



HEARING SUMMARY

DATE: July 8, 2004

HEARING: FASB's stock option expensing proposal

COMMITTEE: The House Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection

The House Energy and Commerce Subcommittee on Commerce, Trade, and Consumer Protection held a hearing yesterday on FASB's stock option expensing proposal. The witnesses and several of the Members also commented on H.R. 3574, the Stock Option Accounting Reform Act, approved earlier this year by the House Financial Services Committee. The Subcommittee received testimony from David Walker (Comptroller General, U.S. General Accounting Office), Robert Herz (Chairman, FASB), Rick White (President and CEO, Technet), and Steven Mayer (Senior Vice President and CFO, Human Genome Sciences). Mr. White and Mr. Mayer oppose FASB's exposure draft and support H.R. 3574. Mr. Walker and Mr. Herz do not support H.R. 3574, and believe Congress should allow FASB's process to proceed.

Citing the Energy and Commerce Committee's longstanding oversight responsibility for FASB and accounting standards, Subcommittee Chairman Cliff Stearns (R-FL) said that the hearing is a continuation of the bipartisan work by the Committee to improve accounting standards. The Chairman raised two concerns with H.R. 3574, and asked > the witnesses to comment. First, he questioned the appropriateness of the provision in the bill that requires a zero volatility assumption for options granted to the top five executives. He also expressed concern that the bill effectively forbids those companies that currently voluntarily expense options from continuing to do so. Other Subcommittee members raised these same issues during their opening statements or during the question period. Mr. White and Mr. Mayer defended the zero volatility provision, while Mr. Herz and Mr. Walker argued that the provision would allow companies to manipulate the value of stock options. The witnesses did not believe that the bill's supporters intended to prevent companies from voluntarily expensing stock options, and

Mr. White and Mr. Mayer argued that it does not do that. The Chairman said that he hoped members would support amendments to address these two issues if the bill moves to the floor.

Full Committee Chairman Joe Barton (R-TX) used his opening statement to reiterate that the Energy and Commerce Committee has jurisdiction over accounting standards. He also said that discussions with the House Parliamentarian indicated that H.R. 3574 would be referred to Energy and Commerce when reported from the Financial Services Committee. He further explained that he did not want to delay consideration of the bill by the House, and therefore had planned to have a hearing and report the bill on July 8 so that it could be debated on the floor on July 9. However, the Financial Services Committee decided not to file a report on the bill, and through no fault of the Energy and Commerce Committee or its Chairman (as Chairman Barton made perfectly clear), the bill was pulled from the House floor schedule.

During the question period, Chairman Barton asked the panelists to list real world examples of companies "cooking their books" to hide their stock options. No one was able to provide any examples, and at the end of the hearing, Subcommittee Chairman Cliff Stearns said that the Subcommittee Ranking Minority Member Janice Schakowsky (D-IL), Chairman Joe Barton, and Ranking Committee Member John Dingell (D-MI) would ask the SEC to respond to the question.

The hearing was fairly well attended, and some of the members stated their position on H.R. 3574 prior to hearing the testimony. Representative John Shadegg (R-AZ), a cosponsor of the bill and a member of the Financial Services Committee, supports the legislation. Representatives John Dingell, Janice Schakowsky, Bart Stupak (D-M), Sherrod Brown (D-OH), Gene Green (D-TX) argued that Congress should not interfere, and should let FASB do its job. Representatives Charles Bass (R-NH), Jim Davis (D-FL), Darrell Issa (R-CA) said they had no position on H.R. 3574, but seemed to be leaning in support of the bill.