

Americans for Financial Reform * Consumer Federation of America * AARP
SEIU * A New Way Forward * National Community Reinvestment Coalition * UFCW
National Fair Housing Alliance * American Association for Justice * Consumers Union
U.S. PIRG * National Association of Consumer Advocates * National Consumers League
National Consumer Law Center (on behalf of its low-income clients) * Public Citizen
Workplace Fairness * National Employment Lawyers Association * NEDAP
National Senior Citizens Law Center * New Jersey Citizen Action * Citizen Works
Consumers for Auto Reliability and Safety * Take Back Your Rights PAC
Home Owners for Better Building * Homeowners Against Deficient Dwellings

The Honorable Barney Frank
Chairman
House Financial Services Committee
2129 Rayburn House Office Building
Washington, D.C. 20515

The Honorable Spencer Bachus
Ranking Member
House Financial Service Committee
B371A Rayburn House Office Building
Washington, D.C. 20515

November 3, 2009

Dear Chairman Frank and Ranking Member Bachus,

We write to express our support for Section 201 of H.R. 3817, which directs the Securities and Exchange Commission (SEC) to study the use of forced arbitration clauses in broker-dealer and investment advisory accounts with retail customers and grants the SEC authority to prohibit forced arbitration clauses in these contracts. We strongly oppose the Price and Lee amendments to H.R. 3817, amendments 6 and 12, respectively, because they would undermine the SEC's authority or gut it entirely, thereby harming investors.

Securities arbitration clauses are presented on a non-negotiable, take-it-or-leave-it basis. Brokerage firms have an unfair advantage in arbitration because they are more experienced with the arbitration forum and the forum's rules are set up to favor brokers. The combination of these factors leads to reduced investor win rates and diminished awards. Private arbitration also harms the public because it impedes the development of federal securities laws and hampers public disclosure of important information.

It is particularly important that the SEC's arbitration authority apply to existing contracts because investor confidence would be undermined by a grant of prospective authority only. Most current securities claims have arisen out of the mortgage and financial market crisis, in which a huge number of average investors were sold investments that they thought were low-risk but were in fact quite risky. Securities arbitration filings are reaching record levels: There have been 4,991 FINRA arbitration filings in the first eight months of 2009, and FINRA expects to end the year with almost 7,550 filings, the most since the technology stock collapse in 2004. Providing SEC authority over existing contracts will instill confidence in investor-victims by increasing the likelihood of accountability for bad actors who contributed to the current crisis. A congressional failure to support accountability will undermine investor confidence and could prompt untold numbers of harmed investors to leave the marketplace.

In addition, providing transparency for all investor claims, not just prospective claims, will shine sunlight on the events and practices that spawned the mortgage crisis, which will better inform regulators and improve future regulation.

For these reasons, we urge the Committee to support Section 201 of H.R. 3817, and to oppose the Price and Lee amendments.

Sincerely,

Americans for Financial Reform
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A New Way Forward
American Association for Justice
Citizen Works
Consumer Federation of America
Consumers Union
Consumers for Auto Reliability and Safety
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Take Back Your Rights PAC
U.S. PIRG
United Food and Commercial Workers International Union (UFCW)
Workplace Fairness

Cc: Members of the House Financial Service Committee