

## Expect To Feel Aftershocks Of Chopra's CFPB Shake-Up

February 18, 2025 | [Robert D. Tilley](#) and [Lucy E. Morris](#)

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The future of the [Consumer Financial Protection Bureau](#) — and federal enforcement of consumer financial laws more generally — is uncertain. The Trump administration has ordered the CFPB to freeze all enforcement activity, along with nearly all the bureau's other functions, and it may be poised to defund, shutter or otherwise neutralize the bureau. The people who seem to be least surprised by these developments are Rohit Chopra — the bureau's director from 2021 until he was fired by President Donald Trump earlier this month — and his leadership team, who took several steps to prepare state-level enforcement agencies to step into the void.

Since 2010, when it was created by the Consumer Financial Protection Act, or CFPA, the bureau has taken a decidedly adversarial approach toward the members of the consumer finance industry. According to its website, the bureau has brought hundreds of enforcement actions, securing more than \$19.7 billion in consumer redress and \$5 billion in civil money penalties. This aggressive record created the impression that the CFPB not only sought to punish corporate wrongdoing but also disfavored the consumer finance industry's normal and lawful operations, creating significant friction between the bureau and the companies it oversees. Two recent legal challenges by industry participants were fought all the way to the U.S. Supreme Court — 2020's *Seila Law LLC v. CFPB*,<sup>[1]</sup> and last year's *CFPB v. Community Financial Services Association of America*<sup>[2]</sup> — and many more were litigated fiercely in the lower courts. The bureau's reputation also split largely along partisan lines, and Republicans in Congress regularly introduced legislation intended to rein in the agency.

It was foreseeable that a new Republican presidential administration would seek to defang the bureau, and it seems like Chopra took that possibility seriously. As described further below, Chopra and the bureau published three key documents in the waning days of the Biden administration with the goal of bolstering state-level enforcement of consumer financial protection laws. We saw an uptick of such state-level enforcement during the first Trump administration, and we are likely to see an even swifter and more durable reaction in the rest of 2025 and beyond. Companies in the consumer finance industry should be prepared for states to open investigations and pursue enforcement actions, and to push back when states overstep their legal authority.

### Chopra's Actions to Bolster State Enforcement Authority

Chopra bookended his time at the bureau with actions intended to emphasize and bolster states' authority to enforce federal consumer financial law, with or without the involvement of a federal regulator.<sup>[3]</sup>

Among the most notable actions early in Chopra's tenure, in May 2022, the bureau issued an interpretive rule that "describe[d] states' authorities to pursue companies and individuals that violate the provisions of federal consumer financial protection law."<sup>[4]</sup> The plain language of the CFPA provides state attorneys general and other state agencies with the authority to enforce the CFPA's prohibition on unfair, deceptive, or abusive acts or practices against covered persons and service providers, also known as UDAP authority.<sup>[5]</sup> However, the bureau's interpretive rule went further, advocating for state enforcement agencies to claim even more power under the CFPA. Most importantly, the bureau's interpretive rule asserted that the CFPA authorized states to enforce the act's "prohibition on covered persons and service providers violating other enumerated Federal consumer financial laws," including the Fair Credit Reporting Act, the Truth in Lending Act and many others.<sup>[6]</sup> The bureau also described states' CFPA authority as "not subject to certain limits applicable to the Bureau's enforcement authority," such as the exclusions for merchants and auto dealers.<sup>[7]</sup> Finally, the interpretive rule asserted that states can enforce the CFPA even when the bureau "is pursuing a concurrent action against the same entity." These interpretations went beyond the language and purpose of the CFPA, seeking to create more enforcement authority for states than Congress intended.

More recently, in the days leading up to Trump's inauguration, Chopra and other members of the bureau's front office released three documents meant to empower state regulators stepping into the bureau's anticipated absence. These three publications (1) outline Chopra's vision for robust state-level enforcement of federal consumer financial laws, based on existing legal authorities; (2) advocate for revisions to state laws to ensure that states will continue to have authority to pursue aggressive enforcement actions, separate from federal law and policy; and (3) memorialize the CFPB's recent interpretations of federal consumer financial laws, for use in future litigation over those provisions.

### Playbook Article

First, on Jan. 15, Chopra and Seth Frotman, the former general counsel of the CFPB, published an article in the *Harvard Journal on Legislation* that describes their aggressive vision for dual federal and state enforcement of the CFPA — and federal consumer financial laws more generally — and could be read as a "playbook" for these types of state actions.<sup>[8]</sup> After summarizing the history of the CFPA and its relevant provisions, Chopra and Frotman described examples in which states have brought claims against companies under the CFPA, outlined the policy arguments in support of state enforcement, and advocated for continuing aggressive action by state authorities. Finally, Chopra and Frotman presented the CFPA's dual state-federal enforcement structure as "a playbook [Congress] can use to address other emerging challenges," including the current lack of a "comprehensive federal data privacy regime."<sup>[9]</sup>

### Report on State Laws

**Second**, on Jan. 14, the bureau issued a report advocating changes to state laws.<sup>[10]</sup> Harkening back to the proliferation of mini Federal Trade Commission Acts in the 1970s — an example that Chopra and Frotman also praised in their playbook article — the bureau called for "a renewed commitment to federal-state cooperation and dynamism in consumer protection." The bureau also recommended changes that states could adopt to strengthen their consumer protection laws, including: (1) incorporating a prohibition on "abusive" practices; (2) expanding legal investigative tools and available remedies; and (3) eliminating the requirement that state attorneys general prove reliance or ascertainable monetary losses in order to obtain consumer relief.<sup>[11]</sup> Taken together, these recommendations look like an effort to preserve broad state-level enforcement authority in the event that the courts or Congress cut back their authority to enforce federal consumer finance laws.

### **Compendium of Interpretive Guidance**

**Third**, also on Jan. 14, the bureau issued a compendium of the bureau's interpretive guidance from Chopra's tenure, including compliance bulletins and circulars, interpretive rules, policy statements, and other nonbinding legal interpretations on topics including credit reporting, loan servicing, auto repossessions, debt collection practices, mortgage rules and state enforcement of federal consumer financial laws.<sup>[12]</sup> All of these documents were available on the CFPB's website, and most were published in the Federal Register prior to the issuance of this compendium. However, Chopra and his leadership team likely anticipated that the Trump administration would withdraw this guidance, and they likely released it in composite form to give it heft and in the hope that the guidance will be relied on by courts and enforcement agencies in future litigation.

### **The Coming Fight: States Take Up the Mantle**

Participants in the consumer finance industry are likely relieved to see the Trump administration's recent steps to restrain the CFPB's enforcement activity. However, they are not free to ignore their obligations under the CFPA and other federal consumer finance laws. Even if the bureau, FTC and other federal regulators remain inactive for the foreseeable future, we expect many state attorneys general to increase their enforcement activity to offset the federal retreat.

As noted above, state agencies have clear statutory authority to bring claims under the CFPA's UDAAP prohibitions. Indeed, Chopra and Frotman's playbook article purported to identify "about fifty" state attorney general lawsuits to enforce the CFPA.<sup>[13]</sup> However, it also ignored several ways that the CFPA limits state enforcement authority. Companies should be prepared to push back on overzealous and unbridled state attorney general actions, just as they have with the CFPB in recent years. For example, following the guidance in the bureau's May 2022 interpretive rule, several states have asserted that the CFPA grants them authority to enforce all federal consumer financial laws.<sup>[14]</sup> The structure of the CFPA demonstrates that Congress only intended to provide this authority to the bureau, and companies should resist these efforts.

Similarly, states may bring claims that are based on the bureau's recent, excessively broad interpretations of federal laws and regulations. As an example, an enterprising state attorney general might bring UDAAP claims relying on the bureau's Chopra-era guidance on the UDAAP abusiveness standard.<sup>[15]</sup> Presumably, the bureau released its compendium of guidance for precisely this purpose — to enable litigants and courts to rely on these interpretations in future enforcement actions. Even if the Trump administration withdraws each of these policy documents, courts will still be free to consider them. In light of the Supreme Court's 2024 decision in *Loper Bright v. Raimondo*, district court judges who confront these issues must exercise their independent judgment to interpret the relevant statutory language.<sup>[16]</sup> In some cases, states will urge the court to adopt the CFPB's Chopra-era policy, and companies must be ready to prevail on the merits of these issues.

Finally, we expect some state attorneys general will press their authority under the CFPA even further than Chopra and Frotman were willing to advocate, including by attempting to recover monetary penalties.

The legal authority for state agencies to receive this type of remedy under the CFPA is hotly debated. Whether courts accept this type of bold expansion of state power will similarly depend on the industry's response.

### **Conclusion**

The CFPB's future is uncertain, but some of the impetus to bring consumer financial protection actions during the Trump administration will likely shift to the states. However, many of those cases will hinge on novel issues teed up by Chopra and his colleagues at the Biden-era CFPB. The members of the consumer finance industry should be prepared to defend themselves on those terms.

*For those seeking more in-depth analysis and actionable insights on this topic, we invite you to join us for a timely webinar:*

**Webinar Title:** Special Compliance Coffee Break - Consumer Finance Enforcement: A Shift to the States

**Presenters:** Anastasia Caton, Erik Kosa, Meg Nicholls, and Rob Tilley

**Registration Link:** [Here](#)

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[1] 591 U.S. 197 (2020).

[2] 601 U.S. 416 (2024).

[3] For our contemporary discussion of these early actions, see Lucy Morris & Robert Tilley, [Tracking CFPB Efforts to Promote State](#)

Enforcement Action, Law360 (June 8, 2022)

[4] CFPB, Final Interpretive Rule, Authority of States to Enforce the Consumer Financial Protection Act of 2010, 87 Fed. Reg. 31940 (May 26, 2022) (available at <https://www.govinfo.gov/content/pkg/FR-2022-05-26/pdf/2022-11356.pdf>).

[5] See 12 U.S.C. §§ 5531, 5552.

[6] CFPB, Final Interpretive Rule, Authority of States to Enforce the Consumer Financial Protection Act of 2010, 87 Fed. Reg. 31940 (May 26, 2022) (available at <https://www.govinfo.gov/content/pkg/FR-2022-05-26/pdf/2022-11356.pdf>).

[7] Id.

[8] Rohit Chopra & Seth Frotman, State Enforcement as a Federal Legislative Tool, Harvard Journal on Legislation (January 15, 2025) (available at <https://journals.law.harvard.edu/jol/2025/01/15/state-enforcement-as-a-federal-legislative-tool/>).

[9] Id. at 37.

[10] CFPB, Strengthening State-Level Consumer Protections: Promoting Consumer Protection Federalism (January 14, 2025) (available at [https://files.consumerfinance.gov/f/documents/cfpb\\_strengthening-state-level-consumer-protections\\_2025-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_strengthening-state-level-consumer-protections_2025-01.pdf)).

[11] Id.

[12] CFPB, Compendium of Recent CFPB Guidance (January 14, 2025) (available at [https://files.consumerfinance.gov/f/documents/cfpb\\_guidance-compendium\\_2025-01.pdf](https://files.consumerfinance.gov/f/documents/cfpb_guidance-compendium_2025-01.pdf)).

[13] Chopra & Frotman, supra note 7, pp. 6, 21.

[14] See, e.g., Pennsylvania v. Bright Fin. Group, LLC, Case No. 2:25-cv-00301, ECF No. 001 (E.D. Pa. Jan. 17, 2025) (Count I: Violation of the CFPA Based on Violation of RESPA); Texas v. Colony Ridge, Inc., Case No. 4:24-cv-00941, ECF No. 027 (E.D. Tex. May 24, 2024) (Count 4: "The State of Texas has authority to enforce the CFPA through violations if ILSA because the statute is an 'enumerated consumer law' under the CFPA."); Washington v. Prehired, LLC, Case No. 23-50438, ECF No. 001 (D. Del. Br. July 13, 2023) (Count 4: Violations of the CFPA by Violating TILA and Regulation Z).

[15] CFPB, Statement of Policy Regarding Prohibition on Abusive Acts or Practices, 88 Fed. Reg. 21883 (Apr. 12, 2023) (available at <https://www.federalregister.gov/documents/2023/04/12/2023-07233/statement-of-policy-regarding-prohibition-on-abusive-acts-or-practices>).

[16] Loper Bright Enter. v. Raimondo, 603 U.S. 369, 412 (2024).

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