

Summary of CFPB Rule on Forced Arbitration, July 2017

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The Consumer Financial Protection Bureau (CFPB) has issued a rule addressing the use of forced arbitration clauses in the fine print of financial contracts. The rule has two components:

1) Restores consumers' day in court and accountability when companies engage in widespread violations of the law. Contracts that have forced arbitration clauses will not be permitted to ban consumers from banding together by joining or bringing class actions involving consumer financial services.

2) Brings transparency to the secretive arbitration process. Companies that use forced arbitration in individual cases must report court filings, arbitration claims and rulings and other information to the CFPB (with identifying information redacted) so that the CFPB can study the impact of forced arbitration in individual cases.

The rule applies to the core consumer financial markets involving lending money, storing money, and moving or exchanging money. With some exceptions, the rule would cover most:

- Loans and credit, including **credit cards, payday loans, student loans, and auto loans** (auto finance companies, not auto dealers, except some buy-here/pay-here dealers). Mortgages are already prohibited from having forced arbitration clauses. **Providing leads, referrals, purchasing, selling and servicing** credit are covered.
- **Bank accounts, prepaid cards, money transfer services and apps and remittances.**
- Credit reporting, credit scores, credit monitoring.
- **Credit repair, debt management, debt settlement, and debt relief services**, including those that purport to avoid **foreclosure**. This includes debt relief involving medical debt, taxes, and other kinds of debt even if not credit related.
- **Check cashing, check collection, check guaranty services.**
- **Auto leases**, but not auto dealers who assign their leases.
- **Debt collection and payment processing** related to these products or services.
- **Mobile wireless providers** that allow third party charges through the wireless bill.

Key areas that are **not** covered include:

- **Auto dealers** (other than some buy-here/pay-here dealers), such as claims related to discrimination, add-ons, lemon laws, odometer fraud, or deception about a car's history.
- **For-profit colleges and trade schools**, unless the school directly makes loans.
- Credit cards, bank accounts and other products begun **before the rule goes into effect**.
- Services **offered directly by governments or tribes to members within their jurisdiction**. The rule does apply to tribal payday lenders who offer products off-reservation.
- **Investment products and services** by entities regulated by the SEC.
- **Individuals** and others who offer a product or service to 25 or fewer consumers a year.
- **Nonfinancial products and services**, like nursing homes, cable/mobile providers (except for third party charges on bills), employers, or store payment plans that don't charge.

The rule applies to arbitration agreements entered into on or after March 19, 2018, including older

contracts that are purchased or acquired after that date.

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