

US Senate Joins House in Striking Down CFPB Arbitration Rule

By: Michael Olsan

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In a 51-50 vote taken on October 24, 2017, the United States Senate agreed with the US House of Representatives to reject the Consumer Financial Protection Bureau's arbitration rule pertaining to class actions. Vice President Pence cast the tie-breaking vote after Republican Senators Lindsey Graham of South Carolina and John Kennedy of Louisiana voted with the Democrats against the measure. The House of Representatives rejected the rule by a 231-190 vote in July. Pursuant to the Congressional Review Act, the resolution overturning the rule now goes to President Trump who is expected to sign it into law.

The final CFPB rule was issued on July 19, 2017 pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act. While the rule did not bar arbitrations completely, it provided that consumers of certain financial providers could not be prohibited from participating in class actions filed in court. The financial providers to whom the rule was applicable had to include an explicit statement in any pre-dispute arbitration agreement explaining that there was no prohibition on court class actions. Under the Congressional Review Act, the CFPB will not be able to issue a substantially similar rule again once the President signs the Congressional Resolution into law.

If you have questions or would like additional information, please contact Michael Olsan (olsanm@whiteandwilliams.com; 215.864.6278).

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