

SENATE COMMITTEE ON BANKING, HEARING ON THE SEMI-ANNUAL CONSUMER FINANCIAL PROTECTION BUREAU REPORT

EXECUTIVE SUMMARY

On June 12, the Senate Committee on Banking, Housing, and Urban Affairs held a [hearing](#) on the semi-annual report given by the Consumer Financial Protection Bureau (CFPB) to Congress. The discussion's tone was generally partisan, as Democratic Senators celebrated the recent [Supreme Court ruling](#) which upheld the CFPB's funding structure. In contrast, their Republican colleagues reiterated critiques of the agency's rulemakings, and threatened to continue legal battles regarding the legality of its funding in the coming years.

The long-running partisan battles over late, overdraft, and non-sufficient funds fees continued throughout the hearing, with no indication that any senators' views have evolved on the issue. Republicans reiterated their opposition to proposed rules on fees and digital payments, while sharply critiquing the newly-issued [proposed rule on medical debt](#). For their part, Democrats supported the agency's rulemakings, as well as its enforcement actions as a means of further advancing actions and policies to protect consumers.

Aside from the moments of partisan rancor, senators on both sides of the aisle found points of agreement among themselves and with CFPB Director Rohit Chopra. Of note, there was bipartisan agreement on the need to counteract financial fraud, especially fraudulent schemes that target servicemembers and veterans who receive significant government benefits. There was similarly a level of bipartisan cooperation on artificial intelligence (AI) in financial services, with the committee recognizing the need for new legal authorities to address possible misuse of this technology.

OPENING STATEMENTS

Chair Sherrod Brown (D-OH) ([statement](#)) touted the recent Supreme Court ruling upholding the CFPB's funding mechanisms and praised the agency's recently proposed rule to prohibit creditors from obtaining or using information on medical debts to determine credit eligibility. He reiterated his previously stated support for the CFPB's work on late payments and hidden fees. Chair Brown similarly renewed his praise of the agency's [final rule](#) limiting the interest rates for "payday" lending. Finally, he drew attention to CFPB's dedicated work on assisting servicemembers and veterans

Ranking Member Tim Scott (R-SC) ([statement](#)) expressed reservations with the Supreme Court ruling on CFPB funding, alleging that the agency lacks accountability. He established his opposition to CFPB rulemaking as a process, questioning if this work prevents it from protecting consumers at

an individual level. He reiterated his opposition to Democratic narratives regarding hidden fees, arguing that they help encourage individual financial responsibility. Ranking Member Scott sharply critiqued the agency's Civil Investigative Demands (CID) process, alleging that the subpoenas issued generate significant bureaucratic and legal obstacles for businesses.

WITNESS TESTIMONY

Director Rohit Chopra ([testimony](#)), of the Consumer Financial Protection Bureau, drew attention to the CFPB's successes, citing money returned to consumers and businesses harmed by illegal business practices. He hailed the agency's work on financial privacy, noting that it is nearing finalization of open-banking rules to develop data-sharing rules and privacy protections. He shared that the agency is moving towards proposing a rule under the Fair Credit Reporting Act (FCRA) to restrict the use and purchase of sensitive data by brokers as part of an Administration-wide national security effort. He called for Congress to act on data privacy and anti-surveillance measures, and to act to promote open and decentralized banking. He hailed the agency's proposed rule on medical debt. Mr. Chopra relayed his commitment to continue to focus on the credit card market, stressing the need to protect the valuation of credit card points and encourage competition within the sector.

DISCUSSION AND QUESTIONS

Late, Insufficient Funds, and Overdraft Fees

- Chair Brown praised the credit card late fee rule and questioned if major credit card issuers require high rates to maintain profitability. Mr. Chopra confirmed that no major credit card issuers have provided the requisite evidence demonstrating the need for higher fees to further advance the business.
- In conversation with Chair Brown, Mr. Chopra confirmed that credit card companies can reduce interest rates and maintain profitability.
- Regarding hidden fees, Ranking Member Scott shared his belief that overall fee structures will adjust, shifting fee burdens but not reducing them overall. He noted further concern that attempting to eliminate fees will reduce the services offered by financial institutions. Mr. Chopra relayed that the ban on "unreasonable" credit card penalties is one imposed by Congress, and that hidden fees are permissible only through a loophole in that legislation. He further argued that small and community banks do not generally build business models off this fee structure.
- Mr. Chopra committed to working with Ranking Member Scott on standardizing late payment penalties and other fees between the private and public sectors.
- **Sen. Elizabeth Warren (D-MA)** established her support for the CFPB's efforts on hidden fees in both the credit card industry and mortgages. Mr. Chopra shared that mortgage fees are a priority due to their outsized impact on an individual's financial situation — they have the potential to significantly impact both a down payment and a monthly payment, thus reducing purchasing power. He specifically identified market-wide increases in closing costs over the past several years as an example of inflated fees.

- **Sen. Cynthia Lummis (R-WY)** expressed significant concerns with proposals to label closing costs in real estate transactions as hidden fees.
- Sen. Lummis asked Mr. Chopra to expand on the importance of consumer education and relationship banking. He noted that both of these issues are significant priorities, and clarified that consumer education costs would not be considered to be extraneous fees. Mr. Chopra further expanded that mortgage lenders have made complaints that they're being gouged on services that they are required to provide for consumers.
- Sen. Lummis argued that overdraft fees are necessary to cover the cost of offering financial services. Mr. Chopra relayed that lending is the main profit driver for banks, and conveyed his belief that restricting overdraft fees would not negatively affect service availability.
- **Sen. Raphael Warnock (D-GA)** praised efforts by the CFPB to restrict overdraft and non-sufficient-fund fees.
- Sen. Warnock illuminated reports of consumers being charged late fees due to delays in the United States Postal Service (USPS) and other bureaucratic or clerical errors. Mr. Chopra acknowledged this to be a difficult problem to solve, and committed to engaging further.

Oversight and Enforcement

- Chair Brown expressed concerns that servicemembers are a regular target of financial fraud and identity theft, especially with the proliferation of online payment services such as Venmo, Zelle, and Cash App. Mr. Chopra called for “modest and appropriate” supervision over these services to complement existing enforcement activities.
- **Sen. Mike Rounds (R-SD)** questioned if the CFPB believes that consumer-authorized, but fraudulently induced, fund transfers are considered to be unauthorized electronic fund transfers under the EFTA. Mr. Chopra relayed that this is a “technically complicated” question, and that there is not necessarily a clearly delineated solution. At Sen. Rounds’ request, Mr. Chopra agreed to submit a more detailed response on this subject in writing.
- **Sen. Catherine Cortez Masto (D-NV)** endorsed a strengthening of penalties on those who target servicemembers and veterans for fraud. Mr. Chopra endorsed “much more” criminal liability for fraud targeting servicemembers and veterans.
- Sen. Cortez Masto and Mr. Chopra agreed that the use of AI does not exempt companies from federal laws and regulations.
- In a contentious engagement, Ranking Member Scott reiterated his concerns with the CID process. Mr. Chopra shared that CFPB enforcement practices have shifted from small actors to repeat and major offenders.
- **Sen. Jack Reed (D-RI)** discussed what he described as a new model in fintech in which cash advances are offered with no mandatory fees or interest, but which require mandatory “tips” in their place. Mr. Chopra shared that the CFPB recently charged a company with violating the law on those grounds, and described the practice as an unambiguous violation of federal law.
- **Sen. Tina Smith (D-MN)** noted that in 2022, mortgage applications of Black and Hispanic borrowers were denied at higher rates than white or Asian borrowers, and when approved, received smaller loans. The Director shared that CFPB has been working closely with the Department of Justice (DOJ) to take actions against redlining, including recently against a

non-bank entity, but acknowledged that it is a difficult problem to monitor and address on a case-by-case basis.

- **Sen. John Kennedy (R-LA)** offered heavy criticism of CFPB enforcement actions in a contentious back-and-forth with Mr. Chopra.
- **Sen. Katie Britt (R-AL)** reiterated her concerns with Section 1071 of the Dodd-Frank Act regarding both privacy and cost burden. She questioned progress in data collection regarding privacy. Mr. Chopra shared that data collection on Section 1071's privacy assessment has yet to begin, and has been "severely" delayed until 2026. He committed that the CFPB will not publish any personally identifiable information.
- Sen. Britt expressed fear that CFPB's cost analysis for banks is insufficient. The witness shared that the agency utilizes the best data available for cost estimates.
- **Sen. Chris Van Hollen (D-MD)**, discussing the topic of nonbank financial institution supervision, questioned what steps the CFPB is taking to protect consumers. Mr. Chopra conveyed his belief that the lack of oversight over non-banks was a significant contributor to the 2008 recession. As such, nonbank entities must be treated similarly to banks and credit unions, he proclaimed.
- Sen. Van Hollen hailed the recent lawsuit filed by the CFPB against student loan servicer PHEAA. Mr. Chopra committed to continuing efforts to protect the holders of student debt.
- Sen. Cortez Masto questioned how the [newly established](#) Corporate Repeat Offender Registry will deter illegal activity in the private sector. Mr. Chopra identified the ability of large or "politically connected" corporations to repeatedly violate the law as a key problem in the U.S. economy and identified the registry as a way for state and federal government agencies to coordinate.
- **Sen. Mark Warner (D-VA)** raised concerns regarding large, non-bank lenders and depository institutions.

New Technologies in Financial Services

- Mr. Chopra confirmed to the dais that companies must abide by the Fair Credit Reporting Act, the Fair Housing Act, and the Equal Credit Opportunity Act regardless of if they use artificial intelligence (AI) or otherwise.
- Sen. Smith, discussing the topic of algorithmic tenant screening, questioned what steps the CFPB has taken to improve the accuracy of screening reports and to improve transparency for consumers. Mr. Chopra pointed to recent enforcement actions, including against TransUnion for violations of the Fair Credit Reporting Act, as well as several recent guidance documents issued by CFPB. He confirmed that, depending on the circumstances, the company that developed the algorithm, the screening company, and the landlord could be held liable for violations of the law.
- In conversation with Sen. Kennedy, Mr. Chopra expressed concerns that PayPal and Chase Bank had attempted to censor consumers based on speech, and relayed his caution regarding recent reports that the companies are planning to begin targeted advertising based on transaction data.
- Sen. Warner called attention to the Financial Artificial Intelligence Risk Reduction Act (FAIRR) ([text](#)), which would provide the Financial Stability Oversight Council with new

statutory authorities, and asked what further consumer protection measures should be considered for AI. Mr. Chopra noted that his first concern with AI regards its possibility of facilitating fraud. He also expressed concern that flaws inherent within certain foundational AI models could proliferate through the financial system.

- Sen. Lummis criticized the CFPB's recent rule on digital consumer payment applications. Mr. Chopra committed to communicating with the Senator further on this matter.

Medical Debt Rule

- In conversation with Chair Brown on the proposed rule on medical debt, Mr. Chopra noted that medical debt lacks predictive power on the ability of an individual to pay other debts, clarifying that there will still be mechanisms for that debt to be collected.
- Sen. Rounds established his opposition to the proposed medical debt rule, and shared his concern that the health care industry may begin adopting cash-only transactions. Mr. Chopra shared that the agency did significant outreach to stakeholders in the industry and that it is only a proposed rule at present.
- Sen. Van Hollen lauded the proposed rules on medical debt rule and overdraft fees.
- Sen. Warnock praised the proposed rule on medical debt, saying that medical debt disproportionately impacts communities in the southern U.S. Mr. Chopra asserted his belief that a final rule on medical debt would have a material impact on peoples' financial situations.

Buy-Now-Pay-Later Services

- Sen. Reed praised the CFPB rule clarifying that credit card regulations apply to buy-now-pay-later (BNPL) loans, and called for the agency to bring the biggest BNPL lenders under federal supervision. Mr. Chopra relayed that the agency relies on several statutory authorities to exercise oversight over these lenders, and that the agency seeks to remain actively involved in this sector. Sen. Reed committed to working with the CFPB to explore ways to expand those authorities as needed.
- Sen. Reed raised concerns that BNPL lenders are not required to make reports to major credit reporting bureaus, which could negatively impact consumers by not contributing to credit scores. Mr. Chopra shared that auto lenders and mortgage lenders have expressed significant concerns regarding BNPL's absence from credit reports.
- Sen. Reed and Mr. Chopra shared concerns that younger consumers are likely to overuse credit or other forms of debt.
- Sen. Warnock highlighted the CFPB's rule on BNPL platforms, but cited concerns that it does not go far enough to protect consumer data. Mr. Chopra agreed, calling on Congress to enact new consumer data privacy laws, and further citing "monetized surveillance" as a major concern — though he did not endorse any specific legislation. The Director further identified data brokers as a potential national security concern, which underpins President Biden's [Executive Order on data protection](#).
- Sen. Warnock questioned what measures can be taken to avoid overburdening people with consumer debt under BNPL programs. Mr. Chopra acknowledged this as a possibility with both BNPL services and credit cards.