

March 4, 2025

Tim Walberg  
Chair, U.S. House Committee on Education & Workforce  
2176 Rayburn House Office Building  
Washington, D.C. 20515

Dear Chair Walberg,

HR Policy Association strongly supports a timely and necessary amendment to the Fair Labor Standards Act (FLSA) regarding the treatment of Restricted Stock Units (RSUs) in overtime calculations.

During the 106th Congress, Senator McConnell sponsored S.2323, the Worker Economic Opportunity Act (WEOA), which successfully amended the FLSA to exempt employee stock options, stock appreciation rights, stock purchase programs, and similar employer-provided grants from inclusion in overtime pay calculations. This bipartisan measure was an important step in enabling employees at all levels to share their company's growth.

While WEOA addressed various forms of equity compensation, it did not extend its benefits to restricted share units (RSUs) and similar forms of full value share awards—even though the rationale for promoting broad-based employee ownership applies equally to these awards. RSUs, typically granted as a fixed number of shares or a fixed value, serve as a strategic tool to attract and retain talent, aligning employee interests with the long-term success of their companies. By excluding RSUs from the “regular rate of pay” for overtime calculations, we would reduce the administrative burden on employers, encourage equitable wealth distribution, and ultimately increase federal revenue.

If RSUs were excluded from overtime calculations more companies would offer this benefit to employees. According to the National Association of Stock Plan Professionals (NASPP) 2024 Incentive Plan Design Survey, 28% of companies award time-based full value stock awards (RSUs) to their general workforce / non-exempt population. Restricted stock awards are the most common type of equity vehicle offered to the broad-based workforce and much more common than stock options. High-tech companies are more likely to award RSUs to their full population (59%) versus non-high-tech companies (11%).

Amending the FLSA to exclude RSUs from the “regular rate of pay” for overtime calculations would benefit non-exempt workers and employers alike. Specifically, it would

- Help lower wage workers build wealth by allowing employees the ability to participate in equity markets, contribute to long-term personal savings, and achieve both short-term financial goals (such as building emergency savings) and long-term financial goals (such as a supplement for retirement).
- Enhance engagement, productivity and retention among front-line workers and instill a sense of ownership that all employees contribute to the company's long-term value creation.
- Level the playing field for all employers, not just high-tech companies, to attract and retain talent by offering equity awards without the significant burdens of administrative complexities, dedicated resources for compliance and exposure to costly legal risks.
- Close the loophole on the treatment of one equity vehicle over another (*e.g.*, stock options), providing for consistent treatment of all equity types and preventing plaintiff attorneys from penalizing employers that choose to design consistent compensation programs applicable to both exempt and non-exempt workers.

For these reasons, we believe the time is right to update the FLSA to promote and support employers in providing modern benefits that align with the needs of today's workforce.

HR Policy Association looks forward to working with lawmakers to enact legislation to amend the FLSA to exclude time-based, full value stock awards, including restricted share units, from the "regular rate of pay" for overtime calculations.

Thank you for your consideration and your continued commitment to advancing policies that benefit employees, employers and ultimately the U.S. economy. Please contact me with questions or requests for more information at [Cbirbal@HRPolicy.org](mailto:Cbirbal@HRPolicy.org).

Sincerely,



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CC: Members of the House Education and Workforce Committee