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New Paper: Americans Hurt By Forced Arbitration Agreements with Big Banks, Credit Card Companies

Forthcoming Rule from Consumer Financial Protection Bureau Offers Some Solutions, but More Can Be Done to Protect Consumers

Opening a checking account or using a credit card is an essential, everyday activity for many Americans, but most financial services are governed by pages of fine print, much of which is difficult to navigate and understand. As [a new paper](#) from the Center for Progressive Reform (CPR) shows, these contracts often contain forced arbitration clauses that severely restrict consumer rights and frustrate corporate accountability.

The CPR paper, *Regulating Forced Arbitration in Consumer Financial Services: Re-Opening the Courthouse Doors to Victimized Consumers*, is being released the day before a widely anticipated proposed rule from the Consumer Financial Protection Bureau (CFPB). CPR and other consumer protection experts expect the proposal to restrict the use of forced arbitration clauses in financial services agreements.

"Using financial services like credit cards and loans should not mean giving up basic legal rights," said Martha McCluskey, Member Scholar at the Center for Progressive Reform and a contributing author of the paper. "What most Americans don't realize is that many of these services come with potentially harmful strings attached, which they're forced to accept in order to pay their bills and finance their education."

At least 53 percent of regular credit card contracts examined contained forced arbitration clauses, according to the paper. Financial products frequently sold to vulnerable populations, including low-income families and students, had even higher rates: 92 percent of prepaid credit card agreements contained these clauses, and 86 percent of private student loan contracts required arbitration to settle disputes.

These clauses kick in when people fight back against unjustified fees, improperly charged debt, and other abusive practices. Arbitration proceedings are often held in far-flung locations, heavily tilted toward corporations, and shrouded in secrecy, all of which can further harm consumers.

"Because the deck is stacked against them, few people use arbitration to push back against abusive banks and credit card companies," said Sid Shapiro, CPR Member Scholar and a contributing author of the paper. "Even when they do take on the cost and time needed to go through arbitration, most consumers with meritorious claims don't succeed."

To address some of the problems with forced arbitration, the CFPB is expected to propose a rule on May 5 banning language that blocks class-action lawsuits against financial services companies. However, the agency is not expected to restore the right of consumers to pursue individual claims against abusive companies in court.

"The proposed rule is a good first step," said James Goodwin, CPR Senior Policy Analyst and a lead author of the paper. "But the agency can and should go further. As it currently operates, arbitration is hurting individual Americans and their families, and they should be able to seek justice."

To better protect individual consumers, the paper's authors recommend the following:

- **Make the arbitration process far less secretive.** Hearings and their results should be publicly announced and recorded.
- **Eliminate excessive arbitration fees.** Big banks and other financial services corporations often require people to pay hundreds or even thousands of dollars just to dispute unjustified charges or address other wrongdoing.
- **Ensure arbitration hearings aren't held in far-flung locations.** Corporations can send representatives to hearings anywhere in the country. Individual Americans are far less likely to be able to travel across the country, particularly those with limited resources.
- **Prevent corporations from choosing arbitrators who favor industry positions.** If companies want consumers to use arbitration to settle disputes, arbitrators must be neutral and unbiased.
- **Ban language that prevents individuals from seeking justice in our courts when arbitration fails.** With the arbitration process tilted so far in favor of big banks and credit card companies, Americans need another avenue to hold corporations accountable.

The paper is available online at <http://www.progressivereform.org/forcedarbitration.cfm>. The CFPB will hold a field hearing on forced arbitration at 11 a.m. Mountain Time (1 p.m. Eastern) on Thursday, May 5 in Albuquerque, New Mexico. More details are available at <http://www.consumerfinance.gov/about-us/events/>.

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