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**CONSUMER FINANCIAL PROTECTION BUREAU ISSUES RULE TO BAN COMPANIES FROM USING ARBITRATION CLAUSES TO DENY GROUPS OF PEOPLE THEIR DAY IN COURT**

*Financial Companies Can No Longer Block Consumers From Joining Together to Sue Over Wrongdoing*

**WASHINGTON, D.C.** — The Consumer Financial Protection Bureau (CFPB) today announced a new rule to ban companies from using mandatory arbitration clauses to deny groups of people their day in court. Many consumer financial products like credit cards and bank accounts have arbitration clauses in their contracts that prevent consumers from joining together to sue their bank or financial company for wrongdoing. By forcing consumers to give up or go it alone – usually over small amounts – companies can sidestep the court system, avoid big refunds, and continue harmful practices. The CFPB's new rule will deter wrongdoing by restoring consumers' right to join together to pursue justice and relief through group lawsuits.

"Arbitration clauses in contracts for products like bank accounts and credit cards make it nearly impossible for people to take companies to court when things go wrong," said CFPB Director Richard Cordray. "These clauses allow companies to avoid accountability by blocking group lawsuits and forcing people to go it alone or give up. Our new rule will stop companies from sidestepping the courts and ensure that people who are harmed together can take action together."

Hundreds of millions of contracts for consumer financial products and services have included mandatory arbitration clauses. These clauses typically state that either the company or the consumer can require that disputes between them be resolved by privately appointed individuals (arbitrators) except for individual cases brought in small claims court. While these clauses can block any lawsuit, companies almost exclusively use them to block group lawsuits, which are also known as "class action" lawsuits. With group lawsuits, a few consumers can pursue relief on behalf of everyone who has been harmed by a company's practices. Almost all mandatory arbitration clauses force each harmed consumer to pursue individual claims against the company, no matter how many consumers are injured by the same conduct. However, consumers almost never spend the time or money to pursue formal claims when the amounts at stake are small.

The Dodd-Frank Wall Street Reform and Consumer Protection Act required the CFPB to study the use of mandatory arbitration clauses in consumer financial markets.

Congress also authorized the Bureau to issue regulations that are in the public interest, that are for the protection of consumers, and which are based on findings that are consistent with the Bureau's study of arbitration. Released in March 2015, the study showed that credit card issuers representing more than half of all credit card debt and banks representing 44 percent of insured deposits used mandatory arbitration clauses. Yet three out of four consumers the Bureau surveyed did not know whether their credit card agreement had an arbitration clause. These clauses are not only common and unknown; they are also bad for consumers. By blocking group lawsuits, companies are able to:

- **Deny consumers their day in court:** The study showed that few consumers ever bring – or consider bringing – individual actions against their financial service providers either in court or in arbitration. Only about 2 percent of consumers with credit cards surveyed said they would consult an attorney or consider formal legal action to resolve a small-dollar dispute. As a result, the real effect of mandatory arbitration clauses is to insulate companies from most legal proceedings altogether.
- **Avoid paying out big refunds:** Individual actions get less overall relief for consumers than group lawsuits because companies do not have to provide relief to everyone harmed. According to the study, group lawsuits succeed in bringing hundreds of millions of dollars in relief to millions of consumers each year. The study showed that over 34 million consumers received payments, and that \$1 billion was paid out to harmed consumers over the five-year period studied. Conversely, in the roughly one thousand cases in the two years that were studied, arbitrators awarded a combined total of about \$360,000 in relief to 78 consumers.
- **Continue harmful practices:** Individual actions might recoup previous individual losses, but they do nothing to stop the harm from happening again or to others. Resolving group lawsuits often requires companies to not only pay everyone back, but also change their conduct moving forward. This saves countless consumers the pain and expense of experiencing the same harm. The Bureau's study found that in 53 group settlements covering over 106 million consumers, companies agreed to change their business practices or implement new compliance programs. Without group lawsuits, private citizens have almost no way, on their own, to stop companies from pursuing profitable practices that may violate the law.

### **CFPB Arbitration Rule**

The CFPB rule restores consumers' right to file or join group lawsuits. By so doing, the rule also deters companies from violating the law. When companies know they are more likely to be held accountable by consumers for any misconduct, they are less likely to engage in unlawful practices that can cause harm. Further, public attention on the practices of one company can more broadly influence their business practices and those of other companies. Under the rule, companies can still include arbitration clauses in their contracts. But companies subject to the rule may not use arbitration clauses to stop consumers from being part of a group action. The rule includes specific language that companies will need to use if they include an arbitration clause in a new contract.

The rule also makes the individual arbitration process more transparent by requiring companies to submit to the CFPB certain records, including initial claims and counterclaims, answers to these claims and counterclaims, and awards issued in arbitration. The Bureau will collect correspondence companies receive from arbitration administrators regarding a company's non-payment of arbitration fees and its failure to follow the arbitrator's fairness standards. Gathering these materials will enable the CFPB to better understand and monitor arbitration, including whether the process itself is fair. The materials must be submitted with appropriate redactions of personal information. The Bureau intends to publish these redacted materials on its website beginning in July 2019.

The new CFPB rule applies to the major markets for consumer financial products and services overseen by the Bureau, including those that lend money, store money, and move or exchange money. Congress already prohibits arbitration agreements in the largest market that the Bureau oversees – the residential mortgage market. In the Military Lending Act, Congress also has prohibited such agreements in many forms of credit extended to servicemembers and their families. The rule's exemptions include employers when offering consumer financial products or services for employees as an employee benefit; entities regulated by the Securities and Exchange Commission or the Commodity Futures Trading Commission, which have their own arbitration rules; broker dealers and investment advisers overseen by state regulators; and state and tribal governments that have sovereign immunity from private lawsuits.

In October 2015, the Bureau published an outline of the proposals under consideration and convened a Small Business Review Panel to gather feedback from small companies. Besides consulting with small business representatives, the Bureau sought comments from the public, consumer groups, industry, and other interested parties before continuing with the rulemaking. In May 2016, the Bureau issued a proposed rule that included a request for public comment. The Bureau received more than 110,000 comments.

The rule's effective date is 60 days following publication in the Federal Register and applies to contracts entered into more than 180 days after that.

**More information about the CFPB's arbitration rule is available at:**  
<https://www.consumerfinance.gov/arbitration-rule/>

**The text of the arbitration rule is available at:**  
[http://files.consumerfinance.gov/f/documents/201707\\_cfpb\\_Arbitration-Agreements-Rule.pdf](http://files.consumerfinance.gov/f/documents/201707_cfpb_Arbitration-Agreements-Rule.pdf)

**A CFPB video explaining the arbitration rule is available at:**  
[https://youtu.be/boQ2tRW\\_AwE](https://youtu.be/boQ2tRW_AwE)

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*The Consumer Financial Protection Bureau is a 21st century agency that helps consumer finance markets work by making rules more effective, by consistently and fairly enforcing those rules, and by empowering consumers to take more control over their economic lives. For more information, visit [consumerfinance.gov](http://consumerfinance.gov).*