

## Eshoo Introduces the Broad-Based Stock Option Plan Transparency Act

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WASHINGTON, D.C. -- Rep. Anna G. Eshoo, D-Palo Alto, made the following remarks on the introduction of H.R. 813, the Broad-Based Stock Option Plan Transparency Act.

"I'm very pleased to be the lead Democratic sponsor of the Broad-Based Stock Option Plan Transparency Act of 2005, and I look forward to working with my congressional partner Rep. David Dreier to move this proposal forward.

"As many of my Colleagues are aware, I've long been concerned about the impact of proposed accounting rules on broad-based stock options plans and the employees that benefit from this important employee ownership tool. For a number of years the Financial Accounting Standards Board (FASB) has threatened to require stock options to be deducted from a company's earnings. In fact the first bill I introduced as a Member of Congress in 1993 addressed this important issue.

"Last Congress, I was the lead Democratic sponsor of similar legislation sponsored by Rep. Richard Baker, and cosponsored by Democratic Leader Nancy Pelosi, Majority Whip Roy Blunt, and over 130 bipartisan cosponsors. The legislation passed the House by an overwhelming margin of 312-111, but the bill wasn't taken up in the Senate, and in December, FASB finalized its mandatory stock options expensing standard. Without this legislation, FASB's rule will take effect in June and companies will be forced to deduct the estimated cost of all employee stock options from their reported earnings.

"FASB's mandatory expensing rule would have a terrible impact on companies that rely on options to recruit and retain the most talented employees. Without stock options many of these companies, including some of the most successful high-tech and biotech firms, would not even exist today. As American companies struggle to stay ahead of our global competitors, it makes no sense to handicap them with these onerous new requirements.

Stock options have become associated with corporate scandals and excessive executive compensation, leading to a call for expensing as the ultimate prescription for these problems. But stock options were not the cause of the corporate accounting scandals, and eliminating stock options would do nothing to instill corporate responsibility or accountability. Stock options are already fully disclosed in corporate earnings statements, and the crimes committed at Enron, Tyco, and other companies would not have been prevented if expensing had been the accounting rule of the day.

"If, however, companies are forced to expense stock options, most will drop or severely limit employee option plans because of the prospect of taking a huge and misleading charge against their bottom line in accounting statements. And if mandatory expensing is implemented, most stock options plans will likely be taken away from rank-and-file employees and reserved exclusively for top executives. This is already occurring in anticipation of the new FASB rule

"It's ironic that many are calling for the expensing of stock options in order to reign in executive compensation, when expensing stock options would do little to accomplish this. Stock option plans or other forms of lucrative compensation for senior executives will undoubtedly continue to be offered. Rather rank-and-file employees would be the ones to lose, because they don't get to negotiate with a Board of Directors for their compensation package. Consider this: Only a small portion of employee-held options -- about 15% -- are held by corporate management. 14.6 million American workers (13 percent of private-sector workers nationwide) held stock options in 2002.

"Some have also argued that FASB's independence must be protected and accounting standards, like other technical rules, should not be set by Congress. While in general this is the case, there are many occasions when expert bodies fail to fully protect the public interest and it's essential that Congress steps in.

"For example, the Securities and Exchange Commission, an independent, expert agency, failed to adequately protect investors and the public from the corporate scandals of recent years: Congress stepped in to enact the reforms of the Sarbanes-Oxley Act.

"In this case, FASB has concluded this important rulemaking process without the transparency, deliberation, or justification that Congress and the American public should demand. At the outset of its consideration of the expensing rule, the Board Chairman and other Members announced their positions before a single comment from the public was solicited, proceeded to discourage comments on key questions, and disregarded the overwhelming majority of comments it received. The Board refused to conduct "road tests" of actual valuation models or of the real costs associated with implementing any new standard. They've also refused to respond to recommended alternatives and compromises.

"It's not reasonable to dismiss Congress's responsibility in these matters and ignore the serious shortcomings of FASB's rulemaking on a matter with such important and far-reaching consequences for our economy and our global competitiveness.

"The Broad-Based Stock Option Plan Transparency Act would simply ensure that the rules are not implemented before the potential impact of mandatory expensing is given full consideration. The bill includes a three-year moratorium to allow the SEC to study the impact expensing options may have on our economy and on small, entrepreneurial businesses.

"Given the radical change the new rules would establish and the potentially devastating impact on employee ownership programs, Congress has the responsibility to make sure that rules governing stock options are appropriate and implemented responsibly.

"Our bill would also enact new disclosure rules for companies who offer stock options. The legislation requires those who offer stock options to disclose additional information to every shareholder and potential investor, including plain-English descriptions of share value dilution, expanded and more prominent disclosure of stock option-related information, and a summary of stock options granted to the five most highly compensated officers.

"I urge my Colleagues to support this legislation and protect broad-based employee ownership programs."

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