

Stop Bank, Payday Lender, and Scammer Get-Out-of-Jail-Free Cards and Restore Consumers' Access to Court

FOR IMMEDIATE RELEASE: AUGUST 22, 2016 || Contacts: Lauren Saunders (lsaunders@nclc.org, 202.595.7845) or Jan Kruse (jkruse@nclc.org, 617.542.8010)

(WASHINGTON) Today, advocates at the National Consumer Law Center (NCLC) submitted comments calling on the Consumer Financial Protection Bureau (CFPB) to restore consumers' right to join together and have access to the courts when financial service providers break the law. "Banks, payday lenders, and financial scammers bury these rip-off clauses in the fine print of contracts to keep their lawbreaking out of the public courts and to force consumers into a biased, secretive, and lawless tribunal," according to National Consumer Law Center Associate Director Lauren Saunders.

NCLC's comments, filed on behalf of NCLC's low income clients, praised the CFPB's proposal to protect consumers' access to the courts to address widespread violations of the law. But the comments urged the CFPB to prohibit companies from forcing individual consumers into arbitration as well. NCLC also urged the CFPB not to exclude from the rule existing credit card and bank accounts that consumers may have for decades.

The CFPB's proposed rule would limit the financial industry's use of forced arbitration – an abusive practice in which corporations bury "ripoff clauses" in the fine print of take-it-or-leave-it contracts to block consumers from challenging predatory practices such as hidden fees, fraud, and other illegal behavior.

In forced arbitration, consumers lose the right to argue their case before an impartial judge and jury. Instead, big banks and abusive lenders hire a private, often biased arbitration firm to decide the dispute behind closed doors, allowing the violator to avoid turning over incriminating evidence and to prevent an appeal if the arbitrator ignores the facts or the law.

The CFPB's proposal only prohibits arbitration clauses that disallow class actions; companies could still force arbitration in individual cases. However, financial companies would have to turn over information about individual arbitrations so that the CFPB could study their impact. The proposal also only applies to providers of consumer financial products and services that are within the CFPB's jurisdiction.

The comment period for the proposed rule ends on August 22, 2016. A final rule is expected late this year or in 2017.

More information on NCLC's body of work regarding arbitration and access to justice is available at: <https://nclc-old.ogosense.net/issues/arbitration-a-access-to-justice.html>.

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Related:

NCLC Summary of CFPB arbitration proposed rule, May 5, 2016

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