep. Barr pressed the Director on whether a small business should know why an institution is collecting demographic information about them. Director Chopra agreed that they should. Rep. Barr suggested this may lead to confusion in the event a loan application is denied, adding that consumers and businesses should be presented with a document explaining the reason the information is being collected.
- Rep. Nunn prompted Director Chopra to clarify whether data collected under the Section 1071 rule will be made publicly available or internally at the CFPB. Director Chopra insisted that the data collected will not include any personally identifiable information but that certain future analyses may be based on the collected data.

Debt, Credit, and Credit Reporting

- **Rep. Brad Sherman (D-CA)** asked for the Director’s commitment to not “weaken” its Property Assessed Clean Energy (PACE) loan debt repayment rulemaking as the Bureau works to finalize it. Director Chopra agreed with Rep. Sherman’s comments on the issue but did not directly address the request.
- Rep. Sherman pressed Director Chopra on the issue of debt settlement companies urging consumers to make unwise financial decisions, such as encouraging borrowers to not pay back debt. Director Chopra explained that the Bureau recently secured a court order against one of the largest debt settlement companies. The Director also speculated that an anticipated increase in advertising on TikTok may exacerbate this trend.
- Rep. Foster asked whether the CFPB estimates the amount of time consumers spend trying to rectify issues such as faulty credit reporting data. Director Chopra suggested that consumers spend significant amounts of time on such issues.
- **Rep. Ayanna Pressley (D-MA)** prompted the Director to detail efforts undertaken by the Bureau with respect to “incompetent” student loan servicers. Director Chopra stated that the Bureau is increasing its focus on the issue as repayment resumes, adding that the CFPB will be releasing additional information on the topic.
- **Rep. Steven Horsford (D-NV)** asked whether the Bureau has considered whether its upcoming rulemaking on the FCRA may result in credit applicants being wrongfully rejected due to an increase in perceived fraud risk. Director Chopra noted that the CFPB has not yet

proposed rulemaking on the subject at this time but assured him that the Bureau is examining how data collected under the statute could potentially be misused.

- Reps. Lawler and Posey inquired whether the Bureau conducts cumulative cost-benefit analysis regarding the impact of its rulemaking on access to credit. Director Chopra asserted that the CFPB does conduct cost-benefit analysis of its rulemaking under the Regulatory Flexibility Act (RFA) and its impact in the context of other current rulemakings or those that are being implemented.
- Speaking on alleged violations of deceptive telemarketing practices in the credit repair industry, Rep. Horsford questioned whether there is a benefit to the Bureau issuing more guidance with respect to the telemarketing sales rule's advance fee prohibition. The Director noted that, while the CFPB enforces the rule, the Federal Trade Commission (FTC) is the agency responsible for issuing guidance on the matter. However, he offered his willingness to continue discussions on the issue as scams develop.
- **Reps. Rashida Tlaib (D-MI)** and Gonzalez asked the Director to describe the motivation for the CFPB's decision to act on medical debt billing and collection practices. Director Chopra alleged that the Bureau found "serious" inaccuracies when they investigated the matter. Similarly, Rep. Tlaib expressed concern over various non-driving-related factors used in the auto insurance determinations. Director Chopra acknowledged that the Bureau does not have oversight of the issue but shared her concerns.
- Rep. Nickel wondered whether Director Chopra was concerned that the prevalence of credit repair scams may increase. The Director voiced his concern over this potential due to advertising on social media, adding that consumers should have access to products that improve their credit standing rather than harm it.
- Reps. Gottheimer and Steil asked when the Bureau will complete its evaluation of whether earned wage access (EWA) products qualify as a form of credit. Director Chopra indicated that he hopes to have this completed in the next several months.
- **Rep. Ralph Norman (R-SC)** asked why certain companies are not sending accounts receivable texts to consumers who have consented to the service. Director Chopra stated that Regulation F does not require debt collectors to provide information through text messages.
- Rep. Fitzgerald was concerned that the CFPB's anticipated actions pertaining to medical debt on credit reports may result in reduced revenue for small doctors' offices and asked if the Bureau had studied the matter. Director Chopra reiterated concerns over potential inaccuracies in medical debt credit reporting but did not directly address the question.
- **Rep. Brittany Pettersen (D-CO)** prompted Director Chopra to address "zombie" mortgages and debt. The Director stated that he has observed a trend in certain metropolitan areas targeting seniors in which second mortgages that were previously satisfied have re-emerged. With respect to zombie debt, he opined that credit reporting may be used to coerce consumers into paying this debt and wondered whether enhancements under the FCRA are warranted to prevent this issue.

Other Topics

- **Reps. Nydia Velazquez (D-NY)** and Lynch asked Director Chopra to comment on the CFPB's recent enforcement action against Citi Bank for discrimination against Armenian consumers.

Director Chopra alleged that Citi Bank had a policy that would deny credit card applications of consumers with last names commonly associated with Armenian descent.

- **Rep. Pete Sessions (R-TX)** prompted Director Chopra to comment on reports suggesting that the Bureau may undertake rulemaking on selling credit header information to law enforcement. Director Chopra asserted that the Bureau has not proposed a rule on the topic but underscored the importance of ensuring consumer data is used properly, citing the indictment of individuals in China in connection with the Equifax data breach.
- **Rep. Blaine Luetkemeyer (R-MO)** pressed Director Chopra on what actions he has taken to relieve the regulatory burden faced by small banks. The Director insisted that the Bureau attempts to tailor its regulations to fit the risk posed.
- Rep. Luetkemeyer alleged that there is confusion around the consideration of a consumer's permanent residency status under the Equal Credit Opportunity Act (ECOA) and that it violates KYC statutes. However, the Director did not have time to respond to this comment.
- **Reps. Bryan Steil (R-WI)** and Barr voiced concerns that the Bureau's policy statement on the enforcement of its unfair, deceptive, or abusive acts or practices (UDAAP) authority may result in the CFPB retroactively bringing enforcement action against companies. Director Chopra explained the issue is that the statute has existed for some time but that the policy statement is meant to inform businesses that previously acceptable behavior is no longer acceptable. Rep. Barr signaled that he intends to introduce legislation prohibiting the Bureau from bringing enforcement action retroactively.
- **Rep. Barry Loudermilk (R-GA)** asked Director Chopra if the CFPB had taken any actions to correct cybersecurity deficiencies that lead to a breach of its data earlier this year. Director Chopra informed him that the Bureau has taken steps to implement the recommendations provided in the third-party audit report of the incident. Additionally, he noted that steps have been taken to mitigate the risk insider threats, acknowledging that such threats allowed for foreign actors to access sensitive information in the case involving Equifax.
- Rep. Horsford inquired about the root cause of the CFPB's report showing that active-duty service members are more susceptible to identity theft and fraud. Director Chopra acknowledged that service members are more vulnerable to their personal data being "weaponized," noting that the sophistication of identity theft and fraud attempts has increased.
- Rep. Gottheimer inquired about what more could be done to ensure the six percent interest rate cap on loans offered to service members applies to accounts the service member holds at all their financial institutions. Director Chopra noted that the Bureau has released information on this but wondered whether financial institutions should be required to check to ensure these caps are in place.
- Rep. Donalds pressed the Director on whether the CFPB's decision to include a "strict liability standard" with respect to data breaches is "overly burdensome." Director Chopra clarified that the Bureau has not yet proposed this and is in consultation with small businesses on the matter, adding that the concern is surrounding unauthorized access to data.