

CFPB Rule Restores Consumers' Day in Court Over Financial Misconduct

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Rule Addresses Forced Arbitration of Claims Involving Credit Cards, Payday Loans, Other Financial Products

(WASHINGTON) Today, advocates at the National Consumer Law Center (NCLC) and an eminent scholar of arbitration law applauded the Consumer Financial Protection Bureau's (CFPB) final rule that restores consumers' right to join together in class actions to hold banks, payday lenders and other companies accountable when they break the law.

"The CFPB's rule restores ordinary folks' day in court for widespread violations of the law. Forced arbitration is simply a license to steal when a company like Wells Fargo commits fraud through millions of fake accounts and then tells customers: 'Too bad, you can't go to court and can't team up; you have to fight us one by one behind closed doors and before a private arbitrator of our choice instead of a public court with an impartial judge,'" said Lauren Saunders, associate director of the National Consumer Law Center.

The final rule prohibits credit card companies, banks, student lenders, payday lenders, debt collectors, credit reporting companies, and other financial companies from using forced arbitration clauses that ban consumers from participating in class actions—which is often the only way to hold violators accountable. The rule also increases transparency for individual forced arbitrations by requiring those cases to be reported to the CFPB.

"Banks and credit card companies have used arbitration clauses to unilaterally give themselves complete immunity from class action lawsuits, and this CFPB rule is necessary to protect consumers and their access to courts," noted Loyola University New Orleans College of Law Professor Imre Szalai, a national expert regarding the Federal Arbitration Act, civil procedure, and dispute resolution. **"Also, the CFPB rule will help restore the original intent of Congress in passing arbitration laws almost a century ago. The federal arbitration law was never intended to govern consumers in the first place."**

Support for a rule to stop forced arbitration clauses with class action bans is widespread. Some conservative legislators who are concerned about regulations have also supported the importance of class actions as a "market-based solution that targets enforcement at bad actors engaged in widespread wrongdoing."

Financial lobbyists are expected to push Congress to block the arbitration rule. **"Will any member of Congress dare to look a victim of Wells Fargo's fake account scandal in the eye and tell them that the bank should be able to use forced arbitration to deprive them of their day in court or their right to join a class action?"** asked Lauren Saunders, associate director of the National Consumer Law Center. **"People are entitled to their day in court when companies break the law."**

Related links

More information on NCLC's body of work regarding:

- Arbitration and access to justice:
<https://www.nclc.org/issues/arbitration-a-access-to-justice.html>
- Payday loans: <https://www.nclc.org/issues/payday-loans.html>

NCLC is a member of the Fair Arbitration Now coalition that works to oppose forced arbitration.