Wolters Kluwer

Strategic Perspectives

CFPB comes full circle under Chopra

By Katalina M. Bianco, J.D.

Rojit Chopra was sworn in as the third director of the Consumer Financial Protection Bureau on Oct. 12, 2021. The Bureau has been a source of strife between political parties, industry groups, and consumer advocates since its inception in 2011. Much of that strife landed squarely on the shoulders of the director. Unlike other federal banking agencies, the director of the CFPB plays a large role in opinions of both the Democrats and Republicans, and those opinions have changed drastically with each director. The term of the first director, Richard Cordray, saw strong support from the Democrats and consumer advisory groups and equally strong criticism from Republicans and industry trade groups. The alignment of the parties switched during the tenure of the second director, Kathleen Kraninger as Democrats contended that she was too business-friendly, and Republicans expressed their support for the way she changed the focus of the Bureau away from enforcement and rulemaking activity. As the third director, Chopra has brought the Bureau back to the Cordray era of the CFPB as "cop on the beat."

Corday nomination elicits strong reaction

Cordray, former attorney general of Ohio, was nominated by President Barack Obama on July 18, 2011. The reaction to the nomination set the stage for Cordray's tenure with the CFPB. Democrats and consumer groups expressed support for his strong track record of taking on special interests and standing up for consumers while Ohio AG. Republicans criticized the nomination, but initially the criticism was mainly based on the CFPB's single director structure rather than a committee to oversee the Bureau. Senate Republicans were firm that until Obama supported structural changes to the Bureau, they would not confirm Cordray or anyone as director. Republican members of the House Financial Services Committee urged the Senate to adopt reforms that would convert the Bureau's leadership structure into a committee. Meanwhile, the White House said it intended to exert public pressure to try and break Republican opposition to Cordray's confirmation.

In December 2011, an attempt in the Senate to end debate and permit a vote on Cordray's nomination failed, leading Obama to say that the option to consider a recess appointment was on the table. This was the eventual outcome with Obama announcing in early January 2012 that he was appointing Cordray as CFPB director. The president's action was intended to sidestep protracted Republican efforts to block the nomination in the Senate which had been holding, over the holiday recess, pro forma sessions in order to block Obama from making a recess appointment. The Republicans, however, refused to accept the president's end run around Congress and indicated that the recess appointment could be legally challenged. Indeed, the validity of the recess appointment was challenged by the courts, and in June 2014, in the decision in *NLRB v. Noel Canning*, (573 U.S. 513), the Supreme Court unanimously vacated recess appointments made while the Senate was in pro forma session, determining that the Senate was not in recess at the time of the appointments. This decision did not affect Cordray, however, because in 2013, almost two years after the recess appointment and the resulting bitter debate between Democrats and Republicans, he was confirmed by the Senate for a term of five years despite Republican members of the Senate Banking Committee continuing to push for structural changes at the Bureau.

The partisan split over the CFPB and Cordray's directorship did not end with Cordray's confirmation as Bureau chief but proved to be a constant throughout his tenure. Cordray was praised by Democrats for his "cop on the beat" attitude toward enforcing consumer laws, considering him to be the top consumer watchdog. The Democrats were joined in their approval by consumer organizations that supported Cordray's tough stance against bad actors in the industry. Republicans, along with industry trade groups, continued to criticize the CFPB director, calling him out for his lack of accountability and transparency. Jeb Hensarling (R-Texas), chair of the House Financial Services Committee during the Cordray years, referred to the CFPB director as "the de facto dictator," summing up the Republican attitude that Cordray was too powerful for a regulatory chief.

Enforcement activity under Cordray

The Bureau launched its first public enforcement action on July 18, 2012, with an order requiring Capital One Bank (U.S.A.), N.A., to refund approximately $140 million to two million customers and pay an additional $25 million penalty. The bureau's action stemmed from a CFPB examination that identified deceptive marketing tactics used by Capital One's vendors to pressure or mislead consumers into paying for "add-on products," such as payment protection and credit monitoring, when they activated their credit cards. The enforcement action against Capital One was followed a couple months later by an order to three American Express Co. subsidiaries to pay an $85 million refund to approximately 250,000 customers harmed by illegal credit card practices. Additional actions against banks stemmed from charges that included illegally robo-signing court documents and selling bad credit card debts.

On Sept. 8, 2016, the Bureau fined Wells Fargo Bank, N.A. $100 million for the widespread illegal practice of secretly opening unauthorized deposit and credit card accounts. Spurred by sales targets and compensation incentives, employees boosted sales figures by covertly opening accounts and funding them by transferring funds from consumers' authorized accounts without their knowledge or consent, often racking up fees or other charges. Democratic legislators lauded the Bureau's action against the bank. At a September 20 Senate Banking Committee hearing, then Committee Ranking Member Sherrod Brown (D-Ohio) ridiculed Wells Fargo's description of customers who received products or services they did not want. "That makes it sound like there was a mix-up under the Christmas tree, and I got the right-handed baseball glove meant for my brother Charlie," Brown said. However, then Committee Chairman Richard Shelby (R-Ala) hinted at an intent to criticize the CFPB enforcement action, noting how long the bank's conduct continued and that it was brought to light by the Los Angeles City Attorney.

A flurry of enforcement activity soon followed. The Bureau not only targeted banks but financial services companies of all stripes. The mortgage industry was often subject to enforcement activity during the Cordray years as the CFPB acted against mortgage originators, brokers, insurers charged with illegal kickbacks to lenders, marketers employing deceptive practices, and illegal loss-mitigation practices. The Bureau took aim against scammers purportedly assisting consumers with mortgage modifications and other mortgage relief. Debt-relief companies also were a major target of enforcement, including law firms that charged consumers illegal advance fees for debt-settlement services. Enforcement activity was robust to say the least, and banks and financial services companies came under fire for numerous violations of consumer law, including but not limited, to consumer credit card marketing and fees, illegal debt collection practices, including medical debt collection, unauthorized third-party charges, student loan services, including debt-relief schemes and illegal sales and billing practices, illegal steering practices, charges against for-profit colleges for predatory lending schemes, illegal practices by online payday lenders that led to a cycle of debt for consumers, fee scams targeting servicemembers, and fraudulent credit repair services. In the enforcement sights of the CFPB were auto finance companies accused of discretionary auto loan pricing and compensation practices, and credit reporting agencies violating the Fair Credit Reporting Act.

Throughout Cordray's term as director, the split between political parties on Cordray's enforcement activity remained steady. Democrats and consumer groups stayed fully in his corner while Republicans and industry associations decried Cordray's actions as "supervision by enforcement." Cordray responded to Republicans, stating in 2012 that the CFPB has full authority to investigate and bring enforcement actions to ensure that financial providers are held accountable if they violate the law, and that the rules of the road governing banks and nonbanks are applied evenhandedly to all participants. The CFPB has many tools to address problems in the financial markets, he said, including supervision, rulemaking and enforcement. Cordray emphasized that filing lawsuits or administrative actions will be necessary at times to ensure that the law is followed and respected and that harm to consumers from unlawful conduct is remedied. He remained dedicated to this position, stating in 2017 that the Bureau will "take action as needed against companies that break the law" to "protect people from unfair, deceptive, abusive, and discriminatory practices."

Supervision

The Cordray-led Bureau was not only prolific in enforcement but adopted rulemaking and guidance addressing a number of federal consumer compliance laws and regulations. Cordray said early in his tenure that the Bureau would focus fist on mortgages. Final rules were adopted amending the Real Estate Settlement Procedures Act and Truth in Lending Act to implement mortgage reform provisions in the Dodd-Frank Act. Final mortgage rules included the regulations on TILA-RESPA Integrated Disclosures (TRID) Other final rules addressed, among other things, international remittance transfers, the protection of privileged information, supervision of larger consumer reporting agencies, credit card fees, and disclosures of records.

Several rules in particular drew the ire of Republican lawmakers. On Oct. 5, 2016. the Bureau adopted a final rule amending the Electronic Fund Transfer's Reg. E and Truth in Lending Act's Reg. Z and the regulations' official interpretations to give prepaid account consumers protections similar to those for checking account and credit card consumers. In February 2017, Senator David Perdue (R-Ga) took the first step under the Congressional Review Act to reject the bureau's prepaid account rule by introducing S.J. Res. 19, which would overturn the rule based on Congressional disapproval. In response, Senator Elizabeth Warren (D-Mass) noted that one of the largest prepaid accounts firm is located in Georgia.

On July 10, 2017, the Bureau adopted a rule banning mandatory pre-dispute arbitration clauses in consumer financial product contracts if those clauses prevent class actions. Arbitration clauses would be allowed only if their application is restricted to individual claims. Senator Tom Cotton (R-Ark) quickly voiced his intent to rescind the rule via the CRA. "The CFPB has gone rogue again, abusing its power in a particularly harmful way," Cotton said. The legislator criticized the rule for ignoring the "consumer benefits" of arbitration and said the rule "treats Arkansans like helpless children, incapable of making business decisions in their own best interests." Hensarling referred to the proposal as a "big, wet kiss to trial attorneys" that "essentially hands over the keys of the CFPB's luxury office building to the wealthy, powerful, and politically well-connected trial lawyer lobby." Other House Republicans contended that the CFPB ignored its own Dodd-Frank mandated research on arbitration when adopting the rule. Trade groups sided with the Republicans while consumer groups supported the rule. Several months later, on Nov. 1, 2017, President Donald Trump signed a joint resolution passed by Congress disapproving the arbitration rule under the CRA. The Bureau published a notice on November 22 removing the rule from the Code of Federal Regulations.

180-degree reversal

Kathleen Kraninger was chosen by President Trump in June 2018 to be the second permanent director of the CFPB. Prior to joining the CFPB, Kraninger served as an associate director in the Office of Management and Budget in the Trump administration. Democrats and consumer groups, formerly strong backers of Cordray, now reversed course to criticize Kraninger, taking the position that she was not qualified for the role as Bureau director because she lacked experience in financial industry regulation or in consumer protection matters. During debate on the nomination, Sen. Sherrod Brown (D-Ohio) complained that "Her one and only qualification is that she will be a rubber stamp for special interests. That is unconscionable. The Center for Responsible Lending, consumer advocacy group, charged that Kraninger would "continue [Acting Director] Mulvaney's destructive course. Kraninger has no track record at all of consumer protection, or of standing up for vulnerable people." Republican legislators and industry advocacy groups voiced their support for Kraninger, flipping from CFPB critics to supporters. Industry trade group the Independent Community Bankers of America sided with Republicans and said that Kraninger has "a strong commitment to making the Bureau accountable, effective and efficient." Despite the Democrats' lack of support, Kraninger was confirmed on Dec. 6, 2018, in a 50–49 party-line vote.

> *"The arbitration rule is a big, wet kiss to trial attorneys."*
>
> *– Jeb Hensaling*

The Kraninger years represented what amounted to a 180-degree reversal of the Cordray-led Bureau. Party lines were once again drawn, but now Democrats and consumer groups criticized the CFPB for failing consumers while Republicans and industry trade groups praised the Bureau for ending what they saw as the supervision by enforcement and unaccountability of the Bureau. During Kraninger's tenure as CFPB director, the CFPB drastically scaled back its enforcement actions, both in number and size, and it relegated concerns, such as fair lending, to a much smaller position inside the bureau. This was in stark contrast to how the bureau was run under Cordray when it aggressively collected fines from banks and financial companies and returned billions of dollars in damages to consumers.

Under Kraninger, the focus was on consumer education and public outreach. There was little significant rulemaking beyond routine rules, but some rulemaking drew criticism of Democrats and consumer groups. On Oct. 5, 2017, before Cordray left the Bureau, the CFPB adopted its anticipated short-term, small-dollar loan rule. According to the Bureau, loans that require full or nearly full repayment at one time, such as payday loans, vehicle title loans, and deposit advance products, are the final rule's focus. Republicans claimed that the rule was harmful to consumers because it would decrease access to credit and limit consumer options. The history of the payday lending rule contains some interesting twists. Although the rule was adopted by the Cordray-led Bureau, follow-up to the rule took place after Cordray's departure from the CFPB. Acting Director Mick Mulvaney, appointed by President Donald Trump, appeared to side with the rule's detractors. In June 2018, the Bureau filed a joint request in a lawsuit seeking to invalidate its payday lending rule, asking that a federal judge suspend the lawsuit while the Bureau conducted a rulemaking process reconsidering the rule. The lawsuit, filed by the Community Financial Services Association of America against the CFPB, sought to invalidate the final rule. The

Bureau also jointly filed a motion with CFSA for a stay of the compliance date. The Bureau's actions infuriated consumer groups, once staunch supporters of the borrowers. CFPB, who claimed the Bureau was siding with payday lenders. In July 2020, Kraninger instituted a new rule at the CFPB whereby payday lenders would no longer have to check whether prospective borrowers can afford to repay high-interest loans.

180-degree turn highlighted in Senate Banking Committee hearing

A Senate Banking Committee hearing on the CFPB's 2018 Spring and Fall Semiannual Reports highlights the reversal of the parties during the Kraninger years. Kraninger pointed out that the reports describe actions undertaken before her tenure as director of the Bureau, yet she noted that they "provide a touchstone as we create a fresh outlook at the agency under my leadership." Kraninger stated that she will be setting priorities for the Bureau, including setting the tone for how it will operate as an agency.

Opening the hearing, Committee Chairman Mike Crapo (R-Idaho) highlighted the Bureau's proposal to rescind the mandatory underwriting provisions of its payday lending rule and delay their compliance date. Crapo stated that the Bureau "found insufficient evidence and legal support for the mandatory underwriting provisions," and said that "those provisions would reduce access to credit and competition in states that have determined it is in their residents' interest to be able to use such products, subject to state law."

Ranking Member Sherrod Brown (D-Ohio) also spoke at the hearing, stating that the CFPB was created "to crack down on Wall Street predators and shady lenders that prey on hardworking families" and that the Bureau is supposed to be the voice to fight for "ordinary Americans." Brown stated however, that under recent leadership the Bureau "has turned its back on that job."

Warren questioned Kraninger on the lack of enforcement action taken by the CFPB under her leadership, including in the areas of student loans, lending discrimination, credit reporting companies, and debt collectors. According to Warren, the Bureau has not filed "one single action against lenders and servicers who scam students." Warren further asserted that the Bureau has not filed a single lawsuit for fair lending violations. Senator Catherine Cortez Masto (D-Nev) asked Kraninger about the agency's decision to stop monitoring banks' and payday lenders' compliance with the Military Lending Act (MLA), a law that protects servicemembers and their families from predatory lending. After Kraninger responded that since Congress had not designated the MLA as a consumer financial law, Cortez Masto argued that placing the burden on servicemembers to report violations of the MLA, as the CFPB's policy change requires, is similar to asking police officers to investigate crimes only after a complaint is filed. Senator Mark R. Warner (D-Va), referring to the Bureau's regarding the payday lending rule, added "I think you made a dreadful error in rescinding the payday lending rule." Warner noted that the agency spent five years doing research into the rule and asked, "What has factually changed that undermined the five years of data and research that went into the original payday lending rule that has allowed you to make this determination?" Senator Chris Van Hollen (D-Md) raised concerns regarding abusive lending practices that take place in the payday lending industry and the Bureau's decision to first delay and then rescind the mandatory underwriting provisions of the payday lending rule. Van Hollen also noted that the Bureau's initial research showed that "four out of five payday loans ends with the borrower unable to pay or having to take out another loan to pay off the first."

> *"The Bureau under Kraninger has not filed a single lawsuit for fair lending violations."*
>
> *– Elizabeth Warren*

Consumer advocate groups supported the Democrats' position, submitting a study analyzing whether the "CFPB, under the Trump Administration, is delivering on its statutory law enforcement objectives and stated commitments to take aggressive action in the area of consumer law enforcement, particularly where complaint volume is the largest." The study was done by identifying and classifying every public enforcement action of the CFPB up through the first three months of Kraninger's term in office. The CFA concluded that under Kraninger "enforcement activity at the CFPB has declined to levels that are either nonexistent or significantly below that of the prior Administration, even in the areas where consumer complaint activity is the highest."

Chopra brings Bureau back to basics

On Jan. 20, 2021, Kraninger, whose term as director was valid through 2023, posted a resignation letter "as requested" by the new Biden administration. President Joe Biden named David Uejio acting director of the Bureau. Uejio used his position to start pivoting the Bureau back to its original mission. Notably, he rescinded a Jan. 24, 2020 policy statement issued by Kraninger on the prohibition of abusive acts or practices, stating that the CFPB intended to exercise its supervisory and enforcement authority consistent with the full scope of its statutory authority under the Dodd-Frank Act. The acting director saw the 2020 policy statement as " inconsistent with the Bureau's duty to enforce Congress's standard and rescinding it will better serve the CFPB's objective to protect consumers from abusive practices." The 2020 Policy Statement stated that the CFPB would decline to seek civil money penalties and disgorgement for certain abusive acts or practices. "The CFPB deters abusive practices and compensates certain harmed consumers using penalties, so the Policy Statement undermined deterrence and was contrary to the CFPB's mission of protecting consumers," Ueijio said. He continued to rescind policy statements issued by Kraninger during her tenure.

On Jan. 18, 2021, just before his inauguration, Biden nominated Chopra to be the third director of the Bureau. Chopra had previous connections to the Bureau. He worked on implementation team that resulted in the creation of the CFPB and later served as student loan ombudsman and assistant director at the agency. Chopra's reputation for being a fierce consumer advocate raised Republican fears that Kraninger's business-friendly approach would be over if Chopra was confirmed. Pat Toomey (R-Penn), ranking Republican on the Senate Banking Committee, spoke out against the nomination saying that he had "grave concerns" that Chopra would return the CFPB to the "lawless, overreaching, highly politicized agency" under Cordray's directorship. Toomey's reaction was indicative of the reversal of the support the Republicans showed to the Bureau under Kraninger, hinting that the Bureau would come full circle. As it did. In contrast, Warren said, "Rohit is a terrific champion for consumers." She added, "I look forward to his leadership at the bureau as he works to return it to its core mission of protecting consumers from discrimination and predatory institutions."

It should be noted that although the CFPB was originally set up as an independent body with a single director, but following the holding in the U.S. Supreme Court case of *Seila Law v. the CFPB* in June 2020, that the Bureau's structure impeded the president's removal powers under Article II of the U.S. Constitution, the CFPB director could be removed by the president "at will." The ruling did not affect Trump's nomination of Kraninger because Cordray was nearing the end of his term when he resigned. However, the holding allowed Biden to nominate Chopra while in the midst of Kraninger's term. The ruling originally was seen as a victor for Republicans who had long pushed for a change in the Bureau's structure, but ironically, the decision backfired because it opened the door for the nomination of a director by a Democratic president.

The Banking Committee held a March 2021 hearing on Chopra's nomination. Chopra fielded questions from both parties. Toomey's questions to Chopra reiterated Toomey's concerns about the CFPB not being within the Congressional appropriations process, an issue that plagued Republicans from the time the CFPB opened its doors for business. Toomey also suggested in his opening remarks that Chopra was hostile to some interests that are regulated by the CFPB. Democrat lawmakers questioned Chopra on issues within the Bureau's purview such as student loans, protections for military servicemembers, and housing during the pandemic, all expected queries.

After the Senate Banking Committee's vote on Rohit Chopra's nomination to serve as the next director of the CFPB was tied, his nomination was considered by the full Senate in accordance with Senate Resolution 27 which set Senate procedure in the 117th Congress. Unsurprisingly, the remarks from Senate Democrats favored Chopra's nomination while the Senate Republicans held fast to their opposition of Chopra as CFPB director. Chair Sherrod Brown (D-Ohio) demonstrated a passion to serve as well as a deep knowledge of the marketplace and "the reality of the economy that most families live in." On the other side of the aisle, Ranking Member Pat Toomey (R-Penn) said that he would not support Chopra's nomination because of concerns that he would use the regulatory powers of the Bureau to " impose burdensome regulations and advance a liberal social agenda." Senator Bill Hagerty (R-Tenn), asserted that Chopra "has dodged Senators' questions throughout the confirmation process, casting serious doubt on how accountable his agency will be to the people's elected representatives."

On Sept. 30, 2021, the Senate voted to confirm Chopra as CFPB director for a term of five years. The vote was 50 to 48 in favor of the confirmation with two senators not voting. It ran strictly down the aisle, with all Democrats voting to confirm and all Republicans, minus the two abstaining, voting against confirmation. Chopra was sworn in as the CFPB's new director on Oct. 12, 2021. Chopra quickly began working to implement his plan to return to the days when the Bureau was more consumer-friendly and more adversarial toward financial firms. He launched a broad review of big technology companies' use of consumer financial data, investigated the fast-growing buy-now-pay-later industry and called for tougher penalties for financial firms that repeatedly violated consumer law. Chopra noted in early 2022 that regulators need to effectively enforce the law. Some in the banking industry saw Chopra's approach as unduly combative. "Regulators have a responsibility to be fair and transparent, not gin up provocative headlines," the Consumer Bankers Association said.

In his first appearance before the Senate Banking Committee to testify on the CFPB's semi-annual report, Chopra faced a committee that was in direct opposition to that which Kraninger experienced. Democrats were once again in favor of the Bureau. Committee Republicans reverted to their pre-Kraninger positions. As an example, Toomey (R-Penn) stated in his opening statement that "In less than ten months, the Biden CFPB has disregarded its jurisdictional limits, rescinded policies that provided regulatory clarity, returned to regulating by enforcement actions rather than rules, reportedly pushed out career civil servants for political reasons, and refused to comply with congressional oversight."

Supervision and enforcement

Chopra moved quickly to implement his plan to bring the Bureau back to the strong enforcement of Cordray's CFPB. Enforcement actions targeted: a vendor of prepaid cards sold to formerly incarcerated individuals; owners and operators of pawnshops who violated the Military Lending Act; nonbaappnk remittance transfer providers; third-party debt collectors; student loan servicers; a consumer reporting agency; a nonbank auto finance company; and of course, banks and mortgage companies (See chart of enforcement actions below).

Enforcement Activity Under Chopra

Date	Defendant	Violation	Action
10/19/21	JPay, LLC	Electronic Fund Transfer Act/UDAAP*	Consent Order
10/22/21	Trustmark National Bank	Equal Credit Opportunity Act/UDAAP	Consent Order
11/12/21	FirstCash, Inc.	Military Lending Act	Complaint
	Cash America West, Inc.		
01/10/22	United Debt Holding LLC	Fair Debt Collection Practices Act/UDAAP	Complaint
	JTM Capital Management, LLC		
	United Holdings Group, LLC		
03/30/22	Edfinancial Services, LLC	UDAAP	Consent Order
04/12/22	TransUnion Interactive, Inc.	UDAAP/Electronic Fund Transfer Act/Reg. V	Complaint
	TransUnion, LLC		
	TransUnion		
04/21/22	MoneyGram International, Inc.	Reg. E (Remittance Transfer Rule)	Complaint
	MoneyGram Payment Systems, Inc.		
05/04/22	Bank of America, N.A.	UDAAP	Consent Order
05/11/22	RAM Payment, LLC	Telemarketing Sales Rule/UDAAP	Consent Order
	Account Management		
06/09/22	Frank Ronald Gebase, Jr.	UDAAP	Stip. Judgment/Order
07/12/22	Populus Financial Group, Inc.	UDAAP	Complaint
07/14/22	Bank of America, N.A.	UDAAP/Electronic Fund Transfer Act	Consent Order
07/26/22	Hyundai Capital America	Fair Credit Reporting Act/UDAAP	Consent Order
07/27/22	Trident Mortgage Company	Equal Credit Opportunity Act/UDAAP	Consent Order
07/28/22	U.S. Bank National Assoc.	Truth in Lending Act/Truth in Savings Act	Consent Order
	Fair Credit Reporting Act/UDAAP		

Date	Defendant	Violation	Action
08/10/22	Hello Digit, LLC	UDAAP	Consent Order
09/28/22	Regions Bank	UDAAP	Consent Order
09/29/22	Money Lion Technologies, Inc.	Military Lending Act/UDAAP	Complaint
	ML Plus, LLC		
10/04/22	Choice Money Transfer, Inc.	Electric Fund Transfer Act/Reg. E/UDAAP	Consent Order
10/18/22	ACTIVE Network, LLC	Electric Fund Transfer Act/Reg. E/UDAAP	Complaint

*UDAAP is the Consumer Financial Protection Act's provisions on unfair, deceptive, or abusive acts or practices (12 U.S.C. §§ 5531, 5536)

The CPFB director kicked off personal financial data rights rulemaking with proposals that Chopra says would allow consumers to more easily and safely walk away from companies offering bad products and poor service and move towards companies competing for their business with alternate or innovative products and services. The CFPB published an outline of the proposals under consideration to implement Chopra's stated concern with dominant firms 'hoarding personal data" for their own purposes. The Bureau issued a slew of guidance in the first year of Chopra's term. The CFPB in 2022 announced a new system to provide guidance to other agencies with consumer financial protection responsibilities on how the CFPB intends to enforce federal consumer financial law. Circulars targeted deceptive representations involving the Federal Deposit Insurance Corporation's name or logo or deposit insurance; adverse action notification requirements; data protection or security for sensitive consumer information; debt collection and consumer reporting related to nursing homes; overdraft fee assessments; and investigation of consumer reporting disputes.

To the dismay of Bureau critics, in April 2022, Chopra said he would tap what he called the Bureau's dormant authority to conduct supervisory audits of nonbank financial technology firms whose activities the CFPB had reasonable cause to determine pose risks to consumers. Critics said this exercise of the Bureau's powers risks strangling the fintech industry. Toomey charged that Chopra's actions reflect a "runaway regulator" who has routinely abused the power entrusted to him "to advance his liberal agenda." Also in April, Republican members of the House Financial Services Committee sent a letter to Chopra demanding answers on what the members' perceived as efforts to restrict financial institutions' ability to charge fees. The letter was in response to a Bureau notice asking for information on what the agency characterized as "junk fees"—fees that are not subject to competitive processes that ensure fair pricing. The Bureau indicated in the notice that information collected would be used to help shape guidance and rulemaking and to target the agency's enforcement efforts. The letter "demanded answers on the CFPB's efforts to curtail financial institutions' ability to charge fees—which could endanger the financial products and services Americans rely on." According to the Committee Republicans, "the CFPB broadly groups all fees associated with consumer products and services as 'junk fees' and does not provide any legal definition of the term or any statutory authority to define such a term." The junk fees notice for information drew written responses from consumer advocacy and industry trade groups as well as state attorneys general. Once again, a Bureau initiative resulted in strong reactions from members of Congress, and in same partisan vein, as the responses to Bureau initiatives during the Cordray years.

What's next for the Bureau?

Unlike other federal banking law regulators, the director of the CFPB is key to the workings of the Bureau. The director's focus on particular areas of consumer compliance, strength of purpose, and drive affect the direction the Bureau adopts. The directorship of the CFPB is unique in its affect on political parties driving strong reactions from both Democrats and Republicans. The Seila law case ruling that the CFPB director can be removed "at will" by the president likely will impact the course of the Bureau as long as the Democrats and Republicans remain polarized. Can we look forward to an agency that does a 180-degree turn every time the political party of the president changes? At this point in time, it appears that the CFPB director's door is a revolving one.