

[Banking and Finance Law Daily Wrap Up, CONSUMER FINANCIAL PROTECTION BUREAU—Cotton pledges to overturn CFPB arbitration rule, \(Jul. 12, 2017\)](#)

Banking and Finance Law Daily Wrap Up

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By [Katalina M. Bianco, J.D.](#)

Senator Tom Cotton (R-Ark) has voiced his intent to rescind the Consumer Financial Protection Bureau's final arbitration rule. According to Cotton, he has begun the process to overturn the rule using the Congressional Review Act. The bureau adopted the rule as final earlier this week (see [Banking and Finance Law Daily](#), July 10, 2017).

Cotton is not the first legislator to use the Congressional Review Act in an attempt to rescind a CFPB final rule. In February 2017, Sen. David Purdue (R-Ga) took the first step under the Act to reject the bureau's prepaid account rule (see [Banking and Finance Law Daily](#), Feb. 3, 2017) by introducing [S.J. Res. 19](#), which would overturn the rule based on Congressional disapproval.

"The CFPB has gone rogue again, abusing its power in a particularly harmful way," Cotton [said](#). The legislator criticized the rule for ignoring the "consumer benefits" of arbitration. Further, the rule "treats Arkansans like helpless children, incapable of making business decisions in their own best interests."

Public Citizen disagrees. Shortly after Cotton released his statement, consumer organization Public Citizen issued a [statement](#) countering Cotton's claims. "Every aggrieved consumer has an interest in retaining the right to join together with others to file class-action lawsuits against big banks and other financial institutions that cheat and scam them. Otherwise, they are effectively defenseless," the group wrote. "The CFPB's rule to end rip-off clauses—fine-print contract terms that force consumers to forfeit their right to file class-action lawsuits—would restore that right."

House critics. Representatives Blaine Luetkemeyer (R-Mo) and Roger Williams (R-Texas) added their criticism to that of House Financial Services Chair Jeb Hensarling (R-Texas), who had issued an earlier statement condemning the rule (see [Banking and Finance Law Daily](#), July 11, 2017). Both Luetkemeyer and Williams claimed that the CFPB ignored its own Dodd-Frank mandated research on arbitration when adopting the rule.

"The agency has published its own research which states arbitration has shown to be a positive tool for consumers," Luetkemeyer [said](#). The legislator also said that the bureau's action "demonstrates why the CFPB ultimately needs to be reformed."

"Once again, the CFPB ignored their own study because the results did not fit the narrative they were trying to impose," Williams [said](#). He added that the rule claims to promote consumer protection but will cost consumers "more of their hard-earned dollars and time."

Support for critics. The Independent Community Bankers of America took the side of legislative critics, releasing a [statement](#) condemning the rule. The ICBA expressed concern that the rule removes arbitration "as a meaningful option for community banks to resolve consumer disputes." The organization stated that arbitration is a "useful and cost-effective tool for both customers and community banks."

Finally, the Americans for Tax Reform [charged](#) that the CFPB rule "puts an even larger chokehold on Americans under the guise of protecting them." The ATR stated that the arbitration rule is "an overreach by the government," a burden on financial institutions, and harmful to consumers.

Companies: Americans for Tax Reform; Independent Community Bankers of America; Public Citizen

LegislativeActivity: ArkansasNews CFPB ConsumerCredit DoddFrankAct OversightInvestigations