

For Immediate Release

Contact: Kelly Hall, kelly@niaimpactcapital.com, Nia Impact Capital

Apple commits to "not enforce" concealment clauses related to harassment and discrimination in employment contracts; action taken after investor request

(December 9, 2022, FOR IMMEDIATE RELEASE) — Today, the Nominating and Corporate Governance Committee of Apple's Board of Directors quietly placed a report on its Investor Relations Governance [website](#) that stated that where provisions from employment agreements restrict an employee or independent contractor's ability to discuss harassment, discrimination, or conduct they believe to be unlawful, Apple committed to "to not enforce those restrictions and to make improvements and clarifications going forward."

This report was undertaken in response to a shareholder resolution filed by Nia Impact Capital. and developed with input from Whistle Stop Capital, Open MIC, Ifeoma Ozoma of Earthseed, and Andrew Forrest's Minderoo Foundation. The resolution won majority support from Apple investors at the company's March, 2022, investor meeting.

"This shift is groundbreaking for the rest of the tech industry, setting the tone for what's to come in employment contracts as well as investors' expectations of transparency." said [Nia Impact Capital's](#) founder, Dr. Kristin Hull. "Apple's public release of employees and independent contractors from previously signed NDAs provides investors with reassurance that Apple is not using concealment clauses to mask poor workplace practices."

Apple's own use of concealment clauses is the subject of an SEC Whistleblower Complaint. Separately, in February 2022 Democratic State leaders called on the SEC to investigate whether Apple misled the agency and its investors by claiming its policy is not to use concealment clauses.

Concealment clauses can hide true workplace conditions and may enable discrimination, reduce workforce effectiveness, and create brand, legal and human capital risks. In addition to Apple, Alphabet, Microsoft, and Salesforce, among others, have also moved away from the use of concealment clauses.

"For external audiences, like investors, we often do not know if a company is using NDAs, as employees may be prevented from even telling others that the contract exists," stated Meredith Benton, Principal at [Whistle Stop Capital](#), a consultancy that supported Nia in its

filing of the shareholder resolution, "Companies that use concealment clauses undermine the statements they make about their commitments to diversity, equity and inclusion Companies that provide transparent and unobstructed views of their workplaces enable outsiders to trust their workplace equity commitments."

Companies that use concealment clauses do so within a patchwork of state and federal laws. "The Speak Out Act" which limits non-disclosure agreements when sexual harassment is claimed was recently signed by President Biden. The "Silenced No More Act" which was championed by Ifeoma Ozoma in California and Washington also prohibits agreements that prevent employees from discussing or disclosing information about unlawful acts in the workplace, such as harassment or discrimination.

"The Minderoo Foundation is pleased that our work is giving voice to those who were previously silenced. Concealing harassment and discrimination complaints prevents accountability and allows troubling behavior to persist," said Sarah Wynn-Williams, of Minderoo Foundation. "If employees are restricted from speaking about their experiences, shareholders have no way of assessing or countering the risks of potentially systemic workplace abuses."

In April, 2022, a broader group of investors, including five public pension funds, wrote to the Apple board asking to discuss the Board's plan to conduct the report requested by the resolution. No Board member had agreed to this conversation by September, 2022, when Nia Impact Capital, along with co-filer Minderoo Foundation, submitted a shareholder resolution intended for the 2023 proxy ballot asking to have a Board member made available to discuss concerns with the filers of resolutions which receive a majority of support from outside shareholders.

Kristin Hull, PhD kristin@niaimpactcapital.com, [Nia Impact Capital](#) - Dr. Kristin Hull is the CEO, CIO and founder of Nia Impact Capital. Nia applies both a gender-lens and a commitment to racial equity across the investment decision-making process and live their values as a women-led team of activist investors. The Nia Global Solutions Equity Portfolio invests in publicly traded companies providing market solutions for a more inclusive and sustainable world.

Meredith Benton, benton@whistlestop.capital, [Whistle Stop Capital](#) - Meredith Benton is principal and founder of Whistle Stop Capital, a consultancy that works with asset owners

and advisors to assess and address material social and environmental exposures within their investment portfolios. They work within their clients' current holdings, providing services to foundations, individuals, investment advisors, endowments, and newly forming investment funds.