



July 20, 2017

U.S. House of Representatives
Washington, DC 20515

Re: Vote NO on Congressional Review Act resolution that repeals CFPB arbitration rule

Dear Representative:

Fair Arbitration Now, a network of more than 70 consumer, labor, legal, and community organizations, writes to urge your opposition to the filed resolution under the Congressional Review Act (CRA) that would repeal the Consumer Financial Protection Bureau's arbitration rule. The rule restores individuals' legal rights by limiting the use of one-sided predispute mandatory (or forced) arbitration clauses in consumer financial services contracts. A CRA resolution to repeal the rule would send a clear message to your constituents that Congress is willing to easily dismiss their constitutional rights for the protection of Wall Street banks that break the law.

Forced arbitration clauses in financial services contracts prevent cheated or defrauded American consumers from going to court to challenge wrongdoing by big banks, credit card companies, payday lenders, and other financial institutions. The terms are presented in take-it-or-leave-it contracts and individuals have little or no choice unless they forego financial products and services altogether, which is simply not realistic. Most arbitration clauses in the financial industry also prohibit consumers from participating in class actions.

The arbitration rule restores American consumers' right to band together in court when harmed by systemic and widespread misconduct in the financial marketplace. In its analysis, the CFPB found that at least 160 million class members over a five-year period were eligible for relief in consumer finance class actions totaling \$2.2 billion, after attorneys' fees. The rule does not eliminate forced arbitration, but it would make individual secret arbitration more transparent by publishing arbitration complaints and outcomes.

Meanwhile, data show that forced arbitration blocks almost all relief to those harmed by illegal or abusive practices in the consumer finance market. Servicemembers, for example, have federal protections that ensure their financial wellbeing when they are on active duty. But big banks and lenders use forced arbitration to [block servicemembers from enforcing their rights in court](#).

The notorious Wells Fargo fake-account fraud also compels your support for the arbitration rule. The fraud grew for many years affecting millions of customers until it exploded into a full blown scandal. Because of Wells Fargo's arbitration clause and ban on class actions, courts could not

address its widespread misconduct that continued for far too long.

Data also show that financial institutions that use forced arbitration and ban class actions do not offer lower prices than institutions that do not use the restrictive terms. And there is no statistically significant difference in access to credit for consumers between those institutions. . Consumers saw [no increase](#) in price after Bank of America, JPMorgan Chase, Capital One, and HSBC dropped their forced arbitration clauses as a result of a court-approved settlement reached for allegations of violations of federal antitrust law. Similarly, mortgage rates did [not increase](#) after Congress banned forced arbitration in the mortgage market. Indeed, the rule *will* increase accountability for banks and lenders and access to remedies for harmed consumers.

It is also completely false that consumers recover more money in arbitration. Despite all the blocks on class actions, consumers recover roughly \$366 million more in class action **lawsuits** than arbitration per year, and 34 million more consumers get relief. The CFPB [study](#) found that just 400 consumers per year pursue claims in arbitration, with only 16 receiving any cash relief – a total of \$86,216. The average award in arbitration is higher because the types of cases are completely different; only people with large individual claims take the time and expense to pursue them in arbitration, whereas class actions are an efficient method to resolve multiple smaller claims.

We urge you to reject the CRA resolution. It is merely a mean-spirited and wasteful action to once again take away the constitutional rights of Americans that the arbitration rule rightfully restores. If you have any questions or concerns, please contact Christine Hines, National Association of Consumer Advocates, christine@consumeradvocates.org, (202) 452-1989.

Sincerely,

Fair Arbitration Now (Organizations that support ending the predatory practice of forced arbitration in consumer and non-bargaining employment contracts:
<http://www.fairarbitrationnow.org/coalition/>).