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February 27, 2023

The Honorable Mike Braun
U.S. Senate
404 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Braun:

On behalf of NFIB, the nation's leading small business advocacy organization, I write in support of S.J.Res. 8, the Congressional Review Act (CRA) resolution of disapproval for the Department of Labor (DOL) final rule relating to environmental, social, and governance (ESG) factors for investment decisions. The resolution would repeal the DOL's final rule that politicized investment decisions for small businesses' retirement plans.

According to the DOL, fiduciaries are required to "act solely in the interest of the plan's participants and beneficiaries."¹ However, the Biden Administration has implemented policies – like the DOL ESG final rule – that are intended to steer investment decisions and capital to politically-favored, social goals. The effect of these policies is to shift priorities for investment advisors away from what is in the interest of investors. ESG policies also allow government and large investment firms to pick winners and losers of capital and investments, which can reduce the supplies of certain goods available in an economy and increase prices. These price increases occur at a time when small businesses are still recovering from high inflation, supply chain disruptions, and pervasive workforce shortages.

Additionally, as DOL has noted, fiduciaries are already able to "make investment decisions that reflect climate change and other environmental, social, or governance ('ESG') considerations, including climate-related financial risk."² Therefore, it is not clear why this final rule is necessary.

In 2021, President Biden stated "[s]mall businesses are the engines of our economic progress; they're the glue and the heart and soul of our communities. But they're getting crushed."³ President Biden was right, small businesses are the engines of economic progress and they are getting crushed. However, the Administration's aggressive regulatory agenda is crushing small businesses and unfortunately, there does not appear to be any sign of a regulatory slowdown.

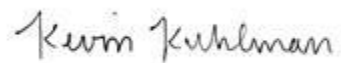
¹ 86 Fed. Reg. 57272, col. 2. <https://www.govinfo.gov/content/pkg/FR-2021-10-14/pdf/2021-22263.pdf>.

² *Id.*

³ *Remarks by President Biden on Helping Small Businesses*, Feb. 21, 2021, <https://www.whitehouse.gov/briefing-room/speeches-remarks/2021/02/22/remarks-by-president-biden-on-helping-small-businesses/>.

ESG policies politicize and distort investment decisions and the allocation of capital necessary for small business growth. NFIB supports the ESG resolution of disapproval and appreciates your leadership to reduce the regulatory burdens faced by small businesses.

Sincerely,

A handwritten signature in black ink that reads "Kevin Kuhlman". The signature is written in a cursive, slightly slanted style.

Kevin Kuhlman
Vice President, Federal Government Relations
NFIB