



July 25, 2017

Protect Consumers by Opposing H.J. Res. 111

Dear Representative:

On behalf of The Leadership Conference on Civil and Human Rights, I urge you to oppose H.J. Res. 111, a resolution providing for Congressional disapproval of the Consumer Financial Protection Bureau's final rule on forced arbitration clauses. Overturning the CFPB's rule will enable big banks, payday lenders, and other financial companies to force victims of fraud, discrimination, or other unlawful conduct into a "kangaroo court" process where their claims are decided by hired arbitration firms rather than by judges and juries – harming consumers and undermining civil rights and consumer protection laws.

While alternative dispute resolution (ADR) systems like mediation and arbitration can provide a useful alternative to litigation in some types of cases, many companies – including on Wall Street – have used ADR to rig the system in their favor against consumers. Companies now routinely bury forced arbitration clauses in the fine print of take-it-or-leave-it contracts, preventing consumers from having any meaningful choice in the matter.

These clauses create a massive advantage for companies against defrauded or dissatisfied customers. As the CFPB found, it is often too expensive for millions of consumers with small-dollar disputes to pursue their claims in arbitration one-by-one, so many claims are never heard. The relatively few claims that are pursued get funneled into a rigged system where firms handpicked by the corporation decide the outcome, and where consumers have little hope of appeal. Because arbitration firms want repeat business, it should come as no surprise that they side with the corporation in the overwhelming majority of cases. Moreover, because arbitration is a secret process, consumers are often barred from sharing their stories with regulatory agencies or the media, in some cases enabling widespread fraud to continue for years.

The CFPB's rule restricts the most harmful aspects of forced arbitration, and provides consumers with a modest but important level of protection. It allows similarly situated consumers to consolidate their claims by allowing class action lawsuits, so it is possible to hold financial companies accountable for widespread cases of discrimination, fraud, or other misconduct. It also provides greater transparency to individual arbitration, by ensuring the publication of claims and outcomes (without identifying information), which makes it more difficult for bad actors to hide illegal behavior from public view.

It is astounding that the House is voting on this resolution only weeks after Wells Fargo announced a \$142 million class action settlement in its fake accounts scandal. For years, Wells relied on forced arbitration clauses to keep customers out of court, which made it

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much harder to discover just how widespread the practices were. In light of the massive bad publicity and the damage to Wells Fargo's reputation, its lawyers ultimately relented and allowed a class action lawsuit to proceed. But this resolution would repudiate the lessons that have just been learned from the scandal, encourage companies to keep rigging the system in their favor, and send a troubling message to the public about where Congress stands and whose interests it is serving.

For these reasons, I urge you to vote against H.J. Res. 111. If you have any questions, please feel free to contact either me or Rob Randhava, Senior Counsel, at (202) 466-3311.

Sincerely,



Vanita Gupta
President & CEO