

[DISCUSSION DRAFT]

116TH CONGRESS
1ST SESSION

H. R. _____

To amend the Securities Exchange Act of 1934 to prohibit mandatory pre-dispute arbitration agreements, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. Foster introduced the following bill; which was referred to the Committee
on _____

A BILL

To amend the Securities Exchange Act of 1934 to prohibit mandatory pre-dispute arbitration agreements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Investor Choice Act
5 of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress makes the following findings:

1 (1) Investor confidence in fair and equitable re-
2 course is essential to the health and stability of the
3 securities markets and to the participation of retail
4 investors in such markets.

5 (2) Brokers, dealers, and investment advisers
6 hold powerful advantages over investors, and manda-
7 tory arbitration clauses, including contracts that
8 force investors to submit claims to arbitration or to
9 waive their right to participate in a class action, le-
10 verage these advantages to severely restrict the abil-
11 ity of defrauded investors to seek redress.

12 (3) Investors should be free to choose arbitra-
13 tion to resolve disputes if they judge that arbitration
14 truly offers them the best opportunity to efficiently
15 and fairly settle disputes, and investors should also
16 be free to pursue remedies in court should they view
17 that option as superior to arbitration.

18 **SEC. 3. ARBITRATION AGREEMENTS IN THE SECURITIES**

19 **EXCHANGE ACT OF 1934.**

20 (a) IN GENERAL.—The Securities Exchange Act of
21 1934 is amended—

22 (1) by amending section 15(o) (15 U.S.C.
23 78o(o)) to read as follows:

24 “(o) LIMITATIONS ON PRE-DISPUTE AGREEMENTS.—

25 Notwithstanding any other provision of law, it shall be un-

1 lawful for any broker, dealer, funding portal, or municipal
2 securities dealer to enter into, modify, or extend an agree-
3 ment with customers or clients of such entity with respect
4 to a future dispute between the parties that—

5 “(1) mandates arbitration for such dispute;

6 “(2) restricts, limits, or conditions the ability of
7 a customer or client of such entity to select or des-
8 ignate a forum for resolution of such dispute; or

9 “(3) restricts, limits, or conditions the ability of
10 a customer or client to pursue a claim relating to
11 such dispute in an individual or representative ca-
12 pacity or on a class action or consolidated basis.”;
13 and

14 (2) in section 6(b) (15 U.S.C. 78f(b)), by add-
15 ing at the end the following:

16 “(11) The rules of the exchange prohibit the
17 listing of any security if the issuer of such security,
18 in its bylaws, registration statement, or other gov-
19 erning documents mandates arbitration for any dis-
20 putes between the issuer and the shareholders of the
21 issuer.”.

22 (b) APPLICATION TO EXISTING AGREEMENTS.—With
23 respect to an agreement described in section 15(o) of the
24 Securities Exchange Act of 1934 that was entered before
25 the date of the enactment of this Act, any provision pro-

1 hibited by section 15(o) of the Securities Exchange Act
2 of 1934 is void.

3 **SEC. 4. ARBITRATION AGREEMENTS IN THE SECURITIES**
4 **ACT OF 1933.**

5 Section 6 of the Securities Act of 1933 (15 U.S.C.
6 77f) is amended by adding at the end the following:

7 “(f) LIMITATION ON ARBITRATION REQUIRE-
8 MENTS.—A security may not be registered with the Com-
9 mission if the issuer, in its bylaws, registration statement,
10 or other governing documents mandates arbitration for
11 any disputes between the issuer and the shareholders of
12 the issuer.”.

13 **SEC. 5. ARBITRATION AGREEMENTS IN THE INVESTMENT**
14 **ADVISERS ACT OF 1940.**

15 (a) Section 205(f) of the Investment Advisers Act of
16 1940 (15 U.S.C. 80b–5(f)) is amended to read as follows:

17 “(f) Notwithstanding any other provision of law, it
18 shall be unlawful for any investment adviser to enter into,
19 modify, or extend an agreement with customers or clients
20 of such entity with respect to a future dispute between
21 the parties to such agreement that—

22 “(1) mandates arbitration for such dispute;

23 “(2) restricts, limits, or conditions the ability of
24 a customer or client of such entity to select or des-
25 ignate a forum for resolution of such dispute; or

1 “(3) restricts, limits, or conditions the ability of
2 a customer or client to pursue a claim relating to
3 such dispute in an individual or representative ca-
4 pacity or on a class action or consolidated basis.”.

5 (b) APPLICATION TO EXISTING AGREEMENTS.—With
6 respect to an agreement described in section 205(f) of the
7 Investment Advisers Act of 1940 that was entered before
8 the date of the enactment of this Act, any provision pro-
9 hibited by section 205(f) of the Investment Advisers Act
10 of 1940 is void.

11 **SEC. 6. APPLICATION.**

12 The amendments made by this Act shall apply with
13 respect to any agreement entered into, modified, or ex-
14 tended after the date of the enactment of this Act.