



December 1, 2016

Sen. Sherrod Brown
Ranking Member, U.S. Senate Banking Committee
Washington, D.C. 20510

Dear Senator Brown:

Fair Arbitration Now, a network of more than 70 consumer, labor, legal and community organizations, is pleased to support the Justice for Victims of Fraud Act of 2016. Working hand-in-hand with a rule from the Consumer Financial Protection Bureau (CFPB), the legislation would ensure that financial services customers victimized by unauthorized account openings in their name will be able to seek remedies in court.

The bill rightly addresses a central issue – the use of predatory forced arbitration clauses – stemming from Wells Fargo & Co.’s illicit sales practices that led to the opening of millions of scam credit and banking accounts. Wells Fargo has since compounded its customers’ harm by seeking to enforce broad terms of legitimate accounts that require customers to resolve claims against the bank in private individual arbitration rather than in court.

Simply put, corporations use pre-dispute binding mandatory arbitration (or forced arbitration) clauses to escape accountability for their misconduct. They determine the rules for the secret, private system – including the forum arbitration provider – and insert them into their take-it-or-leave-it contracts with consumers and workers. These often costly arbitration proceedings deprive ordinary consumers of the procedural safeguards of the court system, including the right to appeal, which is rarely available. Consequently, most consumers are unable to vindicate their rights under state and federal laws, particularly on an individual basis.

Wells Fargo requiring an inherently unfair arbitration process on its defrauded customers is particularly galling because they are simply seeking remedies for harm caused by sham accounts the bank opened in their names without their consent. These harms include wrongful fees and charges, potential harm to their credit, and other inconveniences and financial injuries.

While the Justice for Victims of Fraud Act is crucial to remedying specific past abuses, the Consumer Financial Protection Bureau (CFPB) – the agency that exposed Wells Fargo’s fraud – is finalizing a rule to prevent future fraud by blocking banks and lenders from using forced arbitration clauses as a license to steal. The rule would restore customers’ ability to join together to challenge widespread fraud and return transparency to arbitration by creating a public record of claims and outcomes. More than 100,000 individual consumers and 281 consumer, civil rights, labor, and small business groups wrote to [applaud](#) the Bureau’s rule.

The Wells Fargo scandal highlights the loss of rights in the fine-print terms of financial services contracts and the lack of incentive of Wall Street to obey laws unless consumers can go to court to hold them accountable. We commend and thank you for introducing the Justice for Victims of Fraud Act of 2016. Working in conjunction with the CFPB's forward-looking rule, it will ensure that banks are incentivized to protect their customer accounts from fraud and cannot pad their profits with money fraudulently taken from consumers unable to fight back.

If you have any questions or concerns, please contact Christine Hines, christine@consumeradvocates.org or Amanda Werner, awerner@ourfinancialsecurity.org.

Sincerely,

Fair Arbitration Now (Organizations that support ending the predatory practice of forced arbitration in consumer and non-bargaining employment contracts: <http://www.fairarbitrationnow.org/coalition/>).