

118TH CONGRESS
1ST SESSION

H. R. 310

To amend title 5, United States Code, to prohibit transactions involving certain financial instruments by senior Federal employees, their spouses, or dependent children, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 12, 2023

Mr. CLOUD (for himself and Mr. GOLDEN of Maine) introduced the following bill; which was referred to the Committee on Oversight and Accountability, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To amend title 5, United States Code, to prohibit transactions involving certain financial instruments by senior Federal employees, their spouses, or dependent children, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Dismantling Invest-
5 ments in Violation of Ethical Standards through Trusts
6 Act”.

1 **SEC. 2. PROHIBITING TRANSACTIONS AND OWNERSHIP OF**
2 **CERTAIN FINANCIAL INSTRUMENTS BY SEN-**
3 **IOR FEDERAL EMPLOYEES, THEIR SPOUSES,**
4 **OR DEPENDENT CHILDREN.**

5 (a) IN GENERAL.—Chapter 13 of title 5, United
6 States Code, is amended by adding after subchapter III
7 the following:

8 “SUBCHAPTER IV—RESTRICTIONS REGARDING
9 FINANCIAL INSTRUMENTS

10 “§ 13151. Definitions

11 “In this subchapter:

12 “(1) COVERED FINANCIAL INSTRUMENT.—

13 “(A) IN GENERAL.—The term ‘covered fi-
14 nancial instrument’ means—

15 “(i) any investment in—

16 “(I) a security (as defined in sec-
17 tion 3(a) of Securities Exchange Act
18 of 1934 (15 U.S.C. 78c(a)));

19 “(II) a security future (as de-
20 fined in that section); or

21 “(III) a commodity (as defined in
22 section 1a of the Commodity Ex-
23 change Act (7 U.S.C. 1a)); and

24 “(ii) any economic interest com-
25 parable to an interest described in clause
26 (i) that is acquired through synthetic

1 means, such as the use of a derivative, in-
2 cluding an option, warrant, or other simi-
3 lar means.

4 “(B) EXCLUSIONS.—The term ‘covered fi-
5 nancial instrument’ does not include—

6 “(i) a diversified mutual fund;

7 “(ii) a diversified exchange-traded
8 fund;

9 “(iii) a United States Treasury bill,
10 note, or bond; or

11 “(iv) compensation from the primary
12 occupation of a spouse or dependent child
13 of a senior Federal employee.

14 “(2) QUALIFIED BLIND TRUST.—The term
15 ‘qualified blind trust’ has the meaning given the
16 term in section 13104.

17 “(3) SENIOR FEDERAL EMPLOYEE.—The term
18 ‘senior Federal employee’ means any individual occu-
19 pying a Senior Executive Service position (as that
20 term is defined in section 3132).

21 “(4) SUPERVISING ETHICS OFFICE.—The term
22 ‘supervising ethics office’ has the meaning given the
23 term in section 13101.

1 **“§ 13152. Prohibition on certain transactions and**
2 **holdings involving covered financial in-**
3 **struments**

4 “(a) PROHIBITION.—Except as provided in sub-
5 section (b), a senior Federal employee, their spouse, or
6 their dependent children may not, during the term of serv-
7 ice of the employee, hold, purchase, or sell any covered
8 financial instrument.

9 “(b) EXCEPTIONS.—The prohibition under sub-
10 section (a) does not apply to—

11 “(1) a sale by a senior Federal employee, their
12 spouse, or their dependent child that is completed by
13 the date that is—

14 “(A) for an employee serving on the date
15 of enactment of this title, 180 days after that
16 date of enactment; and

17 “(B) for any employee who commences
18 service as an employee after the date of enact-
19 ment of this title, 180 days after the first date
20 of the initial term of service;

21 “(2) a covered financial instrument held in a
22 qualified blind trust operated on behalf of, or for the
23 benefit of, a senior Federal employee, their spouse,
24 or their dependent child; or

25 “(3) a covered financial instrument exempted
26 from coverage under section 208 of title 18 pursuant

1 to section 2640.202 of title 5, Code of Federal Reg-
2 ulations (or any successor regulation).

3 “(c) APPLICATION OF CERTIFICATE OF DIVESTITURE
4 PROGRAM.—For purposes of section 1043 of the Internal
5 Revenue Code of 1986—

6 “(1) this section shall be treated as a Federal
7 conflict of interest statute; and

8 “(2) any person required to dispose of any
9 property by reason of this section shall be treated as
10 an eligible person.

11 “(d) PENALTIES.—

12 “(1) DISGORGEMENT.—A senior Federal em-
13 ployee, their spouse, or their dependent child shall
14 disgorge to the general fund of the Treasury any
15 profit from a transaction or holding involving a cov-
16 ered financial instrument that is conducted in viola-
17 tion of this section.

18 “(2) INCOME TAX.—A loss from a transaction
19 or holding involving a covered financial instrument
20 that is conducted in violation of this section may not
21 be deducted from the amount of income tax owed by
22 the applicable senior Federal employee, their spouse,
23 or their dependent child.

24 “(3) FINES.—A senior Federal employee who
25 holds or conducts a transaction involving a covered

1 financial instrument in violation of this section may
2 be subject to a civil fine assessed by the supervising
3 ethics office under section 13153.

4 **“§ 13153. Certification of compliance**

5 “(a) IN GENERAL.—Not less frequently than annu-
6 ally, each senior Federal employee shall submit to the su-
7 pervising ethics office a written certification that the em-
8 ployee, their spouse, or their dependent child has achieved
9 compliance with the requirements of this title.

10 “(b) PUBLICATION.—The supervising ethics office
11 shall publish each certification submitted under subsection
12 (a) on a publicly available website.

13 **“§ 13154. Authority of supervising ethics office**

14 “(a) IN GENERAL.—The supervising ethics office
15 may implement and enforce the requirements of this sub-
16 chapter, including by—

17 “(1) issuing—

18 “(A) for applicable senior Federal employ-
19 ees—

20 “(i) rules governing that implementa-
21 tion; and

22 “(ii) 1 or more reasonable extensions
23 to achieve compliance with this subchapter,
24 if the supervising ethics office determines
25 that an employee is making a good faith

1 effort to divest any covered financial in-
2 struments; and

3 “(B) guidance relating to covered financial
4 instruments;

5 “(2) publishing on the internet certifications
6 submitted by senior Federal employees under section
7 13153(a); and

8 “(3) assessing civil fines against any senior
9 Federal employee who is in violation of this sub-
10 chapter, subject to subsection (b).

11 “(b) REQUIREMENTS FOR CIVIL FINES.—

12 “(1) AMOUNT.—A fine imposed under this sec-
13 tion against a senior Federal employee shall be equal
14 to the greater of—

15 “(A) \$1,000, or

16 “(B) an amount equal to 10 percent of the
17 greatest dollar value of the applicable covered
18 financial instrument during any period that
19 such instrument was held by the applicable sen-
20 ior Federal employee or their spouse or depend-
21 ent child (as the case may be).

22 “(2) IN GENERAL.—Before imposing a fine pur-
23 suant to this section, the supervising ethics office
24 shall provide to the applicable senior Federal em-
25 ployee—

1 “(A) a written notice describing each cov-
2 ered financial instrument transaction for which
3 a fine will be assessed; and

4 “(B) an opportunity, with respect to each
5 such covered financial instrument transaction—

6 “(i) for a hearing; and

7 “(ii) to achieve compliance with the
8 requirements of this subchapter.

9 “(3) PUBLICATION.—The supervising ethics of-
10 fice shall publish on a publicly available website a
11 description of—

12 “(A) each fine assessed pursuant to this
13 section;

14 “(B) the reasons why each such fine was
15 assessed; and

16 “(C) the result of each assessment, includ-
17 ing any hearing under paragraph (2)(B)(i) re-
18 lating to the assessment.

19 “(4) APPEAL.—A senior Federal employee may
20 appeal to the supervising ethics office a fine assessed
21 under this section during the 30-day period begin-
22 ning on the date the fine is so assessed.

1 **“§ 13155. Audit by Government Accountability Office**

2 “Not later than 2 years after the date of enactment
3 of this subchapter, the Comptroller General of the United
4 States shall—

5 “(1) conduct an audit of the compliance by sen-
6 ior Federal employees with the requirements of this
7 subchapter; and

8 “(2) submit to each supervising ethics office a
9 report describing the results of the audit conducted
10 under paragraph (1).”.

11 (b) APPLICATION.—The amendments made by sub-
12 section (a) shall apply to individuals described in section
13 13152(a) of title 5, United States Code, (as added by sub-
14 section (a)) beginning on the date that is 12 months fol-
15 lowing the date of enactment of this Act.

16 (c) ADDITIONAL EMPLOYEES.—Section 13121(c)(1)
17 of title 5, United States Code, is amended by inserting
18 “up to 100” after “appoint”.

19 (d) FUNDING.—The Director of the Office of Man-
20 agement and Budget may transfer such funds as the Di-
21 rector considers appropriate, to be derived from unobli-
22 gated amounts available for executive branch programs
23 identified by the Director to be duplicative, to the Office
24 of Government Ethics for the purpose of carrying out this

- 1 Act, to remain available until the date that is 5 years fol-
- 2 lowing the date of the enactment of this Act.

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