On October 28, newly approved CFPB director, Rohit Chopra, made his first appearance before the House Financial Services Committee since his narrow approval by the Senate. Director Chopra focused on topics with bipartisan appeal: the Bureau’s enforcement efforts aimed at large companies, ways it may try to help small businesses (including small financial companies) and the importance of strong relationships between banks and customers.

One of the topics emphasized by Chopra, which was well received by both Democrats and Republicans, was the need for more oversight of the financial products and services being offered by technology giants. His appearance before the Committee came less than a week after the CFPB demanded that several Big Tech companies turn over details about their payments businesses to the CFPB (we previously
discussed this in an earlier Consumer Finance & FinTech Blog post here).

Chopra indicated that the CFPB intends to focus its enforcement actions primarily on large companies and repeat offenders, and that companies that self-identify violations will get some leeway. “I believe we should focus most of our resources on the largest firms engaged in large-scale harm that is clearly totally beyond the pale,” Chopra said. “One of the things that bothers me so much is that when small players break the law, they get shut down and when large players break the law, nothing happens . . . [t]he big one pays a fine.”

He added: “I share the view that when there is an honest desire to play by the rules, it’s not appropriate to harshly penalize that.”

Chopra said he also intends to encourage a return to relationship banking and stronger customer service. “I am very concerned that there are many situations where consumers have no place to turn when they need to get help,” he said. “We are disadvantaged as a country the more relationship banking goes away, and I want to figure out what I can do to revitalize that so that the customer has more leverage and institutions are responsive to them.”

Some lawmakers raised concerns about how the CFPB plans to deal with large tech giants and the use of algorithms in lending.

He also stated that companies cannot dodge fair lending laws through the use of secret algorithms. “I am very worried about black box algorithms and that we have no accountability as to how decisions are made,” Chopra said. “This is the opposite of relationship banking.”

**Putting it into Practice.** There are a few takeaways that can be made from Director Chopra’s appearance before the House committee.

1. His comments were in many ways conciliatory, but may not be reflective of recent actions taken by the Bureau. We are seeing indications in recent months that the CFPB will be returning to the aggressive regulation by enforcement approach that was a feature of Richard Cordray’s term as director, and which left the financial services industry often confused as to how to comply with applicable law, or which resulted in the CFPB taking positions that appeared to be inconsistent with settled law. Time will tell whether the CFPB’s approach going forward mirrors Chopra’s most recent comments to Congress.

2. We may see an early test of whether Chopra’s stated intent of modulating the CFPB’s approach for those entities who have “an honest desire to play by the rules.” One industry that may have a number of companies that appear to meet that description will be mortgage loan servicers who may well be inundated with pandemic-related defaults and foreclosures in the not too distant future.

3. The major technology giants appear to be in the CFPB’s crosshairs in connection with the introduction of financial services on various platforms. All signs point to the Bureau scrutinizing these technology companies, including their respective uses of algorithms and artificial intelligence that potentially have discriminatory impacts.
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