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Proposals to Limit Financial Activities of Members of Congress: Background and Analysis of Legislative Proposals

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Proposals to Limit Financial Activities of Members of Congress: Background and Analysis of Legislative Proposals

In recent years, Members of Congress have proposed reforms that would prohibit the purchase, sale, or ownership of certain financial instruments by Members of Congress and other specified congressional officers and employees. In the 117th Congress (2021-2022), the Committee on House Administration held a hearing on these proposals, with Members and witnesses focused on legislative proposals to require divestiture, limit the sale or purchase of certain assets, and enhance public disclosure.

Members of the House of Representatives and Senate are not currently required by law or by House or Senate rules to divest themselves of assets or holdings upon taking office. Legislation has been introduced to propose limitations on the financial activities of Members of Congress as a potential means to address real or perceived conflicts of interest. Analysis of introduced legislation reveals several options should the House and/or Senate desire to limit financial activities for Members of Congress and covered officers and staff. These measures propose to prohibit or limit covered individuals from the holding, purchase, sale, and/or active management of certain types of financial assets; to define the assets that would be included and excluded from filing requirements; to allow or require certain assets to be placed in qualified blind trusts; to broaden public access to Member financial disclosure statements and other filings; and to amend penalties for noncompliance.

This report examines bills and resolutions introduced to date between the 115th Congress (2017-2018) and the 118th Congress (2023-2024) that would limit or prohibit Members of Congress from owning, buying, or selling certain assets. The report provides an overview of current financial disclosure requirements for Members of Congress and covered congressional employees, analyzes bills that would limit or prohibit certain financial activities by Members of Congress, and discusses the most common approaches included in the introduced legislation.

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Introduction

Federal government officials and employees, including Members of Congress, when taking official action, are expected to place “loyalty to the Constitution, laws and ethical principles above private gain.”¹ In 1978, Congress used this guiding principle to enact the Ethics in Government Act (EIGA), which created the current government ethics program to “preserve and promote the integrity of public officials and institutions.”²

Two current federal laws—the EIGA and the Stop Trading on Congressional Knowledge (STOCK) Act—require financial disclosures that can be used to understand covered federal officials’ financial holdings and activities.³ As one scholar noted, “the Ethics in Government Act of 1978 [is] a reflection of one of our nation’s most fundamental aspirations for government: that official decisions should be made in the interests of the common good, not in the narrow self-interests of the individuals in power.”⁴

Since at least the 115th Congress (2017-2018), legislation has been introduced that proposes to restrict the financial activities of Members of the House of Representatives and Senate. Broadly, these proposals seek to go beyond disclosure—as required under the EIGA and the STOCK Act—to place limitations on ownership and transactions. Additionally, in 2022, the House Administration Committee held a hearing on proposals introduced in the 117th Congress (see **Table A-3** for a list of legislation introduced in the 117th Congress).⁵

Laws Governing Financial Disclosure

This section provides a brief background on the Ethics in Government Act (EIGA) and the Stop Trading on Congressional Knowledge (STOCK) Act.

¹ Code of Ethics for Government Service (H.Con.Res. 975 (1958), 72 Stat. B12). The standards included in the Code of Ethics for Government Service are still recognized as continuing ethics guidance in the House and Senate. They are not legally binding, however, because the code was adopted by congressional resolution, not by public law. The Code of Ethics for Government Service is cited by many House and Senate investigations. For example, see U.S. Congress, House Committee on Standards of Official Conduct, *Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003*, report, 108th Cong., 2nd sess., H.Rept. 108-722 (2004), p. 38.

² P.L. 95-521, 92 Stat. 1824 (1978); 5 U.S.C. §§13101-13111.

³ EIGA, 5 U.S.C. §§13101-13111; and P.L. 112-105, 126 Stat. 291 (2012).

⁴ Beth Nolan, “Removing Conflicts from the Administration of Justice: Conflicts of Interest and Independent Counsels Under the Ethics in Government Act,” *Georgetown Law Journal*, vol. 79, no. 1 (October 1990), p. 2.

⁵ U.S. Congress, Committee on House Administration, *Examining Stock Trading Reform for Congress*, hearing, 117th Cong., 2nd sess. (April 7, 2022), at <https://www.govinfo.gov/content/pkg/CHRG-117hhr47699/pdf/CHRG-117hhr47699.pdf>; <https://cha.house.gov/committee-activity/hearings/examining-stock-trading-reforms-congress>; and <https://democrats-cha.house.gov/committee-activity/hearings/examining-stock-trading-reforms-congress>. See also, CRS Testimony TE10073, *Examining Stock Trading Reforms For Congress*, by Jacob R. Straus; and CRS Insight IN11860, *Stock Trading in Congress: 117th Congress Proposals to Limit or Prohibit Certain Financial Transactions*, by Jacob R. Straus.

Ethics in Government Act

As amended,⁶ the EIGA requires covered employees, including Members of Congress, congressional officers, and selected congressional staff,⁷ to file annual financial disclosure statements that report “income, gifts, liabilities, property—both real property and business-related personal property—positions in business enterprises and other organizations and also any agreements relating to post-Government employment.”⁸ Representatives, Delegates, the Resident Commissioner, Senators, House and Senate officers, and other specified covered employees are required to file annual financial disclosures statements with the Clerk of the House of Representatives and the House Ethics Committee,⁹ or the Secretary of the Senate and Senate Select Committee on Ethics,¹⁰ respectively.¹¹ The House Ethics Committee and the Senate Select Committee on Ethics each provide guidance for financial disclosure filing.¹²

STOCK Act

On April 4, 2012, President Barack Obama signed the STOCK Act into law.¹³ The STOCK Act, as amended, affirms that Members of Congress, congressional employees, and other federal

⁶ P.L. 101-194, 103 Stat. 1724 (1989); P.L. 112-105, 126 Stat. 291 (2012); 5 U.S.C. 5 U.S.C. §§13101-13111.

⁷ 5 U.S.C. §13101(12)-(13); and 5 U.S.C. §13103(f)(9)-(10). The House *Ethics Manual* defines financial disclosure filers as “all Members of the House and those House employees earning—above GS-15, that is, at least 120% of the federal GS-15 base level salary, for at least 60 days during the calendar year.” U.S. Congress, House Committee on Standards of Official Conduct, *House Ethics Manual*, “Who Must File,” 110th Cong., 2nd sess., 2008, p. 252. For CY2023, “the GS-15, step 1, basic pay rate ... is \$117,518. The applicable 120% calculation for that rate is therefore \$141,022, or a monthly salary of equal to or more than \$11,752. This rate is referred to as the ‘senior staff rate.’” U.S. Congress, House, Committee on Ethics, “The 2023 Outside Earned Income Limit and Salaries Triggering the Financial Disclosure Requirement and Post-Employment Restrictions Applicable to House Officers and Employees,” *Pink Sheet*, February 3, 2023, p. 2, at <https://ethics.house.gov/sites/ethics.house.gov/files/documents/FINAL%202023%20Annual%20Pay%20Memo.pdf>. The Senate uses the same definition for filers. See U.S. Congress, Senate, Select Committee on Ethics, “Chapter 5: Financial Disclosure,” *Senate Ethics Manual*, 2003 edition, p. 125, at https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=f2eb14e3-1123-48eb-9334-8c4717102a6e.pdf#page=137.

⁸ 5 U.S.C. §13109(f)(9)-(10). U.S. Congress, House Committee on the Judiciary, *Ethics in Government Act of 1977*, report to accompany H.R. 1, 95th Cong., 1st sess., November 2, 1977, H.Rept. 95-800 (1977), p. 16. For further clarification on the definition of Members of Congress and officers or employees of the Congress, see 5 U.S.C. §13101(12)-(13).

⁹ U.S. Congress, House, Office of the Clerk of the House of Representatives, *Financial Disclosure Reports*, at <https://disclosures-clerk.house.gov/PublicDisclosure/FinancialDisclosure>; and U.S. Congress, House, Committee on Ethics, “Financial Disclosure,” at <https://ethics.house.gov/financial-disclosure>.

¹⁰ Senate Rule XXXIV. U.S. Congress, Senate, Secretary of the Senate, “Senate Public Financial Disclosure (Senate Rule 34),” *Public Disclosure*, at https://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm; and U.S. Congress, Senate, Select Committee on Ethics, “Financial Disclosure,” at <https://www.ethics.senate.gov/public/index.cfm/financialdisclosure>.

¹¹ Once financial forms are filed with the appropriate House or Senate office, the Ethics Committees can review documents for compliance with EIGA. If a potential conflict of interest has been identified, however, the remediation process is implemented differently in the three branches of government. For example, executive branch officials can be required to recuse themselves from a matter due to a real or perceived financial conflict of interest, as there is almost always another individual within the agency who can act in the absence of an agency decisionmaker. 18 U.S.C. §208(a); 5 C.F.R. §2634.605(b)(6). For more information, see U.S. Office of Government Ethics, *Effective Screening Arrangements for Recusal Obligations*, DO-04-012, Washington, DC, June 1, 2004, at [https://www.oge.gov/Web/OGEnsf/0/A633CAF20D2571F5852585BA005BED3D/\\$FILE/DO-04-012.pdf](https://www.oge.gov/Web/OGEnsf/0/A633CAF20D2571F5852585BA005BED3D/$FILE/DO-04-012.pdf). In the executive branch, other remediation options exist besides recusal. These can include divestiture, issuance of waivers, creation of blind or diversified trusts, reassignment, and/or resignation. For a discussion of recusal and the Federal Vacancies Reform Act of 1998 (Vacancies Act; 5 U.S.C. §§3345-3349c), see CRS Report R44997, *The Vacancies Act: A Legal Overview*, by Valerie C. Brannon. For a discussion of conflicts of interest in the executive branch, see CRS Report R47320, (continued...)

officials are not exempt from “insider trading” laws and regulations.¹⁴ Under the STOCK Act amendments to the EIGA, covered individuals—primarily those who already file financial disclosure statements, including Members of Congress, officers, and covered congressional employees—must report financial transactions (e.g., sales and purchases of stocks, bonds, commodity futures, and other securities) that exceed \$1,000 within 45 days of the transactions.¹⁵ Periodic transaction reports are filed in the same manner as the covered individuals’ annual financial disclosures. For Members of Congress, both their financial disclosure forms and their

Financial Disclosure in the U.S. Government: Frequently Asked Questions, by Jacob R. Straus. For a discussion of conflicts of interest in the judiciary, see CRS Legal Sidebar LSB10949, *Financial Disclosure and the Supreme Court*, by Whitney K. Novak.

For Members of Congress, a required recusal policy is potentially problematic. Only Members of Congress can represent their constituencies by speaking and voting in congressional committees and on the House or Senate floor. Further, House rules note that “every member . . . shall vote on each question put, unless having a direct personal or pecuniary interest in the event of such question.” U.S. Congress, House, “Rule III, clause 1,” *Rules of the House of Representatives One Hundred Eighteenth Congress*, p. 4, at [https://rules.house.gov/sites/replicans.rules118.house.gov/files/documents/Rules and Resources/118-House-Rules-Clerk.pdf#page=8](https://rules.house.gov/sites/replicans.rules118.house.gov/files/documents/Rules%20and%20Resources/118-House-Rules-Clerk.pdf#page=8). Historically, some legislatures, including the House of Representatives, have had recusal policies. For example, in the 1st Congress (1789-1791), the House adopted a rule that stated: “No member shall vote on any question, in the event of which he is immediately and particularly interested.” (*Annals of Congress*, 1st Cong., 1st sess. (April 7, 1789), pp. 103-104). Similarly, Thomas Jefferson in his 1801 version of *A Manual of Parliamentary Practice* (which today is included as “Jefferson’s Manual” in *Constitution, Jefferson’s Manual and Rules of the House of Representatives*, available at <https://www.govinfo.gov/content/pkg/HMAN-117/xml/HMAN-117.xml>), wrote: “Where the private interests of a member are concerned in a bill or question, he is to withdraw. And where such an interest has appeared, his voice has been disallowed, even after a division. In a case so contrary not only to the law of decency, but to the fundamental principles of the social compact, which denies to any man to be a judge in his own cause, it is for the honour of the House that this rule of immemorial observance should be strictly adhered to.” (Thomas Jefferson, *A Manual of Parliamentary Practice: Composed Originally for the Use of the Senate of the United States* (Philadelphia: Parrish, Dunning, & Means, 1853), p. 44, at <https://hdl.handle.net/2027/uva.x004967171?urlappend=%3Bseq=46%3Bownerid=27021597767321586-50>).

¹² U.S. Congress, House, Committee on Ethics, “Financial Disclosure Guidance,” at <https://ethics.house.gov/forms/fd-guidance>; and U.S. Congress, Senate, Select Committee on Ethics, “Chapter 5: Financial Disclosure,” *Senate Ethics Manual*, 2003 edition, at https://www.ethics.senate.gov/public/index.cfm/files/serve?File_id=f2eb14e3-1123-48eb-9334-8c4717102a6e.pdf#page=135.

¹³ P.L. 112-105, 126 Stat. 291 (2012). The STOCK Act was renamed the Representative Louise McIntosh Slaughter Stop Trading on Congressional Knowledge Act by P.L. 115-277 (132 Stat. 4167 (2018)).

¹⁴ For more information on insider trading, see CRS In Focus IF11966, *Insider Trading*, by Jay B. Sykes. The STOCK Act (P.L. 112-105, §13) also prohibits Members, officers, and employees who file financial disclosure statements from participating in initial public offerings (IPOs). In a February 2019 memorandum to House Members, officers, and employees, the House Ethics Committee noted that “while interpretation and enforcement of the STOCK Act regarding participation in IPOs is chiefly within the jurisdiction of the SEC and Department of Justice, the opinion of the Committee is that, as drafted, the STOCK Act prohibits only the filer from participating in IPOs, but not the filer’s spouse or dependent child, assuming the assets used for the purchase and the securities purchased are wholly owned by the spouse or dependent child, separate and independent of the filer.” See U.S. Congress, House Committee on Ethics, *Summary of Activities One Hundred Sixteenth Congress*, 116th Cong., 2nd sess., December 31, 2020, H.Rept. 116-703, p. 47, note 18. (Hereinafter House Ethics Committee, *Summary of Activities*, 116th Congress).

¹⁵ P.L. 112-105, §6(a). Covered filers are required by the EIGA to “report on their annual FD Statement each purchase, sale, or exchange transaction involving real property held for investment, stocks, bonds, commodities futures, or other securities (including cryptocurrencies and options) made by the filer, their spouse, or dependent child when the amount of the transaction exceeds \$1,000. For sales transactions, the \$1,000 threshold is based on the total dollar value of the transaction, not the gain or loss made on the sale.” See House Ethics Committee, *Summary of Activities*, 116th Congress, p. 44. For more information, see U.S. Congress, House, Committee on Ethics, “Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirements,” June 11, 2020, at https://ethics.house.gov/sites/ethics.house.gov/files/wysiwyg_uploaded/STOCK%20Act%206.11.2020%20Final.pdf; and U.S. Congress, Senate, Select Committee on Ethics, “STOCK Act Requirements for Senate Staff,” June 15, 2012, at https://www.ethics.senate.gov/public/_cache/files/e63d0a27-19b2-4bf3-b26e-9073ff179e3e/stock-act-requirements-for-senate-staff-1-.pdf.

periodic transactions reports are available for public inspection from the Clerk of the House (for Representatives) or the Secretary of the Senate (for Senators).¹⁶

House of Representatives and Senate Financial Disclosure and STOCK Act Periodic Transaction Report Access

House of Representatives Financial Disclosure and Periodic Transaction Reports
<https://disclosures-clerk.house.gov/PublicDisclosure/FinancialDisclosure>

Senate Financial Disclosure and Periodic Transaction Reports
<https://efdsearch.senate.gov/search/home>

This report is not intended to provide advice to Members of Congress about filing financial disclosure reports or periodic transaction reports. For guidance on the financial disclosure and periodic transaction report filing, please contact the House Ethics Committee or the Senate Select Committee on Ethics.¹⁷

Proposed Limitations on Financial Activities

Recent legislative proposals have aimed to regulate the financial activities of Members of Congress (and in some cases their spouses and dependent children) and House and Senate staff who are currently required to file annual financial disclosure statements.¹⁸ Analysis of introduced legislation reveals several approaches to limit financial transactions by Members of Congress and covered staff. These approaches include proposals to prohibit or limit covered individuals from the holding, purchase, sale, and/or active management of certain types of financial assets; to define the assets that would be included and excluded from filing requirements; to allow or require certain assets to be placed in qualified blind trusts; to broaden public access to Member financial disclosure statements and other filings; and/or to amend penalties for noncompliance.

Prohibit or Limit the Holding, Purchasing, or Selling of Certain Assets

Members of the House of Representatives, Senators, and covered congressional employees are not currently required by law or by House or Senate rules to divest themselves of assets or

¹⁶ 5 U.S.C. §13107. For Representatives and Senators, periodic transaction reports and financial disclosure reports are available for public inspection on the Clerk of the House's and Secretary of the Senate's websites, respectively. Periodic transaction reports and financial disclosure reports for officers and other covered congressional employees are not available for public inspection (P.L. 113-7, §1(a)(1), 127 Stat. 438 (2013)).

¹⁷ To contact the House Ethics Committee, see <https://ethics.house.gov>. To contact the Senate Select Committee on Ethics, see <https://www.ethics.senate.gov>.

¹⁸ In addition to measures that would limit Representatives, Senators, and other congressional officials and employees, some bills also proposed to limit or prohibit specific executive branch officials or federal judges from holding, purchasing, and selling certain assets. Those proposals would have extended ownership prohibitions to all financial disclosure filers under the EIGA (H.R. 6461, 116th Congress); prohibited the President, the Vice President, the Chief Justice of the United States, Associate Justices of the Supreme Court, members of the Board of Governors of the Federal Reserve System, and presidents and vice presidents of Federal Reserve Banks from engaging in certain transactions (H.R. 6694 and S. 3612, 117th Congress); or prohibited stock ownership by executive branch officials (President, Vice President, political appointees, and certain senior career employees) and federal judges (H.R. 6684, 117th Congress).

holdings upon taking office,¹⁹ although doing so may be an option for remediating real or perceived conflicts of interest.²⁰ The *House Ethics Manual* directly addresses the issue of potential divestiture by a Representative. It states:

Members of Congress enter public service owning assets and having private investment interest like other citizens. Members should not “be expected to fully strip themselves of worldly good.” Even a selective divestiture of potentially conflicting assets could raise problems for a legislator. Unlike many officials in the executive branch, who are concerned with administration and regulation in a narrow area, a Member of Congress must exercise judgment concerning legislation across the entire spectrum of business and economic endeavors. Requiring divestiture may also insulate legislators from the personal and economic interests held by their constituencies, or society in general, in governmental decisions and policy.²¹

Similarly, the *Senate Ethics Manual* states:

The drafters of the original Senate Code of Official Conduct, in the 95th Congress, considered “full and complete public financial disclosure” to be “the heart of the code of conduct.” Financial interests and investments of Members and employees, as well as those of candidates for the Senate, may present conflicts of interest with official duties. Members and employees (with the exception of certain committee staffers) need not, however, divest themselves of assets upon assuming their positions, nor must Members disqualify themselves from voting on issues that generally affect their personal financial interests. Instead, public financial disclosure provides the mechanism for monitoring and deterring conflicts.²²

Nearly all introduced House and Senate measures have proposed to prohibit or limit covered officials from holding, purchasing, and selling certain assets. To accomplish these goals, the

¹⁹ U.S. Congress, House, Committee on Ethics, *House Ethics Manual*, 117th Cong., 2nd sess., 2022, pp. 234, 247-248, 250, 369; and U.S. Congress, Senate, Select Committee on Ethics, *Senate Ethics Manual*, p. 124. Senate Rule 37(7) generally requires certain committee staff to divest themselves of “any substantial holdings which may be directly affected by the actions of the employing committee, unless the Ethics Committee after consultation with the employee’s supervisor approves other arrangements.” See *Senate Ethics Manual*, pp. 70-71, 218-220; and U.S. Senate, Committee on Rules and Administration, “Rule XXXVII: Conflict of Interest,” *Rules of the Senate*, at <https://www.rules.senate.gov/rules-of-the-senate>. In the Senate, covered Senate staff are required to “divest themselves of any substantial holdings which may be directly affected by the actions of the employing committee, unless the Ethics Committee after consultation with the employee’s supervisor approves other arrangements.” Covered staff include “committee staff paid at a rate of pay in excess of \$25,000 a year and employed for more than 90 days.” U.S. Congress, Senate, Select Committee on Ethics, *Senate Ethics Manual*, 108th Cong., 1st sess., S.Pub. 108-1, 2003, pp. 70-71, 124, at https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf.

²⁰ 5 U.S.C. § 13108(b)(3). That section states “If ... a person designated by a congressional ethics committee ... reaches an opinion under paragraph (2)(B) that an individual is not in compliance with applicable law and regulations, the official or committee staff shall notify the individual of that opinion and, after an opportunity for personal consultation (if practicable), determine and notify the individual of which steps, if any, would in the opinion of such official or committee be appropriate for or [typo/something missing?] assuring compliance with such laws and regulations and the date by which such steps should be taken. Such steps may include, as appropriate—(A) divestiture; (B) restitution; (C) the establishment of a blind trust; (D) request for an exemption under section 208(b) of title 18; or (E) voluntary request for transfer, reassignment, limitation of duties, or resignation.”

²¹ U.S. Congress, House Committee on Ethics, *House Ethics Manual*, 117th Cong., 2nd sess. (2022 print), p. 250, at <https://ethics.house.gov/sites/ethics.house.gov/files/documents/2022/House-Ethics-Manual-2022-Print.pdf#page=166>.

²² U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, 108th Cong., 1st sess., S.Pub. 108-1 (2003), pp. 70-71, 124, at https://www.ethics.senate.gov/public/_cache/files/f2eb14e3-1123-48eb-9334-8c4717102a6e/2003-senate-ethics-manual.pdf. Covered Senate staff include “committee staff paid at a rate of pay in excess of \$25,000 a year and employed for more than 90 days.” They are required to “divest themselves of any substantial holdings which may be directly affected by the actions of the employing committee, unless the Ethics Committee after consultation with the employee’s supervisor approves other arrangements.”

legislative proposals have sought to amend the EIGA and/or the STOCK Act, create new law, or amend House Rules.

Amend Current Law or Create New Law

Several legislative proposals would have amended the EIGA, the STOCK Act, or both.²³ Others would have created new laws to address Members' and covered legislative branch officials' financial holdings and transactions. Each proposal to amend current law or create new law has generally focused on prohibiting covered individuals from holding, purchasing, or selling covered assets. Each of the proposals would have applied restrictions to Members of Congress, while some would also have applied proposed restrictions to Members' spouses and dependents.²⁴ Fewer would also have covered congressional officers or specified staff members.²⁵ In at least two cases, proposals included provisions that would have applied to Members for a period *after* they departed the House.²⁶

Although each measure would have taken the same general approach, some differences exist. For example, some bills have proposed to require that Members of Congress file a "certification of compliance" with their supervising ethics committee, which the committee would then publish on a publicly available website.²⁷ Other measures would have authorized the House Ethics Committee and the Senate Select Committee on Ethics to issue civil fines, as they deemed appropriate, for noncompliance.²⁸ Still other bills have proposed to authorize the use of qualified blind trusts, as a remediation tool, on a case-by-case basis.²⁹

Amend House Rules

Some proposals would have amended the House standing rules (rather than amending the EIGA and/or the STOCK Act, or creating a new law) to place additional restrictions on Members of the House of Representatives. Such changes to House rules could be interpreted as having a somewhat more limited scope than amending existing laws or creating new ones, as any changes would only apply to Members of the House while they remained in office, since House rules do not apply to former House Members or to current or former Senators.³⁰ The proposed limitations

²³ For measures in the 115th Congress, see **Table A-1**. For measures in the 116th Congress, see **Table A-2**. For measures in the 117th Congress, see **Table A-3**. For measures from the 118th Congress, see **Table A-4**.

²⁴ 115th Congress: S. 3718. 116th Congress: H.R. 6461 and S. 7200. 117th Congress: H.R. 336, H.R. 6490, S. 3504, H.R. 6694, S. 3612, H.R. 6678, S. 3631, H.R. 6844, and S. 3494; 118th Congress: H.R. 345, H.R. 2678, H.R. 1138, H.R. 1679, H.R. 3003, S. 58, S. 439, S. 1171, S. 2463, and S. 2773.

²⁵ 116th Congress: H.R. 6401 and S. 1393. 117th Congress: H.R. 1579, S. 564, H.R. 6694, and S. 3612.

²⁶ 117th Congress: H.R. 336 and S. 3494. The creation of a limitation on ownership or sale of certain financial assets *after* a Representative or Senator leaves the House of Representatives or Senate might be parallel to existing "revolving door" provisions that restrict covered former government officials from engaging in certain activities for a specified period after they leave government service. For more information on the revolving door, see 18 U.S.C. §208 and CRS Report R45946, *Executive Branch Service and the "Revolving Door" in Cabinet Departments: Background and Issues for Congress*, by Jacob R. Straus.

²⁷ 116th Congress: H.R. 7200. 117th Congress: H.R. 6490 and S. 3504. 118th Congress: H.R. 345, H.R. 1138, H.R. 2678, H.R. 3003, S. 58, S. 439, S. 1171, and S. 2773.

²⁸ 115th Congress: S. 3718. 116th Congress: H.R. 6401, H.R. 6461, and S. 1393. 117th Congress: H.R. 6490 and S. 3504. 118th Congress: H.R. 1679, H.R. 2678, H.R. 3003, S. 1171, and S. 2773.

²⁹ 117th Congress: H.R. 6694 and S. 3612. 118th Congress: H.R. 345, H.R. 2678, H.R. 3003, S. 1171, and S. 2773.

³⁰ See also *INS v. Chadha* (462 U.S. 919 (1983)), holding that the actions of one chamber cannot alter the legal rights of those outside the legislative branch. Traditionally, when a Representative or Senator departs the House or Senate, the House Ethics Committee or the Senate Select Committee on Ethics loses jurisdiction over the former Member. For (continued...)

might also be seen as less durable than a statutory amendment, since House rules are considered and adopted at the beginning of each Congress, and only apply to the Congress in which they are adopted.³¹ Conversely, using a simple resolution to amend House rules would not require Senate concurrence, which might be considered easier to adopt than a statutory change.

Each proposal to amend House rules has focused on Rule XXIII, the House Code of Conduct.³² These bills and resolutions each proposed to add a new section to Rule XXIII that would state:

A Member, Delegate, or Resident Commissioner may not own the common stock of any individual corporation.³³

An amendment to House rules to prohibit ownership of individual stocks might require House Members to divest themselves of certain assets. House Rules provide that the Code of Conduct is under the jurisdiction of the House Ethics Committee.³⁴ Since the proposed rule change would alter the code of conduct, implementation and enforcement would likely reside with the House Ethics Committee.

A similar proposal to amend Senate rules has not been introduced.³⁵

Included and Excluded Assets

Regardless of whether the proposal sought to amend current law, create new law, or amend House rules, each legislative proposal would generally have prohibited covered legislative branch officials from holding, purchasing, selling, and/or actively managing certain types of assets. Aspects of these measures would have prohibited the purchase or sale of specified financial instruments, required additional disclosure and potential divestment of prohibited assets, and/or increased penalties for noncompliance. For specific proposals, see the **Appendix** tables.

Most of the proposals would have prohibited Members of Congress from holding, purchasing, or selling certain assets, including commodities, securities, and security futures.³⁶ Currently, Congress does not prohibit the ownership of specified financial assets, but some executive branch agencies do.³⁷ For example, the Nuclear Regulatory Commission has a supplement to Standards of Ethical Conduct that includes a list of prohibited securities.³⁸

example, the House Committee on Ethics notes “As a general matter, the Committee’s investigative jurisdiction extends to current House Members, officers and employees. When a Member, officer, or employee, who is the subject of a Committee investigation, resigns, the Committee loses jurisdiction over the individual.” House Ethics Committee, *Summary of Activities*, 116th Congress, p. 14; and House Rule XI, clause 3(a)(2).

³¹ For more information on adopting the rules of the House, see CRS Report RL30725, *The First Day of a New Congress: A Guide to Proceedings on the House Floor*, by Christopher M. Davis.

³² 116th Congress: H.R. 3419. 117th Congress: H.R. 459 and H.Res. 873. 118th Congress: H.R. 507 and H.Res. 156.

³³ For example, see H.R. 459, §5 (117th Congress). Similarly, H.Res. 156 (118th Congress) would prohibit the ownership of “the common stock of any individual *public* corporation.” (*emphasis added*)

³⁴ House Rule X(1)(g).

³⁵ Senate rules divide its code of conduct among several rules. These include Senate Rule XXXIV (public financial disclosure), Rule XXXV (gifts), Rule XXXVI (outside earned income), and XXXVII (conflict of interest). For more information, see U.S. Congress, Senate, Committee on Rules and Administration, “Rules of the Senate,” at <https://www.rules.senate.gov/rules-of-the-senate>.

³⁶ Commodities are generally defined in Section 1a of the Commodity Exchange Act; 7 U.S.C. §1a. Securities and security futures are generally defined in Section 3(a) of the Securities Exchange Act of 1934; 15 U.S.C. §78c(a).

³⁷ For a full list of executive branch agency supplemental ethics regulations, which for some agencies include limitations on the ownership of certain assets, see 5 C.F.R. §§13100-10400.

³⁸ 5 C.F.R. §5801.102(b).

Nearly all proposals would have exempted some types of assets. Most commonly, exemptions would have included U.S. Treasury bills, notes, or bonds and certain “widely held investments.”³⁹ Widely held investments are also generally not reported by covered officials in financial disclosure reports or in periodic transaction reports if the investments meet three criteria: they are publicly traded, their assets are widely diversified, and “the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.”⁴⁰

Use of Qualified Blind Trusts

Several proposals would have allowed or required Members of Congress (and their spouses and/or dependent children) to place covered assets in a qualified blind trust.⁴¹ Qualified blind trusts are specific instruments established under the EIGA that may be used to remediate real or perceived financial conflicts of interest.⁴² Qualified blind trusts used within the EIGA

confer on an independent trustee and any other designated fiduciary the sole responsibility to administer the trust and to manage trust assets without participation by, or the knowledge of, any interested party or any representative of an interested party. This responsibility includes the duty to decide when and to what extent the original assets of the trust are to be sold or disposed of, and in what investments the proceeds of sale are to be reinvested.⁴³

Under current law, the establishment of a qualified blind trust requires permission from a covered official’s supervising ethics office (e.g., the House Committee on Ethics or the Senate Select Committee on Ethics). Should a qualified blind trust be established to remediate a financial conflict of interest, the covered official “gives up the management of the assets to an independent trustee, who makes investment decisions of the individual’s benefit without the individual’s knowledge.”⁴⁴ Further, the trustee must

be an independent financial institution, lawyer, certified public accountant, broker, or investment advisor; there may be no restrictions on the disposal of the trust assets; [and] the trust instrument must limit communications between the trustee and interested parties.⁴⁵

³⁹ The Office of Government Ethics (OGE) notes, “an investment fund is widely held if the fund has at least 100 natural persons as direct or indirect investors. For example, if a pension plan invests in the ABC Fund, one would count each plan participant toward the 100-person threshold when determining whether the ABC Fund is widely held.” See U.S. Office of Government Ethics, *Confidential Financial Disclosure Guide: OGE Form 450*, December 2018, p. 32, at [https://www.oge.gov/Web/OGEnsf/0/A685AEC70F057115852585B6005A202F/\\$FILE/Confidential%20Fin%20Disc%20Guide_Jan2019.pdf#page=32](https://www.oge.gov/Web/OGEnsf/0/A685AEC70F057115852585B6005A202F/$FILE/Confidential%20Fin%20Disc%20Guide_Jan2019.pdf#page=32). Similar guidance exists in OGE’s *Public Financial Disclosure Guide*, p. 290, at [https://www.oge.gov/Web/OGEnsf/0/11E9ABAF6E128FF1852585B6005A2030/\\$FILE/Public%20Fin%20Disc%20Guide_Jan2019.pdf#page=290](https://www.oge.gov/Web/OGEnsf/0/11E9ABAF6E128FF1852585B6005A2030/$FILE/Public%20Fin%20Disc%20Guide_Jan2019.pdf#page=290).

⁴⁰ 5 U.S.C. §13104(f)(8). For more information, see U.S. Congress, House Committee on Ethics, “Reporting of Investment Funds,” *2023 Instruction Guide: Financial Disclosure Statements for Calendar Year 2022 Reporting Period and Periodic Transaction Reports*, p. 17, at <https://ethics.house.gov/sites/ethics.house.gov/files/documents/Updated%20Final%20Combined%202023%20Instruction%20Guide.pdf>; and U.S. Congress, Senate Select Committee on Ethics, *Financial Disclosure Instructions and Report for Calendar Year 2022*, pp. 15, 24, at https://www.ethics.senate.gov/public/_cache/files/02ccce18-df8d-48cb-bea4-ed14b155c6a6/2023-financial-disclosure-report-booklet-for-cy2022.pdf.

⁴¹ 116th Congress: H.R. 7200. 117th Congress: H.R. 336, H.R. 1579, H.R. 6694, H.R. 6844, S. 564, S. 3494, and S. 3612. 118th Congress: H.R. 345, H.R. 3003, and S. 2773.

⁴² 5 C.F.R. §2634.401.

⁴³ 5 C.F.R. §2634.401(a).

⁴⁴ U.S. Congress, Senate Select Committee on Ethics, *Qualified Blind Trusts*, 114th Cong., 1st sess., September 2015, p. 1, at https://www.ethics.senate.gov/public/_cache/files/286a4cf9-5aab-40ef-9a6c-bf2278e79e38/qualified-blind-trusts-guide—october-2020.pdf. (Hereinafter Senate Select Committee on Ethics, *Qualified Blind Trusts*).

⁴⁵ U.S. Congress, House Committee on Ethics, “Trusts,” *Specific Disclosure Requirements*, at <https://ethics.house.gov/financial-disclosure/specific-disclosure-requirements>.

One study indicated that qualified blind trusts are designed to “reduce any real and apparent conflicts of interest that might arise between financial interests held by ... employees and their official responsibilities.”⁴⁶ Conversely, qualified blind trusts may be considered expensive to establish and maintain.⁴⁷ Accordingly, some supervising ethics offices have determined that they are not always an appropriate remedy when other solutions might be available.⁴⁸

Some legislative proposals would have required Members of Congress (and their spouses and/or dependent children) to either divest or place certain assets in a qualified blind trust.⁴⁹ Those measures proposed that current Members of Congress would be required to divest and/or place covered assets in a qualified blind trust within a specified number of days of enactment. New Members of Congress would have to do the same within a specified number of days after being sworn in.⁵⁰ Other proposals would have provided the option of using a qualified blind trust, rather than requiring its use.⁵¹

Qualified blind trusts can serve as a way to “immunize” a public official “from potential conflicts of interest stemming from assets held in the trust because the legislator-beneficiary would have no knowledge of the impact of official actions on [their] personal financial interests.”⁵² Covered officials who place their assets in qualified blind trusts would be separated from the day-to-day decisionmaking about their holdings, which may remedy potential conflicts that might arise from official decisionmaking that could impact their individual holdings.

Conversely, those who argue against the use of blind trusts say that the “early use of blind trusts may have originated from a desire to give the public appearance that a policymaker was avoiding conflicts of interest without actually blinding the policymaker to an asset that stood to influence the execution of official duties. Legislation establishing qualified blind trust rules has not solved this problem.”⁵³

The creation of a significant number of new qualified blind trusts could present administrative challenges to the House and Senate.⁵⁴ In a scenario where all Representatives, Senators, Delegates, and the Resident Commissioner were required to create qualified blind trusts within a certain number of days of enactment, the review and certification process currently used by the House Ethics Committee and the Senate Select Committee on Ethics could be strained. A similar

⁴⁶ Perry A. Pirsch, “Blind Trusts as a Model for Campaign Finance Reform,” *William & Mary Policy Review*, vol. 4, no. 1 (Fall 2012), p. 224.

⁴⁷ Senate Select Committee on Ethics, *Qualified Blind Trusts*, p. 2. See also National Conference of State Legislators, “Blind Trusts,” at <https://www.ncsl.org/research/ethics/blind-trusts.aspx>.

⁴⁸ Senate Select Committee on Ethics, *Qualified Blind Trusts*, p. 2.

⁴⁹ 117th Congress: H.R. 336 and S. 3494. 118th Congress: H.R. 345, H.R. 3003, and S. 2773. House and Senate staff are not included in these proposed blind trust requirements.

⁵⁰ For example, H.R. 336 (117th Congress) would require action with 90 days of enactment for current Members, or 90 days of being sworn in for new Members.

⁵¹ 117th Congress: H.R. 1579, H.R. 6490, H.R. 6694, S. 564, S. 3504, and S. 3612. 118th Congress: H.R. 2678 and S. 1171.

⁵² National Conference of State Legislators, “Blind Trusts,” at <https://www.ncsl.org/research/ethics/blind-trusts.aspx>.

⁵³ Megan J. Ballard, “The Shortsightedness of Blind Trusts,” *University of Kansas Law Review*, vol. 56 (October 2007), p. 53.

⁵⁴ Whether or not the supervising ethics offices currently have the resources necessary for the review of additional filings, including approving new QBTs, could not be fully analyzed by CRS using the limited public information it was able to identify. CRS has not located any public comments or statements from either the House Ethics Committee or Senate Select Ethics Committee on the need for additional staff or resources. Without a public record comment from the committees, CRS cannot determine whether the House Ethics Committee or the Senate Select Committee on Ethics currently has adequate resources to carry out potential additional administrative ethics functions pursuant to EIGA and the STOCK Act.

scenario, albeit with a smaller number of individuals, could occur at the beginning of each subsequent Congress, as newly elected Members would have a deadline by which their trust documents would need to be approved. Should Congress enact a proposal to require the use of qualified blind trusts, the House Committee on Ethics and the Senate Select Committee on Ethics might require additional resources to conduct necessary reviews and certifications.⁵⁵

Public Access to Disclosure Filings

Current law requires Members of Congress to file public financial disclosure and periodic transaction reports.⁵⁶ For Representatives and Senators, periodic transaction reports and financial disclosure reports are available for public inspection on the Clerk of the House's and Secretary of the Senate's websites, respectively.⁵⁷ Periodic transaction reports and financial disclosure reports for officers and other covered congressional employees are not available on the Clerk of the House's or Secretary of the Senate's websites.⁵⁸

Several proposals would have required additional public access to certain financial disclosure- and periodic transaction report-related information. Generally, the measures proposed two methods to potentially increase access to financial disclosure documents and periodic transaction forms: requiring public access changes and requiring placement of proposed forms for certification of compliance for proposed divestiture of assets on public webpages.⁵⁹

Penalties for Noncompliance

Most legislative proposals would have changed available penalties for noncompliance. These proposals suggested two basic penalty strategies: fining individuals for noncompliance and/or publishing the names of individuals who are found in violation of the law on a public webpage. As noted in the **Appendix** tables, proposed penalties have included

⁵⁵ The House and Senate do not currently appear to publish data on the number of qualified blind trusts reviewed or certified. The House Ethics Committee and the Senate Select Committee on Ethics, however, do report the total number of financial disclosure and periodic transaction reports that they receive annually. Using data from the 116th Congress (2019-2020), the House reported that it received 6,331 financial disclosure reports and 3,722 periodic transaction reports filed by Members, officers, and employees of the House. The Senate Select Committee on Ethics reported that it received 3,712 public financial disclosure and periodic disclosure of financial transactions reports in 2020 and 3,876 public financial disclosure and periodic disclosure of financial transaction reports in 2021. House Ethics Committee, *Summary of Activities*, 116th Congress, p. 7; U.S. Congress, Senate, Select Committee on Ethics, "Annual Report of the Select Committee on Ethics 117th Congress, First Session," January 29, 2021, at https://www.ethics.senate.gov/public/_cache/files/691e5e65-5b73-4e95-8cdb-de056570cb34/annual-report-for-2020.pdf; and U.S. Congress, Senate, Select Committee on Ethics, "Annual Report of the Select Committee on Ethics 117th Congress, Second Session," January 31, 2022, at https://www.ethics.senate.gov/public/_cache/files/9a2ce840-718c-409b-891f-42f5ebf6f365/annual-report-for-2021.pdf.

⁵⁶ 5 U.S.C. §13103; P.L. 112-105, §8, 126 Stat. 295 (2012).

⁵⁷ 5 U.S.C. §13107. Forms can be accessed at U.S. Congress, House, Office of the Clerk of the House of Representatives, "Financial Disclosure Reports," at <https://disclosures-clerk.house.gov/PublicDisclosure/FinancialDisclosure/>; and U.S. Congress, Senate, Secretary of the Senate, "Senate Public Financial Disclosure (Senate Rule 34)," *Public Disclosure*, at https://www.senate.gov/pagelayout/legislative/g_three_sections_with_teasers/lobbyingdisc.htm.

⁵⁸ P.L. 113-7, §1(a)(1), 127 Stat. 438 (2013). This law P.L. modified the STOCK Act to exempt officers and employees from public, online disclosure of their financial disclosure and periodic transaction reports.

⁵⁹ In the 117th Congress, H.R. 6694 and S. 3612 would have required public access changes. The following proposals would have required placement of proposed certification of compliance forms on public webpages: H.R. 7200 (116th Congress); H.R. 336, H.R. 6490, S. 3494, and S. 3504 (117th Congress); and H.R. 345, H.R. 1138, H.R. 2678, H.R. 3033, S. 58, S. 439, S. 1171, and S. 2773 (118th Congress).

- specific monetary fines;⁶⁰
- civil penalties of not less than 10% of the value of the covered investment;⁶¹
- “disgorgement” to the U.S. Treasury of any profit from transactions or holdings;⁶²
- penalties equal to the Member’s entire salary for as long as the violation occurs;⁶³ and/or
- civil penalty equal to the monthly equivalent of the annual rate of pay for the Member, after a written notice from the supervising ethics committee to the Member.⁶⁴

Additionally, at least one proposal would have required the respective ethics committees to publish the names of individuals found in violation of the proposed amendments.⁶⁵

Under current law, a covered individual who willfully fails to file financial disclosure and/or periodic transaction reports or who files a false report may be subject to certain civil or criminal actions, generally after the supervising ethics office investigates the circumstances. Should the supervising ethics office find “reasonable cause to believe [the filer] has willfully failed to file or report or willfully falsified or willfully failed to file information required to be reported,” it may refer the case to the Attorney General.⁶⁶

Alternatively, the law also provides that the supervising ethics office “may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.”⁶⁷

For Congress, the House Committee on Ethics and the Senate Select Committee on Ethics provide additional interpretation of penalties for financial disclosure. The House incorporates the financial disclosure requirements into Rule XXVI.⁶⁸ The Senate incorporates financial disclosure requirements into Rule XXXIV.⁶⁹ Both committees, using identical language, also note that “in addition to Committee action, the EIGA authorize[s] the Attorney General of the United States to

⁶⁰ Proposed monetary fines have ranged from \$500 (H.R. 6694 and S. 3612, 117th Congress) to not more than \$1 million (S. 3451, 115th Congress). Other proposed fines have included \$10,000 (H.R. 2678 and S. 1171, 118th Congress) and \$50,000 (H.R. 6678 and S. 3631, 117th Congress; and H.R. 1679 and H.R. 3003, 118th Congress).

⁶¹ 115th Congress: S. 3718. 116th Congress: H.R. 6401, H.R. 6461, and S. 1393. 117th Congress: H.R. 1579, S. 564, H.R. 6694, and S. 3612. 118th Congress: H.R. 2678, S. 1171, and S. 2463.

⁶² 117th Congress: H.R. 6490 and S. 3504. 118th Congress: H.R. 1138, S. 58, S. 439, and S. 2463.

⁶³ 117th Congress: H.R. 6844.

⁶⁴ 117th Congress: S. 3949. 118th Congress: S. 2773.

⁶⁵ 117th Congress: H.R. 6844.

⁶⁶ 5 U.S.C. §13106(b). The EIGA specifies that “the Attorney General may bring a civil action in any appropriate United States district court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section [13104] of this title. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$50,000.” 5 U.S.C. §13106(a)(1).

⁶⁷ 5 U.S.C. §13106(c).

⁶⁸ U.S. Congress, House, “Rule XXVI-Financial Disclosure,” *Constitution, Jefferson’s Manual, and Rules of the House of Representatives of the United States One Hundred Seventeenth Congress*, 116th Cong., 2nd sess., 2021, H.Doc. 116-177, 2021, §1103, p. 1021, at <https://www.govinfo.gov/content/pkg/HMAN-117/pdf/HMAN-117.pdf#page=1036>.

⁶⁹ U.S. Congress, Senate, Committee on Rules and Administration, “Rules of the Senate,” at <https://www.rules.senate.gov/rules-of-the-senate>.

seek a civil penalty ... against an individual who knowingly and willfully falsifies or fails to file or report any required information.”⁷⁰

Considerations for Congress

Since at least the 115th Congress, Members of Congress have introduced legislation that seeks to limit or prohibit Representatives and Senators and other legislative branch staff from engaging in certain financial activities. These bills have included several proposals. Specifically, the bills have proposed amendments to the EIGA and/or STOCK Act, the creation of new law, or amendments to House rules. Taken together, the legislative proposals include a range of options to limit or prohibit certain financial activities. These include prohibiting the holding, purchasing, selling, and active management of covered assets; requiring the use of qualified blind trusts to remediate real or perceived financial conflicts of interest; increasing public access for financial disclosure documents; and amending penalties for noncompliance. Each of these options likely has advantages and disadvantages should Congress choose to implement a particular measure as introduced or incorporate various concepts into another measure.

Policymakers may wish to consider the scope of the proposals, the proposed benefits of a particular action, any potential administrative adjustments that might be necessary to implement a modification of ethics laws, and the potential costs to covered officials to comply with the proposed laws. Subsequently, Congress might consider several questions. These might include the following:

- Should new requirements apply only to Members of Congress, or also to their spouses and dependent children?
- Should congressional officers and staff be subject to the same disclosure and public access considerations as Members of Congress?
- What penalties are appropriate for violations of new or existing requirements and are proposed penalties sufficient to achieve congressional aims?
- What is the financial cost for establishing qualified blind trusts and how might covered officials pay for the establishment of such trusts?

⁷⁰ U.S. Congress, House Committee on Standards of Official Conduct, *House Ethics Manual*, “Failure to File or Filing False Disclosure Information,” 110th Cong., 2nd sess., 2008, p. 265; and U.S. Congress, Senate Select Committee on Ethics, *Senate Ethics Manual*, committee print, 108th Cong., 1st sess., S.Pr. 108-1, 2003, p. 127.

Appendix. Current and Past Legislative Efforts to Limit Member of Congress Financial Activities

In recent Congresses, Members have introduced legislation that would have restricted or prohibited Representatives and Senators—and in some cases other covered officials, employees, and individuals—from engaging in certain financial activities. The following tables summarize legislation introduced since the 115th Congress (2017-2018). For each identified measure, the tables include the bill or resolution number, the affected congressional officials/employees, the proposed action, the timeline for implementation, proposed penalties, and covered and exempted assets. For organizational ease, each table lists companion measures together.

To identify bills or resolutions for each Congress, CRS searched Congress.gov using subject headers “Government Ethics” + “Members of Congress” + “Securities,” as well as relevant keywords. CRS supplemented this search by examining House dear colleague letters and Member press releases for similar legislation.⁷¹ It is possible that other measures that might address similar policy matters but use different wording were not captured by this search.

⁷¹ Jennifer Manning, Senior Research Librarian, conducted the searches.

Legislation Introduced in the 115th Congress (2017-2018)

In the 115th Congress, Members introduced three bills or resolutions (**Table A-1**) to limit or prohibit Members of Congress and covered congressional employees from engaging in certain financial activities. None of these measures were passed by the House or Senate.

Table A-1. 115th Congress: Proposals to Limit or Prohibit Certain Financial Activities

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 5458 Member Financial Transparency Act	Members of Congress	Amend EIGA to require periodic transaction reports within 7 days	Applies to transactions after enactment	—	—	—
S. 3451 Congressional Anti-Corruption Act	Members of Congress	Prohibit purchase or sale of individual securities	—	Fine of not more than \$1 million or not more than 5 years imprisonment	—	Widely held investment funds
S. 3718 Ban Conflicted Trading Act	Members of Congress and congressional employees who file under EIGA	Prohibit purchase or sale of specified investments or transactions that create a net short position	May divest covered assets for 6 months after enactment for Members, or after taking office for newly elected Members	Civil penalty of not less than 10% of the value of the covered asset	Securities, commodities, or futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investment funds; U.S. Treasury bills, notes, or bonds

Source: CRS summary and analysis of proposed legislation.

Legislation Introduced in the 116th Congress (2019-2020)

In the 116th Congress, Members introduced five bills or resolutions (**Table A-2**) to limit or prohibit Members of Congress and covered congressional employees from engaging in certain financial activities. None of these measures were passed by the House or Senate.

Table A-2. 116th Congress: Proposals to Limit or Prohibit Certain Financial Activities

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 3419 HUMBLE Act	Member, Delegate, or Resident Commissioner	Amends House Rule XXIII to prohibit ownership of common stock	Effective immediately before noon on January 3, 2021	—	Common stock of any individual public corporation	—
H.R. 6401 Ban Conflicted Trading Act	Members of Congress and congressional employees who file under EIGA	Prohibit purchase or sale of specified investments or transactions that create a net short position	May divest covered investment for 6 months after enactment for current Members, or after taking office for new Members	Civil penalty of not less than 10% of the value of the covered asset	Securities, commodities, or futures	Widely held investment funds; U.S. Treasury bills, notes, or bonds
S. 1393 Ban Conflicted Trading Act						
H.R. 6461 IPO Act	Members of Congress and spouses	Prohibit purchase or sale of covered investments or transactions that create a net short position	May divest covered investment for 6 months after enactment for current Members, or after taking office for new Members	Civil penalty of not less than 10% of the value of the covered asset	Securities, commodities, or futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investment funds; U.S. Treasury bills, notes, or bonds May maintain control of covered investments held as of the day before the date on which the covered person took office

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 7200 TRUST in Congress Act	Members of Congress, spouses, and dependent children	Require placement of covered investments in a qualified blind trust House and Senate publication of certifications on a public website	Within 90 days of enactment for current Members or within 90 days of taking office for new Members	—	Securities, commodities, or futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investment funds; U.S. Treasury bills, notes, or bonds

Source: CRS summary and analysis of proposed legislation.

Legislation Introduced in the 117th Congress (2021-2022)

In the 117th Congress, Members introduced 14 bills or resolutions (Table A-3) to limit or prohibit Members of Congress and covered congressional employees from engaging in certain financial activities. None of these measures were passed by the House or Senate.

Table A-3. 117th Congress: Proposals to Limit or Prohibit Certain Financial Activities

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.Res. 873 No Option for Stock Trading and Ownership as a Check to Keep Congress Clean Resolution	Members of Congress, Delegates, and Resident Commissioner	Amend House Rule XXIII to prohibit ownership of common stock	—	—	Common stock of any individual public corporation	—
H.R. 459 HUMBLE Act	Members of Congress, Delegates, and Resident Commissioner	Amend House Rule XXIII to prohibit ownership of common stock	Effective immediately before noon on January 3, 2023	—	Common stock of any individual public corporation	—
H.R. 336 TRUST in Congress Act	Members of Congress, spouses, and dependent children	Require placement of covered investments in a qualified blind trust House and Senate publication of certifications on a public website	Within 90 days of enactment for current Members or within 90 days of taking office for new Members	—	Securities, commodities, or futures and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investment funds; U.S. Treasury bills, notes, or bonds

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 1579 Ban Conflicted Trading Act	Members of Congress and congressional employees who file financial disclosure reports under the EIGA	Prohibit purchase or sale of covered investments;	—	Civil penalty of not less than 10% of the value of the covered asset	Securities, commodities, or futures and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investments; U.S. Treasury bills, notes, or bonds
S. 564 Ban Conflicted Trading Act		covered officials may place securities holdings in qualified blind trust				
H.R. 6490 Banning Insider Trading in Congress Act	Members of Congress and spouses	Amend EIGA to prohibit holding, purchase, or sale of covered financial instruments;	Within 180 days of enactment for current Members or within 180 days of taking office for new Members	Disgorge to the Treasury any profit from the transaction or holding; prohibition on deduction of a loss from a covered transaction or holding; and civil fine assessed by supervising ethics committee	Securities, commodities, or futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Diversified mutual funds, diversified exchange-traded funds, U.S. Treasury bills, notes, or bonds; or compensation from the primary occupation of a Member's spouse or dependent
S. 3504 Banning Insider Trading in Congress Act		covered officials may place holdings in qualified blind trust House and Senate publication of certifications on a public website				

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 6694 STOCK Act 2.0	Members of Congress, senior congressional staff, spouses, and dependents	Amend EIGA to prohibit purchase or sale of covered financial instruments	—	Fine pursuant to regulations issued by the supervising ethics office of \$500 in each case the covered person fails to file a report	Commodities, securities, futures, cryptocurrencies, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investments; U.S. Treasury bills, notes, or bonds
S. 3612 STOCK Act 2.0		Covered officials may place securities holdings in qualified blind trusts		Amend STOCK Act to create fines for failure to report (\$500 for each case), and require deposit of fines in the Treasury		
		Amend the STOCK Act to require public access to covered officials' financial disclosure and periodic transaction reports		Civil penalty of not less than 10% of the value of the covered investment that was purchased or sold, or the security in which a net short position was created		

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 6678 Bipartisan Ban on Congressional Stock Ownership Act of 2022	Members of Congress and spouses	Prohibit ownership of specified assets and require divestment of assets except for widely held investment funds	Divest within 180 days or 5 years of enactment for current Members or within 180 days or 5 years of taking office for new Members, depending on type of asset	Civil fines of not more than \$50,000 if determined by a U.S. district court after the Attorney General or Special Counsel brings a civil action	Stocks, bonds, commodities, futures, or “other form of security, including an interest in a hedge fund, a derivative, option, or other complex investment vehicle”	Widely held investments, shares of Settlement Common Stock issued under the Alaska Native Claims Settlement Act (43 U.S.C. §1606(g)(1)(A)); U.S. Treasury bills, notes, or bonds; investment funds held by federal, state, or local government employee retirement plans; small business concern interests; and compensation from the primary occupation of a spouse
S. 3631 Bipartisan Ban on Congressional Stock Ownership Act of 2022						

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 6844 Restoring Trust in Public Service Act	Members of Congress, spouses, and dependents	Prohibit ownership of specified assets and require divestment of covered instruments	Divestment within 90 days of enactment for current Members or within 90 days of taking office for new Members	Penalty equal to the Member's entire federal salary, for as long as the violation continues Publication by the Ethics Committee of individuals found to be in violation	Securities, commodities, or futures, or any comparable economic interests acquired through synthetic means such as the use of derivatives, including investment funds, trusts, employee benefit plans, or deferred compensation plans	Diversified mutual funds; diversified exchange-traded funds; U.S. Treasury bills, notes, or bonds; compensation from primary occupation of Member's spouse or dependent; and investment funds held in a federal, state, or local government employee retirement plan
S. 3494 Ban Congressional Stock Trading Act	Members of Congress, spouses, and dependents	Amend the EIGA to require the divestment or placement of covered investments in qualified blind trusts House and Senate publication of certifications on a public website	Certification within 30 days of enactment for current Members or within 30 days of taking office for new Members Divest or place covered instruments in a qualified blind trust within 120 days of enactment or within 120 days of taking office for new Members	Written notice by supervising ethics office to Member with warning of potential violation to correct actions Civil penalty equal to the monthly equivalent of the annual rate of pay payable to the Member of Congress, if filings are not corrected after the supervising ethics office gives 30 days' notice of noncompliance	Securities, commodities, or futures, or any comparable economic interests acquired through synthetic means such as the use of derivatives, including investment funds, trusts, employee benefit plans, or deferred compensation plans	Diversified mutual funds; diversified exchange-traded funds; U.S. Treasury bills, notes, or bonds; compensation from primary occupation of Member's spouse or dependent; and investment funds held in a federal, state, or local government employee retirement plan

Bill or Resolution	Affected Congressional Officials/Employees	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
S. 3550 Ethics Reform Act	Members of Congress	Prohibit purchase or sale of individual securities	—	—	Individual securities	Widely held investment funds

Source: CRS summary and analysis of proposed legislation.

Legislation Introduced in the 118th Congress (2023-2024)

In the 118th Congress (through October 10, 2023), Members have introduced 10 bills or resolutions (**Table A-4**) to limit or prohibit Members of Congress and covered congressional employees from engaging in certain financial activities. As of October 10, 2023, none of these measures have been passed by the House or Senate.

Table A-4. 118th Congress: Proposals to Limit or Prohibit Certain Financial Activities
Through August 14, 2023

Bill or Resolution	Affected Congressional Party	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.Res. 156 No Option for Stock Trading and Ownership as a Check to Keep Congress Clean (NO STOCK) Resolution	Members of Congress, Delegates, and Resident Commissioner	Amend House Rule XXIII to prohibit ownership of common stock	—	—	Common stock of any individual corporation	—
H.R. 345 TRUST in Congress Act	Members of Congress, spouses, and dependent children	Require placement of covered investments in qualified blind trusts; Clerk of the House and Secretary of the Senate post certifications on a public website	Within 90 days of enactment for current Members or within 90 days of taking office for new Members	—	Securities, commodities, or futures, or any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investments; U.S. Treasury bills, notes, or bonds; or compensation through a covered investment from the primary occupation of a Member's spouse or dependent
H.R. 507 HUMBLE Act	Members of Congress, Delegates, and Resident Commissioner	Amend House Rule XXIII to prohibit ownership of common stock	Immediately before noon on January 3, 2025	—	Common stock of any individual corporation	—

Bill or Resolution	Affected Congressional Party	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 2678 Ending Trading and Holdings in Congressional Stocks (ETHICS) Act	Members of Congress, spouses, and dependent children	Amend the EIGA to prohibit holding, purchase, or sale of covered financial instruments; covered officials may divest or place covered investments in qualified blind trusts; supervising ethics committee publishes certification on a public website	At enactment: Immediate ban on purchase of covered investments for Members; 90 days for spouse and dependent children 90 days after enactment: ban on sale of covered investments Within 90 days of enactment for a Member or within 90 days of taking office for a future Member: permitted to sell covered investments Certify compliance with supervising ethics office within 60 days of new Congress beginning	Civil penalty of equal to the greater of the monthly equivalent of the annual rate of pay for the Member or amount equal to 10% of the value of each covered investment not divested or placed in a qualified blind trust; Attorney General authorized to file civil action against individual who discloses the contents of a qualified blind trust (\$10,000 per communication or 1% of the value of the qualified blind trust)	Securities, commodities, or futures, or any comparable economic interests acquired through synthetic means (such as the use of a derivative, option, or warrant); directly or indirectly held investment funds or holding companies, trusts, employee benefit plans, or deferred compensation plans	Diversified mutual funds; diversified exchange-traded funds; U.S. Treasury bills, notes, or bonds; compensation or security paid from the primary occupation of a Member's spouse; federal, state, or local government employee retirement plans; tax-free state or municipal bonds; Alaska Native Claims Settlement Act Settlement Common Stock
S. 1171 Ending Trading and Holdings in Congressional Stocks (ETHICS) Act						

Bill or Resolution	Affected Congressional Party	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 1679 Bipartisan Ban on Congressional Stock Ownership Act of 2023	Members of Congress and spouses	Prohibit ownership or sale of covered investments	Depending on type of asset, divest within 180 days or 5 years of enactment for current Members or within 180 days or 5 years of taking office for new Members	Civil fines of not more than \$50,000 per violation if determined by a U.S. district court after the Attorney General brings a civil action	Stocks, bonds, commodities, futures, or other forms of securities, including interests in hedge funds, derivatives, options, or other complex investment vehicles	Widely held investments; U.S. Treasury bills, notes, or bonds; federal, state, or local government employee retirement plans; interest in a small business concern; compensation from spouse's primary occupation; Alaska Native Claims Settlement Act Settlement Common Stock
H.R. 1138 Prohibit Insider Trading Act	Members of Congress and spouses	Prohibit ownership or trading of covered investments	Applies first day of second session of the 118 th Congress (January 3, 2024) for current Members; within 7 days of taking office for new Members; annual certification of compliance to supervisory ethics office, which publishes certification on website	Disgorge to the Treasury any profit from the transaction or holding; prohibition on deduction of a loss from a covered transaction or holding; and civil fine assessed by supervising ethics committee	Securities, commodities, or futures, or any comparable economic interests acquired through synthetic means (such as the use of derivatives, options, or warrants)	Diversified mutual funds; diversified exchange-traded funds; Thrift Savings Plan (TSP); U.S. Treasury bills, notes, or bonds

Bill or Resolution	Affected Congressional Party	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
H.R. 3003 Bipartisan Restoring Faith in Government Act	Members of Congress, spouses, and dependent children	Amend EIGA to prohibit ownership of covered financial instruments; covered officials shall divest of covered financial instruments or place them in qualified blind trusts; submit a “pledge of compliance” to the supervising ethics office House and Senate publication of certifications on a public website	Divestment must occur within 90 days of enactment for current Members or within 90 days of taking office for new Members	Civil fines of not more than \$50,000 if determined by a U.S. district court after the Attorney General brings a civil action Prohibit a Member of Congress from paying a civil penalty for non-compliance with the amended law from a Members’ Representational Allowance (MRA) in the House or the Senators’ Official Personnel and Office Expense Account ^a	Commodities, securities, futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Widely held investments; U.S. Treasury bills, notes, or bonds; state or local government bonds; Thrift Savings Plan (TSP) investments
S. 58/S. 439 Preventing Elected Leaders from Owning Securities and Investments (PELOSI) Act	Members of Congress and spouses	Amend EIGA to prohibit ownership or trading of covered investments House and Senate publication of certifications on a public website	180 days of enactment for current Members or within 180 days of taking office for new Members	Disgorge to the Treasury any profit from the transaction or holding; prohibition on deduction of a loss from a covered transaction or holding; and civil fine assessed by supervising ethics committee	Commodities, securities, futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Diversified mutual funds; diversified exchange-traded funds; United States Treasury bills, notes, or bonds; and compensation from primary occupation of a Member’s spouse or dependent

Bill or Resolution	Affected Congressional Party	Proposed Action	Timeline	Proposed Penalty	Covered Assets	Exempted Assets
S. 2463 Ban Stock Trading for Government Officials Act	Members of Congress, spouses, and dependent children	Amend EIGA to prohibit ownership or trading covered investments and to require divestiture of covered financial interest	Later of 180 days of enactment or the date which the covered individual assumes office or employment	Disgorge to the Treasury any profit from the transaction or holding; fine of not less than 10% of the value of the covered financial investment	Commodities, securities, futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives	Diversified mutual funds diversified exchange-traded funds; U.S. Treasury bills, notes, or bonds; compensation from primary occupation of covered individual
S. 2773	Members of Congress, spouses, and dependent children	Amend EIGA to require divestiture or placement of assets in a blind trust	Certification required within 30 days of enactment for Members of Congress, or within 30 days of becoming a Member of Congress; divestiture or blind trust required with 120 days of enactment for Members of Congress, or within 120 days of becoming a Member of Congress	Civil penalties equal to the monthly equivalent of the annual rate of pay for Members of Congress	Commodities, securities, futures, and any comparable economic interests acquired through synthetic means such as the use of derivatives, options, and warrants, including investment funds, trusts, employee benefit plans, or deferred compensation plans	Diversified mutual funds; diversified exchange-traded funds; U.S. Treasury bills, notes, or bonds; compensation from primary occupation of Member's spouse or dependent child; investments in federal, state, or local government employee retirement plans

Source: CRS summary and analysis of proposed legislation.

- a. For more information on Members' Representational Allowance (MRA) in the House or the Senators' Official Personnel and Office Expense Account, see CRS Report R40962, *Members' Representational Allowance: History and Usage*, by Ida A. Brudnick; and CRS Report R44399, *Senators' Official Personnel and Office Expense Account (SOPOEA): History and Usage*, by Ida A. Brudnick.

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