

Client Alert

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CFPB Announces Field Hearing on Arbitration

By Leonard Chanin, James McGuire and James Nguyen

On February 23, 2015, the Consumer Financial Protection Bureau (CFPB) announced that it will hold a field hearing in Newark, New Jersey, on March 10, 2015, to discuss the topic of arbitration. We anticipate that the CFPB will use the field hearing to announce the release of its report to Congress regarding the use of pre-dispute arbitration clauses in consumer financial products and services (“Arbitration Study”).

The Dodd-Frank Wall Street Reform and Consumer Protection Act (“Dodd-Frank Act”) mandated that the CFPB conduct an Arbitration Study and report its findings to Congress. On December 12, 2013, the CFPB released [preliminary results from its Arbitration Study](#) but stated that the preliminary results may be subject to revisions and further analysis in the CFPB’s final report. The CFPB also stated in the preliminary results that its final report to Congress may contain further areas of inquiry that were not covered in the preliminary results, such as private student loans.

Once the CFPB provides its final Arbitration Study to Congress, the CFPB is authorized under the Dodd-Frank Act to issue rules to prohibit or impose conditions or limitations on the use of arbitration clauses if the CFPB determines that doing so would be in the public’s interest and would protect consumers. The Dodd-Frank Act provides that any rulemaking to restrict the use of pre-dispute arbitration clauses must be consistent with the findings of the CFPB’s Arbitration Study.

We anticipate that the Arbitration Study will contain findings to suggest that restricting the use of pre-dispute arbitration clauses may, in some circumstances, protect consumers. We also anticipate that the study may leave a number of issues unresolved, thus providing the CFPB with flexibility in fashioning proposed rules “consistent” with the study.

We will continue to closely monitor the CFPB’s actions on arbitration and will issue an alert about the CFPB’s Arbitration Study once it is released.

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