

118TH CONGRESS
1ST SESSION

S. 693

To amend chapter 131 of title 5, United States Code, to prohibit certain executive branch officials from holding individual stocks, and for other purposes.

IN THE SENATE OF THE UNITED STATES

MARCH 7, 2023

Mr. HAWLEY introduced the following bill; which was read twice and referred to the Committee on Homeland Security and Governmental Affairs

A BILL

To amend chapter 131 of title 5, United States Code, to prohibit certain executive branch officials from holding individual stocks, 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 “Eliminating Executive
5 Branch Insider Trading Act”.

6 **SEC. 2. SENSE OF CONGRESS.**

7 It is the sense of Congress that executive branch offi-
8 cials should not have a personal financial interest in the
9 outcome of Government policy decisions.

1 **SEC. 3. BANNING INSIDER TRADING IN THE EXECUTIVE**
 2 **BRANCH.**

3 (a) IN GENERAL.—Chapter 131 of title 5, United
 4 States Code, is amended by adding at the end the fol-
 5 lowing:

6 **“Subchapter IV—Banning Insider Trading in**
 7 **the Executive Branch**

8 **“§ 13161. Definitions**

9 “In this subchapter:

10 “(1) COVERED FINANCIAL INSTRUMENT.—

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

13 “(i) any investment in—

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

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

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

22 “(ii) any economic interest com-
 23 parable to an interest described in clause
 24 (i) that is acquired through synthetic
 25 means, such as the use of a derivative, in-

1 including an option, warrant, or other simi-
2 lar means.

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

5 “(i) a diversified mutual fund;

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

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

10 “(iv) compensation from the primary
11 occupation of a covered individual who is a
12 spouse or dependent of an individual de-
13 scribed in subparagraphs (A) through (E)
14 of paragraph (2).

15 “(2) COVERED INDIVIDUAL.—The term ‘cov-
16 ered individual’ means—

17 “(A) the President;

18 “(B) the Vice President;

19 “(C) each officer or employee in the execu-
20 tive branch, including a special Government em-
21 ployee as defined in section 202 of title 18, who
22 occupies a position classified GS–15 or above of
23 the General Schedule or, in the case of posi-
24 tions not under the General Schedule, for which
25 the rate of basic pay is equal to or greater than

1 120 percent of the minimum rate of basic pay
2 payable for GS-15 of the General Schedule;

3 “(D) each member of a uniformed service
4 whose pay grade is at or in excess of O-7 under
5 section 201 of title 37;

6 “(E) each officer or employee in any other
7 position determined by the Director of the Of-
8 fice of Government Ethics to be of equal classi-
9 fication to the positions described in subpara-
10 graphs (C) and (D); and

11 “(F) the spouse of any individual described
12 in subparagraphs (A) through (E).

13 “(3) QUALIFIED BLIND TRUST.—The term
14 ‘qualified blind trust’ has the meaning given the
15 term in section 13104(f)(3).

16 “(4) SUPERVISING ETHICS COMMITTEE.—The
17 term ‘supervising ethics committee’ means, as appli-
18 cable—

19 “(A) the Select Committee on Ethics of
20 the Senate; and

21 “(B) the Committee on Ethics of the
22 House of Representatives.

1 **“§ 13162. Prohibition on certain transactions and**
2 **holdings involving covered financial in-**
3 **struments**

4 “(a) PROHIBITION.—Except as provided in sub-
5 section (b), covered individual, or any spouse of a covered
6 individual, may not, during the term of service of the cov-
7 ered individual, hold, purchase, or sell any covered finan-
8 cial instrument.

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

11 “(1) a sale by a covered individual, or a spouse
12 of a covered individual, that is completed by the date
13 that is—

14 “(A) for a covered individual serving on
15 the date of enactment of the Eliminating Exec-
16 utive Branch Insider Trading Act, 180 days
17 after that date of enactment; and

18 “(B) for any covered individual who com-
19 mences service as a covered individual after the
20 date of enactment of Eliminating Executive
21 Branch Insider Trading Act, 180 days after the
22 first date of the initial term of service; or

23 “(2) a covered financial instrument held in a
24 qualified blind trust operated on behalf of, or for the
25 benefit of, the covered individual or spouse of the
26 covered individual.

1 “(c) PENALTIES.—

2 “(1) DISGORGEMENT.—A covered individual
3 shall disgorge to the Treasury of the United States
4 any profit from a transaction or holding involving a
5 covered financial instrument that is conducted in
6 violation of this section.

7 “(2) FINES.—A covered individual who holds or
8 conducts a transaction involving, or whose spouse
9 holds or conducts a transaction involving, a covered
10 financial instrument in violation of this section may
11 be subject to a civil fine assessed by the Attorney
12 General under section 13163.

13 **“§ 13163. Civil penalties**

14 “(a) CIVIL ACTION.—The Attorney General may
15 bring a civil action in any appropriate United States dis-
16 trict court against any covered individual who violates any
17 provision of section 13162.

18 “(b) CIVIL PENALTY.—The court in which any action
19 is brought under subsection (a) may assess against a cov-
20 ered individual a civil penalty of not more than \$10,000
21 or the amount of compensation, if any, that the covered
22 individual received for the prohibited conduct, whichever
23 is greater.

1 **“§ 13164. Audit by Government Accountability Office**

2 “Not later than 2 years after the date of enactment
3 of the Eliminating Executive Branch Insider Trading Act,
4 and annually thereafter, the Comptroller General of the
5 United States shall—

6 “(1) conduct an audit of the compliance by a
7 representative sample of covered individuals with the
8 requirements of this subchapter; and

9 “(2) submit to the supervising ethics commit-
10 tees a report describing the results of the audit con-
11 ducted under paragraph (1).”.

12 (b) CLERICAL AMENDMENT.—The table of sections
13 for chapter 131 of title 5, United States Code, is amended
14 by adding at the end the following:

“SUBCHAPTER IV—BANNING INSIDER TRADING IN CONGRESS

“13161. Definitions.

“13162. Prohibition on certain transactions and holdings involving covered fi-
nancial instruments.

“13163. Civil penalties.

“13164. Audit by Government Accountability Office.”.

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