



TILA Prohibition on Mandatory Arbitration Provisions in Mortgage Agreements Takes Effect June 1, 2013

The Consumer Financial Protection Bureau has enacted a new [rule](#) that will prohibit the inclusion of mandatory arbitration provisions and waivers of federal statutory causes of action in consumer mortgage and home equity loan agreements.

The new prohibitions, which go into effect June 1, 2013, implement changes included in Section 1414 of the Dodd-Frank Wall Street Reform and Consumer Financial Protection Act of 2010 and amend provisions of the Truth in Lending Act.

The new rule provides:

(h) Prohibition on mandatory arbitration clauses and waivers of certain consumer rights.

(1) Arbitration. A contract or other agreement for a consumer credit transaction secured by a dwelling (including a home equity line of credit secured by the consumer's principal dwelling) may not include terms that require arbitration or any other non-judicial procedure to resolve any controversy or settle any claims arising out of the transaction. This prohibition does not limit a consumer and creditor or any assignee from agreeing, after a dispute or claim under the transaction arises, to settle or use arbitration or other non-judicial procedure to resolve that dispute or claim.

(2) No waivers of Federal statutory causes of action. A contract or other agreement relating to a consumer credit transaction secured by a dwelling (including a home equity line of credit secured by the consumer's principal

dwelling) may not be applied or interpreted to bar a consumer from bringing a claim in court pursuant to any provision of law for damages or other relief in connection with any alleged violation of any Federal law. This prohibition does not limit a consumer and creditor or any assignee from agreeing, after a dispute or claim under the transaction arises, to settle or use arbitration or other non-judicial procedure to resolve that dispute or claim.

Mortgage providers should determine whether the new rules apply to them and, if so, review existing mortgage forms and loan agreements to determine whether any of these provisions must be removed before the June 1 deadline.

[Loeb & Loeb LLP's Consumer Financial Protection Bureau Task Force](#)

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