AMERICAN ECONOMIC LIBERTIES PROJECT

Laws Are Not Suggestions: How the CFPB Is Delivering for the American People

Under Director Rohit Chopra, the CFPB has returned billions of Americans' hard-earned money to their bank accounts; fought back against Wall Street and Big Tech's discriminatory and anti-competitive behavior; ensured violating the law can no longer be written off as just a "cost of doing business;" shuttered corporate scams; and restored financial freedom to millions of Americans held hostage by the credit reporting cartel.

Holding Repeat Offenders Accountable and Ensuring U.S. Laws are Not Suggestions

- Ordered one of the biggest debt collectors in the country to pay $24m for violating a previous consent order by collecting on debt it lacked documentation for and attempting to collect on debt outside the statute of limitations.
- Proposed creating a public registry – and issued a rule to update how the agency designates nonbanks for regulatory supervision – that would require nonbank financial firms to register with the agency when they break consumer protection law and are the subject of local, state, or federal consumer financial protection agency or court orders. This increase in transparency will enable Americans to make better and more well-informed choices when choosing financial service providers.
- Delivered a record-high $3.7 billion penalty holding Wells Fargo accountable for widespread illegal conduct across its businesses that caused billions in financial harm. The agency ordered Wells Fargo to pay restitution to thousands of Americans who lost their homes and cars and refund countless more whose bank accounts were drained by illegal fees. In the years preceding, Wells Fargo had faced numerous other enforcement actions, from opening fake accounts and illegal mortgage kickbacks to illegal student loan servicing and car loan administration.

- Along with the Office of the Comptroller of the Currency, the CFPB fined Bank of America $250 million for denying Americans unemployment benefits and illegally freezing their bank accounts using flawed fraud detection programs. Just months earlier, in April 2022 the CFPB ordered Bank of America to pay a $10 million penalty for illegally garnishing the wages of thousands of customers.
- Sued repeat offender MoneyGram, a payment system widely used to send remittances, for unnecessarily delaying transactions.
- Filed a lawsuit against credit reporting firm Transunion and a senior executive for violating a previous CFPB order banning the company from engaging in deceptive marketing.
- Shut down a venture capital-backed lending fintech for violating a CFPB order regarding deceptive marketing.
- Fined online lender Enova $15 Million for widespread illegal conduct, including withdrawing funds from customers' bank accounts without their permission. Enova, a repeat offender, was under a 2019 consent order for similar conduct.
- Established a repeat offender registry to track companies and people who repeatedly break consumer protection laws.

Saving Americans Billions by Taking on Rip-Off Junk Fees

Rulemaking and industry warnings

- Launched a crackdown on banking junk fees projected to save Americans $5.5 billion annually. The rules, which would drastically rein in overdraft fees and ban nonsufficient funds fees entirely, will particularly benefit Black, Hispanic, and low-income customers who are disproportionately targeted by exploitative banking junk fees – CFPB research found that 80% of overdraft/NSF fees are borne by just 9% of Americans.
- Banned excessive credit card late fees – reducing the typical fee from $32 to $8 – which will save Americans $9 billion per year. A CFPB study found that credit card late fees, which disproportionately target low-income and Black Americans, are not a meaningful incentive for cardholders to make on-time payments and effectively punish American families for living paycheck-to-paycheck.
- Opened an initiative to scrutinize junk fees. During the subsequent public comment period, the agency received more than 50,000 public comments, demonstrating a high level of concern and interest.
- Issued guidance warning companies that using deceptive practices to trap consumers into subscriptions is a violation of the law. The CFPB found subscription products often obscure important details and prevent consumers from cancelling.
- Put the debt collection industry on notice that "pay-to-pay" fees charged on top of debt payments are illegal.
- Warned banks against reopening customers' closed accounts to harvest extra fees.

- Issued an advisory opinion to stop debt collecting on "zombie mortgages," which are forcing Americans into foreclosure.
- Issued a warning to remittance transfer providers that false advertising about the cost or speed of sending a remittance transfer can violate federal law. This includes falsely marketing "no fee" or "free" services but then in fact charging consumers a fee.
- Is seeking public comment on junk fees in home-buying closing costs.

Enforcement Actions

- Ordered Wells Fargo to return more than $500 million in consumer redress to account holders, including $205 million for illegal surprise overdraft fees. As part of the enforcement action, the CFPB fined Wells Fargo a record $1.7 billion for illegal fee schemes and a range of other repeated consumer protection violations.
- Penalized Servicio UniTeller, a remittance provider with over 200,000 locations worldwide, for not providing refunds to Americans sending money to friends and family overseas after the company made errors transferring their money.
- Required mortgage servicing companies to refund illegal "pay-to-pay" junk fees that charged homeowners for paying over the phone without their knowledge.
- Sued payment system ACTIVE Network for manipulating at least 3 million users into paying $300 million in membership fees without their consent.
- Penalized Choice Money, a remittance provider handling more than 500,000 monthly transfers, for failing to disclose fees and apply refunds as appropriate to Americans sending money to friends and family overseas.
- Issued a $191 million penalty to Alabama-based Regions Bank for charging surprise overdraft fees. Regions, which was banned from charging the fees in the future, was warned by bank regulators and even its own staff to halt the practice but failed to do so.
- Fined Citizens Bank $9 million for failing to properly process credit card disputes.
- Ordered payment processor ACI Worldwide to pay a $25m penalty for data mishandling practices that led to the illegal processing of $2.3 billion in unauthorized mortgage payments.
- Ordered alternative-financing/leasing company Tempoe, which operates at point-of-sale at retailers like Sears and Kmart, to pay $36m in penalties and relief for tricking consumers into overpaying for products and hiding contract terms.
- Fined Toyota's lending arm $60 million for an illegal scheme to prevent customers from cancelling add-on bundles that increased their monthly car loan payments.
- Filed an amicus brief – alongside the FTC – to "ensure people can hold covered mortgage servicers and other debt collectors responsible" for charging unlawful junk fees.

Wiping Out 70 Percent of Medical Debt on Credit Reports, Restoring Financial Freedom for Millions of Americans

- Facing CFPB pressure, credit reporting agencies Equifax, Experian, and TransUnion slashed Americans' medical debt remarks on credit reports by 70 percent. A March 2022 survey found 56 percent of Americans have medical debt of some kind and that it affects their financial goals. One in three Americans said it prevented them from buying a house or saving for retirement.
- Kicked off a rulemaking that would entirely remove medical debt from Americans' credit reports. The rule would also stop creditors from relying on medical bills for underwriting decisions and prevent coercive collections practices.
- Took action against Phoenix Financial Services, a medical debt collector, for illegally collecting on debt that was not owed. From 2017 through 2020, Phoenix handled more than 50 million accounts with allegedly outstanding debt.
- Exposed high-cost financial products like medical credit cards that target Americans and increase medical debt burdens.

Addressing Big Tech's Financial Surveillance, Speech Suppression, and Anti-Competitive Conduct in Payment Systems

- Implemented a new rule that categorized tech companies in the digital advertising business as service providers liable for violations of consumer financial protection law. This move eliminated a loophole that allowed Big Tech firms to escape liability for unfair and deceptive acts and practices when selling targeted advertising to financial firms.
- Ordered the largest tech payment platforms – Amazon, Apple, Facebook, Google, PayPal and Square – to hand over information about their business practices, data harvesting, content moderation, and dispute resolution policies. The CFPB is also continuing to probe whether Big Tech firms are exploiting customer payment data to give their other business lines unfair advantages.
- Issued a report highlighting the dominance of Apple and Google in tap-to-pay technology and warning the tech giants against restricting consumers and degrading market competition.
- After PayPal announced it would fine users thousands of dollars for "promoting misinformation," Director Chopra said the CFPB had ordered Big Tech firms and payment companies to provide the agency with information on how they make

decisions regarding de-platforming users and whether they believe they can fine users for legal activity.

- Issued guidance to crack down on comparison-shopping sites for consumer financial products. These sites often manipulate results or use “dark patterns” to unlawfully steer consumers to certain products or lenders because of kickbacks.

Promoting Choice, Competition, and Innovation in Consumer Financial Services

- Issued an advisory opinion protecting transparency and competition in mortgage markets by cracking down on online mortgage shopping platforms that use coercive tactics to channel homebuyers towards lenders that pay the platforms kickbacks, instead of simply showing Americans the best deal for them.
- Launched a rulemaking to put Americans in control of their own financial data and make it easier for consumers to switch banks. The move towards so-called “open banking” would force banks to compete for customers instead of leveraging personal financial data to effectively lock them in.
- Launched an initiative to increase housing market competition by improving Americans’ mortgage refinancing options.
- Sued nonbank mortgage loan originator Freedom Mortgage for an illegal kickback scheme that gave unlawful incentives to real estate brokers and agents in exchange for mortgage loan referrals.
- Created an Office of Competition and Innovation to help spur innovation in financial services by promoting competition and identifying stumbling blocks for new market entrants.
- Revived an existing authority to hold “fintechs” to the same standards as banks. The action evens the playing field by preventing fintechs from gaining competitive advantages over other firms by escaping penalties for discrimination, data and privacy breaches, fraud, and misleading marketing.
- Launched new rules to hold Big Tech firms offering payment apps like Apple and Google to the same regulatory and supervisory standards as banks, protecting both competition and consumers in the consumer payments sector.
- Director Chopra, who sits on the FDIC’s board, successfully won a review of the FDIC’s bank merger policies to determine how extreme consolidation in banking has impacted American families and businesses.
- Released a policy statement defining the abusive conduct standard based on 40 cases of CFPB precedent, better equipping the agency to combat corporate misdeeds and making it easier for businesses large and small to comply with the law.

Ensuring Americans' Data is Accurate and Secure

- Launched an investigation into data brokers, which track, collect, and sell data about Americans' personal lives to others, to uncover how their business practices affect everyday Americans.
- Issued an advisory to credit reporting companies that they could be held criminally liable for improper usage of Americans' personal data.
- With the FTC, issued a joint report finding that the tenant background check industry largely relies on unvalidated and inaccurate information. Nearly 70 percent of renters pay for landlords to purchase tenant background checks during the rental process.
- Confirmed that "Buy Now, Pay Later" lenders are credit card providers, therefore subjecting them to credit card regulations. This comes after CFPB found that the BNPL industry grew rapidly during the pandemic. Half of Americans report using BNPL services, which the CFPB found surveil users and collect their personal data "at a different level" than even credit card companies and seem to design loan products to evade federal lending requirements.
- Warned financial companies that they will be held liable if they fail to protect their customers' data. Previous incidents like the 2017 Equifax hack exposed hundreds of millions of Americans' sensitive private information.
- Rebuked major credit card companies for refusing to accurately report their credit card payments to credit bureaus. The agency's inquiry found that half of the largest credit card companies engage in the practice, which harms Americans' credit access and limits competition among lenders.
- Announced it will propose a rule to provide greater protections against data broker surveillance following President Biden's Executive Order on privacy.

Protecting Military Servicemembers, Veterans, and their Families from Financial Harm

- Shut down mortgage lender RMK Financial for repeatedly preying on military families. RMK's false advertising claimed affiliation with the U.S. Department of Veterans Affairs and lied about its financial products. The firm was a repeat offender, violating a previous CFPB consent order against its deceptive advertising.
- Ordered lender TitleMax to stop engaging in illegal predatory lending to military families in violation of the Military Lending Act. TitleMax, a repeat offender, overcharged military families and attempted to conceal its unlawful activity by manipulating customers' personal information.

- Filed an amicus brief advocating for the rights of military families to sue firms that violate their rights under the Military Lending Act, which protects servicemembers and their families from harmful lenders.
- Along with the Department of Justice, warned auto lenders to comply with the Servicemembers Civil Relief Act after finding that National Guard and Reserves members are being overcharged on car loan interest payments and regularly denied benefits promised under federal law.
- Issued a report on the top financial concerns facing military families, highlighting the dangers posed by digital payment app usage, including incurring financial harm from scams and fraud.

Policing Discrimination and Scams Targeting Communities of Color, Religious Groups, and Students

- Major CFPB enforcement actions against fraudulent student loan servicers and universities helped eliminate more than $10 billion in student debt in 2022 alone. More than 44 million student loan borrowers owe roughly $1.4 trillion, making it the second biggest U.S. consumer debt market. A CFPB study found that more than 8 million Americans are in default on $130 billion in loans, an issue that "may be driven by breakdowns in student loan servicing."
- Returned nearly $100 million to tens of thousands of Americans harmed by an illegal student loan relief scheme.
- Warned higher education institutions that they could not hold students' transcripts hostage to force students to make loan payments. The CFPB also issued a report analyzing college's tuition payment plans, finding that the arrangements can carry expensive fees and lead students further into debt.
- With the Department of Justice, fined the Berkshire Hathaway-owned Trident Mortgage $22 million in civil penalties for illegal redlining in Philadelphia, the first government resolution involving redlining by a nonbank mortgage lender.
- Announced that it will closely scrutinize financial institutions' business decisions in order to combat their discrimination against federally protected statuses like race, religion, and gender.
- Sued student loan company Edfinancial for lying to borrowers about their public service loan repayment benefits, warning lenders against illegally denying borrowers' public service loan cancellation requests.
- Released a plan to prevent mortgage lenders from continuing their notoriously discriminatory and illegal home appraisal processes, which increase inequality and harm Americans' housing security.

- Ordered Western Benefits Group – a debt relief provider – to permanently cease operations and pay a $400,000 penalty for charging illegal advance fees on student loan debt relief services and lying that the fees would go towards paying down the loans.
- Banned BloomTech and its CEO Austen Allred from any consumer-lending and student-lending activities (respectively) for ten years after deceiving students about the costs of loans and making false claims about graduates' hiring rates.

Exposing Risks, Scams, and Other Predatory Behavior

- Issued a report on accuracy problems in the credit reporting system, including the failure to exclude information from alleged identity theft or human trafficking.
- Issued a report on mortgage "discount points" which are upfront fees paid in exchange for lower interest payments. The report found that twice as many homebuyers paid them in 2023 compared to 2021, and the increase was even greater amongst borrowers with low credit scores.
- Issued a report on fraud, scam, and privacy risks in video game financial transactions, highlighting cause for concern as these platforms "increasingly resemble traditional banking and payment systems."