

March 30, 2022

Today's Driving Events

- **Inside the Mind of Rohit Chopra:** An article in a progressive magazine and a speech this week to law school students at Consumer Financial Protection Bureau Director Rohit Chopra's alma mater offer critical clues into his mindset and thought process, including areas of concern and how he expects to exercise his considerable regulatory powers.
- **New SEC Rules May Impact Crypto:** The Securities and Exchange Commission has proposed two new rules aimed at ensuring liquidity in US markets through improved oversight of dealers, but the way that the rules are written has cryptocurrency advocates worried about the possible implications for decentralized finance (DeFi).
- **The State of Cannabis Reform in the States:** While the House is expected to consider a bill to legalize cannabis this week, states continue to advance their own proposals to liberalize access to the drug for recreational or medical use.

CFPB Director Reveals His Mindset: In a [speech before the University of Pennsylvania Law School](#) and in an [in-depth profile piece in The American Prospect](#), Consumer Financial Protection Bureau (CFPB) Director Rohit Chopra has revealed a great deal about his motivations and goals as leader of the bureau. **This information is critical for investors to understand which sectors he is going to target and the process by which the CFPB's regulatory actions under Chopra's leadership will occur.** Chopra's speech focused on his disgust with companies that are "repeat offenders" which commit new violations even after they have settled past legal cases or are under a consent agreement with the federal government. Chopra went into great detail about his desire to use "bright-line structural remedies, rather than press driven approaches" to change a business's behavior. To that end, he said he plans to install special staff units in bureau supervision and enforcement divisions to focus on repeat offenders. Among the types of penalties that he previewed are: "caps on size or growth; bans on certain types of business practices; divestitures of certain product lines; limitations on leverage or requirements to raise equity capital; and revocation of government-granted privileges [like deposit insurance]." He also raised the specter of pursuing

“dismissal of senior management and board directors, and lifetime occupational bans.” Chopra also made great use of the example of his experience at the Federal Trade Commission (FTC) and its settlement with **Facebook (FB)**. He specifically cited that case because of Facebook’s intent to try to enter financial services and he also lists **Alibaba (BABA)**, **Amazon (AMZN)**, **Google (GOOGL)**, and **Tencent (TCEHY)** as other firms working on payments, money management, insurance, and lending, saying that due to their “size and customer reach, their entry has the potential to transform the industry.” In Chopra’s mind, this transformation will only be for the worse. He said, “How these companies engage in other business practices is how we can expect them to engage in financial services.” **If Chopra is to be taken at his word, then we expect that any tech company trying to develop a so-called “super app” will be blocked from doing so, at least while Chopra is at the CFPB.** Additionally, he mentioned fintech companies that have designed their products to escape regulation – which we know to include buy-now, pay-later companies. As if the speech at UPenn was not enough, The American Prospect’s lengthy feature and interview with Chopra also provides considerable information that investors should process to understand what is to come. One notable point is how Chopra has long valued learning and listening to concerns from “legal services groups, consumer advocates, and students” regarding consumer complaints. Note that CFPB ally US Public Interest Research Group (PIRG) recently issued a report on buy-now, pay-later companies. One of Chopra’s staff when he served as the CFPB’s private student loan ombudsman was quoted saying, “The policy initiatives really came out of those [meetings with advocacy groups].” Another important point that Chopra makes himself is about getting results. “I always thought you judge by results. The public doesn’t care which agency does it.” This view fits with our impression of Chopra as someone who is not an institutionalist at all and for whom the ends entirely justify the means. **Georgetown University Law Professor Adam Levitin, who is also a close ally of Chopra and Senator Elizabeth Warren (D-MA), described Chopra as a “damn-the-torpedoes, full-speed ahead guy. His view of the world is every shot you don’t take, you miss.”** This characterization, coupled with his close relationships with consumer advocates and his insistence on deeply understanding and then using the legal authority granted to the bureau, lead us to believe that he will continue to take an expansive view of his powers. Furthermore, we expect Chopra to use both the rulemaking process and enforcement actions to change business behavior, but that it will be even more aggressive than under President Obama’s CFPB director, Richard Cordray, and more likely to focus on emerging threats and ensuring that Big Tech is not able to successfully enter financial services and import what he would view as its bad conduct in yet another critical sector of the economy.

Crypto Picks Its Battles: Cryptocurrency regulation and its assimilation into existing financial rules continues to be a top priority for the Biden administration and its regulators. Look no further than President Biden’s budget proposal for ways in which the White House is looking to the industry as a potential source of revenue as

well as ways to update tax rules to cover it. **In the budget, Biden proposed extending “mark-to-market” rules to “actively traded” assets.** It is unclear how the Treasury Department would ultimately define “actively traded,” but it reserves the right to determine which assets would qualify. In addition, it says that application of the mark-to-market rules would not be done in a manner that treats the assets as securities or commodities. **Another proposal in Biden’s budget is to expand a reporting requirement on foreign assets to include any digital asset held through a foreign exchange or service provider.** The current rule only requires reporting for foreign assets in excess of \$50,000. These proposals were largely shrugged off by the industry as what ultimately becomes law will be determined by Congress, not the White House. Biden’s new rules could end up making the cut, but at least for now there is minimal industry concern about the changes floated. **What is causing more consternation among crypto firms are [two new rules](#) proposed by the Securities and Exchange Commission (SEC) that would expand the definition of a dealer and require Principal Trading Firms (PTFs) to register with the agency.** Under these new rules, firms that execute algorithm-based, high-frequency trades would receive a much greater deal of scrutiny. Firms would be required to register if they regularly make comparable purchases and sales of the same securities in the same day or turn profits primarily through bid-ask spreads, if they have at least \$25 billion trading volume in US debt in at least four of the previous six months, and if they manage at least \$50 million. **The SEC’s motivation for the rules is ostensibly to ensure liquidity across US markets, however in addition to the high-frequency traders that these new rules would impact, there are possibly significant ramifications for the cryptocurrency industry. If finalized as written, the SEC would have the power under these regulations to declare many entities engaged in crypto trading as “unregistered dealers” if they are dealing in digital assets determined to be securities, which would then open them up to legal actions from the agency.** Industry members have in turn responded much more aggressively to what some have called an “all-out attack on decentralized finance.” This is not the first time that under SEC Chair Gary Gensler’s watch the agency has written rules in such a way that it could use them to regulate activities in the cryptocurrency markets. The last instance was related to reform of Treasury markets platforms within Regulation ATS. Cryptocurrency advocates and SEC Commissioner Hester Pierce, the lone Republican at the agency, argue that because the language of that proposal is so broad, it could also give new powers for the SEC to scrutinize cryptocurrency exchanges, in particular decentralized finance trading platforms. **What is interesting about both of these rules is that the part of the cryptocurrency ecosystem that they could impact is decentralized finance, an area that Gensler has sought to regulate.** Both rules are still going through the notice and comment periods, so they have not yet been finalized and will require another vote from the SEC in order to do so. The agency may choose to revise the regulations prior to finalizing them as well, but in neither case has Gensler or the agency indicated that it would do so or if so, how it would change them.

States Move on Cannabis in Shadow of Congressional Efforts: The House is expected to vote on the Marijuana Opportunity Reinvestment and Expungement Act (MORE Act) this week, but lawmakers in statehouses across the country aren't waiting idly by. **In blue states and purple states, supporters of legal cannabis aim to shore up marketplaces and legalize recreational use, while in red states, there's growing acceptance of cannabis for medical use.** The MORE Act is likely to be dead on arrival in the Senate, but failure to legalize the drug on the federal level this year is unlikely to halt the growing wave of reform on the state level. **In California, lawmakers are considering about a half dozen legislative proposals to change how the state levies taxes on legal cannabis sales.** The industry maintains that high taxes have produced a large black market in the Golden State, and Governor Gavin Newsom (D) [backed](#) cannabis tax reform in January. It's not clear yet how the legislature will address the issue, but there appears to be significant momentum to do something this year. **In the purple state of New Hampshire, home to one of the most competitive US Senate races of the midterms, lawmakers are considering a [bipartisan proposal](#) to create a legal market for adult use of cannabis.** The bill would establish state-run cannabis stores, like the Granite State does for alcohol sales, and it would ban edibles and home growing of cannabis – earning it the [opposition](#) of some cannabis advocates. **Republican Governor Chris Sununu has a record of not supporting cannabis legalization but [said](#) earlier this month at a business association meeting that “I think it's going to ultimately happen in New Hampshire, it could be inevitable.”** Moreover, he didn't say he would veto the pending bipartisan bill and added that in the event the Granite State legalizes cannabis, this legislation would be his preferred approach. “If you are ever going to do it, do that bill [...] Is now the right time? I am not sure yet.” The bill passed a floor vote of the New Hampshire House by a margin of 235-119 in February and passed out of the Ways and Means Committee by a vote of 12-10 last week. **Final passage is not guaranteed but the measure has a fighting chance, demonstrating how cannabis legalization can move forward even in GOP-controlled swing states. In red states, there's generally less interest in broader cannabis reform, even as the movement for medical cannabis gathers strength.** For example, in South Dakota, Governor Kristi Noem (R) this week [vetoed](#) legislation that would expunge cannabis convictions but signed a bill to allow some home cultivation by medical cannabis users. Efforts to establish a medical cannabis program in Kentucky appear to have fallen short this year: the bill has [stalled](#) in the Senate with only a few days left in this year's legislative session. **Supporters of allowing medical use in Kansas sounded more optimistic, however, after three days of hearings in the state Senate on [legislation](#) earlier this month.** In an interview with a local news station, Senator Rob Olson (R), chairman of the State and Federal Affairs Committee, [said](#) “Almost every state in the country has passed some form of medical marijuana. I think there's a good possibility that we come up with a bill that will pass out.” Democratic Senator Cindy Holscher sounded a similar note, telling Fox 4 that “People are helping push this along to the point that conservative leadership feels that something needs to be done as far as addressing the topic.” **Congressional**

Democrats favor protecting local legalization of cannabis. On Monday, a group of nine Democratic senators led by Martin Heinrich (D-NM) [called](#) on Attorney General Merrick Garland to shield tribal cannabis programs from federal enforcement. The Obama administration adopted policies directing federal prosecutors not to take adverse action in states and tribal areas where the drug was legalized. This approach was reversed by the Trump-era Justice Department and at this time has not been restored by the Biden administration.

House

The House will reconvene at 12:00 p.m. and will consider non-controversial measures under expedited procedures.

Senate

The Senate will reconvene at 10:00 a.m. and will resume consideration of the nomination of Judith DelZoppo Pryor to be first vice president of the Export-Import Bank. At 11:45 a.m., the chamber will hold a vote to discharge the nomination of Alvaro M. Bedoya to be a commissioner of the Federal Trade Commission from the Senate Commerce, Science and Transportation Committee and will hold a procedural vote on Pryor's nomination. At 1:30 p.m., the Senate will hold a final confirmation vote on Pryor's nomination and a procedural toe on the nomination of January Contreras to be assistant secretary for Family Support at the Health and Human Services Department. Additional votes are expected.

White House

President Biden will receive his daily intelligence briefing at 10:15 a.m. At 12:30 p.m., Biden will have lunch with Vice President Harris. At 1:30 p.m., the president will speak about Covid-19.

Macroeconomic

At 9:15 a.m., Richmond Federal Reserve Bank President Thomas Barkin will give opening remarks at a virtual meeting of the Rural America Conference hosted by the Federal Reserve Bank of Richmond.

At 1:00 p.m., the Peterson Institute for International Economics will hold an online discussion titled "For inflation relief, the United States should look to trade liberalization."

[More information here.](#) Expected participants include:

- Lawrence Summers, former Treasury secretary and former director of the National Economic Council

At 1:45 p.m., the Senate Small Business and Entrepreneurship Committee will hold a hearing titled "The Supply Chain Crisis and the Implications for Small Businesses."

At 2:00 p.m., the American Enterprise Institute for Public Policy Research will hold a virtual discussion titled "The Federal Reserve and the everything bubble." [More information here.](#)

Agriculture

At 10:00 a.m., the House Agriculture Committee Subcommittee on Nutrition, Oversight, and Department Operations will hold a hearing titled "A 2022 Review of the Farm Bill: Stakeholder Perspectives on SNAP (Supplemental Nutrition Assistance Program)."

Budget

At 11:00 a.m., the Senate Budget Committee will hold a hearing titled "The President's FY2023 Budget Proposal."

Cannabis

At 2:00 p.m., the House Rules Committee will meet to formulate a rule on the "Marijuana Opportunity Reinvestment and Expungement (MORE) Act of 2021."

Coronavirus

At 10:00 a.m., the House Natural Resources Committee Subcommittee on Oversight and Investigations will hold a hearing titled "Preventing Pandemics through U.S. Wildlife-borne Disease Surveillance."

At 10:00 a.m., the House Agriculture Committee Subcommittee on Nutrition, Oversight, and Department Operations will hold a hearing titled "A 2022 Review of the Farm Bill: Stakeholder Perspectives on SNAP (Supplemental Nutrition Assistance Program)."

At 2:00 p.m., the House Oversight and Reform Committee Subcommittee on the Coronavirus Crisis will hold a hearing titled "Moving Beyond the Coronavirus Crisis: The Biden Administration's Progress in Combating the Pandemic and Plan for the Next Phase." Expected participants include:

- Rochelle Walensky, director, Centers for Disease Control and Prevention
- Dawn O'Connell, assistant secretary for preparedness and response, Department of Health and Human Services
- Dr. Vivek H. Murthy, US surgeon general

Cryptocurrency

At 2:00 p.m., the Technology Policy Institute will hold a virtual discussion titled "What Does the Executive Order (EO) Mean for Crypto Policy?" [More information here.](#)

At 2:00 p.m., the Bipartisan Policy Center will hold a virtual discussion titled "What You Should Know About Blockchain and Cryptocurrencies." [More information here.](#)

Cybersecurity

At 12:30 p.m., the US Chamber of Commerce will hold a discussion titled "U.S. Cyberspace Solarium Commission: Accomplishments and Next Steps for U.S. Cyber Policy." [More information here.](#) Expected participants include:

- Rep. Jim Langevin (D-RI)

At 2:00 p.m., the House Homeland Security Committee Subcommittee on Cybersecurity, Infrastructure Protection, and Innovation will hold a hearing titled "Mobilizing our Cyber Defenses: Securing Critical Infrastructure Against Russian Cyber Threats."

Defense

At 10:00 a.m., the House Armed Services Committee will hold a hearing titled "National Security Challenges and U.S. Military Activity in Europe."

At 1:00 p.m., the Hill will hold a virtual summit titled "Future of Defense." [More information here.](#) Expected participants include:

- Rep. Mike Rogers (R-AL)
- Rep. Adam Smith (D-WA)

At 2:00 p.m., the House Armed Services Committee Subcommittee on Military Personnel will hold a hearing titled "Patient Safety and Quality of Care in the Military Health System."

Energy, Environment, and Natural Resources

At 12:00 p.m., the American Security Project will hold a virtual discussion titled "Going, Going, Green: Winning a Global Skills Revolution." [More information here.](#)

At 1:30 p.m., the Urban Institute's and the Brookings Institution's Tax Policy Center will hold a virtual discussion titled "Can State-Level Carbon Pricing Help Achieve National Climate Goals?" [More information here.](#)

Financial Services

At 11:30 a.m., the Securities and Exchange Commission will hold an open meeting. [More information here.](#)

At 2:00 p.m., the House Financial Services Committee Subcommittee on Investor Protection, Entrepreneurship and Capital Markets will hold a hearing titled "Oversight of America's Stock Exchanges: Examining Their Role in Our Economy."

Geopolitical

At 9:30 a.m., the Center for Strategic and International Studies will hold a virtual discussion titled "The North Korean Missile Threat." [More information here.](#)

At 12:45 p.m., the Johns Hopkins University Paul H. Nitze School of Advanced International Studies will hold an online discussion titled "Russia Europe Eurasia Seminar - Why Ukraine Matters II." [More information here.](#)

At 4:30 p.m., the Institute of World Politics will hold a virtual discussion titled "North Korea: The Continuous and Growing Threat." [More information here.](#)

Healthcare

At 10:00 a.m., the Senate Finance Committee will hold a hearing titled "Behavioral Health Care When Americans Need It: Ensuring Parity and Care Integration."

At 10:00 a.m., the House Energy and Commerce Committee Subcommittee on Health will hold a hearing titled "FDA User Fee Reauthorization: Ensuring Safe and Effective Medical Devices."

At 12:00 p.m., America's Health Insurance Plans will hold a virtual discussion titled "Understanding the Future of COVID-Related Medicare and Medicaid Flexibilities." [More information here.](#)

At 2:00 p.m., the Healthcare Leadership Council will hold a webinar titled "Behind the Scenes of Healthcare Innovation." [More information here.](#)

Judicial

At 10:00 a.m., the House Judiciary Committee Subcommittee on Constitution, Civil Rights and Civil Liberties will hold a hearing titled "Examining Civil Rights Litigation Reform, Part 1: Qualified Immunity."

At 11:00 a.m., Washington Post Live will hold a virtual discussion on the confirmation process for Supreme Court justice nominee Ketanji Brown Jackson. [More information here.](#)

Political

At 11:00 a.m., the American Enterprise Institute for Public Policy Research will hold a virtual discussion titled "What Do We Know About Ranked Choice Voting?" [More information here.](#)

At 12:00 p.m., New America will hold a virtual discussion titled "Strategic Foresight in U.S. Agencies." [More information here.](#)

Tech-Media-Telecom

At 4:10 a.m., the German Marshall Fund of the United States will hold a virtual discussion titled "Innovation and Responsibility in an Age of Crises - The Role of Digital Platforms." [More information here.](#) Expected participants include:

- Sundar Pichai, CEO, Alphabet

At 10:00 a.m., the House Financial Services Committee Artificial Intelligence Task Force will hold a hearing titled "Keeping Up with the Codes - Using AI for Effective RegTech."

At 12:00 p.m., the Washington Space Business Roundtable will hold a virtual discussion titled "Financing the Next Generation of Satellite Innovation." [More information here.](#)

At 10:00 a.m., the House Science, Space and Technology Committee Subcommittee on Space and Aeronautics will hold a hearing titled "Space Situational Awareness: Guiding the Transition to a Civil Capability."

At 1:00 p.m., the Federal Communications Commission will hold a virtual meeting of the Communications Security, Reliability, and Interoperability Council.

Trade

At 10:00 a.m., the House Ways and Means Committee will hold a hearing titled "Biden Administration's 2022 Trade Policy Agenda." [More information here.](#)

Expected participants include:

- Katherine Tai, US trade representative



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