

July 28, 2022

The Honorable Rohit Chopra
Director
Consumer Financial Protection Bureau
1700 G Street NW
Washington, D.C. 20552

Dear Director Chopra,

It has come to our attention that the Consumer Financial Protection Bureau may be colluding with states contrary to the Consumer Financial Protection Act (CFPA). On May 19, 2022, the Consumer Financial Protection Bureau (CFPB) issued an interpretive rule to expand the authority of states to pursue and enforce violations of federal consumer protection law under the CFPA. The CFPB further promoted this additional enforcement activity by assuring states they may bring “an enforcement action to stop or remediate harm that is not addressed by a CFPB enforcement action against the same entity.”¹ At the same time you announced this rule, you announced more than 20 arrangements with state attorney general offices.²

While Congress intended for the CFPB to enforce federal consumer financial laws and protect consumers in the marketplace, it did not intend for the CFPB to intimidate companies by conspiring with state agencies to pursue duplicative enforcement actions. The Dodd-Frank Act limits the attorney general in bringing a federal enforcement action. Pursuant to 12 U.S.C. §5552, a state attorney general or state regulator “shall timely provide a copy of the complaint to be filed and written notice describing such action to the Bureau and the prudential regulator.”³ In response, the Bureau may intervene as a party in the action, and upon intervening “remove the action to the appropriate U.S. District Court, if the action was not originally brought there.”⁴ The CFPB may also “appeal any order or judgement, to the same extent as any other party in the proceeding may.”⁵

It is clear that state attorneys general may enforce the CFPA in cases where the CFPB has not. But the statute does not allow for a state attorney general to become a party to an existing CFPB enforcement action. It is therefore inappropriate for the CFPB to recruit a state attorney general that is not otherwise investigating a company, to pursue enforcement as a means of intimidation.

¹ CFPB Press Releases, CFPB Bolsters Enforcement Efforts by States (May 19, 2022).

² Press release, *supra* note 1.

³ 12 U.S.C. §5552.

⁴ *Id.*

⁵ *Id.*

This announcement is not new. According to your calendar, between October 12, 2021, and April 30, 2022, you spoke with attorneys general throughout the country on twenty-three occasions.⁶ On December 7, 2021, you addressed the National Association of Attorneys General, during which time you encouraged state attorneys general to bring actions under the “Consumer Financial Protection Act, particularly when federal protections are stronger than state statutes.”⁷ Moreover, you spoke about working with states to “rein[] in repeat offenders.”⁸

Since then, the CFPB has sued three “repeat offenders,” in one case partnering with the New York Attorney General.⁹ On April 21, 2022, the CFPB and the New York Attorney General filed a lawsuit against MoneyGram International, Inc. and MoneyGram Payment Systems, Inc. (MoneyGram). In the complaint, MoneyGram, one of the largest remittance providers in the United States, is alleged to have violated the Remittance Rule.¹⁰ In addition to the lawsuit, you “authorized information sharing with MoneyGram’s state authorities to facilitate parallel actions.”¹¹

Of course, one of the duties of the CFPB is to enforce the CFPA and protect consumers from predatory and discriminatory practices, among other things. However, the effect of the May 19, 2022 interpretive rule is different from solely enforcing the law. It is more akin to deputizing state attorneys general to enforce the CFPA on behalf of the CFPB – something Congress did not authorize. Furthermore, under the May 19, 2022 interpretive rule, the CFPB can forum shop across the country to find friendly attorneys general willing to bring cases on behalf of the Bureau, rather than the process that Congress intended, whereby attorneys general bring a case to the CFPB when appropriate.

To assist the Committee in understanding the CFPB’s relationship with state attorneys general and the CFPB’s broad interpretation of the CFPA, please provide the following documents and information:

1. Under what authority can the CFPB recruit state attorneys general to join existing CFPB actions?
2. What safeguards does the CFPB have in place to avoid redundant and duplicative state actions?
3. All documents and communications between offices of state attorneys general and the CFPB since October 12, 2021, including but not limited to:

⁶ Leadership calendar, *available at* <https://www.consumerfinance.gov/about-us/the-bureau/leadership-calendar/>.

⁷ CFPB Press Releases, Director Chopra Remarks – December NAAG Meeting (Dec. 7, 2021).

⁸ *Id.*

⁹ *See e.g.*, CFPB Press Releases. “CFPB Charges TransUnion and Senior Executive John Danaher with Violating Law Enforcement Order” (Apr. 12, 2022); “CFPB and NY Attorney General Sue Repeat Offender MoneyGram For Leaving Families High and Dry” (Apr. 21, 2022); “CFPB Sues ACE Cash Express for Concealing No-Cost Repayment Plans and Improperly Withdrawing Consumers’ Funds” (Jul. 12, 2022).

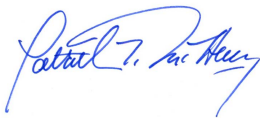
¹⁰ *Consumer Fin. Prot. Bureau v. MoneyGram International Inc.*, No. 22 Civ. 3326 (S.D.N.Y. Apr. 21, 2022).

¹¹ CFPB Press Release, Director Chopra’s Prepared Remarks on the Lawsuit Against MoneyGram (Apr. 21, 2022).

- a. All documents and communications between and among Rohit Chopra, CFPB staff, and any employee from the office of a state attorney general.
 - b. All internal CFPB communications referring or relating to Rohit Chopra's meetings with any state attorneys general.
 - c. All documents and communications between and among Rohit Chopra, CFPB staff and any third parties referring or relating to enforcement actions by state attorneys general under the CFPA.
 - d. All documents and communications referring or relating to meetings, conferences, calls, or any other engagements with the office of a state attorney general.
 - e. All memoranda between the CFPB and the office of any state attorney general.
4. All information regarding complaints filed in a judicial court received by the CFPB pursuant to 12 USC § 5552, including but not limited to:
- a. The complaint;
 - b. Date of receipt;
 - c. The sender's name, employment position, and office; and
 - d. Any communicative responses from the CFPB to the sending party regarding the complaint, instructions, or further actions taken.

We would appreciate your response, as soon as possible, but no later than August 12, 2022. The Committee prefers to receive your response electronically to the extent possible. If you have any questions, please do not hesitate to contact Kathleen Palmer of the House Committee on Financial Services Minority Staff at Kathleen.Palmer@mail.house.gov. Thank you for your attention to this important matter.

Sincerely,



Patrick McHenry
Ranking Member



Blaine Luetkemeyer
Ranking Member on the
Subcommittee on Consumer
Protection and Financial Institutions



Tom Emmer
Ranking Member on the
Subcommittee on Oversight
and Investigations