New Wells scandal harms effort to nix CFPB arbitration rule

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WASHINGTON — Republican efforts to repeal the Consumer Financial Protection Bureau's arbitration rule were dealt a significant blow Friday by Wells Fargo's admission that it improperly forced borrowers to pay for unnecessary auto insurance policies.

Some of Wells' auto loan contracts contain arbitration clauses, a spokesman said, which could become a further lightening rod in the dispute over whether customers should be allowed to band together in class-action lawsuits.

The CFPB released a final arbitration rule in July that prohibits financial firms from forcing consumers to arbitrate disputes. The House has passed a measure under the Congressional Review Act that would reverse the rule, but its prospects in the Senate remain unclear.

The new Wells scandal hurts those chances further, according to analysts.

"We believe the odds are now slightly against the CFPB's mandatory arbitration rule being reversed as the path to passage in the Senate has narrowed," Isaac Boltansky, a policy analyst at Compass Point Research & Trading, wrote in a note Friday. "A CRA reversal is still possible, but it is no longer probable."

"The only thing more outrageous than the fact that Wells Fargo is continuing to cheat its customers is the fact that this administration wants to roll back Dodd-Frank rules," said Sen. Sherrod Brown, D-Ohio.
Bloomberg News

Democrats immediately seized on the Wells news, arguing that it was further proof that consumers needed more protection.

"The only thing more outrageous than the fact that Wells Fargo is continuing to cheat its customers is the fact that this administration wants to roll back Dodd-Frank rules," said Sen. Sherrod Brown, D-Ohio, the ranking member of the Senate Banking Committee. "No wonder so many hardworking Americans believe the system is rigged against them in Wall Street's favor. Wells Fargo has a lot of explaining to do, and we cannot let up until every single customer is made whole."

Some Democrats wanted to go further. Sen. Elizabeth Warren of Massachusetts sent a letter Friday to Federal Reserve Board Chair Janet Yellen asking her to remove all 12 Wells Fargo board members, noting they served during the phony-accounts scandal, which took place from 2011 to 2015, and the new force-placed auto scandal, which took place from January 2012 to July 2016.

"There are surely deep risk management problems at a bank when it opens millions of fake customer accounts and charges nearly a million customers for a financial product they don't need — all over roughly the same five-year period," Warren wrote. "The Wells Fargo board is ultimately responsible for that failure, and the Federal Reserve should remove board members who served during that time period."

Democrats had already been using the Wells scandal as a talking point to battle back against efforts to repeal the CFPB arbitration rule. The latest revelations will ensure the bank's issues stay fresh in the public mind.

Under the Congressional Review Act, lawmakers require only a majority vote to rescind a rule promulgated in the past 60 legislative days. But a few Republicans appear to be on the fence, and it's not clear that Sen. John McCain, R-Ariz., who recently announced he has brain cancer, will be on hand for a vote.

Moreover, Republicans are still reeling from their failure to pass a health care bill, an effort that collapsed late Thursday when McCain unexpectedly voted against the GOP's latest measure. That fight has delayed action on a number of other urgent issues, including raising the debt ceiling and tax reform, which makes it hard to find time on the legislative calendar to address the CFPB rule.

The Wells Fargo scandal may help keep wary Republicans from voting for the measure, consumer advocates said.

"The continuing Wells Fargo scandals, as upsetting as they are, put an exclamation point on why Congress should not take away service members' and other Americans' day in court when big banks abuse people," said Lauren Saunders, associate director of the National Consumer Law Center.

Wells announced a plan to refund roughly $80 million to customers who were harmed by its auto insurance policies.

The cost of the auto insurance forced 275,000 Wells customers to go delinquent on their auto loans, resulting in 20,000 wrongful vehicle repossessions, according to a report by the consulting firm Oliver Wyman that was obtained by The New York Times, which first reported the story.

Catherine Pulley, a Wells spokeswoman, declined to provide a copy of the Oliver Wyman report, citing its confidentiality. She also would not comment on any discussions with regulators. The report had been prepared for the Office of the Comptroller of the Currency.

Tom Goyda, a Wells spokesman, said Wells' Dealer Services business purchases loan contracts from many different dealerships and as a result, there are many different versions of the contracts.

"Some of them contain arbitration clauses and some of them do not," Goyda said in an email.

Wells first discovered problems with its force-placed auto insurance in July 2016, at the same time it was in discussions with regulators to pay $190 million to settle the recent phony-accounts scandal. The bank suspended the force-placed insurance program in September but continues to service the accounts.

Wells said its internal controls were "inadequate," and that an internal review found its customers were charged premiums for the force-placed auto insurance "even if they were paying for their own vehicle insurance."

"In some cases the [so-called] collateral protection policies may have contributed to a default that led to their vehicle's repossession," Wells said in a press release.

Wells is still struggling to dig itself out from the phony-accounts scandal last year in which it opened as many as 2 million checking and credit card accounts that were not authorized by consumers.

In July, Wells agreed to pay $142 million to settle 11 pending class-action lawsuits filed by consumers who alleged they were harmed by the opening of the bogus accounts. A court still has to approve the settlement.

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Posted By **KABLAW**
Monday, July 31 2017 at 4:49 PM

The article omitted almost everything about what actually happened i.e. some customers were issued forced placed insurance when they actually already had auto insurance. I can think of several questions needing answers before concluding that the executive officers and directors should be taken out behind the main bank and shot. And assuming the consumers get reimbursed, what does this have to do with arbitration.

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