

Forced Arbitration: CFPB Issues Proposed Rules to Restore Consumers' Legal Rights

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NCLC Advocates Applaud CFPB Proposal to Curtail Bank, Payday Lender, Scammer Get-Out-of-Jail-Free Cards

Proposed Rule Would Give Consumers Access to Court for Group Claims

(WASHINGTON) Advocates at the National Consumer Law Center (NCLC) applauded the Consumer Financial Protection Bureau's (CFPB) proposal today to restore consumers' right to join together and have access to the courts when financial service providers break the law.

"Forced arbitration is a get-out-of-jail-free card that lets banks, payday lenders, and debt relief scammers avoid accountability when they violate the law," said Lauren Saunders, associate director of the National Consumer Law Center. "Forced arbitration and class action bans force consumers into a biased, secretive, and lawless forum, preventing either a court or an arbitrator from ordering a lawbreaker to repay all of its victims."

The proposed rule would limit the financial industry's use of forced arbitration - an abusive practice in which corporations bury "ripoff clauses" in the fine print of take-it-or-leave-it contracts to block consumers from challenging predatory practices such as hidden fees, fraud, and other illegal behavior.

In forced arbitration, consumers lose the right to argue their case before an impartial judge and jury. Instead, big banks and abusive lenders hire a private, often biased arbitration firm to decide the dispute behind closed doors, allowing the violator to avoid turning over incriminating evidence and to prevent an appeal if the arbitrator ignores the facts or the law.

The CFPB's proposal only prohibits arbitration clauses that disallow class actions; companies could still force arbitration in individual cases. However, financial companies would have to turn over information about individual arbitrations so that the CFPB could study their impact. The proposal also only applies to providers of consumer financial products and services that are within the CFPB's jurisdiction.

"Congress needs to pass Senator Franken's Arbitration Fairness Act, because the CFPB proposal will not open the courts for consumers abused by nursing homes, predatory for-profit schools, auto dealers that sell lemon cars, or employers who engage in racial discrimination," Saunders urged on behalf of the National Consumer Law Center's low income clients. "But the CFPB's proposal is a strong first step and should be quickly finalized."

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Related Materials:

CFPB proposed arbitration rule

NCLC Summary of CFPB arbitration proposed rule, May 5, 2016

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