AOS
assembly of scientists
1025 Connecticut Avenue, NW, Suite 601, Washington, DC 20036

June 19, 2012

The Honorable Joseph Lieberman, Chairman
Committee on Homeland Security and Governmental Affairs
706 Hart Senate Office Building Washington, D.C. 20510

The Honorable Susan Collins, Ranking Member
Committee on Homeland Security and Governmental Affairs
413 Dirksen Senate Office Building Washington, D.C. 20510

Dear Chairman Lieberman and Ranking Member Collins,

We are writing to you on behalf of the Assembly of Scientists, which represents NIH scientists and physicians engaged in the pursuit of research - ranging from basic science to clinical trials - to express our profound concern that unforeseen ramifications of the STOCK Act will have a negative impact on the generation of new knowledge, which we believe is one the most important long-term investments of the US government. The Assembly of Scientists supports the STOCK Act's stand against insider trading, which is illegal and immoral, but we are very concerned that the STOCK Act creates burdens that we believe are deleterious to the ability of NIH and other US institutions of science to best accomplish their missions.

The STOCK Act's requirement that financial disclosure statements be available online means that scientists' personal financial information will be accessible to everyone anywhere in the world; we believe that this indiscriminate disclosure puts filers at the mercy of anyone who wishes to harm or defraud us or our families. Many senior employees, faced with diminished privacy rights, are discussing leaving the government for the private sector. Colleagues at universities are concerned and less likely to accept positions at national laboratories, thereby putting US institutions at a disadvantage in recruiting and retaining the nation's most prominent and creative scientists.

Importantly, the fundamental issue of insider trading is already addressed by current practices. First, the public's "right to know" is already properly met by the ability to contact designated staff at each agency and to request a copy of an employee's OGE-278 financial disclosure report. Second, because NIH scientists and physicians are limited to *de minimis* financial transactions and holdings in companies connected to their work, this added disclosure is unwarranted as insider trading cannot occur if one is limited from significant financial transactions and holdings. Third, the employee's OGE-278 financial disclosure reports are scrutinized and approved in each case by NIH ethics authorities. Moreover, we believe that the STOCK Act removes a filer's Constitutional right to privacy as most recently reaffirmed by the Supreme Court in *NASA v. Nelson*, 131 S. Ct. 746 (2011).

Several provisions of the STOCK Act are of grave concern. Section 11(a) requires employees' financial disclosure forms to be publicly posted on agency websites by August 31, 2012. Section

11(b) establishes a public database that will allow the public to "search, sort, and download data" for all financial holdings and transactions that affected employees have beginning in 2012. In addition to increased vulnerability to cybercrime and other fraud, other unanticipated adverse consequences may occur. It may also be dangerous to allow untraceable access of such information to professional colleagues, potential partners for legitimate business or investment, or criminals who are looking for targets for identity theft, other cyber crime, or even potentially kidnapping or ransom. It provides criminal elements a ready list of targets that could endanger our families. Section 6 of the STOCK Act requires an unusually high frequency of reporting, which would take time away from work and adds additional administrative burdens. Since none of the above restrictions hold for non-Federal peers, the combined weight of burdens greatly diminishes the attractiveness of remaining in or joining government service. Of particular concern is that the well being of the covered employee's family is directly threatened because these indiscriminate disclosures hold equally for our children and spouses.

In sum, we strongly object to the irrevocable publication on the World Wide Web of personal financial information of career civil servants who have neither the power of the public purse nor are themselves public figures. We seek a narrowing of the STOCK Act to remove those who cannot be involved in insider trading simply because they cannot trade significantly on even marginally affected companies. The STOCK Act represents an unwarranted invasion of personal privacy with no commensurate public benefit; such public disclosure represents an unwarranted seizure of personally identified information of the scientists, their spouses, and their children that does not serve the public interest. When the Congress wrote the STOCK Act, it seems unlikely that they had in mind scientists and physicians who are barred from consulting for industry, who do not make policy that would affect industry, and who do not regulate industry. On this basis, we believe that the STOCK Act is redundant of current disclosure requirements and stock ownership restrictions and does harm without doing good.

The STOCK Act was passed without hearings; there was never time for the unforeseen consequences of its provisions to be voiced. At the least, a temporary delay is warranted for the careful study of the issues raised above. We urge your committee to consider pausing application of the STOCK Act to the Executive Branch for a year to be able to fully assess its impact and to make technical corrections. Once the STOCK Act's required disclosure is implemented, making scientists' and their families' personal financial information publicly available on the World Wide Web, the potential for harm will be irrevocable. Please help us prevent what we believe will be a decline in the recruitment and retention of the best and the brightest scientists at federal laboratories. We look forward to your comments and would welcome your support in this endeavor.

Very truly yours,

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