

Fair Arbitration NOW

End Forced Arbitration - www.FairArbitrationNow.org

United States Senate
Washington, DC 20510

Dear Senator:

A broad-based group of civil rights, employment, labor, health, and consumer organizations urges you to support the provisions in the Restoring American Financial Stability Act of 2010 that give the Bureau of Consumer Financial Protection (CFPB) and the Securities and Exchange Commission (SEC) authority to restrict forced arbitration.

Buried in the fine print of credit card billing inserts, bank account agreements, and payday loan applications, forced arbitration clauses strip Americans of their access to the courts, and force them instead into a private system set up by corporations to favor corporations. Financial services companies place these clauses in their contracts to shield themselves from accountability for wrongdoing and to facilitate suing their customers - even suing them to collect debts that are unlawful to collect.

Until last summer, most consumer arbitrations were provided by the National Arbitration Forum (NAF), a for-profit company that had extensive financial ties to the debt collection industry and ruled against consumers 94.7 percent of the time. After many years of abuse involving millions of consumers, a lawsuit by the Minnesota Attorney General ended consumer arbitrations by NAF in July 2009. But under current law, nothing prevents other arbitration firms from taking NAF's place. Indeed, when banks and credit card providers can force consumers into arbitration, the forums compete to win corporate business, causing a race to the bottom against consumers.

Forced arbitration is exactly the sort of predatory practice that the legislation should address. The practice must be addressed at the federal level because state regulations limiting mandatory binding arbitration are preempted by the Federal Arbitration Act (FAA), leaving states powerless to protect their citizens. Moreover, forced arbitration enables companies to violate federal lending laws with impunity. Biased arbitrators have undermined well-established federal consumer protections under the Truth in Lending Act, the Fair Debt Collection Practices Act, the Home Owners Equity Protection Act, the Consumer Leasing Act, the Credit Repair Organizations Act, Fair Credit Reporting Act, and the civil provisions of the Racketeer Influenced and Corrupt Organizations Act.

Across the political spectrum, the public supports limiting forced arbitration:

- Consumers do not like forced arbitration, as demonstrated by the fact that 60 percent of Americans polled oppose it;
- Consumers are generally unaware of forced arbitration, as 64 percent of those polled cannot remember reading about forced arbitration provisions in the Terms of Agreement for goods and services that they buy; and

- Consumers are unable to avoid forced arbitration, as a Public Citizen study found that 75 percent of consumer contracts in several major industries contained a forced arbitration provision.

Finally, the modest arbitration provisions in the legislation do *not* ban arbitration. They merely give the CFPB and SEC the *discretion* to write rules restricting the practice. Furthermore, the Bureau may restrict forced arbitration only after studying the issue. On behalf of millions of Americans, we urge you to support maintaining these provisions in the legislation.

To learn more about fair arbitration, and to see a list of organizations and individuals that support ending the predatory practice of forced arbitration in consumer and non-bargaining employment contracts, please visit:

<http://www.fairarbitrationnow.org/content/coalition>.

Sincerely,

Fair Arbitration Now Coalition

<http://www.fairarbitrationnow.org/>