

Podcast: *The Consumer Finance Podcast and Regulatory Oversight*

Episode: Inside California's BCSA: Rohit Chopra's Expanding Role in Consumer Protection

Speakers: Chris Willis, Stefanie Jackman, and Mike Yaghi

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Chris Willis (00:04):

Welcome to this special crossover edition of the [Consumer Finance Podcast](#) and [Regulatory Oversight](#). I'm Chris Willis, the co-leader of Troutman Pepper Locke's Consumer Financial Services Regulatory Group, and I'm joined today by my colleague Stefanie Jackman, who's a very frequent contributor to our podcast, as well as Mike Yaghi from our nationally ranked State Attorneys General team and our firm's Regulatory Investigations, Strategy, and Enforcement Practice Group. And Mike is a frequent guest on the *Consumer Finance Podcast* as well. But we're doing this as a joint podcast because this is an area of interest to both of us, and we in the Consumer Financial Services Group worked very, very closely with our nationally ranked State Attorneys General group, and we're really glad that Mike is here to join us today. And today we're going to be talking about California Governor Gavin Newsom's appointment of Rohit Chopra, the former CFPB director, to lead California's new Business and Consumer Services Agency, what that move signals for the financial services industry both today in California and potentially in the future at the federal level. So before we jump into that, though, let me just give you a quick reminder to visit and subscribe to our blogs at troutmanfinancialservices.com, consumerfinancialserviceslawmonitor.com, and regulatoryoversight.com. And don't forget about all of our other podcasts: The [FCRA Focus](#), [The Crypto Exchange](#), [Moving the Metal](#), and [Payments Pros](#), all of which are available on all popular podcast platforms. So, Stefanie, Mike, welcome to the podcast again for both of you. Glad to have both of you here.

Stefanie Jackman (01:32):

Thanks for having us. Great to be here.

Mike Yaghi (01:34):

Agree. It's great to be here with both of you. Thank you.

Chris Willis (01:38):

Well, this is a pretty interesting development, I have to say, because Rohit Chopra, of course, was the director of the CFPB through the end of the Biden administration, and then he was replaced by Acting Director Russell Vought. And it was interesting to see where Mr. Chopra was going to land. He first took a job with the Democratic Attorneys General Association, as I recall, leading a sort of research group that was going to research potential cases to feed to the constituents of that association, the Democratic state attorneys general. But now he's gotten a new job in the state of California, and I

think it's a pretty important one for us to take notice of. Mike, if you don't mind, let's start with you. Can you just tell the audience what exactly has happened in California and what is former director Chopra's new sort of sphere of influence or authority?

Mike Yaghi (02:25):

Yes, thanks for the question. It's a good one, Chris. And basically dates back to when Governor Newsom, our governor in California, broke up and divided the Business, Consumer Services and Housing Agency into effectively two separate agencies. And it created what's now the California Business and Consumer Services Agency, the BCSA. And Rohit Chopra is the secretary, the very first inaugural secretary of the BCSA, which now sits over several state agencies, starting with the Department of Financial Protection and Innovation, the Department of Consumer Affairs, the Department of Real Estate, the Department of Cannabis Control, and the Department of Alcoholic Beverage Control, the ABC. And the goal is to sort of bring all of these consumer protection agencies under one umbrella, focusing on consumer protection specifically, and separating out state housing and homelessness and other issues to the second and separate agency that was created. Today, I think we want to focus on the DFPI, the Department of Financial Protection and Innovation, as it really is going to bring a lot of, we think, over the next short term and long term, regulatory oversight in the consumer financial services area in California. And with Secretary Chopra's background, we think that the DFPI's agenda will be to really police the marketplace, conduct examinations of consumer financial services companies, and focus on sort of consumer protection from their perspective in terms of any of those financial products provided and sold... Services and products provided and sold in the state of California.

Chris Willis (04:16):

And Mike, just to be clear, this BCSA Secretary position, that's a cabinet-level position in the California government, right?

Mike Yaghi (04:25):

It is a cabinet-level position, reports to the governor, and it's an important distinction because it does not change the California Attorney General's authority, which is established under the state constitution. So the Attorney General in California is a constitutional officer, whereas to your point, Chris, Secretary Chopra is a cabinet-level secretary, reports to the governor and will have sort of parallel consumer protection authority and power to police the marketplace alongside and in addition to the state Attorney General here in California.

Chris Willis (05:02):

Yes. And I'm going to resist the screamingly obvious temptation to make jokes about the alcohol and the cannabis stuff, because I think that could be really funny.

Mike Yaghi (05:11):

Yes, yes.

Chris Willis (05:11):

But let's not do that. As you suggested, Mike, let's focus on consumer financial protection. Rohit Chopra, when he was director of the CFPB, I think it's fair to say, had a very high level of aggressiveness with respect to enforcement, with respect to trying to move the market through informal actions like making speeches or releasing informal guidance, things like that. And so I think it's important to understand he's now in a position where he oversees a bunch of agencies in California, including DFPI, which is one that we care about on this podcast very much.

Stefanie Jackman (05:47):

Director Chopra was in three different positions in the federal government, and as you already said, he was very aggressive in all of those. The first was the CFPB student loan ombudsman, then an FTC commissioner, then CFPB director from 2021 to 2025. I bet you all of our listeners can remember that we were thinking these were some of the most aggressive years that we had ever experienced with the CFPB. That's consistent with the approach that Director Chopra took across all three roles he had in federal government before transitioning to California, where he developed a consistent and very well-documented enforcement posture. He thinks that alleged systemic misconduct demands systemic remedies. He thinks that alleged... And I say alleged, but what he believes to be repeat offenders deserve escalating consequences and not the benefit of the doubt, and that penalties that can be priced into a business model function as a licensing fee, like a license to do wrong, as opposed to a genuine deterrent to future bad acts. All of that is directly portable right into the framework of the California BCSA and, below that, DFPI. So I have every reason to expect that former Director Chopra, now Secretary Chopra in California, will embark on exactly the same game plan because that is his approach to consumer protection.

Chris Willis (07:16):

And Stefanie, assuming that that happens, that we see a significantly more aggressive stance coming out of the California Department of Financial Protection and Innovation as a result of this, give the audience a sense of the scope of authority that DFPI has over the providers of consumer financial products and services, because it's a lot.

Stefanie Jackman (07:35):

Yeah, the DFPI has really broad supervisory and enforcement authority over essentially almost everyone in the consumer financial services industry, with just a few exceptions. Remember, the California Legislature recently amended the Rosenthal Act, which is California's mini FDCPA, to even apply to certain small business activities. So we're not even necessarily limited to the consumer world when you start thinking about DFPI being empowered to enforce the Rosenthal Act. There are some very narrow exceptions as far as DFPI's authority, and it's really in the supervisory context because DFPI, acting through either district attorneys or the California AG or both, can truly enforce against anyone that is providing a consumer financial service or product. But the supervisory authority is fairly broad as well. Chris, I seem to recall that there are

exemptions for certain products, like there may be contexts where leases aren't covered, but they're very narrow. Certain types of insurance may not be covered, but also these are often covered by other areas of California law or supervised and licensed by other regulators. And essentially DFPI fills the gap on everything else. If it doesn't expressly have that authority, but that authority isn't expressly delegated elsewhere, you can bet DFPI will say they have that authority.

Chris Willis (09:03):

Certainly that was a feature of the Rohit Chopra CFPB, asserting authority that I would not have thought the agency had just reading the statute, for example. The only like really big exception to DFPI's supervision authority is nationally chartered banks. They obviously can't do any supervision of them because that would violate the visitorial powers provision of the National Bank Act.

Stefanie Jackman (09:24):

But they can still enforce against them for a law that's broad enough. It just has to be done through that context.

Chris Willis (09:29):

Right, exactly. Mike, obviously California's the biggest state in the country, both from the standpoint of population and the size of its economy. So it's not really an option for a national consumer financial services company to just not do business in the state. So we have lots and lots of companies that do business in the state. What do you think this means for them now that former Director Chopra is now the secretary of BCSA?

Mike Yaghi (09:56):

It means, and I'm going to piggyback off of what Stefanie just noted, that when Chopra at the federal level focused on systemic concerns, systemic problems, really attacking and evaluating a company or a consumer financial services company's business model to determine whether or not the business model has issues. He's not focused on just disclosure concerns, for example, or mistakes maybe in how a company was interacting with a consumer that could trigger a violation. He's focused on systemically what is the company's business model, what are the products and services marketed and sold, and then focusing on areas that were of interest for him relating to fees, for example, or hidden fees, the use of technology, artificial intelligence, and how all of those things are sort of used at the business model level and really pursuing punitive civil penalties to really correct the business model and change the way companies are doing business. So I think companies in California are going to have to really focus on that reality. And I would recommend look at all of their controls put in place, how they're marketing in the state and selling their products and services to consumers, how they're disclosing fees, for example, how they're using AI, for example, and really look at it top to bottom whether or not Chopra and his agencies, specifically DFPI, would perceive some potential violation that would require an investigation. And then the second point, I know Stefanie noted the supervisory role, I think we're going to probably see supervisory or

sort of a review of companies as a way to find potential violations and pursue follow-on enforcement. I think that's a real concern. So DFPI could in its ordinary powers pursue looking at... Through its supervisory powers, look at a company, sort of peek under the hood, and then if there's systemic issues or concerns, that could grow into a broader enforcement action. So that's a reality I think companies need to be prepared for.

Chris Willis (12:15):

I think also we need to be on the lookout for the sort of very public steering statements from the DFPI that were characteristic of the CFPB when Rohit Chopra was the director of that agency. And what I mean by that is all the sort of informal guidance and speeches and blog posts and circulars and all this other stuff that the agency put out in great volume during the years that he was the director. If we start seeing that... That isn't something that I feel like's been a real feature of DFPI recently, but if it starts to change and we start to see more of that, it'll be a good leading indicator, I think, of what direction the agency may go under his ultimate leadership.

Mike Yaghi (12:55):

Yeah, reading those tea leaves is going to be something we'll stay on top of, but I think the industry has to stay on top of as well.

Chris Willis (13:02):

Yeah, for sure. Now, we've talked about the potential impact of Secretary Chopra today in California, which is potentially quite significant. But having seen him go through various federal appointments, which Stefanie highlighted a few minutes ago, you've got to think what might be the next step after this for him. Stefanie, do you want to talk about what this might mean for a future federal administration and his role in it?

Stefanie Jackman (13:29):

I'd be happy to. I mean, why else would former director, now Secretary Chopra, have taken this position in the Gavin Newsom organization if he wasn't hoping to ride that to some sort of cabinet or other secretary-level position in a Gavin Newsom presidential administration? I can't imagine that he would be looking to go back into his old role at the CFPB. That would come with lots of baggage and history, and generally people try to step up, right? So, to me, and I know you share this view, Chris, this is really about aligning himself closely with the Newsom administration and looking towards a potential 2028 presidential run and getting into perhaps an even more significant cabinet-level position down the road if there's a change in leadership in Washington.

Chris Willis (14:20):

Yeah, and I think obviously if Governor Newsom were to succeed in becoming the next president, that path would be very clear for Secretary Chopra. Even if another Democrat gets the nomination and ultimately wins the White House, I think it's a persuasive argument for Secretary Chopra to say, "Hey, I've handled a cabinet-level job in the biggest state in the union, covering these really important issues. I've proven that I can

do that in addition to my experience as CFPB Director and FTC Commissioner, and so I'm ready to handle the responsibility of Secretary of whatever," whatever his aspiration may be in a future Democratic administration. And I think that would be a pitch he could make even if Governor Newsom isn't the Democratic nominee who then wins president, even assuming a Democrat does win the next presidential election.

Stefanie Jackman (15:08):

Oh, I agree completely. And I would imagine he also has, from his prior roles at the federal level, which is where he really has spent the bulk of his regulatory career within government, that he also has connections to other Democrats, for instance, Senator Warren. We know they're close, right?

Chris Willis (15:27):

Of course, yeah.

Stefanie Jackman (15:27):

So that is, to your point, aligning himself with Governor Newsom, but that doesn't have to be the person that ultimately puts him into that type of position. It could be any other nominee as well.

Chris Willis (15:38):

Yeah, that's right.

Mike Yaghi (15:38):

And I think leading the DFPI and recognizing all the other consumer agencies in California, but being head of the DFPI and focused on consumer financial products and services gives him a lot of just state-level experience, because we know he has all the federal experience in this space. And California being a huge state, similar to New York, by the way, right? States like New York and California are trying to sort of fill that void from the CFPB with changes in state laws in both jurisdictions. I think this just adds to Secretary Chopra's resume a real high-level role at a significant state level to enforce, engage in state-level enforcement, to just sort of broaden the resume, his own resume. Not that he needed to broaden it, but it just adds that additional element. And I think it's just a high-profile role for him. And over the short term and long term, as we see his role develop and the DFPI's agenda, it'll be a good, I think, preview to what we could expect in a future Democratic administration if he's a part of it.

Chris Willis (16:51):

Yeah, I think that's 100% true. And I think kind of regardless of Secretary Chopra's potential role in a future Democratic administration, I think there will be a great, great switch in direction of the federal financial regulators, including the CFPB, upon the next Democratic administration. And one of the things that President Trump has done is he's consolidated the control of all the federal agencies, or nearly all of them, sort of to the president in terms of the ability to hire and fire the heads of the agencies at will,

including agencies that were once thought to have independence, like the FTC, et cetera. And so everything that President Trump did from the Republican side, a future Democratic president can just do the exact same thing. The Supreme Court has said it's okay from the Democratic side. And I think it makes the danger of a very sharp whipsaw at the federal level even more pronounced than we've experienced it recently. And we've experienced it a lot recently.

Mike Yaghi (17:53):

Definitely. I agree.

Stefanie Jackman (17:53):

I couldn't agree more. I think Mike and I are both agreeing with you at the same time, especially for the point that you made. One of the results of all of the consolidation of authority and power and oversight in the executive branch by the two Trump administrations, combined with where Supreme Court decisions had come out on the CFPB and termination of the director at will and the funding mechanism being constitutional, the stage is set. I'm not aware of any actual reform bills in Congress right now that are moving forward or any... I'm not even sure if there are any pending anymore. I know occasionally people introduce them. The stage is set for just a massive shift supported by states. Chris, we've talked about this for years. States that have gotten better and better at sharing information, collaborating, conducting joint exams, taking and expressing joint positions on different issues of consumer protection. We can think about different states that we really identify as being the states most concerned with this or that, and then once they establish it, it can port elsewhere. They're all well-primed for a significant shift of the pendulum back towards the consumer protectionist approach of the Biden administration in ways that we have not yet even experienced, if you can believe that.

Chris Willis (19:16):

Yeah, I think you're right. And I think Secretary Chopra would love to be a part of that transition and has positioned himself so that he has a high chance of being a big part of it. Stefanie, Mike, thanks for talking with me about this on the podcast today. And thanks to our listeners for listening as well. Don't forget to visit our blogs and subscribe to them, troutmanfinancialservices.com, consumerfinancialserviceslawmonitor.com, and regulatoryoversight.com. And while you're at it, visit us on the web at troutman.com and see all we have to offer both, in the consumer financial services area and with our regulatory investigations, strategy, and enforcement practice, which houses our nationally ranked State Attorney General practice that Mike, of course, is a part of. And of course, watch your podcast feed for great new episodes of the *Consumer Finance Podcast* and *Regulatory Oversight* regularly hitting your podcast feed. Thank you all for listening.

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