AMERICAN RETIREMENT ASSOCIATION

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Working for America's Retirement

May 22, 2023

The Honorable Frank Lucas
United States House of Representatives
2405 Rayburn House Office Building
Washington, DC 20515

The Honorable Josh Gottheimer
United States House of Representatives
203 Cannon House Office Building
Washington, DC 20515

The Honorable Andy Barr
United States House of Representatives
2430 Rayburn House Office Building
Washington, DC 20515

The Honorable Bill Foster
United States House of Representatives
2366 Rayburn House Office Building
Washington, DC 20515

Re: Letter of Support for the *Retirement Fairness for Charities and Educational Institutions Act of 2023*

Dear Representatives Lucas, Gottheimer, Barr and Lucas:

On behalf of the over 35,000 members of the American Retirement Association (ARA), we hereby express our support for the *Retirement Fairness for Charities and Educational Institutions Act of 2023*. We commend you all for championing this important piece of bipartisan legislation.

The ARA is the coordinating entity for its five underlying affiliate organizations representing the full spectrum of America's private retirement system – the American Society of Enrolled Actuaries (ASEA), the American Society of Pension Professionals and Actuaries (ASPPA), the National Association of Plan Advisors (NAPA), the National Tax-Deferred Savings Association (NTSA), and the Plan Sponsor Council of America (PSCA). The ARA and its underlying affiliate organizations are diverse in the roles they play, but united in their dedication to the success of America's private retirement system.

The ARA's mission is to help American workers bolster their retirement security by facilitating well-designed workplace retirement savings plans. We do that by both educating and informing retirement benefits professionals, and by advocating for policies that give every working American the opportunity to achieve a comfortable retirement.

The ARA's members and the organizations they are affiliated with support 95 percent of all the defined contribution plans - such as 401(k) and 403(b) plans - in the United States. In fact, one of our sister organizations, the NTSA, focuses on providing high-quality professional education, technical support, and networking forums for professionals in the 403(b) plan marketplace.

Under current Securities laws, 403(b) plan sponsors – unlike 401(k) plan sponsors – cannot use collective investment trusts (CITs) as an investment option in their plan. A 403(b) plan is a type of retirement plan available to employees of certain non-profit organizations like public schools, universities, churches, and charities. The *Retirement Fairness for Charities and Educational*

Institutions Act of 2023 provides a sensible update to our Securities laws to allow for collective investment trusts (CITs) to be included as an investment vehicle in a 403(b) plan.

A collective investment trust (CIT) is a tax-exempt investment vehicle that pools assets from multiple investors and is maintained by a bank or trust company. CITs are similar to mutual funds or exchange-traded funds (ETFs) in that they allow investors to diversify their holdings across a range of securities, such as stocks and bonds. Unlike mutual funds or ETFs – which must register with the Securities and Exchange Commission (SEC) – CITs are regulated under the Office of the Comptroller of the Currency (OCC), a federal banking agency in the U.S. Treasury Department.

Since CITs are exempt from SEC registration requirements, they typically have lower fees compared to mutual funds. On average CIT fees can be 25 to 40 basis points less than mutual fund fees, which can help maximize returns for retirement plan participants. CITs also typically have lower administration, marketing and distribution costs as compared with mutual funds. These features often result in cost savings for the CIT which are then passed on to participants.

The Employee Retirement Income Security Act (ERISA) requires fiduciaries – those who manage and control the assets of a retirement plan covered under the law – to be held to the highest standard of conduct known to law. Therefore, fiduciaries that choose CITs to be included in the investment lineup of a retirement plan follow a detailed process to ensure and clearly document that they act in the best interests of retirement plan participants.

There is no rational basis why CITs are not allowed in 403(b) plans covered under ERISA where the employer agrees to serve as a fiduciary for the plan with respect to the selection of the plan's investments. ARA supports H.R. 3063 to address this 403(b) plan investment inequity and urges Congress to enact this badly needed update into law.

Sincerely,

Brian H. Graff, Esq. APM
Executive Director/CEO
American Retirement Association