

April 3, 2023

The Honorable Rohit Chopra  
Director  
Consumer Financial Protection Bureau  
1700 G Street NW  
Washington, DC 20552

RE: Comments of 65 Consumer Organizations on Docket No. CFPB-2023-0002; RIN 3170-AB14;  
Registry of Supervised Nonbanks That Use Form Contracts to Impose Terms and Conditions That  
Seek to Waive or Limit Consumer Legal Protections

Dear Director Chopra:

We support and applaud the Consumer Financial Protection Bureau's (CFPB) proposed rulemaking to increase transparency in financial services, to the great benefit of American consumers. This rule would create a registry system for nonbank financial firms, requiring them to publicly report terms and conditions, such as forced arbitration, that have been commonly weaponized by businesses to limit consumer rights, this especially so for low income and BIPOC communities. Corporations are less likely to be held accountable in forced arbitration than they are in court as they are "repeat players," making them more familiar with arbitrators and putting those who are unable to pay the fees associated with arbitration and those who are more likely to be victims of implicit bias and subconscious discrimination at greater risk.

The increasing use of these pernicious terms and conditions often forces consumers into unknowingly giving up their fundamental Constitutional rights, such as accessing the courts, or limiting their ability to seek full and meaningful accountability when they've been cheated or defrauded by financial institutions. Obtaining credit reports, taking out private student loans, or taking out a car loan, should not suddenly strip individuals of local, state, and federal consumer protections, yet these contract provisions continue to destroy lives by allowing repeat offenders to contract away and avoid all legal accountability.

The terms and conditions flagged by the CFPB are often tucked away in the fine print of take-it-or-leave-it contracts and unilaterally imposed upon consumers when they use a product or service. This registry is a critical first step in gathering the information needed to empower the Bureau, federal and state regulators, and the American public to understand the prevalence and full impact of these provisions. The transparency offered will also help level the playing field for businesses that avoid these provisions, and do not depend upon a business model that capitalizes on a consumer unknowingly contracting away their rights.

Specifically, the registry highlights commonly used terms and conditions that:

- Limit what a consumer can recover when they are harmed or injured
- Make it harder and more burdensome for consumers to file claims for wrongdoing, by limiting where and when they can file claims
- Prohibit consumers from joining together to hold businesses accountable for breaking the law
- Force consumers to completely absolve businesses of wrongdoing
- Force consumers to waive their Constitutional right to court, and instead resolve claims through arbitration, a secret proceeding with unappealable outcomes that is often biased against consumers

The transparency offered by this registry is a win-win-win for the Bureau, businesses, and the general public, as collecting this data will enhance Bureau oversight of the unnecessary risk generated in the marketplace when businesses try to eliminate consumers' rights. While this is a much needed first step in generating the type of transparency needed for a strong and fair marketplace, we ask the Bureau to continue working toward not just flagging the problem provisions, but meaningfully curtailing the use of such provisions, especially in the area of forced arbitrations. This is perhaps the greatest and easiest way for businesses to skirt accountability, and we would ask that you continue to work towards ensuring that consumers are fully consenting, knowingly and voluntarily, to arbitration instead of unknowingly being duped into giving up their fundamental rights to access the courts simply by purchasing or using a financial service or product.

Thank you for your continued work in ensuring transparency and accountability for consumers, and for working towards a stronger and fairer marketplace.

Sincerely,

20/20 Vision

Accountable.US

Alaska PIRG

Alliance for Justice

American Association for Justice

Americans for Financial Reform Education Fund

Better Markets

Center for Economic Integrity

Center for Justice & Democracy

Center for LGBTQ Economic Advancement and Research (CLEAR)

Center for Responsible Lending

Columbia Consumer Education Council

Committee for Better Banks

Connecticut Legal Services, Inc.

Consumer Action

Consumer Attorneys of California  
Consumer Federation of America  
Consumer Federation of California  
Consumer Reports  
Consumer Watchdog  
Consumer World  
Consumers for Auto Reliability and Safety  
Delaware Community Reinvestment Action Council, Inc.  
Demand Progress Education Fund  
Earthjustice  
Economic Action Maryland (formerly Maryland Consumer Rights Coalition)  
Florida Consumer Action Network  
Georgia Watch  
Greater Boston Legal Services, on behalf of its low-income clients  
Hoosiers for Responsible Lending  
Hope Policy Institute  
Impact Fund  
Indiana Community Action Poverty Institute  
The Leadership Conference on Civil and Human Rights  
Legal Aid Justice Center  
National Association of Consumer Advocates  
National Consumer Law Center  
National Consumers League  
National Employment Lawyers Association  
National Housing Law Project  
National Institute for Workers' Rights  
New Jersey Citizen Action  
NYPIRG  
Oregon Consumer Justice  
People's Parity Project  
Protect All Children's Environment  
Public Citizen  
Public Justice  
Public Justice Center  
Revolving Door Project  
South Carolina Appleseed Legal Justice Center  
Student Borrower Protection Center  
Texas Appleseed  
Texas Watch  
The Greenlining Institute  
The Military/Veterans Coalition of Indiana  
Tzedek DC  
Towards Justice  
Unite Indy

U.S. PIRG  
Virginia Citizens Consumer Council  
Virginia Organizing  
Voices Organized in Civic Engagement (VOICE)  
Woodstock Institute  
YWCA Champaign County