The Consumer Financial Protection Bureau's Semi-Annual Report to Congress
Senate Committee on Banking, Housing, and Urban Affairs
April 26, 2022

Executive Session

The Markup was postponed, and Chair Brown said that there does not seem to be opposition to the nominees so the vote should be quick.

Opening Statements

Chairman Brown (D-OH) remarked that Americans need a strong CFPB, and they have one with Chopra as Director. He talked about corporate power and how growing profit margins and increased prices hurt consumers, noting that consumers are at the mercy of unaccountable corporations. Brown discussed how the previous CFPB Director was a friend to payday lenders and corporations. He pointed to the billions paid by consumers in 'junk fees' from banks and credit card companies and how this is being addressed by the CFPB. Brown talked about Chopra's work with the PAVE Task Force on appraisal bias and talked about the important work the CFPB is doing on medical debt saying that this has been a problem for decades. He referred to the CFPB's announcement to look at non-bank fintechs to prevent fraud and looked forward to hearing what the CFPB is doing on repeat offenders. Brown noted Chopra's position on the FDIC board and the RFI on bank mergers that was ignored by the previous FDIC director despite being backed by a majority of the board. He believed that Chopra is doing his job and emphasized making sure that markets are fair for all, not just corporations.

Ranking Member Toomey (R-PA) stated that under Chopra, the CFPB is more out of control than it has ever been since its creation under the Obama Administration. He continued that the CFPB unilaterally has decided that UDAP now includes disparate impact liability, which does not prove discrimination, and talked about how this could be used in relation to overdraft policies, arguing that overdraft policies could be seen as having a disparate impact on women. Toomey added that in the past when overseeing auto lenders, the CFPB discovered discrimination on the part of lenders when they did not even know the race of the borrowers that they were accused of discriminating against. Toomey rejected that Dodd-Frank allows disparate impact liability to be included in UDAP because UDAP was taken from the FTC Act which does not include this language. To make matters worse, he said that the CFPB implemented this by issuing a press release instead of a transparent rulemaking. Toomey stated that Congress overturned disparate impact guidance on auto lending in 2018, but now invoking UDAP, the CFPB is looking to supervise for disparate impact in lending and all consumer financial products. He believed that this unauthorized rulemaking would create uncertainty in the market and expected that the CFPB will continue to disregard its rulemaking obligations, noting the CFPB's regulation by enforcement. Toomey continued that Chopra has consistently involved the CFPB in competition and antitrust law which is outside of its jurisdiction. For instance, the

CFPB has noted that its campaign against overdraft fees is a means of promoting competition and that their demands to tech companies are to see if they are acting anti-competitively. He referred to Chopra and Gruenberg forcing out McWilliams and how the FDIC is also out of control. Toomey concluded that under Director Chopra, the CFPB is more out of control than ever before, and the contagion is spreading. He believed that it is past time for Congress to bring accountability to the CFPB by making it subject to the appropriations process and enacting other needed reforms. Toomey added that the current Congress won't do that, but the next one should.

Witness Testimony

The Honorable Rohit Chopra, ***Director, Consumer Financial Protection Bureau,*** remarked that the CFPB is working hard on what Congress intended as its mission. He said that most importantly, the CFPB is deeply engaged with market participants on the future and how to shape it in a way that aligns with the US. Chopra said that currently, the United States is lurching toward a consolidated market structure where finance and commerce co-mingle fueled by uncontrolled flows of consumer data and that this is the market structure that has emerged in China. He said that the CFPB plans to study this. Chopra continued that the CFPB is dramatically increasing its issuance of guidance documents, such as advisory opinions, compliance bulletins, policy statements, and other publications. Chopra continued that the CFPB is especially interested in areas where guidance can support compliance efforts by small institutions and new entrants. He also discussed his interest in Sec. 1033.

Member Questions

Chairman Brown (D-OH) asked what happened with the FDIC Board. Chopra replied that the situation was sad but simple. He explained that if any bank board or corporate board tried to do this, there would be serious problems and he said that what happened should never happen again. Brown turned to medical debt and asked what the CFPB is doing to address the mistakes from medical debt. Chopra replied that much of the medical debt Americans face is not really owed, but they are coerced into paying it once it is on a person's credit score. Brown turned to junk fees and many banks' announcements of getting rid of junk fees. He asked what Chopra will do to curb the use of junk fees beyond what he's done with overdraft and NSF. Chopra referred to fee creep and how they are often not being disclosed upfront. He said that the CFPB solicited public comment on junk fees, and they want banks to make money when banks are providing services for bona fide activities that consumers want and they are now starting to see banks compete on offering overdraft at lower or no fees at all. Brown lastly asked about the PAVE Task Force and asked how they can ensure that any technology used in the appraisal process is fair and does not contribute to bias in the appraisal process. Chopra talked about how Congress allows regulators to oversee AVMs to ensure they have proper controls and said that the CFPB is working with the other regulators on a potential joint proposal. Brown then asked about the process for consumers to report discrimination in this area. Chopra expanded that part of this is algorithm discrimination and part of it is getting more people into the appraisal business to ensure more accurate appraisals. He said that they are working with HUD and other agencies to think about how this can be beneficial to lenders and homeowners.

Ranking Member Toomey (R-PA) discussed the hostile takeover that Chopra and Gruenberg orchestrated of the FDIC. He referred to a document purporting to provide a legal justification for bypassing the FDIC Chair and asked if the FDIC General counsel contributed to that document. Chopra acknowledged the existence of the document and said that they did not contribute to it. Toomey asked if Todd Philips or anyone from the Center for American Progress contributed to the document and asked who did contribute. Chopra replied that Philips did not contribute to the document and said that the General Counsels and legal advisers at the OCC and CFPB worked on the document. Toomey said that Chopra disregarded the FDIC draft on bank mergers, and he had difficulty believing that Chopra tore down the FDIC rules and norms just based on language of an RFI. He continued that Chopra's actions of politicizing the FDIC have lasting damages to its independence and credibility. Chopra did not believe that anything that Toomey said was in accordance with the facts. He said that when it comes to the process, the FDIC board process had been in place for 90 years and said that what happened was unbelievable and sad as the process was not followed. Chopra said that the chair should not be able to overrule the supermajority of the board. Toomey said that Chopra's version of events is completely different from other people's versions. Toomey turned to UDAP and disparate impact saying that the FTC did not use UDAP to pursue disparate impact and said that if Congress wanted the CFPB to address disparate impact it would have written that when designing the CFPB's mission. In this case, Toomey said that the CFPB did not engage in rulemaking on this and just added disparate impact to guidance. He pointed to the costs of regulatory uncertainty and asked Chopra if anyone in the CFPB legal department suggested that Chopra follow the Administrative Procedures Act (APA). Chopra clarified that if the CFPB receives complaints that suggest that someone is being discriminated against when wanting a bank account, the compliance manual gives the institution what the test is and shows what they should be looking for to ensure their compliance with existing law. He continued that there are decades of misconduct and discrimination and did not know what Toomey was referring to exactly. Toomey asked when UDAP was ever used at the FTC as a justification for disparate impact. Chopra said that this is not in the manual. Toomey said it is and asked if anyone recommended that Chopra follow APA. Chopra said not to his recollection, they did not.

Sen. Warren (D-MA) referred to a March 28 Chopra speech on repeat offenders and said this is a really serious problem. She talked about Wells Fargo, calling the bank one of the worst repeat offenders and referred to the fake accounts scandal. Warren asked how much Wells Fargo was fined for this in 2016. Chopra replied that Wells Fargo was fined around $185 million. Warren continued that after the fine, other scandals came into light and in 2018, the Fed finally put a cap on Wells Fargo's growth, but Warren said that this was still not enough to get Wells Fargo to follow the law and pointed to further violations. Warren said that while the asset cap was needed, she asked what other steps regulators should consider to hold Wells Fargo and other repeat offenders accountable. Chopra did not want to comment specifically on Wells Fargo but said that there is a totally different standard for big companies who continue to offend while small businesses get hammered. He said that fines are not going to solve this with the biggest players, there need to be structural remedies, and believed that we should treat large and small firms the same. Warren thought Wells Fargo should be broken up and talked about her plan to reintroduce her *Corporate Executive Accountability Act*, in order to hold executives of big banks accountable when they continually break the law. She also wanted to address the comments by Republicans on the 'hostile' takeover of the FDIC and said that Republicans can call what happened whatever they want but emphasized that the FDIC director violated the bylaws and highlighted the need for regulators who are going to follow the law.

Sen. Tillis (R-NC) thought that Chopra poisoned the well to oust a federal regulator, referring to the FDIC situation. He thought that the event at the FDIC was not an outlier during Chopra's time at the CFPB and talked about the inclusion of disparate impact liability in UDAP. Tillis asked what industry feedback process he initiated when updating the examination process. Chopra clarified that he was also appalled at what happened at the FDIC and said that what happened should never happen again. Tillis responded that the manner in which Chopra acted was outside 88 years of common practice. Chopra said that with respect to the examination manual, it is a vehicle that gives institutions a lens into what specifically examiners are going to look for when investigating discrimination. Tillis again asked what industry feedback process he initiated prior to updating the examination practices. Chopra heard from all sorts of industries and said that the regulated industries believe that discrimination has no place in the system, it violates several laws, and he believed that this is a clear legal prohibition. He had not heard any suggestion that discrimination based on someone's race or the like does not violate the unfairness prohibition. Tillis was concerned with the process saying that in the first 120 days on the job, Chopra had only met with 3 industry groups compared to Cordray who met with 40. He understood that Chopra has been unwilling to meet with industry groups and asked if Chopra denies that this was the case. Chopra denied this saying that he has met with banker associations in multiple states and trade associations. He said he has personally met with many industry players and has gone beyond to listen to a broader range of the business community, but they have been prioritizing smaller institutions. Tillis said he was particularly interested in dialogue with industry players that have been most affected by new changes. (QFR)

Sen. Warner (D-VA) worried about consumer protection as inhouse applications are increasingly outsourced and asked if Chopra felt that the regulators have insight into these practices. Chopra heard from community banks that there are sometimes only four core service providers and three cloud servicers, which creates resilience issues. He thought that enough is not being done now and that we need to make sure that we are prepared if a state or non-state actor were to attack. Warner agreed that he was concerned about cyber, but also concentration.

He wanted to make sure we still have visibility into this critical component of the banking system. Warner turned to payment systems for big tech where we are seeing consolidation and potentially the growth of opaqueness. He asked when the review of the payment systems around big tech will be done and if they were also looking at Chinese systems, like WeChat and AliPay, as he was concerned about them from a national security standpoint. Chopra referred to his written testimony on how the US consumer finance system seems to be lurching toward a Chinese like market structure and said that the CFPB will be reporting on this and how he had confidence in the FedNow system. He said that this is concerning, especially when it comes to privacy. Warner was anxious to follow up with Chopra on this and turned to the report on financial challenges facing rural communities. He said that we will finally get the broadband capabilities in the infrastructure bill so that no communities are left behind and asked about what the CFPB has found with regard to online banking in rural communities. Chopra responded that rural communities have different banking needs than metropolitan areas and said that we still need to uphold relationship banking. He was eager to work hard on this.

Sen. Rounds (R-SD) looked back at Chopra's confirmation hearing and asked what steps he plans to take on improving transparency of the civil penalties fund and how the funds are spent. Chopra replied that because of Rounds' feedback, he has paused funds from the civil penalties fund that do not directly go to victim redress. Rounds asked if he could share with them how those funds will be spent. Chopra said that if they restart the fund, they will let him know and noted that they are working with state AGs and state regulators to get funds to victims. Rounds then turned to the statutory prohibition on the CFPB regulating insurance, however with respect to the CFPB's Sec. 1071 rulemaking in premium financing, he was concerned that Chopra was taking a rather broad view of financial activity and that this would cover state regulated insurance brokers and agents. Rounds asked if he believed that the CFPB can or should regulate insurance premium financing. Chopra replied that this rulemaking was proposed before he arrived and they have received a broad range of comments, but that he would look into this. He said that we have insurance regulators that are primarily responsible for regulating insurance, but there are some nuanced examples where there is financing and insurance co-mingled and the CFPB can provide his staff with some examples, but generally speaking he respected the prohibition in the CFPB Act. Rounds said that most people want annual or semi-annual insurance policies, and it can be difficult to get the premium to pay it upfront. He said that if this becomes more challenging for the carriers to finance that and they decide not to do this, it is a challenge for consumers or new businesses who do not have the money available or are unable to finance. Chopra said that they are looking at the comments and they were happy to get feedback from other lawmakers as well, but they do have to finalize the rule according to Dodd-Frank. Rounds asked if it was true that the CFPB already requires the clear disclosure of terms and fees. Chopra said it depends on the law and it is often not clear or disclosed upfront. Rounds was concerned about overdraft protection and said that many small banks and credit unions are offering this and asked if consumers will have access to funds to cover a particular item if overdraft protection goes away. He asked how the CFPB expects financial institutions to bear the cost and offset the risks of these costs in a safe and sound manner without allowing for a fee assessment. Chopra said that Rounds raises an important point and saw that banks across the board are starting to compete on this by lowering the overdraft fee or providing a grace period which is exactly what they want to see. He agreed that short term credit is needed. Rounds pointed out that overdraft fees only make up 2% of the fees banks acquire based off of a 2019 report.

Sen. Menendez (D-NJ) talked about the CFPB protecting victims of human trafficking. He turned to student loans and asked how the CFPB plans to further monitor this market. Chopra replied that consumers do not get to choose their servicer and that we depend on the servicer to make sure they are transparent on borrower options and that the servicer should not be harming the consumer but helping the consumer stay on track. He added that the CFPB will be examining servicers and expected servicers to be prepared when the CFPB does this examination. Menendez turned to scams associated with Zelle and that there has been little done to protect its users. He asked if Chopra was familiar with this and if any regulation like Regulation E would help repay consumers. Chopra could not comment specifically on Zelle but did say that he has seen an increase in comments on Peer-to-Peer payments.

Sen. Kennedy (R-LA) asked Chopra about Rule 1071 and understood that it is not finalized yet, but said it proposes that banks guess the race of a small business owner if the information is not provided. Chopra did not want to talk about open rulemaking, but thought he was referring to the visual observation provision when information is missing and said that the CFPB is closely looking at comments on this. Kennedy asked if Chopra supported this concept of having bankers guess their race. Chopra declined to comment. Kennedy asked Chopra to talk about this approach of what he called ‘statistically discrimination’ referring to disparate impact and said that the CFPB does it all the time. Kennedy asked if he believed in this approach. Chopra replied that the regulation that implements the Equal Opportunity Act has provisions around unintentional discrimination where there is no hard evidence. Kennedy asked if he thought there could be discrimination without intent. Chopra pointed to the use of algorithms and data. Kennedy interrupted and said he meant in the case of human beings and noted how you could make a distinction between humans of different races based on immutable characteristics. Chopra said that there is liability for discrimination if it cannot be explained by other factors.

Sen. Smith (D-MN) paid a lot of attention to access to financial services in rural communities and applauded the attention the CFPB has paid to this issue. She talked about bank consolidation and how CDFIs are increasingly important to fill the gap in community banking. Smith asked Chopra to talk about how unequal access to capital in rural communities is impactful. Chopra referred to branch closures in rural communities and how this hurts farmers or small businesses in these communities. He continued that policymakers and regulators have not paid enough attention to this and said that the CFPB will continue to work on this. Smith followed up on the abusive purchases of structured settlements and acknowledged that this is a federal and state issue. She said that victims are only getting 40% of the whole settlement on average and was glad that the CFPB took action on this last year with a specific firm. Chopra replied that when this happens it can be devastating and can threaten one's retirement security or the ability to feed their family. He said that the FTC is also interested in this.

Sen. Daines (R-MT) said that we need to sanction Russian energy companies and that the US needs to hit Putin where it hurts - his wallet. He was happy to see the Biden Administration nominate Bridget Brink to be the US Ambassador to Ukraine and urged her quick confirmation. Daines turned to the Sec. 1071 rulemaking and believed that subjecting small entities to a new and complex data collection framework will hurt small lenders and business borrowers. He asked how the Bureau is balancing its consumer protection mission with the need to ensure the continued availability of credit for local businesses. Chopra replied that small businesses need to get loans and we saw the importance of this with PPP. He said that the CFPB is under a court order to make progress on this as this is in law and said that the CFPB has to faithfully implement congressional directives in a timely manner. Chopra wanted to make sure that they learn good lessons from HMDA and see how they can make it more streamlined. Daines believed that the proposed 25 transaction threshold is far too low and asked Chopra's thoughts on this. Chopra replied that they are looking at all the comments on what the right threshold is and they are also looking at the process and what type of data should be included, which will help them determine how to faithfully implement this statute. Daines said that the CFPB prides itself on being a modern data driven Bureau and asked how Chopra is ensuring that the cost of regulation does not outweigh the benefits. Chopra noted that there was a section in the proposed rule on this and acknowledged that it can be hard sometimes to get the specific data, but they gather as much data as they can to assess its validity in order to make informed decisions.

Sen. Cortez-Masto (D-NV) was very concerned about payday lending and how Nevadans are charged over 600% on payday loans. She pointed to how other states have 36% interest rate caps. She knew that the CFPB established some national protection for payday loan borrowers and asked what the CFPB's research found about payday lenders complying with these borrower protections. She asked what else she and others can do to address this in Nevada. Chopra replied that the CFPB did conduct a study on the impact of certain state laws that require extended repayment plans for certain payday loans and the analysis looked at the uptake and efficacy of those and the study showed that there is extremely low loan uptake and that the payday lenders often did not make these plans available even though it is law. He said that there may be incentives for lenders not to use these plans and emphasized having a market that is fair, transparent, and competitive. Cortez-Masto referred to the rural report conducted by the CFPB and asked about what the plan is for the listening events. Chopra replied that this is a huge problem for rural communities and the country's farmers. He said that the CFPB is eager to work with farmers and tribal communities in rural areas to address their needs. Chopra added that he has raised concerns that rural communities are less likely to raise complaints for a number of reasons, but he wants to make sure that when people have problems, they know where to get help. Cortez-Masto called out private equity firms who have raised rents for manufactured homes, hoped that the CFPB is looking at this, and asked how we can address residents' concerns. Chopra was happy to talk further with her on this but noted that his attention is more on the mortgage market.

Sen. Hagerty (R-TN) pointed to his legislation to subject the CFPB to appropriations and asked if Chopra would be willing to subject the CFPB to the appropriations process. Chopra replied that it is up to Congress to decide the structure of agencies but pointed out that the OCC and FDIC are also not subjected to the appropriations process. He said that there is a baseline from the Fed which is subject to the appropriations process if the agency makes a request beyond that baseline. Hagerty wanted to see more direct accountability on this front. Chopra replied that a fee-based system would be challenging as the CFPB has oversight of nonbanks as well and said that civil penalties are not for discretionary expenditures. Hagerty continued that there is major concern about what happened at the FDIC and believed what happened was a coup. Chopra disputed what Hagerty laid out and repeated that what happened at the FDIC was sad. He added that the chairperson does not have the right to nullify the supermajority of the board and pointed out that this does not happen at the corporate level either. Chopra continued that the FDIC is operated as a board and that you want the ability to compromise as a board. Hagerty asked about what precedent this sets. Chopra thought it was extremely important that laws and bylaws are adhered to.

Sen. Warnock (D-GA) discussed medical debt and asked if there is a difference in debt burdens on residents' debts who have expanded Medicaid and states that have not. Chopra replied that the big challenge is that much of the medical debt that shows up on credit reports may not even be owed. He said that we need to make sure that credit reports are accurate and not used to coerce people into paying debt they do not owe. Warnock added that these people, especially in states without expanded Medicaid, would have to resort to higher interest credit cards. Chopra said this was correct and said that the credit reporting has serious issues with accuracy. Warnock continued that this leads to cascading issues beyond the medical incident. Chopra agreed and said that when you get sick, you just want to get better, and that people are harmed having to deal with medical debt. Warnock closed by emphasizing that healthcare is a human right.

Sen. Van Hollen (D-MD) continued the conversation of medical debt and said that medical debt is less predictive of credit worthiness than non-medical debt based on CFPB studies. He said that lenders are not updating their models based on recent research and asked why this is not happening and what the CFPB can do on this. Van Hollen asked if the CFPB can work with FHFA and Fannie and Freddie on this. Chopra replied that FICO did change one of its versions to exclude some medical debt options, but this is not widely used. He continued that lenders are worried that they cannot give a good enough explanation to individuals on why this happened and that it is very hard to dispute errors on one's credit score but said this was really harmful. Chopra continued that the Department of Veterans Affairs has changed its policy for medical debt for veterans. Van Hollen turned to overdraft fees noting some progress on this and was pleased to see a number of banks move away from exploiting these fees. He asked Chopra to talk about additional plans to address abuse in this area. Chopra replied that the CFPB is looking at this holistically and added that we are seeing the market compete on this. He thought that the benefits of competition here are huge.

Toomey continued the conversation on the application of disparate impact under UDAP and said that Chopra clearly equates discrimination with disparate impact, but they are two different things. He said that Congress has rightly implemented legislation against discrimination, but the decision to create a new authority to enforce disparate impact under UDAP is inappropriate. Toomey saw this as an attempt to expand CFPB authority and to use a false characterization of discrimination to justify this.

Sen. Reed (D-RI) referred to the Military Lending Act and asked Chopra for an update on what the CFPB is doing on the MLA. Chopra responded that the MLA is very clear in many respects and thought that the CFPB needs to stop repeat offenders of the MLA. He added that the CFPB is making sure that institutions are following the MLA by using supervisory tools. Chopra appreciated the DoD working with him on this. Reed referred to the 36% interest rate cap in the MLA and noted his legislation to expand the rate cap to everyone and asked Chopra if he was in favor of this. Chopra did not know the specifics of this legislation but said that under the MLA, veterans are still able to get credit and use a credit card like everyone else. He noted that states have implemented rate caps and that this was an important area for Congress to look at as the CFPB cannot address it under their jurisdiction, so the CFPB was happy to work with Reed on his bill.

Brown thanked Chopra for all the work he does and the work the CFPB does.

Consumers First: Semi-Annual Report of the Consumer Financial Protection Bureau
House Financial Services Committee
April 27, 2022

Legislation

- H.R. 2069, the "Home Loan Quality Transparency Act." (Rep. Velázquez)
- H.R. 2123, the "Diversity and Inclusion Data Accountability and Transparency Act." (Rep. Beatty)
- H.R. 5974, the "Veterans and Consumers Fair Credit Act." (Rep. C. Garcia)
- H.R. ____, the "Expanding Access to Credit through Consumer-Permissioned Data Act." (Rep. Williams)
- H.R. ____, the "Small Business Fair Debt Collection Protection Act." (Rep. Lawson)
- H.R. ____, the "Credit Reporting Accuracy After a Legal Name Change Act."

- H.R. ____, the "Repeat Offenders and Megabank Accountability Act."

Semi-Annual Report of the Consumer Financial Protection Bureau - Fall 2021

Opening Statements

Chairwoman Waters (D-CA) was pleased that the CFPB is finally back on track and was happy to see the CFPB doing more than just slapping corporations on the wrist with fines. She was heartened that Chopra is seeking to hold repeat offenders more accountable. Waters hoped this would encourage other financial agencies to use all the tools available to them. She referred to Sec. 1071 and believed that the data will be helpful to root out discrimination. Waters also discussed coming down on payday lenders and believed that we should do all that we can to prevent home disclosures, especially for minority homeowners, when the forbearance moratorium ends. She was happy to see the CFPB looking into junk fees and discussed potential algorithmic bias and the work being done to prevent that in the home buying process. Waters commended Chopra's handling of the FDIC situation.

Rep. Wagner (R-MO) said that under Chopra's leadership, the CFPB is out of control and that Democrats are turning to the agencies to pass their progressive agenda since Democrats cannot get it done in Congress. She mentioned the FDIC 'powergrab', the adjudication proceedings, disparate impact, scrutinizing aspects of the financial services industry, and framing widely used credit products as unfair as progressive actions Chopra has taken at the CFPB so far. Wagner stated that Chopra's actions are inconsistent with his statements and that he is now issuing regulation through press releases. She believed that Chopra asking for comment on this guidance is a waste of time and resources as his intent is clear. Wagner continued that Congress has no role in how the CFPB operates and that the Democrats designed it to be that way. She referred to the hearing on overdraft fees last month and said that not liking something is a reason to forego economic analysis for political reasons. Wagner believed that this harms access to credit and drives up the cost of financial services for all Americans. She continued that the CFPB's actions have not been based on sound facts but based on Chopra's views.

Witness Testimony

The Honorable Rohit Chopra*, Director, Consumer Financial Protection Bureau,* remarked that the CFPB is working hard on what Congress intended as its mission. He said that most importantly, the CFPB is deeply engaged with stakeholders and market participants on the future and how to shape it in a way that aligns with American values. Chopra said that currently, the United States is lurching toward a consolidated market structure where finance and commerce co-mingle fueled by uncontrolled flows of consumer data and that this is the market structure that has emerged in China. He said that the CFPB plans to study this as it relates to privacy and fraud, especially as it relates to Big Tech. Chopra continued that the CFPB is dramatically increasing its issuance of guidance documents, such as advisory opinions, compliance bulletins, policy statements, and other publications, to ensure clarity and consistency. Chopra continued that the CFPB is especially interested in areas where guidance can support compliance efforts by small institutions and new entrants. He also discussed his interest in making progress on Sec. 1033 as well as simplifying overcomplicated rules.

Member Questions

Chairwoman Waters (D-CA) referred to a recent speech by Chopra on senior executives not being held accountable for their role in the 2008 financial crisis and discussed the CFPB's actions on repeat offenders. She mentioned TransUnion and Wells Fargo as repeat offenders. Waters was disappointed with the recent reports that show that Wells Fargo denied black homeowners the ability to refinance their house compared to white homeowners and hoped this would be investigated. She asked about Chopra's plan to ensure that penalties change the perception of how companies see the law. Chopra thought it was simple, when small players break the law repeatedly, agencies crack down on them, but when large companies break the law, we do not see action. He believed that we should apply the law equally and that means that action may go beyond fines and stricter sanctions for repeat offenders including limitations. Waters told Chopra that now is the time to shine a bright light on the activities of businesses who are taking advantage of inflation and said that Democrats are going to do everything possible to engage on this issue.

Rep. Wagner (R-MO) believed that the inflation crisis that is ongoing is a result of Democratic policies and overspending by trillions of dollars. She asked Chopra how he is ensuring that the cost of regulations is not outweighing the benefit. Chopra replied that in the actions, he is focused on being not excessively complicated to avoid harming small businesses. He discussed the role of software providers and lack of competition there. Wagner asked if cost/benefit analysis is conducted with each CFPB action. Chopra understood that it is required to look at costs and benefits. Wagner asked if he planned to address interchange fees in his investigation into junk fees. Chopra replied that interchange fees are outside the purview of the CFPB. Wagner asked if he considered interchange fees to be junk fees. Chopra said that a junk fee is something that is there when there is not competition, the fee may be something you do not want or ask for. Wagner asked Chopra to define a junk fee. Chopra replied that a junk fee is a fee that is not a fee that is not subject to the full competitive process and specifically for a service that you have never asked for or the cost is in excess of what it would be in a competitive market. Wagner was not familiar with the term 'junk fee' and believed it to be subjective. Chopra talked about the 'fee creep' many Americans are experiencing and said that the CFPB is asking people about their experience with these fees. He said that they have gotten a lot of feedback and he saw that institutions are starting to compete in the market on fees. Wagner turned to overdraft protection and how Cordray found no need for a rulemaking on this and asked Chopra where he expected consumers to turn if this product is restricted. Chopra replied that he was seeing institutions reduce overdraft fees and believed that this is one of the beauties of a competitive market; when there is real competition, people can benefit across the board.

Rep. Green (D-TX) associated himself with Waters' comments on inflation and invidious discrimination. He was concerned about invidious discrimination in lending and referred to his legislation to address this. Green believed that the penalties for banks need to be tougher and suggested criminal penalties. He asked Chopra for a comment on this. Chopra agreed that it is important to enforce laws like HMDA that CFPB is designed to enforce. Green assumed that the penalty is some sort of monetary fine. Chopra confirmed that the fine is monetary. Green asked if there had been incarceration. Chopra replied that he has not thought about incarceration, but securities fraud can be punishable by incarceration. He agreed that for repeat offenders, the monetary penalty alone is not enough of a deterrent. Chopra added the criminal punishment is not within CFPB jurisdiction. Green closed by stating that they need to take bold action in these areas.

Rep. Lucas (R-OK) discussed the CFPB's Tribal Consultation policy and asked Chopra to discuss how the CFPB receives comments from the tribal community. Chopra replied that he has had meetings to engage with tribal communities and thought that the CFPB is going beyond a letter of their policy and has launched rural work when it comes to financial services. He was happy to get more input from Lucas and others to ensure that tribal communities are included. Lucas turned to financial innovation and asked Chopra to discuss how financial technology allows for increased inclusion. Chopra replied that technology helps lower customer acquisition costs, lower back-office costs, and find and innovate on services. He did not want big tech companies to dominate the financial sector like what is happening in China but wanted to ensure that competition and innovation are part of the progress in the financial market. Lucas asked Chopra to elaborate on ensuring the small businesses are not harmed in rulemakings, especially given all the economic uncertainty at the moment. Chopra replied that the CFPB looks at the inflation numbers and mentioned that auto lending is one of the area's most likely to impact consumer finance due to the cost of new and used cars right now. He said that this is impacting what auto lenders are seeing in terms of average loan balances and how there are issues with people being able to afford cars. He continued that the CFPB is looking at all of this. Lucas closed by emphasizing the need to maintain liquidity in the market.

Rep. Foster (D-IL) referred to the February outline proposed by the CFPB and joint agencies on AVMs and asked what Chopra's thinking is on this. Chopra replied that there are two vehicles for the appraisal business, the human appraisals and appraisals done by AVMs. He continued that the CFPB wants to ensure fidelity in these valuation models and could not give a specific timeline due to the proposal being interagency. Chopra emphasized that AVMs need to be accurate and nondiscriminatory. Foster asked Chopra about the embedded bias in the dataset that is being used to train AVMs. Chopra thought that the tension between algorithmic banking and human banking is one that we are going to have to confront, but he did not have a great answer for him and they are continuing to work on this. Foster also talked about explainability when it comes to these models and asked how Chopra is going to prioritize this. Chopra said that about 10 years ago, a lot of international bodies were focused on explainability and without explainability, algorithms can be harmful to the consumer. He added that understanding why a decision was made and what inputs got us there is common sense.

Rep. Posey (R-FL) asked Chopra how he is continuing Kraninger's rule on cost/benefit analysis as required by Dodd-Frank. Chopra replied that he is focused on figuring out the consumer protection goal and how to minimize the cost while getting to the benefits. He emphasized simplicity and bright lines and the closer we can get to bright lines, the cheaper it will be for small businesses. Chopra mentioned software and core providers and the lack of competition here for small financial firms. He wanted to understand what happens on the ground and what changes need to be made. Posey asked Chopra to give an example of how the cost/benefit analysis of a regulation changed or improved a CFPB regulation. Chopra said that he would follow up with Posey on this but is looking at the drivers to reduce cost by making changes to a regulation that would not change the benefits. He admitted that it can be challenging to get the data to really understand the benefits and that it is not a perfect science. Chopra added that the CFPB is reviewing older rules that have not been looked at in a while and did not have a specific timeline on this to see if these rules need to be updated or not. Posey asked Chopra about public comments as a part of assessment. Chopra explained that the CFPB always describes how the analysis of the comments drives changes to any regulation.

Rep. Vargas (D-CA) discussed redlining and the barriers many people of color still face when achieving homeownership. He asked Chopra to speak about the CFPB's role here. Chopra replied that the CFPB does not enforce the FHA but does administer HMDA. He added that we need to make sure anti-redlining laws are being enforced and to the extent the CFPB can act in this space, the CFPB will do so. Vargas asked how financial institutions can use HMDA to ensure that Americans have the needed resources to navigate the local housing market. Chopra replied that we are living in a time where housing is expensive everywhere and how housing is eating up a bigger and bigger amount of one's income. He worried about the lower rate of refinancing being predicted for next year due to the change in interest rates and how this hurts consumers. Vargas turned to auto lending and how a third of the inflation right now is because of automobiles and asked him to comment on this. Chopra saw that it is common with other goods that are driving inflation, saying it is due to supply chain issues and semiconductor production mainly being based in Asia. He said that this is making it tougher for US automakers to get those chips which is leading to less new cars coming onto the market and that is spilling into the used car market as well. He added that the CFPB is looking at the impact of auto lending and repossessions due to the increase in prices and emphasized consumer choice on competitively priced auto loans. Chopra said that getting an auto loan is often just not an option for people as it is critical input to their business.

Rep. Luetkemeyer (R-MO) referred to an American Banker article on the FDIC situation and an internal CFPB memo on the legal analysis of the FDIC. He asked Chopra if he authorized this memo to be released to reporters. Chopra said yes and that he was happy to provide the memo to the committee as well and said that he has never witnessed what occurred at the FDIC before. Luetkemeyer was concerned that Chopra was releasing internal memos to the press and not to Congress. Chopra replied that the legal analysis was shared with the FDIC and that it was not selectively shared. Chopra said he would look into why the memos were not given to Congress. He added that the FDIC legal situation was in severe crisis. Luetkemeyer said that the CFPB

General Counsel orchestrated this memo and thought it was beyond statutory authority of the CFPB. He asked if Chopra would allow the CFPB General Counsel to provide information and for it to be recorded. Chopra replied that he would be helpful where he can be. Luetkemeyer turned to the letters he sent to Chopra on junk fees and repossessions. He said that many of Chopra's regulations are turning to junk regulations, and he said that Chopra's responses to his letters failed to answer his questions. Luetkemeyer asked if Chopra would retain the documents related to those requests as Luetkemeyer and other Republicans wrote him a letter on that this morning. Chopra emphasized that he would be compliant with all applicable laws.

Rep. Lawson (D-FL) referred to a CFPB report on the challenges of rural communities and asked Chopra more about this. Chopra replied that we really need to understand the unique banking challenges of rural communities and the importance of relationship and branch banking in these communities. He added that this can heavily impact small businesses and farmers and looked forward to working with the USDA and others to serve these communities. Lawson asked how Chopra plans to level the playing field for small, community-based financial institutions to compete with fintech companies. Chopra agreed that this is an issue and has thought about how small players can use technology and promote that in a way that makes them more competitive. He was worried about this and referred to China where big tech companies are dominating the financial system and he did not want this for the US. Lawson continued on the importance of small businesses in rural communities and referred to legislation on debt collection and small businesses. He asked Chopra if believed that expanding current protections to small business owners would make them more likely to succeed. Chopra did not know the specifics of Lawson's bill but was aware of the predatory practices small businesses face so he was happy to work with him on this.

Rep. Huizenga (R-MI) referred to Chopra's written testimony and Chopra influencing behavior through press releases. He saw that Chopra sent a release last week regarding MoneyGram as well as the release this week on nonbank companies. Huizenga asked what Chopra expects from these press releases and if companies can simply ignore these public pressure campaigns. Huizenga emphasized that these press releases have an impact on behavior. Chopra defended that the policy document is included in the press release and does offer more details. Huizenga referred to Chopra's criticism of big banks that are growing through mergers and acquisitions last December. He asked Chopra to cite the statutory authority given to the CFPB to review M&A. Chopra replied that this was related to the FDIC board and agreed that many small banks do feel the need to consolidate to stay ahead. Huizenga turned to enforcement and had some concerns with the 1071 rulemaking as well as disparate impact and it was hard to see how these policies can be anti-competitive and impact small businesses. He asked Chopra to commit to not pursue policies that are harmful to small businesses. Chopra would answer for the record but did not want to do anything to harm small businesses.

Rep. Cleaver (D-MO) said that without lending, there would be no growth in our world and asked what the CFPB is doing to reduce or get rid of predatory lending. Chopra replied that the CFPB is trying to make sure that everyone is following the law and that no one is getting ripped off. He referred to the lawsuit in the pawn lending area in violation of the MLA and said that when the CFPB sees complaints and fast-growing firms, the CFPB may look into these companies. Chopra emphasized that he wants everyone to play by the rules. Cleaver wondered whether or not there is something that relates to reform that Congress should do and asked if there is anything Congress can do to address payday lending. Chopra replied that in as much as there are bills, the CFPB can analyze them but at the end of the day, and he wanted consumer choice and competition. He saw a number of state laws passed over the years for consumer protection which the CFPB is aware of.

Rep. Barr (R-KY) referred to the press release the CFPB released on dormant authority over non-bank fintechs and asked Chopra what category of non-bank firms does he assert to have authority to supervise. Chopra replied that there are two different authorities established, enforcement and bank-like supervisory. He explained that there are three categories under bank-like supervisory authority and non-banks are in the third category which has not been used. Barr asked which nonbanks he was referring to. Chopra responded that there are nonbanks that are automatically covered regardless of size, including those in the mortgage, payday, and private student loans industry. Barr said that Chopra lacks authority to look at businesses who give credit to non-consumers, such as merchants and businesses, and referred to 1071 and its data collection requirement which he thought was inappropriate and believed that it would reduce competition. He pointed to the requirement to guess the race of borrowers and how banks in his district have told him that they will be forced to leave the small business lending market which will ultimately reduce and eliminate competition. Chopra responded that there are some authorities that relate to small business lending and as it relates to small business loan data collection, he explained that the CFPB is under court-order to look into this because this was included in an act of Congress. Barr was getting feedback from small, rural community banks who are going to exit the industry due to 1071 rulemaking and urged Chopra to review 1071 if he really cares about rural banking deserts. Barr asked about any legal or statutory authority that defines junk fees. Chopra replied no, but people experience junk fees in many parts of their financial life and the CFPB wants to further look into this. Barr believed that this assumes that there are illegal actions taking place and said there is no due process because people do not know what he's talking about. Chopra said that he would respond for the record and that he could point to prior enforcement actions.

Rep. Maloney (D-NY) pointed to the CARD Act and was proud that the CFPB has been enforcing it since its passage. She worried that if we do not continue to protect consumers, banks will start rolling back protections. Maloney wanted the CFPB to be aware of harmful card company practices, especially late fees, and asked what more the CFPB can do to enforce the Credit Card Bill of Rights and help consumers, particularly low-income consumers. Chopra replied that credit cards are one of the core ways consumers can achieve small dollar lending and wanted to make sure that the credit card market is competitive. He has asked staff whether or not the CFPB should reopen the CARD Act rules that were started by the Federal Reserve Board over 10 years ago to see if there need to be any changes to older rules. Chopra mentioned late fees as one of the areas that they expect to solicit input on. Maloney thought this was great news and turned to the *Overdraft Protection Act.* She said that her bill would limit the number of instances banks can charge overdraft fees and asked Chopra if Congress should pass her legislation and what the CFPB plans to do on overdraft fees. Chopra wanted to learn more about her legislation, but they want to make sure there are competitive markets, which is what they are seeing with overdraft fees right now as banks reduce overdraft fees or get rid of these fees altogether. He added that there have been complaints and a couple enforcement actions relating to overdraft fees, but he could get back to her with more details.

Rep. Williams (R-TX) discussed the erosion of personal accountability across the country and people going to the government to intervene. He mentioned student loans becoming grants and overdraft fees becoming personal loans made by the government. Williams added that the CFPB put out a release targeting auto financers warning them about repossessing cars simply because the price of used cars has skyrocketed, and he thought this was ridiculous as it would make a person more hesitant to repossess a car even though it is their money on the line. He also discussed how we allowed renters not to pay rent during the pandemic and landlords still have not become whole. He pivoted to 1071 and thought that this would put loan officers in uncomfortable positions along with inconsistent data being provided. Williams emphasized that race should not play a part in credit decisions and asked Chopra for a commitment to improve the rule in two areas, one being increased implementation time for entities. Chopra clarified that 1071 was a rule before his time but said that he is looking at implementation time and that he is looking at all of the comments on this. Williams also asked Chopra to abandon the proposal of loan officers guessing one's race if not provided voluntarily. Chopra replied that this is showing up in a lot of comments and the concerns are loud and clear. Williams asked if he has studied how restricting or ending overdraft charges would affect smaller financial institutions. Chopra clarified that there is a difference between an overdraft fee and overdraft service, a service is when the institution takes on risk.

Rep. Garcia (D-IL) discussed how predatory loans, including payday, auto title, and high-cost installment loans, are a death trap that target low-income communities and communities of color. He emphasized that a national rate cap is necessary and discussed his legislation to extend the MLA's 36% interest rate cap to all Americans. Garcia asked about the impact of the MLA. Chopra replied that there has been data that the MLA has protected military members from credit report damages and debt collection, but it has also improved force readiness. He pointed to work done by DoD that severe mental distress does limit a service member's ability to stay in the military. Chopra stated that he does support the MLA and they are enforcing it. Garcia said that there are no meaningful restrictions on short term payday lending in many states and asked Chopra to explain how the lack of meaningful restrictions has impacted low-income consumers. Chopra replied that the CFPB is responsible for monitoring payday lending and said that there are challenges to people taking out high-cost loans. He said that there are parts of the 2017 rulemaking on payday lending that are still subject to litigation and emphasized a competitive market where the consumer can get a competitive rate. Garcia said that states, including Illinois, have passed a 36% rate cap and asked if these trends in the states will have an impact on the broader financial marketplace. Chopra replied that state laws are a huge part of the consumer protection framework and they definitely see differences in complaints based on states.

Rep. Emmer (R-MN) stated that Chopra last came to the committee in October 2021 and mentioned an RFI issued that same month on M&A that Chopra put in front of the FDIC. Emmer asked if Chopra provided the RFI to McWilliams. Chopra replied that he shared the RFI electronically with McWilliams and the FDIC Board. Emmer said that he sent out the draft RFI four days after he testified in front of the HFSC and asked if Chopra had any help drafting the RFI. Chopra clarified that the RFI was provided by the FDIC and its staff. Emmer refuted that what Chopra said was inaccurate. Emmer was surprised that Chopra said he was unable to communicate with FDIC staff and explained that in November after the RFI was presented, McWilliams offered to help according to Acting Comptroller Hsu. Chopra denied that any of this is correct.

Rep. Adams (D-NC) was concerned with the levels of student debt in this country and supported canceling $50,000 of student debt. She asked Chopra why it is critical to have a plan for student debt forgiveness and repayment. Chopra thought that if there are to be decisions on student debt, borrowers should be aware of the changes before repayment begins. He said that as soon as there are answers one way or another, the process for repayment will become clearer. Adams asked what the CFPB is doing for students pursuing their PSLF. Chopra replied that if you are a mortgage or student loan borrower and have contractual legal rights, it is important that the servicer does not deceive the borrower of their rights. He added the default in student loans and home foreclosures are not ideal for the servicer or borrower. Adams asked what the CFPB has done with the Department of Education on PSLF. Chopra replied that the most important part is that a lot of borrowers have made career decisions based on the PSLF and the fact that so many borrowers have been stymied is a huge problem.

Rep. Loudermilk (R-GA) asked if overdraft fees are legal. Chopra replied yes and that sometimes overdraft is described as a penalty or service and neither are illegal. Loudermilk asked about mortgage serving fees and checking account management fees. Chopra replied that these are legal and there are rules under the Truth and Savings Act. Loudermilk asked if he grouped these together as junk fees. Chopra said that if you are getting a bonafide service, the bank should make money for it, but if a consumer is being charged for something they did not ask for, they should not be charged for it. Loudermilk asked who is responsible for determining if something is legal or illegal when it comes to these fees. Chopra replied the Congress is responsible for this. Loudermilk asked if it is Chopra's job to enforce a law or what he believes is wrong personally. Chopra replied that his job is to enforce the law as written and to look at what is working and what is not to complete the legal requirements. He continued that overdraft fees are subject to the Truth in Lending Act (TILA). Loudermilk asked if small banks incur additional cost to implement regulations. Chopra replied yes, usually. Loudermilk said that regulation costs businesses and an overdraft fee is the bank recouping money for the cost. Chopra clarified that there is a cost, but there is also a price ideally set by the competitive market for the fee and said that we are starting to see this with overdraft fees noting that banks are now offering this for free or reduced.

Rep. Axne (D-IA) referred to the CFPB report on medical debt and credit reports and asked Chopra to explain the changes made and what the CFPB's role is here. Chopra replied that the three credit reporting companies are making certain changes on when they will report allegedly owed medical debt among other changes. He added that medical debt is not necessarily a good predictor of credit and discussed that medical privacy may not be appropriate to be included on a credit report. Axne turned to student loans and asked what more can be done to protect borrowers and asked if Chopra has heard of buy-now-pay-later (BNPL) loans being offered at for-profit universities. Chopra agreed that you are seeing new products being offered here and did not have too much information on them beyond noticing them. He added that transparency is the goal here and worried about students being taken advantage of. Chopra added that students take on these loans in education to better themselves but then the debt comes back to hurt them.

Rep. Mooney (R-WV) discussed 1071 and said that it is up to Chopra to shepherd that rulemaking to a conclusion. He asked Chopra to square the assertions in 1071 and the Office of Advocacy's concerns. Chopra replied that the CFPB has to solicit input from small entities and that it is required to implement 1071 by law eventually as it is court mandated. Mooney continued that cost/benefit analysis is reviewed by the OMB and pointed out that the CFPB is not required to be reviewed by the OMB making the CFPB's analysis less credible. He asked if the CFPB being subject to review of the OMB would make their analysis more robust. Chopra explained that the analysis of CFPB regulation does look at a broad range of factors and that he wants to make sure the CFPB looks at the impacts of the rulemaking and said that it will be looked at carefully. Mooney closed by saying that the CFPB 1071 rulemaking exposed a deeper problem: that the CFPB has a weak statutory requirement to look at cost/benefit analysis. He thought that the CFPB should have to consult with the Small Business Administration's Office of Advocacy when it comes to regulation for small businesses and pointed to his legislation on this issue.

Rep. Sherman (D-CA) discussed PACE loans and asked when there will be final regulation on this. Chopra replied that this rulemaking is a challenging one and assured Sherman that the regulation will be done. Sherman continued on consumer loans and that there should be consistent consumer protection whether one is borrowing from a credit union or a BNPL fintech. He had some concerns with BNPL and asked if the CFPB shared his concerns with the BNPL market and if they intend to regulate this market. Chopra had no conclusions on this and said that the CFPB has issued a series of questions to the key players in BNPL and expected to issue one or more reports related to this in the future. Sherman turned to the mixing of commerce and lending and how the CFPB requested information from six major technology platforms that offer payments. He asked if the CFPB's concerns about these companies' scale, market power, and use of data have increased and how this will influence the CFPB's approach to the Sec.1033 rulemaking. Chopra said that this was a key priority for him and thought that we should all think together on how we get to a world of more open banking and a broader range of participants. He worried about big tech firms modeling what we are seeing in China with AliPay and WeChat pay and how dominant providers that have large amounts of data on people raises questions about fairness and transparency.

Rep. Budd (R-NC) referred to the dormant authority the CFPB released on non-bank fintechs and asked if Chorpa believed that the CFPB had the authority to regulate in crypto and DeFi using this dormant authority and if so, how does the CFPB do this without sending this innovation offshore. Chopra replied that his focus is on payments and the big tech rails. He clarified that there is no expansion of jurisdiction through this, and enforcement jurisdiction already exists here with the exception of small banks. He said that firms are covered by CFPB supervision if they are engaged in certain activities. Budd asked how the CFPB regulates or supervises an entity that has no centralized structure with P2P payments like DeFi. Chopra did not have a good answer beyond that the CFPB has an activities-based approach and those activities under the Electronic Funds Transfer Act are covered under the CFPB. Budd did not believe that the CFPB has an ever-expanding authority and turned to algorithmic bias, machine learning, and potentially unfair outcomes for consumers. He asked how an algorithm can discriminate if it does not have information about the borrower. Chopra explained that one of the ways that they look at algorithms is how they can be exclusionary, pointing to Carson's complaints about Facebook. He said that it is important to think about both human and algorithmic decisions together across the board and they are working to better understand this.

Rep. Casten (D-IL) continued the conversation of digital redlining and asked if the CFPB has initiated any enforcement action here. Chopra could not comment specifically but discussed comments from smaller players who use services like Google and Facebook to reach consumers without knowing how it actually works. He discussed conversations about service providers, like cloud providers, and said that in some circumstances we need to look at the servicer role. Chopra was eager to hear further on what future compliance can look like. Casten asked if Chopra can get the data to actually understand how the algorithms work and if he has the authority to do so. Chopra said that he was not sure in all honesty and said that with algorithmic banking, we may not know why a decision was made which is a real challenge when figuring out this space. He added that there are some requirements in current law that would require some explanation as to the factors in the decision but was unclear if all algorithms have explainability. Casten discussed his bill, the *Digital Services Oversight and Safety Act,* that would establish a bureau at the FTC on this that could issue content neutral rules and allow investigations into how algorithms work. He asked if this would be useful and if the FTC was a good place to house this. Chopra replied the FTC covers a number of industries, but banking, airlines, and other industries are carved out of the FTC, so every department is confronting this.

Rep. Kustoff (R-TN) went back to Loudermilk's questions on overdraft and asked if Chopra was suggesting that overdraft is subject to TILA. Chopra replied that overdraft is mentioned in TILA but not subject to TILA disclosure. Kustoff turned to 1071 and asked if Chopra had thought about a threshold where companies would not have to comply, like $1 billion. Chopra said that there are thresholds in the proposal based on the number of loans, but he imagined that there are many thresholds that Congress has designed. He said that inasmuch as there are members introducing legislation about exemptions, there are no statutory exemptions in 1071. Kustoff understood that 1071 was subject to the CFPB interpretation and moved on to Budd's question on the press release the CFPB issued on supervision of non-bank fintechs. He continued that the CFPB announced a change that would no longer respect the confidentiality of exam proceedings and said that this was concerning. He asked if Chopra agreed that during routine examinations regulators treat proceedings with confidentiality and collaboration. Chopra replied that this was correct and where the CFPB is seeking comment on risk, not necessarily making exam findings public. Kustoff asked Chopra if he agreed that if confidentiality was suspended, that it would give rise to the opening of exams and underlying information. Chopra agreed that the confidential supervisory process absolutely needs to be protected.

Rep. Pressley (D-MA) acknowledged the work the CFPB has done on medical debt and credit reporting and was pleased with the CFPB's interest on overdraft and junk fees. She believed that these fees prey on the most vulnerable consumers and asked what other relief the CFPB can provide to victims of these fees. Chopra replied that the CFPB is looking at whether it is appropriate or not to include medical details on credit reports and emphasized that people should be paying for services rendered. He thought this would be a benefit to all consumers and the market for competition. Pressley believed that banks cannot voluntarily reform themselves and there is need for regulation. She turned to the rise of BNPL and worried about the risk to consumers who are unaware of how BNPL can impact their credit scores. Pressley asked what steps the CFPB is taking to ensure that these companies are acting with transparency and accurately disclosing fees and charges. Chopra replied that there are some products that have not been subject to the normal disclosures that other financial products are, so they have issued a set of orders to the larger BNPL firms and said that the CFPB is in question mode with BNPL. He acknowledged that BNPL can be helpful for many consumers, but there are pitfalls when it comes to how credit reporting and the use of data is going to work.

Ranking Member McHenry (R-NC) discussed the FDIC situation and focused on that during that period of time, Chopra had active email accounts at the FDIC, FTC, and CFPB. Chopra said that he was supposed to have a FDIC email at that time, but it was just recently set up. Chopra confirmed that he uses his CFPB account and has never used his personal email or messaging apps regarding this. He clarified that any personal texts are recorded at the CFPB. McHenry continued that there have been 39 press releases issued since Chopra became Director and asked why the CFPB did not issue a press release on the February 22 interim final rule regarding the adjudication of proceedings. Chopra agreed that there should have been a press release or blog on this. He continued that this rule was procedural and did not require public comment and that the CFPB allowed defendants more ability to make depositions and that the process is quicker for judicial review. He added that no complaints have been issued by the CFPB until comments have been looked at. McHenry said that the CFPB has internal adjudication now and said that this is a power grab and questioned why the CFPB is not putting this out to long standing notice and comment rules. Chopra thought that was a fair point, but he did not think the rule was more favorable to the CFPB.

Rep. Torres (D-NY) discussed the practice of allowing bad actors to enter into a settlement or pay a fine for any wrongdoing and has asked about reforming admit nor deny settlements. Chopra clarified that there are no settlements with denials and said that he recently spoke about repeat offenders. He thought that with repeat bad actors, there needs to be a formal legal determination that the institution agrees to. Torres turned to Sec. 1033, how a rule has never been implemented, its inclusion in Biden’s EO, and asked for a deadline on its implementation. Chopra was just as frustrated with this as well and said that 1033 is one of the most important rules the CFPB can do. He added that this rule has the ability to open up consumer and financial institution opportunities but admitted that there are some challenges as it relates to data privacy. Chopra hoped to get the next step done within a year but could not give a timeline for a final implementation. Torres asked if he would consider it a failure if it was not done by the end of Biden’s first term. Chopra said that he would consider it a failure if 1033 was not finalized by that time. Torres turned to Zelle and the fraud associated with it and referred to a New York Times article on this. Chopra was careful to answer on this due to the reference to a specific entity but generally Regulation E provides what the fraud protections are. Torres asked if a bank is required to reimburse users if there is a fraudulent receiver. Chopra said he would answer for the record, but noted that fraud is piling up which is a major problem, especially with P2P, and added that this is high on the CFPB radar.

Rep. Hollingsworth (R-IN) referred to a specific comment Chopra made in the Senate Banking Committee on consumer protection, financial access, and innovation and asked Chopra to expand on his comments. Chopra said that he did not necessarily know that there is always a tradeoff between innovation and competition and consumer protection. He thought there were ways that many benefit from new technologies, both the consumer and institution. Hollingsworth asked if he agreed that financial innovation is important for consumer protection by lowering costs and allowing more access. Chopra agreed that consumer protection has a lot of features and believed that it was true that technology can be helpful. Hollingsworth asked if the CFPB is being mindful of the negative impacts that their press releases could have on innovation, not just on the near and present aspects of consumer protection. Chopra replied that the CFPB tries to give these entities a scope of information on what is happening so as to not scare them away and added that he has pushed for technical talent at the CFPB. Hollingsworth discussed consumer choice in products and the reduced cost of these financial services products due to innovation. Chopra answered that there are multiple ways our country can go about this and repeated that he did not want the US to be like China, which is dominated by big tech firms.

Rep. Lynch (D-MA) followed up on Torres' line of questioning and his concern with financial data and the permissioning of the data along with letting consumers know about the usage of that data on these platforms. He said that he would not pressure Chopra on a deadline for 1033 but he wanted some benchmark on it so he does not have to wait until Chopra comes before the Committee again. Lynch noted that he and other members are working on legislation that will be impacted by this rulemaking. Chopra shared that the CFPB wants to make it easier to switch products and for small firms to be able to reach new customers with new products. He wanted to avoid creating an underworld of data exchange, where people's data can be sold, or creating a haven for scams. Chopra thought that it is important to figure out how to get the data sharing and data privacy aspects right and these are the goals that he has set. Lynch turned to Zelle and the NYT article on fraud and beyond guidance, asked what the CFPB can do to protect consumers. Chopra replied that it is true that fraud and errors become a much bigger issue with an instant payment system and referred to the Electronic Fund Transfer Act to determine consumer rights and liability so there is that law but said that the CFPB has set up a process for people to petition for rulemakings. Lynch closed by stating that Congress needs to be kept up to date on the 1033 rulemaking.

Rep. Rose (R-TN) referred to the request for information on junk fees by the CFPB and it seemed to him that competition will weed these out in a competitive marketplace. He asked if Chopra would consider requesting public comment on junk regulations, where the costs outweigh the benefits. Chopra said that the CFPB has solicited comments on this and they have also allowed anyone to submit a comment for rulemaking which will be posted so the public can put comments in. He said that Rose was right that competition delivers good outcomes but said that consumers many times do not have a choice in choosing their provider. Rose turned to the FDIC situation and questioned Chopra's conduct during this saying that Chopra eroded bipartisan engagement here. Chopra acknowledged that there were significant disagreements among the board and was disappointed that some of his colleagues have not embraced the rule of law. He admitted his disagreements but said that he has also had a lot of agreements.

Rep. Tlaib (D-MI) discussed medical debt and asked what the CFPB is doing to ensure that changes made regarding medical debt and credit reporting become permanent. Chopra replied that getting sick should not predetermine one's financial future and worried that someone could lose out on a loan, apartment, or job because of medical debt impacting their credit score. Tlaib agreed and asked about furnishers and if credit agencies should cut off access to repeat offenders as well. Chopra stated that the Fair Credit Reporting Act does deal with this but was worried that the credit reporting system is used to coerce people into paying debt they may not owe. Tlaib mentioned the idea of medical credit cards and other products of financing medical debt and asked if the CFPB has thought about these ideas and its findings. Chopra replied that there is growth in the use of certain medical debt instruments and saw that it is sometimes used in dental or cosmetic surgeries but worried that illness creates a cycle of debt.

Rep. Gonzalez (R-OH) started out discussing the difference between relationship banking and algorithmic banking. Chopra advocated for using both which Gonzalez thought was fair. Gonzalez supported having options here and heard a lot about the bias issue. He was curious where in a world where 22% of the world is underbanked or unbanked, he asked if there was any evidence that algorithmic banking would make that worse. Chopra emphasized that we should have both and that we want to avoid situations where algorithms do not have any explainability about decisions made. Gonzalez added that human-only banking has caused harm as well as we have seen with discrimination and redlining. Gonzalez turned to 1071 and how complying with 1071 will be harder for small businesses and asked if 1071 will increase the cost of small business credit. Chopra replied that that is hard to simulate but was aware of the burden this could cause. He added that the CFPB is trying to balance following the law and being sensitive to small businesses. Chopra also emphasized simplicity and looking at how to use technology to make the reporting easier. Gonzalez commented that junk fees should be attributed to taxes as well and that we are paying for many junk things with taxes.

Rep. Williams (D-GA) shared that she too has been a victim of student loan debt impacting her credit and believed that mortgage lenders should consider alternative data when it comes to getting a home. She asked Chopra to expand on the CFPB looking at alternative credit data. Chopra said that the CFPB thinks very closely at this but said that the CFPB does not have any ongoing data collection on this. He continued that rental history or other history where one has made good on their obligations could be helpful. Chopra warned against unchecked data. Williams referred to her legislation, *Expanding Access to Credit through Consumer-Permissioned Data Ac*t, and asked how allowing consumers to point to alternative information help mortgage lenders determine the true credit worthiness of an applicant. Chopra replied that some mortgage lenders already do this, and that the underwriting industry is innovating in this space. Williams continued that hard work, not just hardship, should be shown too and referred to the *Clean Slate Legislative Series*, bills that would repair default on a student loan, and asked how this series would impact consumers' future loan applications. Chopra referred to the rehabilitation program for federal student loans and said that it is more than just the credit report but what is reflected in a credit score. He said that when information is deleted from a credit report, we do not always know the impact on the score.

Rep. Davidson (R-OH) focused on the lack of existing clarity around digital assets and asked how Chopra perceived consumer protection in digital assets. Chopra thought that the CFPB focus has been on digital payments and said that the US is behind when it comes to instant payments. He added that there has been an uptick in fraud and scams in this area which the CFPB is aware of and worried about. Chopra referred to the PWG report, which the CFPB was not a part of, and he paid attention to how technology is changing payments. Davidson was concerned about dormant authority and then discussed the abusive use of administrative law judges with Chopra.

Rep. Auchincloss (D-MA) referred to the Electronic Fund Transfer Act and asked if the CFPB is looking at other ways to provide protection to victims of fraud and scams. Chopra added hacking to the list as well and said that if we want to have confidence in our payment system, we need to make sure there are the same level of protections, whether it is swiping your debit card or using P2P payments. Auchincloss asked what steps financial institutions and companies should be taking if their consumers are being repeatedly flagged as fraudsters through P2P. Chopra replied that that is not necessarily a CFPB requirement but mentioned requirements under KYC and AML provisions. Auchincloss turned to DeFi and said that there may not be an incorporated body to address DeFi regulation or grievances which he saw as a challenge. He encouraged the CFPB to think about how the CFPB can be engaged with activities-based regulation here. Chopra replied that there is a framework for how the CFPB supervises non-banks and certain activities, but he heard Auchincloss loud and clear here. Auchincloss said that Congress should not be penalizing DeFi brokers who are not committing nefarious activities just because there is no incorporated body. Auchincloss gave Chopra time to respond to Luetkemeyer's comment on producing the memo to Congress. Chopra responded that staff informed him that they believe that the legal memo was provided. Auchincloss then asked about the distribution process of the memo regarding legal analysis on the FDIC. Chopra said that FDIC staff drafted the RFI and emphasized that it is so important that agencies follow the statute and bylaws of its governing structure and he believed that the actions the FDIC took were valid.

Rep. Gooden (R-TX) referred to his legislation, the *Stop Settlement Slush Funds Act,* and wanted Chopra's thoughts on this, specifically if Chopra could commit to ensure that any funds distributed out of this fund will go directly to victims and asked what safeguards he intended to implement to ensure that the civil penalties fund is equitably distributed to all state that want to increase compensation to victims. Gooden continued by asking if Chopra would commit to ensuring that the CFPB will continue to utilize the federal procurement process for these programs and post information about the process for consumers and financial literacy programs. Chopra said he put a moratorium on expenditures on the civil penalties fund that are not going to victims and emphasized the need to make victims whole. On the procurement law, he believed that procurement is the process that has been used. Chopra added that when there are fines and penalties, they should generally go to the taxpayers or redress for victims. Gooden turned to big tech and the incentive to collect as much personal user data as possible. He supported Chopra's efforts to increase accountability and reign in big tech. Chopra commented that he really hoped the CFPB can work with the committee on this. He advocated for a decentralized system where companies without all this data on us are able to compete and said that there are big issues when it comes to the uses of all this collected data.

Rep. Gottheimer (D-NJ) focused on outdated rules and referred to his bipartisan legislation that would help streamline government to help small businesses and economic growth. He asked Chopra if he thought this was a good idea. Chopra replied that he had not looked at this legislation but in spirit, he totally agreed with Gottheimer and encouraged competition and innovation in the marketplace. Gottheimer worried that rules pile up from each administration and end up hurting small businesses. He then turned to the Consumer Complaint Database on the CFPB website and asked about how the database is managed and used to inform rulemakings. Chopra shared in his written testimony that the CFPB moved its enforcement scrutiny away from small firms and focused on large companies and repeat offenders. On the complaint database, he explained individual firms can respond to comments and said he would further sit down with Gottheimer on this if he wanted. Gottheimer emphasized accountability behind these complaints. Chopra assured Gottheimer that he takes this seriously and that it is not just a bulletin board, there is a process complaints have to go through.

Rep. Steil (R-WI) stated that the questioning Chopra is receiving is warranted due to the nature that the CFPB is not subject to the appropriations process. He dove into the announced changes on March 16th related to discrimination and discussed the disparate impact theory. Steil continued that the Bureau's UDAAP had not been successfully stretched to include disparate impact claims in the past and asked if the CFPB is intending to use UDAAP authority to go after disparate impact claims. Chopra clarified that unfairness, deception, and abuse are spelled out and explained that you evaluate the process based on the prongs. He continued that unfairness has three prongs. Steil understood. Chopra stated that disparate impact theory is not under UDAAP and clarified that this is not new and that there are multiple banking agencies who have described how discriminatory practices may also violate the prohibitions under UDAAP. Steil touched on junk fees and how Chopra defines it and asked for clarity on what hidden back-end fees are and whether they are disclosed or not. Chopra answered that there are fees that are not necessarily disclosed beforehand. Steil turned to student loans and asked if anyone from the CFPB had been in discussion with any third-party groups on the cancellation of student loans. Chopra had not had conversations with the White House on canceling student loans, but they had talked with the Department of Education.

Rep. Timmons (R-SC) discussed the Biden Administration's revolving door ban and the White House Fellows program and said these fellows are subject to all ethics requirements. He continued that there is also a CFPB fellows program where they make over $200,000 which is more than Chopra and Cabinet Secretaries get paid. Timmons said that these CFPB fellows are not subject to ethics requirements and asked if this was correct. Chopra did not think so and clarified that the fellows are term hires but are not determined by the White House. He continued that the fellows are hired through a posting and hiring process. Timmons asked if Chopra knew any of the 23 fellows before they got hired. Chopra replied that he knew a handful of these fellows and clarified that these fellows are not political appointees. Timmons asked if the fellows have outside earned income bans. Chopra continued that he would look into this. Timmons said that all of the fellows are from aggressively far-left organizations which Chopra disagreed with.

Rep. Sessions (R-TX) discussed the remittance market and the CFPB possibly reinventing this market. He said that comments on this were made in relation to a lawsuit that made no specific allegation of consumer harm and so there are many questions from people who are trying to understand this. Chopra said that there was a complaint made public and he was happy to follow up on this. He recalled that there is no question that payment systems are really being reinvented right now and new technologies are helping people transfer money, including in the cross-border context. He thought that there is a lot of innovation happening and that we are better off in a world with faster, real-time payments while protecting consumers in the process. Sessions asked what he meant by reinventing. Chopra clarified that the market is reinventing with new innovation. Sessions turned to BNPL loans and how the data shows that a majority of users understand the conditions and the product. He asked Chopra to discuss 'reinventing' the marketplace in the context of BNPL. Chopra said that he would answer for the record.