

November 14, 2023

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

RE: Comments of over 100 organizations supporting the recently submitted petition for rulemaking to require meaningful consumer consent to arbitration

Dear Director Chopra:

We gratefully support and applaud the Consumer Financial Protection Bureau's (CFPB) continued efforts to vigorously protect consumers. Our organizations, representing millions of consumers, write in support of the recent petition for a rulemaking to address the fine print trap posed by forced arbitration clauses, which give companies that violate the law a get-out-of-jail-free card, blocking consumers from accessing the courts and trapping them in a private dispute system that is secretive, biased, and lawless.

Forced arbitration clauses included in the take-it-or-leave-it fine print traps of financial products and services continue to undermine many of the consumer protection laws and regulations the Bureau is working hard to enforce. While Congress is working on multiple legislative initiatives, the Bureau is the most well-positioned to address forced arbitration for financial products and services.<sup>1</sup>

Forced arbitration is systematically biased against consumers. In such an unfair playing field, with no transparency and no ability to appeal decisions, financial services providers overwhelmingly prevail against consumers. The United States Constitution gives people the right to a jury trial. And yet, a recently released study from the University of Michigan's law and psychology lab re-affirmed what the Bureau found in 2015: 99% of consumers trapped by the fine print of forced arbitration clauses have no awareness or understanding of the fundamental rights they have unknowingly given up.<sup>2</sup> Compounding this, women, Black, and indigenous people of color (BIPOC) are more likely than white men to be forced into arbitration,<sup>3</sup> exposing these populations to further inequities within a forced arbitration system that already disproportionately impacts BIPOC, low-income or female consumers.<sup>4</sup>

Consumers must be given a meaningful opportunity to choose, *after* the harm has occurred, how to proceed when they have been harmed or defrauded by a financial institution, whether through arbitration or through the public courts. Restoring these critical consumer rights and allowing consumers to make the choice on how they wish to exercise their rights is the only path forward toward

---

<sup>1</sup> The Bureau last issued a rule limiting class action waivers in 2017, and while this rulemaking was overturned through the Congressional Review Act (CRA), the CFPB retains the full authority to issue a rulemaking on forced arbitration so long as it is not issued in "substantially the same form" as the previous rule.

<sup>22</sup> Consumer Financial Protection Bureau, Arbitration Study Report to Congress, pursuant to Dodd–Frank Wall Street Reform and Consumer Protection Act § 1028(a), March 2015.

<sup>3</sup> AM. ASS'N. FOR JUST., WHERE WHITE MEN RULE: HOW THE SECRETIVE SYSTEM OF FORCED ARBITRATION HURTS WOMEN AND MINORITIES (2021), <https://www.justice.org/resources/research/forced-arbitration-hurts-women-and-minorities>.

<sup>4</sup> Sydney A. Shapiro et al., Center for Progressive Reform, Private Courts, Biased Outcomes: The Adverse Impact of Forced Arbitration on People of Color, Women, Low-Income Americans, and Nursing Home Residents, Center for Progressive Reform 13 (2022), <https://progressivereform.org/publications/private-courts-biased-outcomes-forced-arbitration-rpt/>.

ensuring full accountability and fairness in the financial marketplace. We urge the Bureau to issue a rulemaking addressing forced arbitration and restoring a consumer's right to choose how to resolve disputes. Thank you for your continued commitment to consumer protection and for considering our views on the urgent need to address forced arbitration.

Sincerely,

20/20 Vision  
Accountable.US  
Alaska PIRG  
Alliance for Justice  
American Association for Justice  
American Family Voices  
American Federation of State, County & Municipal Employees (AFSCME)  
Americans for Financial Reform Education Fund  
Better Markets  
Brooklyn Law School Community Development Clinic  
CAARMA Consumer Advocates Against Reverse Mortgage Abuse  
CASH Campaign of MD  
Center for Digital Democracy  
Center for Economic Integrity  
Center for Economic Justice  
Center for Justice & Democracy  
Chinese Community Center  
Center for Responsible Lending  
Citizen Works  
Coalition on Human Needs  
Committee for Better Banks  
Committee to Support the Antitrust Laws  
Connecticut Citizen Action Group (CCAG)  
Connecticut Legal Services, Inc.  
Consumer Action  
Consumer Attorneys of CA  
Consumer Federation of America  
Consumer Federation of California  
Consumer Reports  
Consumer Watchdog  
Consumers for Auto Reliability and Safety  
Credit Report Law Group  
DC Consumer Rights Coalition  
Delaware Community Reinvestment Action Council  
Demand Progress Education Fund  
Earthjustice  
Economic Action Maryland  
Economic Policy Institute  
Electronic Privacy Information Center  
Empire Justice Center  
Florida Consumer Action Network  
Fordham Law School  
Georgia Watch  
Housing and Family Services of Greater New York, Inc.  
Impact Fund  
Indiana Community Action Poverty Institute  
Jacksonville Area Legal Aid, Inc.

Jewish Women International  
Kentucky Equal Justice Center  
Latino Farmers & Ranchers International, Inc. (LFRI)  
L & C Ministries  
Legal Action Chicago  
Legal Aid Justice Center  
Lift Our Voices  
Long Term Care Community Coalition  
Maine People's Alliance  
Maine Small Business Coalition  
Miami Valley Fair Housing Center, Inc.  
Mid-Minnesota Legal Aid  
MoveOn Civic Action  
National Action Network  
National Association of Consumer Advocates  
National Association of Consumer Bankruptcy Attorneys  
National Center for Law and Economic Justice  
National Consumer Law Center (on behalf of its low-income clients)  
National Consumer Voice for Quality Long-Term Care  
National Consumers League  
National Employment Law Project  
National Disability Rights Network (NDRN)  
National Organization for Women  
National Partnership for Women & Families  
National Urban League  
National Women's Law Center  
North Carolina Justice Center  
New Economy Project  
New Jersey Citizen Action  
North American Climate, Conservation and Environment (NACCE)  
Oregon Consumer Justice  
Pennsylvania Utility Law Project  
People's Parity Project  
Philadelphia VIP  
Project on Predatory Student Lending  
Protect All Children's Environment  
Public Advocacy for Kids (PAK)  
Public Citizen  
Public Justice  
Public Justice Center  
Public Knowledge  
Public Law Center  
Rise Economy (formerly California Reinvestment Coalition)  
SC Appleseed Legal Justice Center  
Shriver Center on Poverty Law  
Student Borrower Protection Center  
Take Back Your Rights GPAC  
Texas Appleseed  
Texas Consumer Association  
Texas Watch  
The Leadership Conference on Civil and Human Rights  
THE ONE LESS FOUNDATION  
The Value Alliance  
Towards Justice

TURN-The Utility Reform Network  
Tzedek DC  
U.S. PIRG  
Virginia Citizens Community Council  
Virginia Organizing  
Virginia Poverty Law Center  
Voices Organized in Civic Engagement  
Workplace Fairness