



Debunking Industry Myths about the CFPB Arbitration Rule

The Consumer Financial Protection Bureau finalized [a rule](#) to prohibit banks and lenders that [break the law](#) from stripping customers of the right to join together and hold them accountable in class action lawsuits. The rule centers on **two commonsense measures**:

1. Restores the right of consumers to join together in court by prohibiting class action bans, ensuring consumers can hold banks accountable for widespread harm;
2. Brings transparency to the process of arbitration by publishing claims and outcomes with sensitive information redacted, ensuring banks cannot hide illegal behavior from public view.

The CFPB's forced arbitration rule has been met with **strong and widespread support** from groups that advocate on behalf of veterans and servicemembers, consumers, civil rights, labor unions, and faith communities. According to a Pew Charitable Trusts poll, [nearly 90% of consumers want their right to class action lawsuits restored](#).

Banking industry lobbyists are out in full force against the rule; below are responses to the myths they are spreading about the rule and its effects:

“The CFPB has gone rogue.”

- The agency was **explicitly and specifically directed** by language in the Dodd-Frank financial reform law to study the effect of forced arbitration on consumers and **ban or limit** its use in financial services contracts if it found the practice harms consumers.
- The CFPB spent **three years** compiling and analyzing data, resulting in the **most comprehensive empirical study** ever done on arbitration. Its **findings [clearly reveal](#) the serious harms** that forced arbitration and class action bans wreak on consumers, which fully warrant the rule's commonsense reforms.

“The CFPB rule is a giveaway to trial lawyers.”

- In reality, **forced arbitration is a giveaway to Wall Street and predatory lenders**. Without the CFPB rule, big banks and payday lenders can continue to trick and trap their customers with illegal charges and **pocket billions in stolen money** – knowing consumers have no way to fight back.
- While banks want to shift the focus to trial lawyers, the fact is that consumer, civil rights, labor, and small business groups have been working to stop the unfair practice of forced arbitration for decades. That's why a **broad-ranging [coalition](#) of 310 organizations has written in support of the rule**.
- In addition to the CFPB study that found class action lawsuits returned **\$2.2 billion to 34 million consumers *after deducting attorneys' fees and court costs*** – an [independent study](#) conducted by a former clerk for Justice Scalia reached similar conclusions, finding **“even the harshest critics of consumer class actions would have to concede that the picture it paints is a fairly successful one.”**

“Consumers recover more money in arbitration.”

- This is demonstrably false. Despite all the blocks on class actions, consumers recover **roughly \$366 million more in class action lawsuits** than arbitration per year, and **34 million more consumers** get relief.
- The CFPB [study](#) found that **just 400 consumers per year** pursue claims in arbitration, with **only 16 receiving any cash relief** – a total of \$86,216.
- If arbitration really works better for consumers, the banking industry should **let consumers choose** between arbitration and participating in a class action rather than force them into individual arbitration where the vast majority of consumers have no hope of getting relief.

“The CFPB rule will increase costs for consumers.”

- This notion is **debunked by real-life experience**, as well as empirical [study](#). **Consumers saw no increase in price** after Bank of America, JPMorgan Chase, Capital One, and HSBC dropped their forced arbitration clauses as a result of a court-approved settlement reached for allegations of violations of federal antitrust law. Similarly, **mortgage rates did not increase** after Congress banned forced arbitration in the mortgage market.
- There is **no data showing that banks pass on any savings** associated with forced arbitration to consumers. Instead, empirical [analysis](#) suggests the opposite: **forced arbitration does nothing to lower consumer costs**, it simply means **bigger profit margins for law-breaking banks**.

“Arbitration is a faster, cheaper alternative.”

- Forced arbitration is not an alternative to class action lawsuits; it is a way to prevent the vast majority of consumers from getting any relief. Studies show that **most people simply give up when forced into arbitration**, especially for small-dollar claims.
- Without the option to join class actions, **only 25 consumers** with claims of less than \$1,000 pursue arbitration annually. In contrast, **class actions returned \$2.2 billion** in cash relief to **34 million Americans** from 2008-2012, **after deducting attorneys’ fees** and court costs.
- Forcing 34 million consumers to find their own attorney, establish their individual facts, and take time off work to attend an arbitration will **never be more efficient** than pooling time and resources between millions of consumers harmed by the same bank or lender to challenge widespread harm.

“Arbitration will no longer be an option because banks will stop paying for it.”

- Banks’ offer to pay for arbitration is a **mirage** intended to help uphold these clauses in court and defeat class actions, not an offer that [plays out in practice](#). **Very few cases** actually go to arbitration, and many clauses require the **consumer to pay** arbitrator fees.
- Further, the rule **only** prohibits arbitration from being used to **block class actions**, which are not currently pursued in arbitration. The rule **permits individual arbitration** to continue. Banks have **no reason to change** their practices in individual cases, and if arbitration is truly cheaper for the bank, it should still be willing to pay the arbitrators’ fees.

The bottom line?

Without the CFPB arbitration rule, **bad actors like Wells Fargo will continue to pocket billions in stolen money** and, in fact, gain a **competitive edge in the marketplace** by harming consumers. This new rule will restore crucial consumer rights and increase accountability and transparency, making our financial system **stronger and safer** for all of us.