

107TH CONGRESS  
1ST SESSION

# H. R. 3463

To amend the Internal Revenue Code of 1986 to provide protections for participants in cash or deferred arrangements under section 401(k) with respect to the acquisition and holding of employer securities.

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## IN THE HOUSE OF REPRESENTATIVES

DECEMBER 12, 2001

Mr. DEUTSCH (for himself, Mr. GREEN of Texas, Mr. FROST, Ms. LEE, and Mr. LIPINSKI) introduced the following bill; which was referred to the Committee on Ways and Means

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## A BILL

To amend the Internal Revenue Code of 1986 to provide protections for participants in cash or deferred arrangements under section 401(k) with respect to the acquisition and holding of employer securities.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pension Protection  
5       Act”.

1 **SEC. 2. PROHIBITION ON 401(k) PLANS ON USING EM-**  
2 **PLOYEE CONTRIBUTIONS TO ACQUIRING OR**  
3 **HOLDING MORE THAN 10 PERCENT VALUE IN**  
4 **EMPLOYER SECURITIES.**

5 (a) IN GENERAL.—Section 401(k) of the Internal  
6 Revenue Code of 1986 (relating to cash or deferred ar-  
7 rangements) is amended by adding at the end the fol-  
8 lowing new paragraph:

9 “(13) PROHIBITIONS RELATING TO EMPLOYER  
10 SECURITIES.—

11 “(A) IN GENERAL.—In the case of a cash  
12 or deferred arrangement of an employer, such  
13 arrangement shall not be treated as a qualified  
14 cash or deferred arrangement under this section  
15 unless such arrangement meets the require-  
16 ments of subparagraphs (B), (C), and (D).

17 “(B) ACQUISITION OF EMPLOYER SECURI-  
18 TIES.—A cash or deferred arrangement of an  
19 employer meets the requirements of this sub-  
20 paragraph if—

21 “(i) with respect to any employee,  
22 amounts in the plan of which such cash or  
23 deferred arrangement is a part and which  
24 are attributable to employee contributions  
25 under such arrangement are used to ac-  
26 quire employer securities, and

1           “(ii) immediately after such acquisi-  
2           tion, the aggregate fair market value of  
3           employer securities held on behalf of such  
4           employee by the plan which are attrib-  
5           utable to employee contributions does not  
6           exceed 10 percent of the fair market value  
7           of all assets of the plan attributable to  
8           such employee’s contributions.

9           “(C) HOLDING EMPLOYER SECURITIES.—

10          A cash or deferred arrangement of an employer  
11          meets the requirements of this subparagraph if,  
12          with respect to any employee, as of December  
13          31 of any year, the fair market value of em-  
14          ployer securities held by the plan of which such  
15          arrangement is a part on behalf of such em-  
16          ployee is 10 percent or less of the aggregate  
17          fair market value of the assets of the plan at-  
18          tributable to such employee’s contributions.

19          “(D) DIVESTMENT OF EMPLOYER SECURI-

20          TIES.—A cash or deferred arrangement of an  
21          employer meets the requirements of this sub-  
22          paragraph if the plan of which such arrange-  
23          ment is a part permits participants to direct the  
24          plan to divest the participant’s account of em-

1            employer securities after 3 years after the date on  
2            which such securities are acquired.

3            “(E) EMPLOYER SECURITIES.—For pur-  
4            poses of this paragraph, the term ‘employer se-  
5            curities’ has the meaning given such term by  
6            section 409(l).”.

7            (b) EFFECTIVE DATE; TRANSITION RULE.—

8            (1) EFFECTIVE DATE.—Except as provided in  
9            paragraph (2), the amendment made by this section  
10          shall apply to plans on and after the date of the en-  
11          actment of this Act.

12          (2) TRANSITION RULE FOR PLANS HOLDING  
13          EXCESS SECURITIES.—In the case of a plan which  
14          on the date of the enactment of this Act has hold-  
15          ings of employer securities (as defined in section  
16          401(k)(13) of the Internal Revenue Code of 1986)  
17          in excess of the amount specified in such section  
18          401(k)(13)(B), section 401(k)(13) of the Internal  
19          Revenue Code of 1986 (as added by this section)  
20          shall apply to any acquisition of such securities on  
21          or after such date of enactment, but section  
22          401(k)(13)(C) of such Code shall not apply to the  
23          specific holdings which constitute such excess during  
24          the period of such excess.

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