

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.¹

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.² Compounding this, women, Black, and indigenous people of color (BIPOC) are more likely than white men to be forced into arbitration,³ exposing these populations to further inequities within a forced arbitration system that already disproportionately impacts BIPOC, low-income or female consumers.⁴

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

¹ 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.

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

³ 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>.

⁴ 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