

Ranking Member Pat Toomey (R-Pa.)
Opening Statement

Full Committee Hearing: New Era for Consumer Protection: The Consumer
Financial Protection Bureau's Semi-Annual Report to Congress
October 28, 2021 at 10:00 AM

Mr. Chairman, thank you. Welcome, Director Chopra.

During the Obama administration, the CFPB was a lawless, anti-business, unaccountable agency. Through restrictive policies, it limited consumer choice, drove up the cost of credit, and heedlessly harassed employers. Unfortunately, the Biden administration has rushed to return the CFPB to its bad old ways.

In less than ten months, the Biden CFPB has disregarded its jurisdictional limits, rescinded policies that provided regulatory clarity, returned to regulating by enforcement actions rather than rules, reportedly pushed out career civil servants for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.

Let's consider the Biden CFPB's return to regulation by enforcement. This unfair practice occurs when agencies fail to set clear rules of the road before bringing enforcement actions.

A classic example is with the Dodd-Frank Act. Dodd-Frank prohibited providers of consumer financial products from engaging in "abusive" acts or practices. However, the law's definition of this new term is so vague it's not clear what it prohibits.

During the CFPB's entire existence, it has never bothered to issue a rule to clarify this definition. But that didn't stop the Obama CFPB from bringing enforcement actions accusing businesses of abusive conduct and pressuring them into settling.

The Trump CFPB issued a sensible policy to curb this practice. The Biden CFPB, however, quickly rescinded this policy and took no steps to provide regulatory clarity.

Instead, in just his second week on the job, Director Chopra brought and settled an enforcement action against a company for abusive conduct even

though the CFPB has never defined that term. Worse yet, CFPB relied on a novel theory of abusive conduct. CFPB alleged an “abuse of market dominance” – a foreign concept taken from European antitrust legal theories, not American consumer laws.

The Biden CFPB has also repeatedly exceeded the bounds of its statutory authority by acting outside of its jurisdiction. Take for example the CFPB’s overreach into housing rentals and landlord-tenant law in effort to advance the Biden administration’s unlawful CDC eviction moratorium.

In May, the CFPB and the FTC, where Mr. Chopra was serving as a commissioner, jointly sent threatening letters to large landlords about the moratorium. The problem is housing rentals and landlord-tenant law are completely outside of the CFPB’s jurisdiction.

By statute, the CFPB’s jurisdiction is limited to overseeing “consumer financial products and services,” which do not include housing rentals, and enforcing certain enumerated consumer laws, none of which govern landlord-tenant relationships.

In its notice to landlords, the CFPB even seemed to begrudgingly acknowledge its lack of jurisdiction, but that didn’t stop the CFPB from threatening them with potential legal action. The letters stated: “Neither the FTC nor the CFPB has determined whether you or your company is violating the law ... the FTC or CFPB may still take action based on law violations.”

It’s deeply troubling that the CFPB made these threats when it had no legal authority to follow through on them because housing rentals and landlord-tenant law are outside of its jurisdiction.

The Biden CFPB has also refused to comply with legitimate congressional oversight requests. According to press reports, the Biden CFPB has taken unusual and possibly unlawful actions to push out career civil servants in order to replace them with political loyalists.

In June, I sent the CFPB a letter seeking documents about these allegations. For five months, the CFPB has sought to evade this legitimate oversight request.

In June, the CFPB claimed it needed more time to respond. Then, in July, instead of providing records, the CFPB claimed that the Privacy Act prevented it from producing any of the requested records.

After my staff challenged this claim, the CFPB finally produced some heavily redacted records this month. Despite the heavy redactions, at least one document refers to a “Voluntary Separation Compensation Agreement,” which sounds like reports that CFPB civil servants were offered extraordinary separation incentives to leave their posts.

From the redactions to delay tactics, it makes one wonder: What does the CFPB have to hide? In fact, I could ask the same question about you, Director Chopra.

In June, while your nomination was pending, I sent you a letter about the reports of troubling personnel actions at CFPB. My letter asked simple questions about whether you were involved in—or aware of—these actions. You refused to answer these questions or respond at all.

As a result, in July, every Republican member of this committee sent you a letter calling on you to answer these questions. But you still refused to provide answers or respond. That’s simply unacceptable.

Let me closing by saying: You’ve been CFPB Director for less than a month. There’s still time for you to reverse course.

Some good places to start would be to end the CFPB’s unfair practice of regulation-by-enforcement, respect the CFPB’s jurisdictional limits, and stop stonewalling legitimate congressional oversight requests. I hope you will, but I won’t hold my breath.