

Summary of CFPB Proposal on Forced Arbitration and Class Action Bans

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The Consumer Financial Protection Bureau (CFPB) has [proposed](#) to prohibit fine print clauses that allow financial products and service companies to avoid accountability for widespread violations. The proposal forbids forced arbitration clauses unless the contract permits class actions in court. Companies must provide the CFPB with reports on individual arbitrations (with identifying information redacted), and the information will be on a public website. The rule is expected to apply to new contracts entered into beginning late 2017 or possibly early 2018.

The proposal applies to the core consumer financial markets involving lending money, storing money, and moving or exchanging money. With some exceptions, the rule would cover most:

- Loans and credit, including **credit cards, payday loans, student loans, and auto loans** (only the auto finance company, not the auto dealer, except for certain buy-here/pay-here auto dealers). Mortgages are already prohibited from having forced arbitration clauses. This includes **providing leads, referrals, purchasing, selling and servicing** credit.
- **Bank accounts, prepaid cards, mobile money transfer apps and remittances.**
- **Credit reporting, credit scores, credit monitoring.**
- **Debt management, debt settlement, and debt relief services**, including help avoiding **foreclosure**. This includes debt relief involving medical debt, taxes, and other kinds of debt even if not credit related.
- **Check cashing, check collection, check guaranty services.**
- **Auto leases**, but not auto dealers who assign their leases.
- **Debt collection and payment processing** related to these products or services.

Key areas that the proposal would **not** apply to include:

- **Auto dealers** (other than some buy-here/pay-here dealers), such as claims related to discriminatory loan mark-ups, add-ons, repossessions, lemon laws, odometer fraud, or deception about a car's history.
- **For-profit colleges**, such as fraud about job placement rates, usefulness of a certificate, or schools that close.
- Credit cards, bank accounts and other products begun **before the rule goes into effect.**
- Financial services **offered directly by governments or tribes to members within their jurisdiction.** But the rule would apply to tribal payday lenders and others who offer financial products off-reservation.
- **Individuals** and others that offer a product or service to no more than 25 consumers in the current or previous calendar year.
- **Nonfinancial products and services**, like nursing homes, cable and cell phone providers, employers, medical malpractice, or stores that offer payment plans but do not charge.

The rule would apply only to **new contracts** entered into 211 days after a final rule is published and older contracts that are purchased or acquired after that date. The CFPB will be **accepting comments** about the proposal for 90 days from the date it is published in the Federal Register.

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