

Time for Accountability at the Corporate Candy Store

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Out-of-control stock option grants at companies across America are at last prompting action among shareholders.

In the last decade, options have grown from 5 percent of shares outstanding at major companies to 15 percent. Companies love them because they need not account for the grants as employee costs and because **companies reap big cash flows and tax deductions** as workers exercise their options.

Martin A. Sullivan, economic correspondent at Tax Notes, recently found that because of stock options, United States companies cut their tax bills by an estimated \$56.4 billion in 2000. Two years earlier, options reduced corporations' taxes by \$27.6 billion.

While companies enjoy the many benefits of options, shareholders are wising up to the fact that these grants dilute their stakes, sometimes significantly. Yet, in a shocking corporate governance loophole, companies can set up broad-based option programs without asking for shareholder approval.

The New York Stock Exchange has agreed to require companies it lists to put such options programs to a shareholder vote, but only if officials at the Nasdaq market do the same for the companies it lists. Nasdaq is reviewing the issue, so the loophole remains.

Thankfully, officials at TIAA-CREF, the big institutional investor, have taken up the fight. After perusing options programs at large companies, TIAA-CREF identified 13 companies with programs it considered significantly dilutive to shareholders, if all authorized shares are granted. It has asked them to put their options programs to shareholder votes in the future.

Peter C. Clapman, chief counsel at TIAA-CREF, said that four companies had agreed to its request and that five more might do so. But four companies declined to put their options plans to a vote by shareholders.

They are Adobe Systems ([news/quote](#)), where the plan could dilute existing owners' stakes by 16.7 percent; Autodesk ([news/quote](#)), by 15.7 percent; Cadence Design, by 25 percent; and Synopsis, by almost 40 percent.

Cadence said it could not attract talented workers without options. Cheryl K. House, corporate securities counsel at Adobe, says its plans are an ordinary part of its business and, as such, may be excluded from its proxy statement.

But Mr. Clapman countered: "The recent movement by some companies to deny shareholders their proper role in approving such plans is a substantial blow to shareholder rights."

A second blow to these rights has come from, of all places, the Securities and Exchange Commission, which backed Adobe in its shareholder brush-off. In a Feb. 1 letter, the S.E.C.'s division of corporation finance told the company that it concurred with Adobe's conclusion that option plans were compensation matters requiring no shareholder approval and said it would not recommend enforcement action if Adobe failed to put its option plan to a shareholder vote.

TIAA-CREF will appeal the decision.

It is perhaps not a shock that some companies are slow to see how times have changed, so that being responsive to shareholders is job No. 1.

What is unfortunate, however, is that the S.E.C. would pass on an essentially anti-shareholder move. If investors have learned anything from watching the Enron (news/quote) saga it is that corporate executives don't always act in the interests of their owners.

The idea that owners should not be able to stop options programs that significantly dilute their stakes is just bull-market bunk. Let's jettison it, once and for all.