

116TH CONGRESS
1ST SESSION

H. R. 5336

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

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 6, 2019

Mr. FOSTER (for himself, Mrs. CAROLYN B. MALONEY of New York, Mr. MEEKS, Mr. CASTEN of Illinois, Mr. LYNCH, Ms. SCHAKOWSKY, Mr. MCGOVERN, Mr. CLAY, Ms. DEAN, and Mr. HECK) introduced the following bill; which was referred to the Committee on Financial Services

A BILL

To amend the Securities Exchange Act of 1934 to prohibit
mandatory predispute 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:

8 (1) Investor confidence in fair and equitable re-
9 course is essential to the health and stability of the

1 securities markets and to the participation of retail
2 investors in such markets.

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

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

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

18 (a) IN GENERAL.—The Securities Exchange Act of
19 1934 is amended—

20 (1) by amending section 15(o) (15 U.S.C.
21 78o(o)) to read as follows:

22 “(o) LIMITATIONS ON PRE-DISPUTE AGREE-
23 MENTS.—Notwithstanding any other provision of law, it
24 shall be unlawful for any broker, dealer, funding portal,
25 or municipal securities dealer to enter into, modify, or ex-

1 tend an agreement with customers or clients of such entity
 2 with respect to a future dispute between the parties that—

3 “(1) mandates arbitration for such dispute;

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

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

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

14 “(11) MANDATORY ARBITRATION.—The rules of
 15 the exchange prohibit the listing of any security if
 16 such issuer, in its bylaws, other governing docu-
 17 ments, or any contract with a shareholder related to
 18 the parties as issuer and shareholder mandates arbi-
 19 tration for any disputes between the issuer and the
 20 shareholders of the issuer.”.

21 (b) APPLICATION TO EXISTING AGREEMENTS.—

22 (1) IN GENERAL.—With respect to an agree-
 23 ment described in section 15(o) of the Securities Ex-
 24 change Act of 1934 that was entered before the date
 25 of the enactment of this Act, any provision prohib-

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

3 (2) ONGOING ARBITRATION.—A provision pro-
4 hibited by section 15(o) of the Securities Exchange
5 Act of 1934 shall not be void under paragraph (1)
6 if arbitration required by such provision was initi-
7 ated by any party on or before the date of the enact-
8 ment of this subsection.

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

11 Section 6 of the Securities Act of 1933 (15 U.S.C.
12 77f) is amended by adding at the end the following:

13 “(f) LIMITATION ON ARBITRATION REQUIRE-
14 MENTS.—A security may not be registered with the Com-
15 mission if the issuer of such security, in its bylaws, or
16 other governing documents, or any contract with a share-
17 holder related to the parties as issuer and shareholder
18 mandates arbitration for any disputes between the issuer
19 and the shareholders of the issuer.”.

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

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

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

6 “(1) mandates arbitration for such dispute;

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

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

14 (b) APPLICATION TO EXISTING AGREEMENTS.—

15 (1) IN GENERAL.—With respect to an agree-
16 ment described in section 205(f) of the Investment
17 Advisers Act of 1940 that was entered before the
18 date of the enactment of this Act, any provision pro-
19 hibited by section 205(f) of the Investment Advisers
20 Act of 1940 is void.

21 (2) ONGOING ARBITRATION.—A provision pro-
22 hibited by section 205(f) of the Investment Advisers
23 Act of 1940 shall not be void under paragraph (1)
24 if arbitration required by such provision was initi-

1 ated by any party on or before the date of the enact-
2 ment of this subsection.

3 **SEC. 6. APPLICATION.**

4 Except as otherwise stated, the amendments made by
5 this Act shall apply with respect to any agreement entered
6 into, modified, or extended after the date of the enactment
7 of this Act.

○