



Coalition to Congress: Overturn CFPB Arbitration Rule

July 24, 2017

The Honorable Paul Ryan
Speaker
U.S. House of Representatives
H-232, U.S. Capitol
Washington, DC 20515

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
S-230, U.S. Capitol
Washington, DC 20510



Dear Speaker Ryan and Majority Leader McConnell:



We, the following free-market, limited-government, and liberty-oriented organizations, ask you to use the Congressional Review Act to reverse recently published rules promulgated by the Consumer Financial Protection Bureau (CFPB) ending long-held policy allowing for binding arbitration contracts. Failure to reverse this regulation will result in an avalanche of class-action lawsuits that will hurt jobs and do little to benefit consumers.



The CFPB's arbitration rule has been described as "Christmas in July" for America's trial lawyers – and rightly so. According to the CFPB's own finding, the rule will cost consumers billions of dollars and unleash over 6,000 class action lawsuits every five years. This rule is an obstacle to the efforts to right America's fiscal ship and create jobs and prosperity for the American people.



Class action lawsuits primarily benefit the trial lawyers rather than the plaintiffs they claim to represent. One extreme example regarding the Bank of Boston even resulted in some of the "winning" plaintiffs owing more in legal fees to lawyers, who walked away with millions, than the meager winnings they received. Class-action lawsuits all too often benefit no one but lawyers, and arbitration provides a fair alternative that should not be prohibited by regulatory fiat.



The CFPB's own report provides undermines the case for relying exclusively on class-action lawsuits. Of the minority of cases filed between 2010 and 2013 that were later settled, consumers received on average only \$32, while lawyers received \$424 million in total fees. This disparity is due in part to the fact that claims are never filed by the vast majority of those in an eligible class, and lawyers receive fees based on inflated award figures that are never paid out.



There are also significant issues with the structure of the CFPB and its overall lack of accountability to elected officials. A United States Court of



Appeals has held that “when measured in terms of unilateral power, the Director of the CFPB is the single most powerful official in the entire U.S. Government, other than the President. Indeed, within his jurisdiction, the Director of the CFPB can be considered even more powerful than the President.”



As a rehearing of this ruling on the CFPB's constitutionality by the full Circuit is currently underway, and Congress weighs its own various options to rein in the unaccountable agency, CFPB should at the very least be prevented from instituting major new rules that could disrupt large segments of the economy until such issues are resolved. This is a prime opportunity for members of Congress to uphold their oaths to support and defend the Constitution by safeguarding the nation from costly new CFPB regulations.



The Congressional Review Act provides 60 legislative days for Congress to reverse the CFPB's decision. Each day, the clock ticks and the window of opportunity closes. We urge you to work together and reverse this job-killing regulation promulgated by an agency that is unconstitutionally structured.



Sincerely,

Andrew F. Quinlan
President
Center for Freedom and Prosperity

Grover Norquist
President
Americans for Tax Reform

David Williams
President
Taxpayers Protection Alliance

Iain Murray
Vice President for Strategy
Competitive Enterprise Institute

Christine Harbin
Vice President of External Affairs
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Phil Kerpen
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Charlie Sauer
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