

Biden Taps Rohit Chopra, Current FTC Commissioner and Vocal Proponent of Aggressive Enforcement, to Lead CFPB

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Things are about to change dramatically at the CFPB. President-elect Joe Biden today nominated Rohit Chopra, a current commissioner at the Federal Trade Commission and long-time proponent of aggressive enforcement, to serve as director of the Consumer Financial Protection Bureau.

We knew that the incoming Biden administration would entail significant change on many fronts from the current administration, which has publicly espoused a policy of deregulation while continuing to pursue enforcement in certain priority areas. The nomination of Chopra shows just how far-reaching the forthcoming change will be on issues related to consumer protection and consumer financial protection.

Chopra Background and Time as Commissioner

Prior to his current role as FTC Commissioner, Chopra served as Assistant Director of the CFPB and oversaw the Bureau's student loan agenda. Chopra later served as Special Adviser to the Secretary of Education and dealt with issues related to student loan servicing and defaults, consistently advocating for more extensive enforcement. In the same vein, at the FTC Chopra has regularly dissented from his colleagues on the Commission, including on high profile enforcement matters like Facebook where he [argued](#) that the imposed \$5 billion settlement was insufficient to redress unjust gains and "does little to change the business model or practices that led to the recidivism."

Chopra also suggested that the FTC should have sought individual liability against CEO Mark Zuckerberg and other individual officers, arguing that "the FTC Act does not include special exemptions for executives of the world's largest corporations, but this settlement sends the unfortunate message that they are subject to another set of rules." Chopra has also regularly dissented from FTC settlements limited to injunctive relief, most recently arguing in the [Zoom matter](#) that the settlement "provides no help for affected users" and further contributes to "the agency's credibility deficit when it comes to oversight of the digital economy."

Potential Priorities at the CFPB

President-elect Biden is able to appoint a new director to replace current CFPB director Kathy Kraninger under *Seila Law v. CFPB*, a June 2020 Supreme Court decision that held the director must be removable at will in order for the Bureau's single director structure to be constitutional. If

confirmed as director, Chopra will likely restore the agency to its days of aggressive enforcement under its first director Richard Cordray in the Obama administration.

Chopra is also likely to seek to undo many changes made in the Trump administration. Potential priorities for a CFPB under Chopra include:

- Financial technology or the “fintech” sector broadly, including how innovative financial solutions use consumer information and whether fintech solutions adversely impact certain groups.
- Reconsidering the Payday Lending Rule, which was significantly rolled back by the current administration and is currently being challenged in federal court.
- New and aggressive enforcement related to fair lending laws and student loans, particularly given Chopra’s background and documented interest in the student loan market.
- Expanded use of the Bureau’s authority to prohibit “abusive” acts and practices, a unique authority established under the Dodd-Frank Act which to date has been used sparingly in narrow circumstances.

Chopra’s nomination also means that President-elect Biden will likely need to nominate at least two new commissioners to the FTC – given Chopra’s departure and the likely imminent departure of current FTC Chair Joe Simons.

We’ll continue to monitor both the CFPB and FTC fronts and post updates here – all signs indicate that we’re in for some interesting times ahead.