



Consumer Financial
Protection Bureau

April 5, 2013

The Honorable Bob Goodlatte
Chairman
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Jeb Hensarling
Chairman
U.S. House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

The Honorable Spencer Bachus
Chairman
Subcommittee on Regulatory Reform,
Commercial and Antitrust Law
House Committee on the Judiciary
2138 Rayburn House Office Building
Washington, DC 20515

The Honorable Shelley Moore Capito
Chairwoman
Subcommittee on Financial Institutions and
Consumer Credit
House Committee on Financial Services
2129 Rayburn House Office Building
Washington, DC 20515

Dear Chairmen Goodlatte, Hensarling, Bachus, and Capito:

Thank you for your March 22 letter inquiring about the CFPB's study of pre-dispute arbitration agreements under Section 1028(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act. As you know, many contracts for consumer financial products and services contain a mandatory pre-dispute arbitration provision requiring that certain disputes be resolved through arbitration rather than through the court system at the direction of either party.

As you noted, in the Dodd-Frank Act, Congress established a requirement that the CFPB study the use of these mandatory pre-dispute arbitration clauses in connection with the offering or providing of consumer financial products or services. The recent decision of the United States Court of Appeals for the District of Columbia Circuit in *Noel Canning v. NLRB* did not involve the CFPB and has no effect on the Bureau's work, including the statutorily-required study of mandatory pre-dispute arbitration agreements. The CFPB continues to carry out the responsibilities entrusted to it by Congress under the Dodd-Frank Act, including the study.

We agree with you about the importance of soliciting and considering public input. That is why, as a preliminary step in undertaking the study, on April 24, 2012 the Bureau released a public Request for Information (RFI) to help identify the appropriate scope of the study as well as appropriate methods and sources of data for conducting the study. The RFI asked a number of questions about whether and how the Bureau might study subjects such as the prevalence of arbitration clauses in different consumer financial products and services

markets, the claims that consumers bring in arbitration against consumer financial services companies, the claims that consumer financial services companies bring in arbitration against consumers, the impact to consumers and companies of resolving disputes in arbitration, and the impact to them from the existence of arbitration clauses even beyond the arbitration of specific disputes. Comments were due by June 23, 2012. In response, the Bureau received a large number of comments from a range of interested individuals, businesses, and groups.

The Bureau is focusing its initial work on the study in two areas: first, the prevalence and content of arbitration clauses across different consumer financial products and services markets; and second, the type of disputes that consumers bring in arbitration and in the court system. A large number of commenters, representing a range of interests, emphasized the importance of these two areas. The CFPB has hired Professor Christopher Drahozal of the University of Kansas Law School, under the Intergovernmental Personnel Act, to work on this study. He has published an analysis of pre-dispute arbitration clauses in the consumer credit card market, and the Bureau is working with him to develop that work further, including into other product areas. As the study moves into other areas, we will continue to be mindful of, and informed by, the comments received in response to the RFI.

The Bureau has received two FOIA requests relating to the study. One was never fully perfected and administratively closed. The other, by the same requester, is currently pending.

Please be assured that the Bureau's RFI was the beginning of our process in undertaking the study required by Congress, not the end. Although we do not anticipate the study expanding beyond the scope of any issue identified in the RFI, the Bureau would consider an opportunity for further comment before any such expansion. If you or others have additional input you would like us to consider on this subject, I hope that you will share it with us. Should you or your staff wish to discuss this or any other aspect of the Bureau's work, please contact our Office of Legislative Affairs at 202-435-7960.

Sincerely,



David Silberman
Associate Director for Research, Markets, and Regulations