



## The CFPB Arbitration Rule Benefits Small Businesses

### *What is Forced Arbitration?*

- Forced arbitration is a **tactic devised by corporate attorneys for Wall Street banks** to block consumers from challenging illegal behavior in court. Big banks and payday lenders bury “**ripoff clauses**” in the fine print of take-it-or-leave-it contracts to **kick charges of lawbreaking out of public courts** and move them into **secret proceedings weighted against the consumer**.
- Since arbitration is secret, consumers are often **barred from sharing their stories with law enforcement** or press, **allowing big banks like [Wells Fargo](#) to cover up widespread fraud**.
- These clauses often **ban consumers from joining together in class action lawsuits** as well, allowing **banks to opt out of state laws and federal protections**, since it is too expensive for millions of consumers with small-dollar disputes to pursue individual claims in arbitration.
- The few consumers who can pursue arbitration face a **rigged system** where a firm handpicked by the corporation decides the outcome, with **little hope of appeal**. Since firms **rely on big banks for repeat business**, it’s no surprise they **side with the corporation 93% of the time**.

### *How Does Forced Arbitration Hurt Small Businesses?*

#### Forced Arbitration Allows Bad Actors to Break Laws with Little Recourse

- Forced arbitration reinforces a **rigged system** tipped in favor of bad corporate actors. It gives large corporations license to break environmental, consumer protection, financial, and health laws – and pile up the profits – with little recourse.
- When banks ban class actions, **bad actors can pocket billions in stolen money** and, in fact, gain a **competitive edge in the marketplace** by harming consumers. Small businesses, community banks, and credit unions that follow the law are forced to compete on an uneven playing field.

#### Large Corporations Use Forced Arbitration to Bully Small Businesses

- Forced arbitration **doesn’t just affect customers**. Any time a small business buys something from a larger vendor, chances are the contract contains a ripoff clause. Nearly all credit card agreements force customers into arbitration if there – and **almost 20% of business owners rely on credit cards** as a source of investment capital.
- These ripoff clauses make it **nearly impossible** for small businesses to protest hidden fees, illegal debt collection, antitrust violations, and other **deceptive or unfair practices**.

## Forced Arbitration Clauses Give Big Businesses License to Fix Prices

- **Class actions are an invaluable tool** for small businesses to fight big business' use of their monopoly power to jack up prices.
  - Several recent [price-fixing lawsuits](#) involving the cost of air-freight shipping, commercial insurance, auto parts, LCD screens, and memory chips **delivered substantial relief**, ranging from \$5,000 to more than \$2 million, to small- and medium-sized businesses.
- However, forced arbitration bars small business owners from taking these corporations to court, allowing large corporations to use monopoly power to charge small businesses higher costs.
  - In 2003, several restaurants joined together to sue American Express for using its monopoly power to **extract unfair credit card processing fees** – nearly a third higher than Visa's or MasterCard's. But **American Express got their case kicked out of court**, thanks to the ripoff clauses buried in the fine print of their contracts.

## *The CFPB Arbitration Rule*

- The Consumer Financial Protection Bureau finalized [a rule](#) to prohibit banks and lenders that [break the law](#) from stripping customers of the right to join together and hold them accountable in class action lawsuits. The rule **fulfills a Congressional directive** in Dodd-Frank tasking the agency to study forced arbitration and restrict or ban the practice if it harms consumers.
- The rule centers on **two commonsense measures**:
  1. Restores the right of consumers to join together in court by prohibiting class action bans, ensuring consumers can hold banks accountable for widespread harm;
  2. Brings transparency to individual arbitration by publishing claims and outcomes with sensitive information redacted, ensuring banks cannot cover up hide illegal behavior.
- The rule has been met with **widespread support** – including strong statements from the [Military Coalition](#) (representing 5.5 million servicemembers) and [310 groups](#) that advocate on behalf of consumers, civil rights, faith communities, labor unions, and more.
- According to a Pew Charitable Trusts poll, **nearly 90% of consumers want their right to class action lawsuits restored**. More than 100,000 individual [consumers](#) across the country wrote in to support the rule during its public comment period.

## The Bottom Line?

Without the CFPB arbitration rule, **bad actors like Wells Fargo will continue to pocket billions in stolen money** and, in fact, gain a **competitive edge in the marketplace** by harming consumers. This new rule will restore crucial consumer rights and increase accountability and transparency, making our financial system **stronger and safer** for all of us.