



The Daily Dish

Politics Over Policy

DOUGLAS HOLTZ-EAKIN | NOVEMBER 4, 2024

From the [Consumer Financial Protection Bureau \(CFPB\)](#):

An enormous amount of equity ownership is now concentrated with a small set of financial firms. A review of public filings with the Securities and Exchange Commission reveals that this small group owns major stakes in public companies throughout the U.S. economy. For example, BlackRock manages \$10.6 trillion in assets and Vanguard manages \$9.9 trillion in assets. For both firms, a substantial portion of assets under management are held in equity funds that track a diversified index.

In many ways, this small set of firms is a natural oligopoly, and absent some sort of subsidy or policy change, a durable one that would be difficult to disrupt. This gives these firms an extraordinary amount of power to impose their preferences and regulations on businesses throughout the economy.

That's Rohit Chopra – the king of junk fees himself and also the director of the CFPB and a member of the board of the Federal Deposit Insurance Corporation (FDIC) – during a [speech](#) at Harvard University in mid-October. There's nothing especially newsworthy about his views. They are standard progressive dogma and he has been a broken record on these issues.

What is head-turning is that these comments took place in the middle of a comment period (that closes in a few weeks) on a proposed FDIC rule that would have a big impact on – you guessed it – asset managers, in general, and BlackRock and Vanguard, in particular. These are not the words of a regulator with an open mind eager to digest a variety of views and establish the facts on the ground.

Here's the [background](#). Under the Change in Bank Control Act (CBCA), no person may acquire [control](#) of a bank – the power to directly or indirectly influence the policies of a bank, or vote 10 percent or more of any class of voting securities – without at least 60 days written notice to the appropriate federal banking agency. Unless, that is, the investor is an asset manager. In those cases, the FDIC has instead historically allowed investors to make a “[passivity commitment](#),” allowing access to any number of shares in exchange for a promise not to exert any control and to self-certify compliance with these agreements. The FDIC currently has [four passivity agreements in place with three asset management companies](#), most notably the Vanguard Group.

The [proposed rulemaking](#) would eliminate asset managers' access to that waiver exempting them from aspects of the [CBCA](#) and require investors to pass a test administered by the FDIC to prove that they are not seeking to influence the banks they invest in.

Put aside the substance of the rule. This episode has the ugly appearance of ramming a rule through before the Biden Administration hits the exits. No event occurred that would give rise to concern over the existing rules or prompt a rulemaking. To top that with an FDIC board member giving a speech regarding the “right” way to view the issue – and that the FDIC itself is re-negotiating the existing passivity agreements as the public is filing comments on the proposal – is testament to a politics-over-policy approach to financial regulation.