

CRS Report for Congress

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H.R. 5015, 109th Congress: Banning Securities Trading by Members of Congress and Their Staff Based upon Nonpublic Information

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Summary

H.R. 5015, 109th Congress, would prohibit securities trading based upon nonpublic information relating to Congress and would require additional reporting by Members of Congress and congressional employees concerning their securities transactions. The bill would also require political intelligence consultants, defined in the bill, to register with the Secretary of the Senate and the Clerk of the House of Representatives. This report will be updated as needed.

H.R. 5015, 109th Congress, was introduced on March 28, 2006, and referred to the Committees on Financial Services, House Administration, Judiciary, and Agriculture. The bill would explicitly prohibit securities trading based upon nonpublic information relating to Congress and would require additional reporting by Members of Congress and congressional employees concerning their securities transactions.

Section 2 of the bill would amend Section 10 of the Securities Exchange Act of 1934,¹ the general antifraud provision, by adding subsection (c). This subsection would require the Securities and Exchange Commission (SEC) to issue rules prohibiting any person from buying or selling securities of any issuer while the person possesses material nonpublic information concerning any pending or prospective legislative action relating to the issuer if the information was obtained because of the person's being a Member or employee of Congress or if the information was obtained from a Member or employee of Congress and the person knew that the information was so obtained.

The new subsection would also require the SEC to issue rules prohibiting any Member or employee of Congress or any other person from disclosing material nonpublic information concerning any pending or prospective legislative action concerning any

¹ 15 U.S.C. § 78j.

issuer if that Member, employee, or other person had reason to believe that the information would be used to buy or sell the securities of the issuer based upon the information. Section 2 of the bill would also add an identical subsection to Section 4c of the Commodities Exchange Act² to require the Commodity Futures Trading Commission to issue rules prohibiting the same kinds of activities concerning commodities trading that the SEC must issue concerning securities trading.

Section 3 of the bill would amend Section 103 of the Ethics in Government Act of 1978³ to require Members of Congress and officers and employees of the legislative branch who are required to file under the Ethics in Government Act to file a report of any transaction in securities involving at least \$1000 within 30 days of the transaction.

Section 4 of the bill would amend Section 3 of the Lobbying Disclosure Act of 1995⁴ by inserting after the terms “lobbying activities” and “lobbyists” the terms “political intelligence activities” and “political intelligence consultants.” “Political intelligence activities” would be defined as:

political intelligence contacts and efforts in support of such contacts, including preparation and planning activities, research and other background work that is intended, at the time it is performed, for use in contacts, and coordination with the political intelligence activities of others.

“Political intelligence contact” would be defined as:

any oral or written communication (including an electronic communication) to or from a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, that is made on behalf of a client with regard to the formulation, modification, or adoption of Federal legislation (including legislative proposals).

“Political intelligence firm” and “political intelligence consultant” would also be defined. The intention of this section of the bill is to further the goal of prohibiting the trading of securities by Members of Congress and congressional employees based upon the receipt of inside information relating to their congressional duties. Political intelligence consultants, like lobbyists, would be required to register with the Secretary of the Senate and the Clerk of the House of Representatives.

² 7 U.S.C. § 6c.

³ 5 U.S.C. App. § 103.

⁴ 2 U.S.C. § 1602.