

April 22, 2010

TO THE MEMBERS OF THE UNITED STATES SENATE:

The undersigned members of the Coalition to Preserve Arbitration strongly oppose the anti-arbitration provisions in S. 3217, the “Restoring American Financial Stability Act of 2010.” These unnecessary and unwarranted provisions will harm consumers and investors, while doing nothing to protect the strength and stability of the financial system. Therefore, we urge you to oppose these anti-arbitration provisions.

S. 3217 would authorize both the Securities and Exchange Commission (SEC) and newly created Consumer Financial Protection Bureau to regulate and even prohibit the use of arbitration in the securities and consumer financial products industries. *See* Secs. 921, 1028. In so doing, the bill threatens a time-honored dispute resolution system that allows investors and consumers to bring many financial claims that would otherwise be too costly to pursue in court.

For years, arbitration has been enormously successful at providing investors with a fair, low-cost, and efficient forum for resolving securities disputes. Approximately 70 percent of consumer cases arbitrated last year through the Financial Industry Regulatory Authority (FINRA) resulted in a recovery for the investor. Studies show that investors fare at least as well in arbitration as in court (if not better), and receive their recoveries in far less time. In fact, many recent FINRA arbitrations have resulted in awards and settlements in the millions of dollars.

These same advantages also make arbitration a valuable resource for consumers of financial products. Leading arbitration providers like the non-profit American Arbitration Association (AAA) have pioneered the adoption of rules and protocols to protect consumer rights and ease the resolution of small-dollar claims. Those advances have led to high consumer win rates in arbitration at a fraction of the cost or time that would have been required to pursue the same claims in court. In fact, without arbitration, many consumers with small to modest-sized claims would have difficulty finding a lawyer and would be left with no recourse at all.

Despite arbitration’s proven benefits, opponents continue to fall back on long-discredited claims that arbitration is unfair or even biased against consumers. What they fail to mention is empirical studies show the opposite; and furthermore existing law protects consumers against potential abuses. For example, the Federal Arbitration Act (9 U.S.C. § 2) authorizes courts to police arbitration agreements to ensure that they are fair to consumers and courts do not hesitate to strike down unfair provisions.

Arbitration serves an essential role for investors and consumers of financial products. By including these anti-arbitration provisions in S. 3217, the bill will harm the interests of the consumers and small investors that it is meant to protect. Accordingly, we ask you to oppose their inclusion.

Sincerely,

American Bankers Association

American Financial Services Association
American Health Care Association
American Tort Reform Association
Assisted Living Federation of America
Auto Alliance
Consumer Bankers Association
International Franchise Association
International Institute for Conflict Prevention & Resolution
National Association of Home Builders
National Association of Manufacturers
Property Casualty Insurers Association of America
Securities Industry and Financial Markets Association
The Financial Services Roundtable
U.S. Chamber Institute for Legal Reform
U.S. Chamber of Commerce