



FOR IMMEDIATE RELEASE

NCCMP STATEMENT APPLAUDING PRESIDENT BIDEN'S VETO OF ESG INVESTING RULE

WASHINGTON, DC – March 20, 2023 – *Today, the National Coordinating Committee for Multiemployer Plans (NCCMP) issued the following statement from Executive Director Michael Scott:*

“NCCMP applauds President Biden for his veto of H.J. Res. 30. Congress’s attempt to nullify the Department of Labor’s (“DOL”) Final Rule on “Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights” and revert to the prior Administration’s last minute final rules on Financial Factors and Proxy Voting.

“The DOL under Secretary Walsh issued a very thoughtful 2022 Final Rule that addressed the concerns in the 2021 Proposed Rule raised by pension funds, asset managers and other investors that seemed to put a thumb on the scale in favor of ESG factors. In the 2022 Final Rule, DOL took a neutral stance that left the full myriad of factors that fiduciaries consider in their risk and return analysis up to them. Further, DOL retained its long-held view (which was also expressed in 2020 Financial Factors Final Rule) that explicitly stated that a fiduciary “may not sacrifice investment return or take on additional investment risk to promote benefits or goals unrelated to interests of the participants and beneficiaries”.

“The 2022 Final Rule also re-adopted its position expressed in the DOL’s 1988 Avon Letter, recognizing that the voting of proxies is a valuable plan asset that fiduciaries need to manage. This should not be controversial as it is also the considered views of asset managers, the U.S. Securities and Exchange Commission, the New York Stock Exchange, as well as the CFA Institute. It is perhaps more surprising that anyone would suggest (as the December 2020 Final Rule did) that blindly voting with management was an appropriate way to manage a valuable plan asset.

“While there are many different reasons to be concerned about corporate governance that can be addressed through voting proxies, two examples provide clarity. First, between 2000 and mid-2020, management and boards paid out more than \$546 billion to settle civil and criminal penalties. As a result of the reckless or careless actions that led to these payments, shareholders have forever lost these monies which are financially material under any definition. Second, even the most routine of proxy votes, the approval of the external auditor, has proven to be of great consequence. The Public Company Accounting Oversight Board has reported that between 2016 and 2018 the top six U.S. auditors have an audit failure rate of almost 27%. Proxy voting is a financially important

plan asset that fiduciaries need to consider in managing the retirement assets with which they are entrusted.

“Vetoing this ill-considered resolution was an important action to support ERISA, the fiduciaries that invest pension assets, the participants and beneficiaries of ERISA plans, and U.S. financial markets.”

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About NCCMP: The National Coordinating Committee for Multiemployer Plans is a non-partisan, nonprofit, tax-exempt social welfare organization created in 1974 with members, plans, unions and contributing employers in every major segment of the multiemployer universe. The NCCMP is the only national organization devoted exclusively to representing the interests of multiemployer plans, organized labor and the job-creating employers of America who jointly sponsor them, and the more than 20 million active and retired American workers and their families who rely on multiemployer retirement and welfare plans. The NCCMP’s purpose is to assure an environment in which multiemployer plans can continue their vital role in providing retirement, health, training, and other benefits to America’s working men and women. www.nccmp.org

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