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BUREAU OF CONSUMER FINANCIAL PROTECTION

12 CFR Part 1040

[Docket No. CFPB-2016-0020]

RIN 3170-AA51

Arbitration Agreements

AGENCY: Bureau of Consumer Financial Protection.

ACTION: Final rule; CRA revocation.

SUMMARY: Under the Congressional Review Act, Congress has passed and the president has signed a joint resolution disapproving a final rule published by the Bureau of Consumer Financial Protection (Bureau) on July 19, 2017, to regulate arbitration agreements in contracts for specified consumer financial products and services. Under the joint resolution and by operation of the Congressional Review Act, the arbitration agreements rule has no force or effect. The Bureau is hereby removing it from the Code of Federal Regulations (CFR).

DATES: This action is effective [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Owen Bonheimer and Nora Rigby, Senior Counsels, Office of Regulations, Consumer Financial Protection Bureau, at 202-435-7700 or cfpb_reginquiries@cfpb.gov. Press inquiries should be directed to the Office of Communications, at 202-435-7170 or press@consumerfinance.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to section 1028(b) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Public Law 111-203), on July 10, 2017, the Bureau issued a final rule titled Arbitration Agreements to regulate pre-dispute arbitration agreements in contracts for specified consumer financial products and services. The Bureau published the arbitration agreements rule in the **Federal Register** on July 19, 2017 (82 FR 33210), establishing 12 CFR part 1040. As required by section 1028(a) of the Dodd-Frank Act, the arbitration agreements rule followed the publication and delivery to Congress of the Bureau's March 2015 study concerning the use of pre-dispute arbitration agreements. The arbitration agreements rule would have imposed two sets of limitations on the use of pre-dispute arbitration agreements by providers of certain consumer financial products and services. First, the arbitration agreements rule would have prohibited providers from using a pre-dispute arbitration agreement to block consumer class actions in court and would have required providers to include a provision reflecting this limitation in arbitration agreements they entered into. Second, the arbitration agreements rule would have required providers to redact and submit to the Bureau certain records relating to arbitral proceedings and relating to the use of pre-dispute arbitration agreements in court, and would have required the Bureau to publish these records on its website. While the arbitration agreements rule became effective on September 18, 2017, the arbitration agreements rule would have applied only to pre-dispute arbitration agreements entered into after March 19, 2018.

The United States House of Representative passed House Joint Resolution 111 disapproving the arbitration agreements rule under the Congressional Review Act (5 U.S.C. 801 et seq.) on July 25, 2017. The United States Senate passed the joint resolution on October 24,

2017. President Donald J. Trump signed the joint resolution into law as Public Law 115-74 on November 1, 2017. Under the joint resolution and by operation of the Congressional Review Act, the arbitration agreements rule has no force or effect. Accordingly, the Bureau is hereby removing the final rule titled Arbitration Agreements from the CFR.

II. Procedural Requirements

This action is not an exercise of the Bureau's rulemaking authority under the Administrative Procedure Act (APA) because the Bureau is not “formulating, amending, or repealing a rule” under 5 U.S.C. 551(5). Rather, the Bureau is effectuating changes to the CFR to reflect what congressional action has already accomplished. Accordingly, the Bureau is not soliciting comments on this action.

List of Subjects in 12 CFR Part 1040

Banks, Banking, Business and industry, Claims, Consumer protection, Contracts, Credit, Credit unions, Finance, National banks, Reporting and recordkeeping requirements, Savings associations.

PART 1040 – [REMOVED]

For the reasons set forth above, and pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.) and Public Law 115-74 (131 Stat. 1243), the Bureau amends 12 CFR chapter X by removing part 1040.

Dated: November 15, 2017.

Richard Cordray,

Director, Bureau of Consumer Financial Protection.

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