

In the House of Representatives, U. S.,

February 9, 2012.

Resolved, That the bill from the Senate (S. 2038) entitled “An Act to prohibit Members of Congress and employees of Congress from using nonpublic information derived from their official positions for personal benefit, and for other purposes.”, do pass with the following

AMENDMENT:

Strike out all after the enacting clause and insert:

1 ***SECTION 1. SHORT TITLE.***

2 *This Act may be cited as the “Stop Trading on Con-*
3 *gressional Knowledge Act of 2012” or the “STOCK Act”.*

4 ***SEC. 2. DEFINITIONS.***

5 *In this Act:*

6 (1) *MEMBER OF CONGRESS.*—*The term “Member*
7 *of Congress” means a member of the Senate or House*
8 *of Representatives, a Delegate to the House of Rep-*
9 *resentatives, and the Resident Commissioner from*
10 *Puerto Rico.*

11 (2) *EMPLOYEE OF CONGRESS.*—*The term “em-*
12 *ployee of Congress” means—*

13 (A) *any individual (other than a Member of*
14 *Congress), whose compensation is disbursed by*

1 *the Secretary of the Senate or the Chief Adminis-*
 2 *trative Officer of the House of Representatives;*
 3 *and*

4 *(B) any other officer or employee of the leg-*
 5 *islative branch (as defined in section 109(11) of*
 6 *the Ethics in Government Act of 1978 (5 U.S.C.*
 7 *App. 109(11))).*

8 *(3) EXECUTIVE BRANCH EMPLOYEE.—The term*
 9 *“executive branch employee”—*

10 *(A) has the meaning given the term “em-*
 11 *ployee” under section 2105 of title 5, United*
 12 *States Code; and*

13 *(B) includes—*

14 *(i) the President;*

15 *(ii) the Vice President; and*

16 *(iii) an employee of the United States*
 17 *Postal Service or the Postal Regulatory*
 18 *Commission.*

19 *(4) JUDICIAL OFFICER.—The term “judicial offi-*
 20 *cer” has the meaning given that term under section*
 21 *109(10) of the Ethics in Government Act of 1978*
 22 *(U.S.C. App. 109(10)) .*

23 *(5) JUDICIAL EMPLOYEE.—The term “judicial*
 24 *employee” has the meaning given that term in section*

1 109(8) of the *Ethics in Government Act of 1978* (5
2 *U.S.C. App. 109(8)*).

3 (6) *SUPERVISING ETHICS OFFICE.*—*The term*
4 *“supervising ethics office” has the meaning given that*
5 *term in section 109(18) of the Ethics in Government*
6 *Act of 1978 (5 U.S.C. App. 109(18)).*

7 **SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFOR-**
8 **MATION FOR PRIVATE PROFIT.**

9 *The Select Committee on Ethics of the Senate and the*
10 *Committee on Ethics of the House of Representatives shall*
11 *issue interpretive guidance of the relevant rules of each*
12 *chamber, including rules on conflicts of interest and gifts,*
13 *clarifying that a Member of Congress and an employee of*
14 *Congress may not use nonpublic information derived from*
15 *such person’s position as a Member of Congress or employee*
16 *of Congress or gained from the performance of such person’s*
17 *official responsibilities as a means for making a private*
18 *profit.*

19 **SEC. 4. PROHIBITION OF INSIDER TRADING.**

20 (a) *AFFIRMATION OF NONEXEMPTION.*—*Members of*
21 *Congress and employees of Congress are not exempt from*
22 *the insider trading prohibitions arising under the securities*
23 *laws, including section 10(b) of the Securities Exchange Act*
24 *of 1934 and Rule 10b–5 thereunder.*

25 (b) *DUTY.*—

1 (1) *PURPOSE.*—*The purpose of the amendment*
 2 *made by this subsection is to affirm a duty arising*
 3 *from a relationship of trust and confidence owed by*
 4 *each Member of Congress and each employee of Con-*
 5 *gress.*

6 (2) *AMENDMENT.*—*Section 21A of the Securities*
 7 *Exchange Act of 1934 (15 U.S.C. 78u–1) is amended*
 8 *by adding at the end the following:*

9 “(g) *DUTY OF MEMBERS AND EMPLOYEES OF CON-*
 10 *GRESS.*—

11 “(1) *IN GENERAL.*—*Subject to the rule of con-*
 12 *struction under section 10 of the STOCK Act and*
 13 *solely for purposes of the insider trading prohibitions*
 14 *arising under this Act, including section 10(b) and*
 15 *Rule 10b–5 thereunder, each Member of Congress or*
 16 *employee of Congress owes a duty arising from a rela-*
 17 *tionship of trust and confidence to the Congress, the*
 18 *United States Government, and the citizens of the*
 19 *United States with respect to material, nonpublic in-*
 20 *formation derived from such person’s position as a*
 21 *Member of Congress or employee of Congress or*
 22 *gained from the performance of such person’s official*
 23 *responsibilities.*

24 “(2) *DEFINITIONS.*—*In this subsection—*

1 “(A) the term ‘Member of Congress’ means
 2 a member of the Senate or House of Representa-
 3 tives, a Delegate to the House of Representatives,
 4 and the Resident Commissioner from Puerto
 5 Rico; and

6 “(B) the term ‘employee of Congress’
 7 means—

8 “(i) any individual (other than a
 9 Member of Congress), whose compensation is
 10 disbursed by the Secretary of the Senate or
 11 the Chief Administrative Officer of the
 12 House of Representatives; and

13 “(ii) any other officer or employee of
 14 the legislative branch (as defined in section
 15 109(11) of the Ethics in Government Act of
 16 1978 (5 U.S.C. App. 109(11))).

17 “(3) *RULE OF CONSTRUCTION.*—Nothing in this
 18 subsection shall be construed to impair or limit the
 19 construction of the existing antifraud provisions of
 20 the securities laws or the authority of the Commission
 21 under those provisions.”.

22 **SEC. 5. CONFORMING CHANGES TO THE COMMODITY EX-**
 23 **CHANGE ACT.**

24 Section 4c(a) of the Commodity Exchange Act (7
 25 U.S.C. 6c(a)) is amended—

1 (1) *in paragraph (3), in the matter preceding*
 2 *subparagraph (A)—*

3 (A) *by inserting “or any Member of Con-*
 4 *gress or employee of Congress (as such terms are*
 5 *defined under section 2 of the STOCK Act) or*
 6 *any judicial officer or judicial employee (as such*
 7 *terms are defined, respectively, under section 2 of*
 8 *the STOCK Act)” after “Federal Government”*
 9 *the first place it appears;*

10 (B) *by inserting “Member, officer,” after*
 11 *“position of the”; and*

12 (C) *by inserting “or by Congress or by the*
 13 *judiciary” before “in a manner”; and*

14 (2) *in paragraph (4)—*

15 (A) *in subparagraph (A), in the matter pre-*
 16 *ceding clause (i)—*

17 (i) *by inserting “or any Member of*
 18 *Congress or employee of Congress or any ju-*
 19 *dicial officer or judicial employee” after*
 20 *“Federal Government” the first place it ap-*
 21 *pears;*

22 (ii) *by inserting “Member, officer,”*
 23 *after “position of the”; and*

24 (iii) *by inserting “or by Congress or by*
 25 *the judiciary” before “in a manner”;*

1 (B) in subparagraph (B), in the matter pre-
 2 ceding clause (i), by inserting “or any Member
 3 of Congress or employee of Congress or any judi-
 4 cial officer or judicial employee” after “Federal
 5 Government”; and

6 (C) in subparagraph (C)—

7 (i) in the matter preceding clause (i),
 8 by inserting “or by Congress or by the judi-
 9 ciary”—

10 (I) before “that may affect”; and

11 (II) before “in a manner”; and

12 (ii) in clause (iii), by inserting “to
 13 Congress, any Member of Congress, any em-
 14 ployee of Congress, any judicial officer, or
 15 any judicial employee,” after “Federal Gov-
 16 ernment,”.

17 **SEC. 6. PROMPT REPORTING OF FINANCIAL TRANS-**
 18 **ACTIONS.**

19 (a) *REPORTING REQUIREMENT.*—Section 103 of the
 20 *Ethics in Government Act of 1978 (5 U.S.C. App. 103)* is
 21 amended by adding at the end the following subsection:

22 “(l) Not later than 30 days after receiving notification
 23 of any transaction required to be reported under section
 24 102(a)(5)(B), but in no case later than 45 days after such
 25 transaction, the following persons, if required to file a re-

1 port under any subsection of section 101, subject to any
2 waivers and exclusions, shall file a report of the transaction:

3 “(1) *The President.*

4 “(2) *The Vice President.*

5 “(3) *Each officer or employee in the executive*
6 *branch, including a special Government employee as*
7 *defined in section 202 of title 18, United States Code,*
8 *who occupies a position classified above GS–15 of the*
9 *General Schedule or, in the case of positions not*
10 *under the General Schedule, for which the rate of*
11 *basic pay is equal to or greater than 120 percent of*
12 *the minimum rate of basic pay payable for GS–15 of*
13 *the General Schedule; each member of a uniformed*
14 *service whose pay grade is at or in excess of O–7*
15 *under section 201 of title 37, United States Code; and*
16 *each officer or employee in any other position deter-*
17 *mined by the Director of the Office of Government*
18 *Ethics to be of equal classification.*

19 “(4) *Each employee appointed pursuant to sec-*
20 *tion 3105 of title 5, United States Code.*

21 “(5) *Any employee not described in paragraph*
22 *(3) who is in a position in the executive branch which*
23 *is excepted from the competitive service by reason of*
24 *being of a confidential or policymaking character, ex-*
25 *cept that the Director of the Office of Government*

1 *Ethics may, by regulation, exclude from the applica-*
2 *tion of this paragraph any individual, or group of*
3 *individuals, who are in such positions, but only in*
4 *cases in which the Director determines such exclusion*
5 *would not affect adversely the integrity of the Govern-*
6 *ment or the public's confidence in the integrity of the*
7 *Government.*

8 *“(6) The Postmaster General, the Deputy Post-*
9 *master General, each Governor of the Board of Gov-*
10 *ernors of the United States Postal Service and each*
11 *officer or employee of the United States Postal Service*
12 *or Postal Regulatory Commission who occupies a po-*
13 *sition for which the rate of basic pay is equal to or*
14 *greater than 120 percent of the minimum rate of*
15 *basic pay payable for GS–15 of the General Schedule.*

16 *“(7) The Director of the Office of Government*
17 *Ethics and each designated agency ethics official.*

18 *“(8) Any civilian employee not described in*
19 *paragraph (3), employed in the Executive Office of*
20 *the President (other than a special government em-*
21 *ployee) who holds a commission of appointment from*
22 *the President.*

23 *“(9) A Member of Congress, as defined under sec-*
24 *tion 109(12).*

1 “(10) *An officer or employee of the Congress, as*
 2 *defined under section 109(13).*”.

3 (b) *EFFECTIVE DATE.*—*The amendment made by sub-*
 4 *section (a) shall apply to transactions occurring on or after*
 5 *the date that is 90 days after the date of enactment of this*
 6 *Act.*

7 **SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.**

8 (a) *REPORT.*—

9 (1) *IN GENERAL.*—*Not later than 12 months*
 10 *after the date of enactment of this Act, the Comp-*
 11 *troller General of the United States, in consultation*
 12 *with the Congressional Research Service, shall submit*
 13 *to the Committee on Homeland Security and Govern-*
 14 *mental Affairs of the Senate and the Committee on*
 15 *Oversight and Government Reform and the Com-*
 16 *mittee on the Judiciary of the House of Representa-*
 17 *tives a report on the role of political intelligence in*
 18 *the financial markets.*

19 (2) *CONTENTS.*—*The report required by this sec-*
 20 *tion shall include a discussion of—*

21 (A) *what is known about the prevalence of*
 22 *the sale of political intelligence and the extent to*
 23 *which investors rely on such information;*

1 (B) *what is known about the effect that the*
 2 *sale of political intelligence may have on the fi-*
 3 *nancial markets;*

4 (C) *the extent to which information which*
 5 *is being sold would be considered nonpublic in-*
 6 *formation;*

7 (D) *the legal and ethical issues that may be*
 8 *raised by the sale of political intelligence;*

9 (E) *any benefits from imposing disclosure*
 10 *requirements on those who engage in political in-*
 11 *telligence activities; and*

12 (F) *any legal and practical issues that may*
 13 *be raised by the imposition of disclosure require-*
 14 *ments on those who engage in political intel-*
 15 *ligence activities.*

16 (b) *DEFINITION.—For purposes of this section, the*
 17 *term “political intelligence” shall mean information that*
 18 *is—*

19 (1) *derived by a person from direct communica-*
 20 *tions with an executive branch employee, a Member of*
 21 *Congress, or an employee of Congress; and*

22 (2) *provided in exchange for financial compensa-*
 23 *tion to a client who intends, and who is known to in-*
 24 *tend, to use the information to inform investment de-*
 25 *cisions.*

1 **SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL**
 2 **DISCLOSURE FORMS OF MEMBERS OF CON-**
 3 **GRESS AND CONGRESSIONAL STAFF.**

4 *(a) PUBLIC, ONLINE DISCLOSURE OF FINANCIAL DIS-*
 5 *CLOSURE FORMS OF MEMBERS OF CONGRESS AND CON-*
 6 *GRESSIONAL STAFF.—*

7 *(1) IN GENERAL.—Not later than August 31,*
 8 *2012, or 90 days after the date of enactment of this*
 9 *Act, whichever is later, the Secretary of the Senate*
 10 *and the Sergeant at Arms of the Senate, and the*
 11 *Clerk of the House of Representatives, shall ensure*
 12 *that financial disclosure forms filed by Members of*
 13 *Congress, candidates for Congress, and employees of*
 14 *Congress in calendar year 2012 and in subsequent*
 15 *years pursuant to title I of the Ethics in Government*
 16 *Act of 1978 are made available to the public on the*
 17 *respective official websites of the Senate and the*
 18 *House of Representatives not later than 30 days after*
 19 *such forms are filed.*

20 *(2) EXTENSIONS.—Notices of extension for finan-*
 21 *cial disclosure shall be made available electronically*
 22 *under this subsection along with its related disclosure.*

23 *(3) REPORTING TRANSACTIONS.—In the case of a*
 24 *transaction disclosure required by section 103(l) of*
 25 *the Ethics in Government Act of 1978, as added by*
 26 *this Act, such disclosure shall be filed not later than*

1 *the date required by that section. Notices of extension*
 2 *for transaction disclosure shall be made available elec-*
 3 *tronically under this subsection along with its related*
 4 *disclosure.*

5 (4) *EXPIRATION.*—*The requirements of this sub-*
 6 *section shall expire upon implementation of the pub-*
 7 *lic disclosure system established under subsection (b).*

8 (b) *ELECTRONIC FILING AND ONLINE PUBLIC AVAIL-*
 9 *ABILITY OF FINANCIAL DISCLOSURE FORMS OF MEMBERS*
 10 *OF CONGRESS, OFFICERS OF THE HOUSE AND SENATE,*
 11 *AND CONGRESSIONAL STAFF.*—

12 (1) *IN GENERAL.*—*Subject to paragraph (6) and*
 13 *not later than 18 months after the date of enactment*
 14 *of this Act, the Secretary of the Senate and the Ser-*
 15 *geant at Arms of the Senate and the Clerk of the*
 16 *House of Representatives shall develop systems to en-*
 17 *able—*

18 (A) *electronic filing of reports received by*
 19 *them pursuant to section 103(h)(1)(A) of title I*
 20 *of the Ethics in Government Act of 1978; and*

21 (B) *public access to financial disclosure re-*
 22 *ports filed by Members of Congress, candidates*
 23 *for Congress, and employees of Congress, as well*
 24 *as reports of a transaction disclosure required by*
 25 *section 103(l) of the Ethics in Government Act of*

1 1978, as added by this Act, notices of extensions,
2 amendments, and blind trusts, pursuant to title
3 I of the Ethics in Government Act of 1978,
4 through databases that—

5 (i) are maintained on the official
6 websites of the House of Representatives and
7 the Senate; and

8 (ii) allow the public to search, sort,
9 and download data contained in the re-
10 ports.

11 (2) *LOGIN*.—No login shall be required to search
12 or sort the data contained in the reports made avail-
13 able by this subsection. A login protocol with the
14 name of the user shall be utilized by a person
15 downloading data contained in the reports. For pur-
16 poses of filings under this section, section 105(b)(2) of
17 the Ethics in Government Act of 1978 does not apply.

18 (3) *PUBLIC AVAILABILITY*.—Pursuant to section
19 105(b)(1) of the Ethics in Government Act of 1978,
20 electronic availability on the official websites of the
21 Senate and the House of Representatives under this
22 subsection shall be deemed to have met the public
23 availability requirement.

24 (4) *FILERS COVERED*.—Individuals required
25 under the Ethics in Government Act of 1978 or the

1 *Senate Rules to file financial disclosure reports with*
 2 *the Secretary of the Senate or the Clerk of the House*
 3 *of Representatives shall file reports electronically*
 4 *using the systems developed by the Secretary of the*
 5 *Senate, the Sergeant at Arms of the Senate, and the*
 6 *Clerk of the House of Representatives.*

7 (5) *EXTENSIONS.*—*Notices of extension for finan-*
 8 *cial disclosure shall be made available electronically*
 9 *under this subsection along with its related disclosure.*

10 (6) *ADDITIONAL TIME.*—*The requirements of this*
 11 *subsection may be implemented after the date pro-*
 12 *vided in paragraph (1) if the Secretary of the Senate*
 13 *or the Clerk of the House of Representatives identifies*
 14 *in writing to relevant congressional committees the*
 15 *additional time needed for such implementation.*

16 (c) *RECORDKEEPING.*—*Section 105(d) of the Ethics in*
 17 *Government Act of 1978 (5 U.S.C. App. 105(d)) is amended*
 18 *to read as follows:*

19 “(d)(1) *Any report filed with or transmitted to an*
 20 *agency or supervising ethics office or to the Clerk of the*
 21 *House of Representatives or the Secretary of the Senate pur-*
 22 *suant to this title shall be retained by such agency or office*
 23 *or by the Clerk of the House of Representatives or the Sec-*
 24 *retary of the Senate, as the case may be.*

1 “(2) *Such report shall be made available to the pub-*
 2 *lic—*

3 “(A) *in the case of a Member of Congress until*
 4 *a date that is 6 years from the date the individual*
 5 *ceases to be a Member of Congress; and*

6 “(B) *in the case of all other reports filed pursu-*
 7 *ant to this title, for a period of 6 years after receipt*
 8 *of the report.*

9 “(3) *After the relevant time period identified under*
 10 *paragraph (2), the report shall be destroyed unless needed*
 11 *in an ongoing investigation, except that in the case of an*
 12 *individual who filed the report pursuant to section 101(b)*
 13 *and was not subsequently confirmed by the Senate, or who*
 14 *filed the report pursuant to section 101(c) and was not sub-*
 15 *sequently elected, such reports shall be destroyed 1 year after*
 16 *the individual either is no longer under consideration by*
 17 *the Senate or is no longer a candidate for nomination or*
 18 *election to the Office of President, Vice President, or as a*
 19 *Member of Congress, unless needed in an ongoing investiga-*
 20 *tion or inquiry.”.*

21 **SEC. 9. OTHER FEDERAL OFFICIALS.**

22 (a) *PROHIBITION OF THE USE OF NONPUBLIC INFOR-*
 23 *MATION FOR PRIVATE PROFIT.—*

24 (1) *EXECUTIVE BRANCH EMPLOYEES.—The Of-*
 25 *fice of Government Ethics shall issue such interpretive*

1 *guidance of the relevant Federal ethics statutes and*
 2 *regulations, including the Standards of Ethical Con-*
 3 *duct for executive branch employees, related to use of*
 4 *nonpublic information, as necessary to clarify that no*
 5 *executive branch employee may use nonpublic infor-*
 6 *mation derived from such person's position as an ex-*
 7 *ecutive branch employee or gained from the perform-*
 8 *ance of such person's official responsibilities as a*
 9 *means for making a private profit.*

10 (2) *JUDICIAL OFFICERS.—The Judicial Con-*
 11 *ference of the United States shall issue such interpre-*
 12 *tive guidance of the relevant ethics rules applicable to*
 13 *Federal judges, including the Code of Conduct for*
 14 *United States Judges, as necessary to clarify that no*
 15 *judicial officer may use nonpublic information de-*
 16 *derived from such person's position as a judicial officer*
 17 *or gained from the performance of such person's offi-*
 18 *cial responsibilities as a means for making a private*
 19 *profit.*

20 (3) *JUDICIAL EMPLOYEES.—The Judicial Con-*
 21 *ference of the United States shall issue such interpre-*
 22 *tive guidance of the relevant ethics rules applicable to*
 23 *judicial employees as necessary to clarify that no ju-*
 24 *dicial employee may use nonpublic information de-*
 25 *derived from such person's position as a judicial em-*

1 ~~ployee or gained from the performance of such per-~~
 2 ~~son’s official responsibilities as a means for making~~
 3 ~~a private profit.~~

4 ~~(b) APPLICATION OF INSIDER TRADING LAWS.—~~

5 ~~(1) AFFIRMATION OF NON-EXEMPTION.—Execu-~~
 6 ~~tive branch employees, judicial officers, and judicial~~
 7 ~~employees are not exempt from the insider trading~~
 8 ~~prohibitions arising under the securities laws, includ-~~
 9 ~~ing section 10(b) of the Securities Exchange Act of~~
 10 ~~1934 and Rule 10b–5 thereunder.~~

11 ~~(2) DUTY.—~~

12 ~~(A) PURPOSE.—The purpose of the amend-~~
 13 ~~ment made by this paragraph is to affirm a~~
 14 ~~duty arising from a relationship of trust and~~
 15 ~~confidence owed by each executive branch em-~~
 16 ~~ployee, judicial officer, and judicial employee.~~

17 ~~(B) AMENDMENT.—Section 21A of the Secu-~~
 18 ~~rities Exchange Act of 1934 (15 U.S.C. 78u–1),~~
 19 ~~as amended by this Act, is amended by adding~~
 20 ~~at the end the following:~~

21 ~~“(h) DUTY OF OTHER FEDERAL OFFICIALS.—~~

22 ~~“(1) IN GENERAL.—Subject to the rule of con-~~
 23 ~~struction under section 10 of the STOCK Act and~~
 24 ~~solely for purposes of the insider trading prohibitions~~
 25 ~~arising under this Act, including section 10(b), and~~

1 *Rule 10b–5 thereunder, each executive branch em-*
 2 *ployee, each judicial officer, and each judicial em-*
 3 *ployee owes a duty arising from a relationship of*
 4 *trust and confidence to the United States Government*
 5 *and the citizens of the United States with respect to*
 6 *material, nonpublic information derived from such*
 7 *person’s position as an executive branch employee, ju-*
 8 *dicial officer, or judicial employee or gained from the*
 9 *performance of such person’s official responsibilities.*

10 “(2) *DEFINITIONS.—In this subsection—*

11 “(A) *the term ‘executive branch employee’—*

12 “(i) *has the meaning given the term*
 13 *‘employee’ under section 2105 of title 5,*
 14 *United States Code;*

15 “(ii) *includes—*

16 “(I) *the President;*

17 “(II) *the Vice President; and*

18 “(III) *an employee of the United*
 19 *States Postal Service or the Postal*
 20 *Regulatory Commission;*

21 “(B) *the term ‘judicial employee’ has the*
 22 *meaning given that term in section 109(8) of the*
 23 *Ethics in Government Act of 1978 (5 U.S.C.*
 24 *App. 109(8)); and*

1 “(C) the term ‘judicial officer’ has the
 2 meaning given that term under section 109(10)
 3 of the Ethics in Government Act of 1978 (5
 4 U.S.C. App. 109(10)).

5 “(3) *RULE OF CONSTRUCTION.*—Nothing in this
 6 subsection shall be construed to impair or limit the
 7 construction of the existing antifraud provisions of
 8 the securities laws or the authority of the Commission
 9 under those provisions.”.

10 **SEC. 10. RULE OF CONSTRUCTION.**

11 *Nothing in this Act, the amendments made by this Act,*
 12 *or the interpretive guidance to be issued pursuant to sec-*
 13 *tions 3 and 9 of this Act, shall be construed to—*

14 (1) *impair or limit the construction of the anti-*
 15 *fraud provisions of the securities laws or the Com-*
 16 *modity Exchange Act or the authority of the Securi-*
 17 *ties and Exchange Commission or the Commodity Fu-*
 18 *tures Trading Commission under those provisions;*

19 (2) *be in derogation of the obligations, duties,*
 20 *and functions of a Member of Congress, an employee*
 21 *of Congress, an executive branch employee, a judicial*
 22 *officer, or a judicial employee, arising from such per-*
 23 *son’s official position; or*

24 (3) *be in derogation of existing laws, regulations,*
 25 *or ethical obligations governing Members of Congress,*

1 *employees of Congress, executive branch employees, ju-*
 2 *dicial officers, or judicial employees.*

3 **SEC. 11. EXECUTIVE BRANCH REPORTING.**

4 *(a) EXECUTIVE BRANCH REPORTING.—*

5 *(1) IN GENERAL.—Not later than August 31,*
 6 *2012, or 90 days after the date of enactment of this*
 7 *Act, whichever is later, the President shall ensure that*
 8 *financial disclosure forms filed pursuant to title I of*
 9 *the Ethics in Government Act of 1978 (5 U.S.C. App.*
 10 *101 et seq.), in calendar year 2012 and in subsequent*
 11 *years, by executive branch employees specified in sec-*
 12 *tion 101 of that Act are made available to the public*
 13 *on the official websites of the respective executive*
 14 *branch agencies not later than 30 days after such*
 15 *forms are filed.*

16 *(2) EXTENSIONS.—Notices of extension for finan-*
 17 *cial disclosure shall be made available electronically*
 18 *along with the related disclosure.*

19 *(3) REPORTING TRANSACTIONS.—In the case of a*
 20 *transaction disclosure required by section 103(l) of*
 21 *the Ethics in Government Act of 1978, as added by*
 22 *this Act, such disclosure shall be filed not later than*
 23 *the date required by that section. Notices of extension*
 24 *for transaction disclosure shall be made available elec-*

1 *tronically under this subsection along with its related*
 2 *disclosure.*

3 (4) *EXPIRATION.*—*The requirements of this sub-*
 4 *section shall expire upon implementation of the pub-*
 5 *lic disclosure system established under subsection (b).*

6 (b) *ELECTRONIC FILING AND ONLINE PUBLIC AVAIL-*
 7 *ABILITY OF FINANCIAL DISCLOSURE FORMS OF CERTAIN*
 8 *EXECUTIVE BRANCH EMPLOYEES.*—

9 (1) *IN GENERAL.*—*Subject to paragraph (6), and*
 10 *not later than 18 months after the date of enactment*
 11 *of this Act, the President, acting through the Director*
 12 *of the Office of Government Ethics, shall develop sys-*
 13 *tems to enable—*

14 (A) *electronic filing of reports required by*
 15 *section 103 of the Ethics in Government Act of*
 16 *1978 (5 U.S.C. App. 103), other than subsection*
 17 *(h) of such section; and*

18 (B) *public access to financial disclosure re-*
 19 *ports filed by executive branch employees re-*
 20 *quired to file under section 101 of that Act (5*
 21 *U.S.C. App. 101), as well as reports of a trans-*
 22 *action disclosure required by section 103(l) of*
 23 *that Act, as added by this Act, notices of exten-*
 24 *sions, amendments, and blind trusts, pursuant to*
 25 *title I of that Act, through databases that—*

1 (i) are maintained on the official
2 website of the Office of Government Ethics;
3 and

4 (ii) allow the public to search, sort,
5 and download data contained in the re-
6 ports.

7 (2) *LOGIN*.—No login shall be required to search
8 or sort the data contained in the reports made avail-
9 able by this subsection. A login protocol with the
10 name of the user shall be utilized by a person
11 downloading data contained in the reports. For pur-
12 poses of filings under this section, section 105(b)(2) of
13 the Ethics in Government Act of 1978 (5 U.S.C. App.
14 105(b)(2)) does not apply.

15 (3) *PUBLIC AVAILABILITY*.—Pursuant to section
16 105(b)(1) of the Ethics in Government Act of 1978 (5
17 U.S.C. App. 105(b)(1)), electronic availability on the
18 official website of the Office of Government Ethics
19 under this subsection shall be deemed to have met the
20 public availability requirement.

21 (4) *FILERS COVERED*.—Executive branch em-
22 ployees required under title I of the Ethics in Govern-
23 ment Act of 1978 to file financial disclosure reports
24 shall file the reports electronically with their super-
25 vising ethics office.

1 (5) *EXTENSIONS.*—*Notices of extension for finan-*
 2 *cial disclosure shall be made available electronically*
 3 *under this subsection along with its related disclosure.*

4 (6) *ADDITIONAL TIME.*—*The requirements of this*
 5 *subsection may be implemented after the date pro-*
 6 *vided in paragraph (1) if the Director of the Office*
 7 *of Government Ethics, after consultation with the*
 8 *Clerk of the House of Representatives and Secretary*
 9 *of the Senate, identifies in writing to relevant con-*
 10 *gressional committees the additional time needed for*
 11 *such implementation.*

12 **SEC. 12. PARTICIPATION IN INITIAL PUBLIC OFFERINGS.**

13 *Section 21A of the Securities Exchange Act of 1934*
 14 *(15 U.S.C. 78u–1), as amended by this Act, is further*
 15 *amended by adding at the end the following:*

16 “(i) *PARTICIPATION IN INITIAL PUBLIC OFFERINGS.*—
 17 *An individual described in section 101(f) of the Ethics in*
 18 *Government Act of 1978 may not purchase securities that*
 19 *are the subject of an initial public offering (within the*
 20 *meaning given such term in section 12(f)(1)(G)(i)) in any*
 21 *manner other than is available to members of the public*
 22 *generally.”.*

23 **SEC. 13. REQUIRING MORTGAGE DISCLOSURE.**

24 (a) *REQUIRING DISCLOSURE.*—*Section 102(a)(4)(A)*
 25 *of the Ethics in Government Act of 1978 (5 U.S.C. App.*

1 102(a)(4)(A)) is amended by striking “spouse; and” and
 2 inserting the following: “spouse, except that this exception
 3 shall not apply to a reporting individual—

4 “(i) described in paragraph (1), (2), or
 5 (9) of section 101(f);

6 “(ii) described in section 101(b) who
 7 has been nominated for appointment as an
 8 officer or employee in the executive branch
 9 described in subsection (f) of such section,
 10 other than—

11 “(I) an individual appointed to a
 12 position—

13 “(aa) as a Foreign Service
 14 Officer below the rank of ambas-
 15 sador; or

16 “(bb) in the uniformed serv-
 17 ices for which the pay grade pre-
 18 scribed by section 201 of title 37,
 19 United States Code is O–6 or
 20 below; or

21 “(II) a special government em-
 22 ployee, as defined under section 202 of
 23 title 18, United States Code; or

24 “(iii) described in section 101(f) who is
 25 in a position in the executive branch the

1 *appointment to which is made by the Presi-*
 2 *dent and requires advice and consent of the*
 3 *Senate, other than—*

4 “(I) *an individual appointed to a*
 5 *position—*

6 “(aa) *as a Foreign Service*
 7 *Officer below the rank of ambas-*
 8 *sador; or*

9 “(bb) *in the uniformed serv-*
 10 *ices for which the pay grade pre-*
 11 *scribed by section 201 of title 37,*
 12 *United States Code is O–6 or*
 13 *below; or*

14 “(II) *a special government em-*
 15 *ployee, as defined under section 202 of*
 16 *title 18, United States Code; and”.*

17 (b) *EFFECTIVE DATE.—The amendment made by sub-*
 18 *section (a) shall apply with respect to reports which are*
 19 *required to be filed under section 101 of the Ethics of Gov-*
 20 *ernment Act of 1978 on or after the date of the enactment*
 21 *of this Act.*

22 **SEC. 14. TRANSACTION REPORTING REQUIREMENTS.**

23 *The transaction reporting requirements established by*
 24 *section 103(l) of the Ethics in Government Act of 1978, as*
 25 *added by section 6 of this Act, shall not be construed to*

1 *apply to a widely held investment fund (whether such fund*
 2 *is a mutual fund, regulated investment company, pension*
 3 *or deferred compensation plan, or other investment fund),*
 4 *if—*

5 *(1)(A) the fund is publicly traded; or*

6 *(B) the assets of the fund are widely diversified;*

7 *and*

8 *(2) the reporting individual neither exercises*
 9 *control over nor has the ability to exercise control*
 10 *over the financial interests held by the fund.*

11 **SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND**

12 **CRIMINAL OFFENSES.**

13 *(a) APPLICATION TO OTHER ELECTED OFFICIALS.—*

14 *(1) CIVIL SERVICE RETIREMENT SYSTEM.—Sec-*
 15 *tion 8332(o)(2)(A) of title 5, United States Code, is*
 16 *amended—*

17 *(A) in clause (i), by inserting “, the Presi-*
 18 *dent, the Vice President, or an elected official of*
 19 *a State or local government” after “Member”;*
 20 *and*

21 *(B) in clause (ii), by inserting “, the Presi-*
 22 *dent, the Vice President, or an elected official of*
 23 *a State or local government” after “Member”.*

(2) *FEDERAL EMPLOYEES RETIREMENT SYSTEM.*—Section 8411(l)(2) of title 5, United States Code, is amended—

(A) in subparagraph (A), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”; and

(B) in subparagraph (B), by inserting “, the President, the Vice President, or an elected official of a State or local government” after “Member”.

(b) *CRIMINAL OFFENSES.*—Section 8332(o)(2) of title 5, United States Code, is amended—

(1) in subparagraph (A), by striking clause (iii) and inserting the following:

“(iii) The offense—

“(I) is committed after the date of enactment of this subsection and—

“(aa) is described under subparagraph (B)(i), (iv), (xvi), (xix), (xxiii), (xxiv), or (xxvi); or

“(bb) is described under subparagraph (B)(xxix), (xxx), or (xxxi), but only with respect to an offense described under subpara-

1 graph (B)(i), (iv), (xvi), (xix), (xxiii),
2 (xxiv), or (xxvi); or

3 “(II) is committed after the date of enact-
4 ment of the STOCK Act and—

5 “(aa) is described under subparagraph
6 (B)(ii), (iii), (v), (vi), (vii), (viii), (ix), (x),
7 (xi), (xii), (xiii), (xiv), (xv), (xvi), (xvii),
8 (xx), (xxi), (xxii), (xxv), (xxvii), or (xxviii);
9 or

10 “(bb) is described under subparagraph
11 (B)(xxix), (xxx), or (xxxi), but only with re-
12 spect to an offense described under subpara-
13 graph (B)(ii), (iii), (v), (vi), (vii), (viii),
14 (ix), (x), (xi), (xii), (xiii), (xiv), (xv), (xvii),
15 (xviii), (xx), (xxi), (xxii), (xxv), (xxvii), or
16 (xxviii).”;

17 (2) by striking subparagraph (B) and inserting
18 the following:

19 “(B) An offense described in this subparagraph is only
20 the following, and only to the extent that the offense is a
21 felony:

22 “(i) An offense under section 201 of title 18 (re-
23 lating to bribery of public officials and witnesses).

1 “(ii) *An offense under section 203 of title 18 (re-*
 2 *lating to compensation to Member of Congress, offi-*
 3 *cers, and others in matters affecting the Government).*

4 “(iii) *An offense under section 204 of title 18*
 5 *(relating to practice in the United States Court of*
 6 *Federal Claims or the United States Court of Appeals*
 7 *for the Federal Circuit by Member of Congress).*

8 “(iv) *An offense under section 219 of title 18 (re-*
 9 *lating to officers and employees acting as agents of*
 10 *foreign principals).*

11 “(v) *An offense under section 286 of title 18 (re-*
 12 *lating to conspiracy to defraud the Government with*
 13 *respect to claims).*

14 “(vi) *An offense under section 287 of title 18 (re-*
 15 *lating to false, fictitious or fraudulent claims).*

16 “(vii) *An offense under section 597 of title 18*
 17 *(relating to expenditures to influence voting).*

18 “(viii) *An offense under section 599 of title 18*
 19 *(relating to promise of appointment by candidate).*

20 “(ix) *An offense under section 602 of title 18 (re-*
 21 *lating to solicitation of political contributions).*

22 “(x) *An offense under section 606 of title 18 (re-*
 23 *lating to intimidation to secure political contribu-*
 24 *tions).*

1 “(xi) An offense under section 607 of title 18 (re-
2 lating to place of solicitation).

3 “(xii) An offense under section 641 of title 18
4 (relating to public money, property or records).

5 “(xiii) An offense under section 666 of title 18
6 (relating to theft or bribery concerning programs re-
7 ceiving Federal funds).

8 “(xiv) An offense under section 1001 of title 18
9 (relating to statements or entries generally).

10 “(xv) An offense under section 1341 of title 18
11 (relating to frauds and swindles, including as part of
12 a scheme to deprive citizens of honest services there-
13 by).

14 “(xvi) An offense under section 1343 of title 18
15 (relating to fraud by wire, radio, or television, in-
16 cluding as part of a scheme to deprive citizens of hon-
17 est services thereby).

18 “(xvii) An offense under section 1503 of title 18
19 (relating to influencing or injuring officer or juror).

20 “(xviii) An offense under section 1505 of title 18
21 (relating to obstruction of proceedings before depart-
22 ments, agencies, and committees).

23 “(xix) An offense under section 1512 of title 18
24 (relating to tampering with a witness, victim, or an
25 informant).

1 “(xx) *An offense under section 1951 of title 18*
 2 *(relating to interference with commerce by threats of*
 3 *violence).*

4 “(xxi) *An offense under section 1952 of title 18*
 5 *(relating to interstate and foreign travel or transpor-*
 6 *tation in aid of racketeering enterprises).*

7 “(xxii) *An offense under section 1956 of title 18*
 8 *(relating to laundering of monetary instruments).*

9 “(xxiii) *An offense under section 1957 of title 18*
 10 *(relating to engaging in monetary transactions in*
 11 *property derived from specified unlawful activity).*

12 “(xxiv) *An offense under chapter 96 of title 18*
 13 *(relating to racketeer influenced and corrupt organi-*
 14 *zations).*

15 “(xxv) *An offense under section 7201 of the In-*
 16 *ternal Revenue Code of 1986 (relating to attempt to*
 17 *evade or defeat tax).*

18 “(xxvi) *An offense under section 104(a) of the*
 19 *Foreign Corrupt Practices Act of 1977 (relating to*
 20 *prohibited foreign trade practices by domestic con-*
 21 *cerns).*

22 “(xxvii) *An offense under section 10(b) of the Se-*
 23
 24 *nipulation, or insider trading of securities).*

1 “(xxviii) *An offense under section 4c(a) of the*
 2 *Commodity Exchange Act (7 U.S.C. 6c(a)) (relating*
 3 *to fraud, manipulation, or insider trading of com-*
 4 *modities).*

5 “(xxix) *An offense under section 371 of title 18*
 6 *(relating to conspiracy to commit offense or to de-*
 7 *fraud United States), to the extent of any conspiracy*
 8 *to commit an act which constitutes—*

9 “(I) *an offense under clause (i), (ii), (iii),*
 10 *(iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),*
 11 *(xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix),*
 12 *(xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi),*
 13 *(xxvii), or (xxviii); or*

14 “(II) *an offense under section 207 of title 18*
 15 *(relating to restrictions on former officers, em-*
 16 *ployees, and elected officials of the executive and*
 17 *legislative branches).*

18 “(xxx) *Perjury committed under section 1621 of*
 19 *title 18 in falsely denying the commission of an act*
 20 *which constitutes—*

21 “(I) *an offense under clause (i), (ii), (iii),*
 22 *(iv), (v), (vi), (vii), (viii), (ix), (x), (xi), (xii),*
 23 *(xiii), (xiv), (xv), (xvi), (xvii), (xviii), (xix),*
 24 *(xx), (xxi), (xxii), (xxiii), (xxiv), (xxv), (xxvi),*
 25 *(xxvii), or (xxviii); or*

1 “(II) an offense under clause (xxix), to the
2 extent provided in such clause.

3 “(xxxi) Subornation of perjury committed under
4 section 1622 of title 18 in connection with the false
5 denial or false testimony of another individual as
6 specified in clause (xxx).”.

7 **SEC. 16. LIMITATION ON BONUSES TO EXECUTIVES OF**
8 **FANNIE MAE AND FREDDIE MAC.**

9 Notwithstanding any other provision in law, senior ex-
10 ecutives at the Federal National Mortgage Association and
11 the Federal Home Loan Mortgage Corporation are prohib-
12 ited from receiving bonuses during any period of con-
13 servatorship for those entities on or after the date of enact-
14 ment of this Act.

15 **SEC. 17. POST-EMPLOYMENT NEGOTIATION RESTRICTIONS.**

16 (a) *RESTRICTION EXTENDED TO EXECUTIVE AND JU-*
17 *DICIAL BRANCHES.*—Notwithstanding any other provision
18 of law, an individual required to file a financial disclosure
19 report under section 101 of the Ethics in Government Act
20 of 1978 (5 U.S.C. App. 101) may not directly negotiate or
21 have any agreement of future employment or compensation
22 unless such individual, within 3 business days after the
23 commencement of such negotiation or agreement of future
24 employment or compensation, files with the individual’s su-
25 pervising ethics office a statement, signed by such indi-

1 *vidual, regarding such negotiations or agreement, including*
 2 *the name of the private entity or entities involved in such*
 3 *negotiations or agreement, and the date such negotiations*
 4 *or agreement commenced.*

5 (b) *RECUSAL.—An individual filing a statement*
 6 *under subsection (a) shall recuse himself or herself whenever*
 7 *there is a conflict of interest, or appearance of a conflict*
 8 *of interest, for such individual with respect to the subject*
 9 *matter of the statement, and shall notify the individual’s*
 10 *supervising ethics office of such recusal. An individual mak-*
 11 *ing such recusal shall, upon such recusal, submit to the su-*
 12 *pervising ethics office the statement under subsection (a)*
 13 *with respect to which the recusal was made.*

14 **SEC. 18. WRONGFULLY INFLUENCING PRIVATE ENTITIES**
 15 **EMPLOYMENT DECISIONS BY LEGISLATIVE**
 16 **AND EXECUTIVE BRANCH OFFICERS AND EM-**
 17 **PLOYEES.**

18 (a) *IN GENERAL.—Section 227 of title 18, United*
 19 *States Code, is amended—*

20 (1) *in the heading of such section, by inserting*
 21 *after “Congress” the following: “or an officer*
 22 ***or employee of the legislative or executive***
 23 ***branch”;***

24 (2) *by striking “Whoever” and inserting “(a)*
 25 *Whoever”;*

1 (3) by striking “a Senator or Representative in,
2 or a Delegate or Resident Commissioner to, the Con-
3 gress or an employee of either House of Congress” and
4 inserting “a covered government person”; and

5 (4) by adding at the end the following:

6 “(b) In this section, the term ‘covered government per-
7 son’ means—

8 “(1) a Senator or Representative in, or a Dele-
9 gate or Resident Commissioner to, the Congress;

10 “(2) an employee of either House of Congress; or

11 “(3) the President, Vice President, an employee
12 of the United States Postal Service or the Postal Reg-
13 ulatory Commission, or any other executive branch
14 employee (as such term is defined under section 2105
15 of title 5, United States Code).”.

16 (b) *CLERICAL AMENDMENT.*—The table of contents for
17 chapter 11 of title 18, United States Code, is amended by
18 amending the item relating to section 227 to read as follows:

“227. Wrongfully influencing a private entity’s employment decisions by a Mem-
ber of Congress or an officer or employee of the legislative or ex-
ecutive branch.”.

19 **SEC. 19. MISCELLANEOUS CONFORMING AMENDMENTS.**

20 (a) *REPEAL OF TRANSMISSION OF COPIES OF MEMBER*
21 *AND CANDIDATE REPORTS TO STATE ELECTION OFFICIALS*
22 *UPON ADOPTION OF NEW SYSTEMS.*—Section 103(i) of the
23 *Ethics in Government Act of 1978 (5 U.S.C. App. 103(i))*
24 is amended—

1 (1) *by striking “(i)” and inserting “(i)(1)”;* and

2 (2) *by adding at the end the following new para-*
3 *graph:*

4 “(2) *The requirements of paragraph (1) do not apply*
5 *to any report filed under this title which is filed electroni-*
6 *cally and for which there is online public access, in accord-*
7 *ance with the systems developed by the Secretary and Ser-*
8 *geant at Arms of the Senate and the Clerk of the House*
9 *of Representatives under section 8(b) of the Stop Trading*
10 *on Congressional Knowledge Act of 2012.”.*

11 (b) *PERIOD OF RETENTION OF FINANCIAL DISCLO-*
12 *SURE STATEMENTS OF MEMBERS OF THE HOUSE.—*

13 (1) *IN GENERAL.—Section 304(c) of the Honest*
14 *Leadership and Open Government Act of 2007 (2*
15 *U.S.C. 104e(c)) is amended by striking the period at*
16 *the end and inserting the following: “, or, in the case*
17 *of reports filed under section 103(h)(1) of the Ethics*
18 *in Government Act of 1978, until the expiration of*
19 *the 6-year period which begins on the date the indi-*
20 *vidual is no longer a Member of Congress.”.*

21 (2) *EFFECTIVE DATE.—The amendment made by*
22 *paragraph (1) shall apply with respect to any report*
23 *which is filed on or after the date on which the sys-*
24 *tems developed by the Secretary and Sergeant at*

- 1 *Arms of the Senate and the Clerk of the House of*
- 2 *Representatives under section 8(b) first take effect.*

Attest:

Clerk.

112TH CONGRESS
2^D SESSION

S. 2038

AMENDMENT