

June 17, 2015

The Honorable Harold Rogers
Chair
U.S. House Committee on Appropriations
Washington, DC 20515

The Honorable Nita M. Lowey
Ranking Member
U.S. House Committee on Appropriations
Washington, DC 20515

Re: **Oppose Womack-Graves Amendment to Financial Services Appropriations Bill**

Dear Chairman Rogers, Ranking Member Lowey and Members of the Committee:

Fair Arbitration Now, a network of more than 70 consumer, labor, legal and community organizations, write to express our opposition to the amendment offered by U.S. Representatives Steve Womack (R-Ark.) and Tom Graves (R-Ga.) to the Financial Services and General Government appropriations bill. The amendment proposes a tragic waste of taxpayer resources by repeating a three-year federal government study already completed by the Consumer Financial Protection Bureau (CFPB).

The Womack-Graves amendment undermines and unnecessarily delays the Congressional mandate under Section 1028 of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, which authorizes the CFPB to initiate a rulemaking on the practice of forced arbitration if after studying the issue, the CFPB finds it is in the public interest and in the interest of consumer protection to do so.

The CFPB has received significant public input about arbitration before, during and after the arbitration study process was completed. Numerous industry groups and other stakeholders, including the American Bankers Association and the U.S. Chamber of Commerce, have publicly presented their views to the CFPB on multiple occasions regarding the study.

In March 2015, the CFPB released its comprehensive and evidence-based study about the use of forced arbitration clauses in consumer financial contracts. Forced arbitration clauses prevent cheated or defrauded consumers from going to court to challenge a wrongdoing against banks, credit card companies, payday lenders or other financial institutions. Instead, consumers are required to resolve disputes in a private, rigged arbitration system. Because forced arbitration terms are in take-it-or-leave-it contracts, individuals have little or no choice unless they forego products altogether – not realistic when your ability to use a credit card, pay for college or obtain a car loan is at stake.

Many of the Womack-Graves amendment's "Additional Topics to be Studied" have already been thoroughly addressed in the CFPB arbitration study. For instance the CFPB has already

examined the difference between arbitration procedures vs. court procedures¹, reviewed the types of claims that are brought in arbitration or court,² looked at the effectiveness of consumers filing formal claims,³ surveyed consumers' awareness of forced arbitration,⁴ extensively scrutinized the value of class action settlements,⁵ and assessed the cost and availability of credit to consumers if forced arbitration was restricted.⁶

The CFPB study has verified the prevalence of forced arbitration clauses and class action bans in consumer finance contracts and found that the clauses impact tens of millions of consumers, many of which are unaware of the existence and consequences of forced arbitration. In fact, 75 percent of consumers surveyed did not know whether they were subject to an arbitration clause in their consumer financial contracts and fewer than seven percent of the consumers covered by arbitration clauses realized that the clauses restricted their ability to sue in court. The results of the study also demonstrated that forced arbitration provides almost no relief to consumers harmed by illegal or abusive practices in the financial services industry. Only 25 consumers *per 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 benefited consumers tremendously resulting in settlements totaling \$2 billion in cash for 160 million class members who were eligible for relief. Finally, the study showed that forced arbitration clauses do not lead to lower prices or greater credit access for consumers.

It is imperative that the CFPB act quickly to protect the millions of consumers who have suffered financial harms due to companies' use of forced arbitration clauses. In March, 107 national, state, and local groups urged the CFPB to write a rule to prohibit forced arbitration in consumer financial contracts. <http://bit.ly/1JE4x2E>. In addition, last month 58 Members of Congress urged the CFPB to "move forward quickly" on rulemaking. <http://1.usa.gov/1FqvzHG>

Therefore, we strongly urge you to reject the Womack-Graves Amendment that would undermine and impede the Bureau's authority to address forced arbitration.

If you have any questions or concerns, please contact Ellen Taverna, National Association of Consumer Advocates, Ellen@consumeradvocates.org, (202) 452-1989 ext. 109 or Christine Hines, Public Citizen, chines@citizen.org, (202) 454-5135.

Sincerely,

Fair Arbitration Now (Organizations that support ending the predatory practice of forced arbitration in consumer and non-bargaining employment contracts:
<http://www.fairarbitrationnow.org/coalition/>).

¹ Arbitration Study: Report to Congress pursuant to Dodd–Frank Wall Street Reform and Consumer Protection Act § 1028(a), Consumer Financial Protection Bureau, Mar. 2015, available at http://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf, Section 4.

² *Id.* at Section 5 and Section 6.

³ *Id.*

⁴ *Id.* at Section 3.

⁵ *Id.* at Section 8.

⁶ *Id.* at Section 10.