

Securities Litigation
Review

TALKING POINT REGARDING SECURITIES LITIGATION LEGISLATION

Background

At the urging of a number of Silicon Valley companies, Congresswoman Anna Eshoo has introduced legislation to preempt private securities fraud class actions brought under state law. Only "nationally marketed" securities would be covered by this preemption measure.

You likely will be asked whether you have decided whether the Administration will support the Eshoo bill. An interagency group has been meeting under the auspices of the NEC and Counsel's Office to develop a recommendation to you. The group is reviewing the evidence and studies on national uniform standards; there is weight on both sides. Among the recent studies is a report from the SEC, which you requested, that concludes that it is premature to consider further federal legislation on securities litigation.

The interagency group is considering not only the option of taking a position for or against the bill, but also intermediate options, short of supporting the bill, that could stake out a position in favor of some preemption to achieve some measure of uniformity among the states in litigation standards. But the bill is not moving at the moment; no hearings have been scheduled in the House yet and no bill has been introduced in the Senate. Thus, there is no urgency in the sense of legislative scheduling to your announcing a position now.

Suggested Talking Point:

- The issue of national uniform standards for securities fraud class actions is an important issue and we are continuing to look at it carefully as I said we would do in my letter responding to Congresswoman Eshoo. We have benefited from your thoughtful input in that process. We are not on a specific timetable to complete the review. We will watch the legislation carefully as the process unfolds.