

The Honorable Senator Mitch McConnell
317 Russell Senate Office Building
Washington, DC 20510

RE: Opposing Congressional Review Act Override of CFPB Arbitration Rule

Dear Senator McConnell,

We write to urge you not to pursue a Congressional Review Act override of the Consumer Financial Protection Bureau's (CFPB) recently finalized rule limiting the use of pre-dispute arbitration agreements in consumer financial products and services.¹ The rule stops the financial industry's practice of barring consumers from class action lawsuits against product and service providers by contractually forcing them into individual arbitration proceedings. By preserving the rule, the Senate will help protect millions of consumers from the misdeeds of Wall Street and promote access to justice in the United States.

The undersigned organizations are all members of the Legal Impact Network, a collaboration of state-based legal-services organizations from thirty-three states and the District of Columbia working with and on behalf of lower-income communities and people in poverty. We provide legal services and promote the interests of the most financially vulnerable people in America.

The arbitration rule provides an important legal protection for the low-income communities that we serve throughout the country and helps to assure that clients are not left without recourse if they are harmed by the financial sector. Our clients face greater obstacles in accessing justice than the general population. They are also more likely to be targeted by unscrupulous lenders and other financial service providers.² Forced arbitration in consumer contracts intensifies the challenge low-income people face in seeking fair treatment if they are wronged by the financial industry. Arbitration proceedings are time and cost prohibitive for our clients and studies show arbitration results generally skew in favor of the financial product or service provider. Although the relatively small amounts our clients might recover could have great impacts on their lives, those amounts are not typically enough to attract legal representation for individual arbitration proceedings. Arbitration practices preceding the rule's publication left unscrupulous companies free to defraud or steal from their customers with impunity.

As not-for-profit organizations working on behalf of low and moderate-income consumers, members of the Legal Impact Network take on consumer cases where they will positively impact the lives of as many clients as possible. Our choice to take legal action depends on whether there is potential to contribute to a more equitable system of consumer laws, not on the potential for financial gain. Because we generally cannot address systematic wrongdoing through individual arbitration proceedings, the rule will make it possible to secure justice for our clients.

¹ 12 C.F.R. §1040.

² Miriam Gilles, *Class Warfare: the Disappearance of Low-Income Litigants from the Civil Docket*, EMORY LAW JOURNAL, 1531, 1537 (2016).

Because of its importance for low-income and working class families, we have closely followed the rule's development since its initial proposal by the CFPB. We provided comments on earlier versions of the rule and we are supportive of its final form. The rule plays an important role in ensuring that consumers have meaningful recourse in the event of wrongdoing by financial product and service providers.

Recent scandals involving financial giants highlight the importance of this issue. Last year, bank employees were caught opening new customer accounts without authorization, and the bank has sought to force the aggrieved customers out of court and into arbitration. More recently, a credit services company that lost the personal information of 143 million Americans to a data breach initially conditioned monitoring protections on a customer's willingness to give up their right to sue.

The rule will help ensure that everyone in America is treated fairly under the law. Where consumers injured by the same unfair practice can band together and seek relief in one legal proceeding, it is feasible to defend their interests. Realistically, if the rule is undone, it will be virtually impossible for our organizations to protect the interests of the low-income consumers we serve and to hold large companies accountable for harming thousands of people.

We urge you to oppose a Congressional Review Act vote on the future of the CFPB's arbitration rule. If a vote does occur, we urge you to vote against disapproval, thereby preserving an important tool to protect consumers from abusive practices in the financial sector.

Members of Legal Impact Network are available to share additional information about the rule's importance to our advocacy and to the lives of the people we serve.

**SUBMITTED ON BEHALF OF THE FOLLOWING MEMBERS
OF THE LEGAL IMPACT NETWORK**

Center for Civil Justice of Michigan
Colorado Center on Law and Policy
Columbia Legal Services of Washington
Community Legal Services of Philadelphia
Connecticut Legal Services
Empire Justice Center of New York
Florida Legal Services
Kentucky Equal Justice Center
Legal Aid Justice Center of Virginia
Legal Services of New Jersey
Massachusetts Law Reform Institute
Maine Equal Justice Partners
Mississippi Center for Justice
Nebraska Appleseed
New Mexico Center on Law and Poverty
Mountain State Justice of West Virginia
North Carolina Justice Center
Ohio Poverty Law Center

Public Justice Center of Maryland
Sargent Shriver National Center on Poverty Law of Illinois
South Carolina Appleseed Legal Justice Center
Tennessee Justice Center
Texas Appleseed
Texas Legal Services Center
Vermont Legal Aid
Western Center on Law & Poverty
William E. Morris Institute for Justice of Arizona