May 19, 2015

The Honorable Thad Cochran Chair U.S. Senate Committee on Appropriations Washington, DC 20510	The Honorable Harold Rogers Chair U.S. House Committee on Appropriations Washington, DC 20515
The Honorable Barbara Mikulski Ranking Member U.S. Senate Committee on Appropriations Washington, DC 20510	The Honorable Nita M. Lowey Ranking Member U.S. House Committee on Appropriations Washington, DC 20515

Re: **Reject Proposals That Interfere With CPFB's Authority On Mandatory Arbitration**

Dear Chairman Cochran, Ranking Member Mikulski, Chairman Rogers, Ranking Member Lowey, and Committee Members:

The undersigned organizations write to urge the Appropriations Committees to reject all proposals to weaken the powers and funding of the Consumer Financial Protection Bureau (CFPB or bureau). In particular, the Committee must oppose any proposals that would limit, delay or remove the authority of the CFPB to take action on the use of pre-dispute binding mandatory (or forced) arbitration in consumer financial contracts under its jurisdiction. Further, using the Appropriations Committee to undermine specified authorities of federal agencies granted under the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (Dodd-Frank Act) is an overstep that would weaken much-needed protections.

After the well-documented abuses that led up to the 2008 financial crisis, Congress included in the Dodd-Frank Act a provision that specifically authorized the bureau to restore consumers' legal rights by regulating forced arbitration, 12 U.S.C. § 5518. It would be a huge step backwards for the public interest and a tremendous gift to the worst actors on Wall Street and in the financial sector if Congress suddenly confiscated or hampered the bureau's ability to act. This is especially true now that careful study demonstrates the serious harm that forced arbitration causes to consumers and the marketplace.

Forced arbitration describes terms in the fine print of financial services contracts that strip consumers of their right to file claims in court when companies cheat or rip them off. Arbitration clauses, most of which also restrict consumers' participation in class actions, result in the funneling of consumer complaints into a secret and biased system controlled by Wall Street banks and other lenders. Because forced arbitration is in take-it-or-leave-it contracts, individuals have little or no choice unless they forego products altogether – not realistic when applying for student loans, credit cards, auto financing, payday loans and other financial services.

Simply put, forced arbitration requires consumers to use a system that is rigged against them. It allows financial services companies that break the law to avoid the consequences of their conduct. Lenders can shield themselves from responding to claims, such as those involving illegal charges and fees on financial accounts, short-term loans with exploding interest rates that violate consumer protection laws, and other unfair and deceptive lending practices.

The bureau has been authorized to initiate rulemaking on forced arbitration since it completed a three-year examination of the issue in March 2015. The empirical data from the bureau's congressionally-mandated study make clear that agency action to eliminate forced arbitration is not only appropriate but necessary to protect consumers in the financial marketplace.

The study data revealed that forced arbitration is prevalent in consumer financial services and that consumers subject to the practice are almost always prohibited from participating in class actions. The study showed that few consumers can go to arbitration on an individual basis. Only 25 consumers a year filed claims in arbitration worth under $1,000, proving that consumer claims against companies cannot go forward in court *or* in arbitration. On the other hand, the bureau found that class actions examined over a five-year period resulted in settlements totaling $2 billion in cash for 160 million class members who were eligible for relief.

In contrast to industry arguments, the bureau confirmed that financial institutions' use of forced arbitration clauses do not lead to lower prices for consumers or increase their access to credit. And further, a bureau survey reveals that consumers generally are unaware of and don't understand the consequences of forced arbitration. Fewer than 7 percent realize that the contract terms eliminate their access to court.

This and other data in the study adds to a mountain of evidence proving that forced arbitration removes a crucial tool, the civil courts, for consumers to hold corporations accountable and to deter harmful conduct. In November 2014, 16 state attorneys general sent a letter to the bureau requesting a rule to reinstate consumer access to the court system.[1] After the CFPB study, 107 national, state and local organizations urged the agency to protect consumers from forced arbitration.[2] Advocates of fair lending in housing, who have observed how the elimination of forced arbitration in residential mortgage terms has benefited homeowners, also requested that the bureau apply the same policy to all lending products and related services.[3]

It's clear that any appropriations proposal that would interfere with the agency's ability to act on forced arbitration would be extremely damaging to the public interest. Therefore, we strongly urge you to reject any legislation or riders that would inhibit the bureau's authority.

If you have any questions or concerns, please contact Christine Hines, Public Citizen, (202) 454-5135, chines@citizen.org and Ellen Taverna, National Association of Consumer Advocates, (202) 452-1989, ellen@naca.net.

SINCERELY,

National Organizations
Americans for Financial Reform
Alliance for Justice
Center for Justice & Democracy
Citizen Works

[1] State Attorneys' General Letter to the Consumer Financial Protection Bureau, Nov. 19, 2014, http://1.usa.gov/1xGl6WS.
[2] Letter to the CFPB from 107 Organizations, March 24, 2015, http://bit.ly/1Ge8t8z .
[3] Letter to the CFPB from Housing Advocates, April 2, 2015, http://bit.ly/1AAfmeK.

Committee to Support the Antitrust Laws
Consumer Action
Consumer Federation of America
Consumers for Auto Reliability and Safety
Consumers Union
Consumer Watchdog
Homeowners Against Deficient Dwellings
Home Owners for Better Building
The Leadership Conference on Civil and Human Rights
NAACP
National Association of Consumer Advocates
National CAPACD
National Consumer Law Center (on behalf of its low income clients)
National Consumers League
National Employment Lawyers Association
National Fair Housing Alliance
Public Citizen
The Employee Rights Advocacy Institute For Law & Policy
The Institute for College Access & Success
Woodstock Institute
Workplace Fairness
U.S. PIRG

State and Local Organizations
Arkansans Against Abusive Payday Lending, AR
Center for Economic Integrity, AZ
Law Foundation of Silicon Valley, CA
Community Capital Fund, CT
Florida Alliance for Consumer Protection, FL
Georgia Rural Urban Summit, GA
Center for Economic Progress, IL
Consumer Federation of the SE, LA
Veterans Education Success, MD
Public Justice Center, MD
Global Green Initiative, MI
North Carolina Justice Center, NC
Granite State Organizing Project, NH
Affordable Housing Alliance, NJ
New Jersey Citizen Action, NJ
Albany County Rural Housing Alliance, Inc., NY
Bankruptcy Law Center, NY
Empire Justice Center, NY
JEM, Inc., NY
Keuka Housing Council, NY
Miami Valley Fair Housing Center, Inc., OH
Coalition on Homelessness & Housing in Ohio, OH
Neighborhood Housing Services of Greater Cleveland, OH
Policy Matters Ohio, OH
Integra Home Counseling Inc., PA
Keystone Progress, PA
SC Appleseed Legal Justice Center, SC
WV Citizen Action Group, WV