

118TH CONGRESS
1ST SESSION

H. R. 1138

To amend title 5, United States Code, to prohibit transactions involving certain financial instruments by Members of Congress and their spouses, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

FEBRUARY 21, 2023

Mr. NUNN of Iowa (for himself and Mr. STANTON) introduced the following bill; which was referred to the Committee on House Administration, 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 Members of Congress and their spouses, 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 “Prohibit Insider Trad-
5 ing Act”.

1 **SEC. 2. PROHIBITING TRANSACTIONS AND OWNERSHIP OF**
 2 **CERTAIN FINANCIAL INSTRUMENTS BY MEM-**
 3 **BERS OF CONGRESS AND THEIR SPOUSES.**

4 (a) IN GENERAL.—Chapter 131 of title 5, United
 5 States Code, is amended by adding after subchapter III
 6 the following:

7 “SUBCHAPTER IV—RESTRICTIONS REGARDING
 8 FINANCIAL INSTRUMENTS

9 “§ 13151. Definitions

10 “In this subchapter—

11 “(1) the term ‘covered financial instrument’—

12 “(A) 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)); and

22 “(ii) any economic interest com-
 23 parable to an interest described in sub-
 24 clause (I) that is acquired through syn-
 25 thetic means, such as the use of a deriva-

1 tive, including an option, warrant, or other
2 similar means; and

3 “(B) does not include—

4 “(i) a diversified mutual fund;

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

7 “(iii) any investment in the Thrift
8 Savings Plan; or

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

11 “(2) the term ‘Member of Congress’ has the
12 meaning given that term in section 13101;

13 “(3) the term ‘supervising ethics office’ has the
14 meaning given that term in section 13101; and

15 “(4) the term ‘qualified blind trust’ has the
16 meaning given that term in section 13104(f)(3).

17 **“§ 13152. Prohibition on certain transactions and**
18 **holdings involving covered financial in-**
19 **struments**

20 “(a) PROHIBITION.—Except as provided in sub-
21 section (b), a Member of Congress and the Member’s
22 spouse may not, during the term of service of the Member,
23 hold, purchase, or sell any covered financial instrument.

24 “(b) EXCEPTIONS.—The prohibition under sub-
25 section (a)—

1 “(1) shall begin to apply with respect to a
2 Member of Congress who commences service as a
3 Member after the date of enactment of this sub-
4 chapter on the date that is seven days after the first
5 date of the initial term of service; and

6 “(2) does not apply to a covered financial in-
7 strument held in a qualified blind trust operated on
8 behalf of, or for the benefit of, a Member of Con-
9 gress or the Member’s spouse.

10 “(c) PENALTIES.—

11 “(1) DISGORGEMENT.—A Member of Congress
12 and the Member’s spouse shall disgorge to the gen-
13 eral fund of the Treasury any profit from a trans-
14 action or holding involving a covered financial in-
15 strument that is conducted in violation of this sec-
16 tion.

17 “(2) INCOME TAX.—A loss from a transaction
18 or holding involving a covered financial instrument
19 that is conducted in violation of this section may not
20 be deducted from the amount of income tax owed by
21 the applicable Member of Congress or the Member’s
22 spouse.

23 “(3) FINES.—A Member of Congress who holds
24 or conducts a transaction involving a covered finan-
25 cial instrument in violation of this section may be

1 subject to a civil fine as described under section
 2 13106(a).

3 **“§ 13153. Supervising ethics office certification of**
 4 **compliance and audit**

5 “(a) CERTIFICATION.—

6 “(1) IN GENERAL.—Not later than seven days
 7 after the beginning of any session of Congress, each
 8 Member of Congress shall submit to the supervising
 9 ethics office a written certification that the Member
 10 and the Member’s spouse has achieved compliance
 11 with the requirements of this subchapter.

12 “(2) PUBLICATION.—The supervising ethics of-
 13 fice shall publish each certification submitted under
 14 paragraph (1) on a publicly available website.

15 “(b) AUDIT.—Not less than every two years, the su-
 16 pervising ethics office shall conduct an audit of the compli-
 17 ance by Members of Congress with the requirements of
 18 this subchapter.”.

19 (b) CLERICAL AMENDMENT.—The table of sections
 20 for such chapter 131 is amended by inserting after the
 21 item relating to section 13146 the following:

“SUBCHAPTER IV—RESTRICTIONS REGARDING FINANCIAL INSTRUMENTS

“13151. Definitions.

“13152. Prohibition on certain transactions and holdings involving covered fi-
 nancial instruments.

“13153. Supervising ethics office certification of compliance and audit.”.

1 (c) APPLICATION.—The amendments made by sub-
2 section (a) shall begin to apply to Members of Congress
3 and their spouses on the first day of the second session
4 of the One Hundred Eighteenth Congress.

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