

The Consumer Financial Protection Bureau (“CFPB”) implemented a rule, effective June 1, 2013, that prohibits mandatory arbitration clauses in residential mortgage loans or home equity lines of credit. Such loans cannot contain “terms that require arbitration or any other non-judicial procedure to resolve any controversy or settle any controversy or settle any claims arising out of the transaction,” because consumers may not permissibly be barred from filing suit in court for a violation of federal law. The arbitration clause ban is contained in final rules from the CFPB that amended the Truth in Lending Act and implemented key provisions of the Dodd-Frank Act.

Further regulation on mandatory arbitration clauses in other consumer financial contracts could be on the horizon. The CFPB is authorized by the Dodd-Frank Act to conduct a study of mandatory arbitration provisions in financial instruments and service agreements and to prohibit or impose conditions or limitations on mandatory arbitration if its study supports any such limitations or prohibition.