[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) Investor confidence in fair and equitable recourse is essential to the health and stability of the securities markets and to the participation of retail investors in such markets.

(2) Brokers, dealers, and investment advisers hold powerful advantages over investors, and mandatory arbitration clauses, including contracts that force investors to submit claims to arbitration or to waive their right to participate in a class action, leverage these advantages to severely restrict the ability of defrauded investors to seek redress.

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

SEC. 3. ARBITRATION AGREEMENTS IN THE SECURITIES EXCHANGE ACT OF 1934.

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

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

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

Notwithstanding any other provision of law, it shall be un-
lawful for any broker, dealer, funding portal, or municipal securities dealer to enter into, modify, or extend an agreement with customers or clients of such entity with respect to a future dispute between the parties that—

“(1) mandates arbitration for such dispute;

“(2) restricts, limits, or conditions the ability of a customer or client of such entity to select or designate a forum for resolution of such dispute; or

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

and

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

“(11) The rules of the exchange prohibit the listing of any security if the issuer of such security, in its bylaws, registration statement, or other governing documents mandates arbitration for any disputes between the issuer and the shareholders of the issuer.”.

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

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

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

“(f) LIMITATION ON ARBITRATION REQUIREMENTS.—A security may not be registered with the Commission if the issuer, in its bylaws, registration statement, or other governing documents mandates arbitration for any disputes between the issuer and the shareholders of the issuer.”.

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

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

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

“(1) mandates arbitration for such dispute;

“(2) restricts, limits, or conditions the ability of a customer or client of such entity to select or designate a forum for resolution of such dispute; or
“(3) restricts, limits, or conditions the ability of a customer or client to pursue a claim relating to such dispute in an individual or representative capacity or on a class action or consolidated basis.”.

(b) Application to Existing Agreements.—With respect to an agreement described in section 205(f) of the Investment Advisers Act of 1940 that was entered before the date of the enactment of this Act, any provision prohibited by section 205(f) of the Investment Advisers Act of 1940 is void.

SEC. 6. Application.

The amendments made by this Act shall apply with respect to any agreement entered into, modified, or extended after the date of the enactment of this Act.