

Watch for Enhanced Enforcement

Under New CFPB Director



By Frank Pellegrini
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With a new administration in Washington, management of the Consumer Financial Protection Bureau is changing, though the change in leadership resulting from the inauguration of a new U.S. President was not envisioned by the agency's original proponents (including incoming director Rohit Chopra).

The 2020 Supreme Court decision in Seila Law versus the CFPB declared the CFPB's leadership structure unconstitutional, saying it violated the separation of powers by placing leadership of the agency in the hands of a single director who could only be removed for cause. The court declared the director removable at-will by the president instead.

As a result, President Biden chose to replace former bureau head Kathy Kraninger (who resigned her post at the administration's request) and has nominated Rohit Chopra to be the agency's new leader. Chopra, most recently a member of the Federal Trade Commission, helped establish the bureau alongside Sen. Elizabeth Warren (D-Mass.) and served as the bureau's first student loan ombudsman.

According to Lucy Morris, a partner at Hudson Cook LLP who spoke with *Bloomberg News*, Chopra is expected to reinvigorate the bureau quickly, beefing up its enforcement and oversight, particularly with a focus on COVID-19-related consumer relief.

"He's going to look to use all the tools in more expansive and creative ways," said Morris, a former CFPB deputy enforcement director who worked with Chopra at the bureau.

Mick Mulvaney, a critic of the agency when he was a member of Congress, was appointed acting head of the CFPB in 2017. Following Mulvaney's rocky term, including an ill-fated attempt to rename the agency, Kraninger brought stability to the agency. What did not change when she took charge was a major slowdown in CFPB enforcement actions that began in 2017. That is about to change.

I don't believe there is any doubt that the bureau's enforcement efforts will accelerate under the new agency management team beginning with current acting director Dave Uejio and continuing under Chopra once he is installed at CFPB.

As I told *The Legal Description*, published by October Research: "I think what we are looking at is a very passionate regulator and a very passionate watchdog. The question in my mind will be does he have other business types in mind that are going to interest him more than RESPA cases. Student loan cases and payday lenders and things like that seem to be very much on his radar screen. What we don't know is how much bandwidth he has to include RESPA cases."

Many who follow the agency's initiatives also wonder whether CFPB will now take a more active role in potential UDAAP (unfair, deceptive and abusive acts and practices) cases. In my view, that is highly likely.

Time will tell, but be prepared for a very active four years at CFPB under Chopra's leadership.