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Don't Trade On Me: Proposals to Reform Congressional Stock Ownership Updated April 25, 2022

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In a representative democracy, the citizens entrust elected officials to debate issues that impact their lives and vote in the best interests of their constituents. Members of Congress often have access to sensitive information that helps inform their legislative decisions and may not be available to the public, such as national security intelligence, upcoming federal rulemaking, or the level of risk posed by emerging viruses and diseases. This information, if or when it is made public, has the potential to impact markets and result in the rise or fall of stock prices for publicly traded companies. That, in turn, creates an incentive for elected officials to abuse their access to non-public information for their own financial gain by buying or selling stocks when they know an impending event may affect those stocks' value.

In recent months, there has been renewed interest in Congress in reforming the rules governing members' stock transactions and related disclosure procedures. Congress is currently discussing numerous reform proposals and working to find consensus amongst members on a legislative path forward.

The STOCK Act

Currently, members of Congress are not prohibited from buying or selling stocks. However, in an effort to bring more transparency to congressional trading and to increase accountability for members who fail to disclose their stock holdings and transactions, then-President Obama signed into law the [Stop Trading on Congressional Knowledge \(STOCK\) Act](#) (Public Law No: 112-105) on April 4, 2012. This followed allegations of insider trading by members of Congress and staff.

Specifically, the STOCK Act, as amended, requires members of Congress, senior congressional staff¹, and certain executive branch employees to file a disclosure regarding a securities transaction within 45 days of the trade, imposes a fine for failing to disclose stock trades, and includes penalties for insider trading. However, [critics of the STOCK Act](#) believe that the law is not punitive enough to effectively deter members and staff from any real or perceived malfeasance.

¹ In this context, senior staff is defined as House and Senate officers and employees earning equal to or greater than 120 percent of the basic pay payable for GS-15 on the General Schedule (\$112,890.00 - \$146,757.00).

Issues with the STOCK Act

While the STOCK Act represented a step in the right direction for accountability and transparency regarding the financial transactions of members and staff, allegations of insider trading remain an issue. [According to the Campaign Legal Center](#) (CLC), at the onset of COVID-19, members of Congress, both Republican and Democratic, made stock transactions totaling over \$150 million in strategic sectors such as “remote work technologies, telemedicine companies and car manufacturers that were shifting their production to ventilators.”

The STOCK Act has been criticized as being too toothless to enforce disclosure compliance and to deter insider trading. Members and staffers who fail to disclose a securities transaction face a [penalty of just \\$200](#) to be paid to the Department of the Treasury for the first STOCK Act violation, with increasingly higher penalties for subsequent violations. No member of Congress has ever been prosecuted under the STOCK Act.

A recent study from Business Insider’s [Conflicted Congress](#) project found that 57 members of Congress and at least 182 senior congressional staffers have failed to disclose financial transactions before the 45-day deadline in violation of the STOCK Act. There is currently no publicly available record documenting fines paid out by officials due to STOCK Act violations.

Stock Ownership in the 117th Congress

Owning stock in publicly traded companies is the norm in Congress, with more than half of members holding stock assets.² More specifically, [according to the CLC](#):

- **284 members (53%) own stock** (223 Representatives, 61 Senators). Of those, 263 own both individual stocks and widely held investment funds.
- **212 members (40%) own only widely held investment funds** (mutual funds, exchange-traded funds, pensions) (174 Representatives, 38 Senators).
- **39 members (7%) do not own stock or widely held investment funds** (38 Representatives, 1 Senator).
- **10 members (2%) have a Qualified Blind Trust (QBT)**³ (4 Representatives, 6 Senators). Of those, all also own stocks or widely held investment funds that are not held in their QBT based on the most recent publicly available disclosures.

² Based on annual financial disclosures and blind trust reports filed in 2021.

³ According to the Senate Select Committee on Ethics, “When a QBT is established, an individual gives up the management of assets to an independent trustee, who makes investment decisions for the individual’s benefit without the individual’s knowledge.” For more, read [Qualified Blind Trusts](#).

Proposals to Reform Congressional Stock Holding

Following allegations of impropriety, there has been renewed interest in further limiting or prohibiting members of Congress and covered staff from engaging in certain financial transactions. Congress is also debating whether members should be allowed to own stock at all and which officials should be covered by any outright ban on stock ownership (such as extending to judicial and/or executive branch officials, officials' family members, senior staffers, etc.). As of March 22, 2022, at least 12 bills or resolutions have been introduced to reform congressional stock ownership. Below are highlights from some of the major proposals. Note the information provided below reflects the status of these proposals at the time of publication.

Bill (* = not yet introduced)	Sponsor(s)	Bipartisan Cosponsors	Prohibits members from trading individual stocks?	Prohibits members' families from trading individual stocks?	Prohibits members' staff from trading individual stocks?	Prohibits officials outside the Legislative Branch from trading individual stocks?
HR 6678, Bipartisan Ban on Congressional Stock Ownership Act of 2022	Rep. Jayapal (D), Sen. Warren (D)	Yes	Yes (bans individual stock ownership)	Yes (spouses)	No	No
H.R.6694, STOCK Act 2.0	Rep. Porter (D), Sen. Gillibrand (D)	Not at the time of publication	Yes (requires stocks to be placed in a blind trust)	No	No (allowed by the applicable supervising ethics office on a case-by-case basis)	Yes (certain Executive and Judicial Officers)
H.R.1579, Ban Conflicted Trading Act	Rep. Krishnamoorthi (D), Sen. Merkley (D)	Yes	Yes (requires stocks to be placed in a blind trust)	No	Yes (allowed by the applicable supervising ethics office on a case-by-case basis. requires the placement of senior staff's stock into a blind trust)	No
S.3504, Banning Insider Trading in Congress Act	Sen. Hawley (R), Rep. Hartzler (R)	Not at the time of publication	Yes (requires stocks to be placed in a blind trust)	Yes (requires spouses' stocks to be placed in a blind trust)	No	No
H.R.6844, Restoring Trust in Public Servants Act	Rep. Kim (D)	No	Yes (bans individual stock ownership)	Yes	Yes (all congressional staff)	Yes (Executive and Judicial)

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TRUST in Congress Act*	Rep. Spanberger (D)	Yes	Yes (requires stocks to be placed in a blind trust)	Yes (require spouses' and dependent children's stocks to be placed in a blind trust)	No	No
Dismantling Investments in Violation of Ethical Standards through Trusts Act, or DIVEST Act*	Rep. Cloud (R)	Not at the time of publication	No	No	No	Yes (Executive)
H.Res.873, No Stock Resolution	Rep. Craig (D)	Not at the time of publication	Yes (bans individual stock ownership)	No	No	No
S.3494, Ban Congressional Stock Trading Act	Sen. Ossoff (D)	Not at the time of publication	Yes (requires stocks to be placed in a blind trust)	Yes (require spouses' and dependent children's stocks to be placed in a blind trust)	No	No

While each bill includes different provisions and priorities for reforming, limiting, or banning certain stock transactions by members of Congress, their family members, and staff, they each represent a recognition that the current laws governing congressional stock ownership are insufficient to deter misconduct, real or perceived.

State of Play

On April 7, the House Administration Committee, which has jurisdiction over congressional stock ownership, held a hearing on “[Stock Trading Reforms For Congress](#)” to examine the STOCK Act’s deficiencies and to consider proposed stock trading reforms. In the announcement of the hearing, Chairperson Zoe Lofgren (D-CA) stated:

Over the past several weeks, the Committee on House Administration has been conducting a review of the STOCK Act, including Members’

noncompliance with reporting requirements, as well as contemplating new enforcement requirements and penalties to create greater transparency and accountability in Congress. The Committee will hold a public hearing on March 16, 2022, to examine proposed stock trading reforms for Congress with a panel of stakeholders and experts to be announced in the coming weeks.

This hearing is a first step in the process of soliciting input from members and expert witnesses to craft a consensus reform package.

On April 13, Reps. Jared Golden (D-ME) and Abigail Spanberger (D-VA) [led a letter](#) to the chair and ranking member of the House Administration Committee urging the committee to “advance strong legislation to ban members of Congress from directly owning or trading stocks while in office.” Specifically, the letter requests that any legislation advanced by the committee on this issue “makes a ban unambiguous and without loopholes” including:

- Banning direct ownership and trading of individual stocks by members’ spouses and dependent children
- No exceptions for stocks acquired prior to entering Congress
- Effective enforcement of these rules with heavy fines

In the Senate, Majority Leader Chuck Schumer (D-NY) has instructed Senators to [form a working group](#) to reach consensus on the various proposals to reform Congressional stock practices, which would then be packaged into a bill for consideration.

Conclusion

The public elects and entrusts members of Congress to vote according to the best interest of their constituents. The ability of members to profit financially from their access to sensitive information erodes public trust in government, which is [already woefully low](#). By preventing members from trading on their positions for personal gain, Congress could help to remedy longstanding weaknesses in current laws and begin to restore the public trust.

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