

117TH CONGRESS
2^D SESSION

H. R. 6490

To amend the Ethics in Government Act of 1978 to prohibit transactions involving certain financial instruments by Members of Congress.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 25, 2022

Mrs. HARTZLER 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 the Ethics in Government Act of 1978 to prohibit transactions involving certain financial instruments by Members of Congress.

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 “Banning Insider Trad-
5 ing in Congress Act”.

1 **SEC. 2. BANNING INSIDER TRADING IN CONGRESS.**

2 (a) IN GENERAL.—The Ethics in Government Act of
3 1978 (5 U.S.C. App.) is amended by inserting after title
4 I the following:

5 **“TITLE II—BANNING INSIDER**
6 **TRADING IN CONGRESS**

7 **“SEC. 201. DEFINITIONS.**

8 “In this title:

9 “(1) COVERED FINANCIAL INSTRUMENT.—

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

12 “(i) any investment in—

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

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

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

21 “(ii) any economic interest com-
22 parable to an interest described in clause
23 (i) that is acquired through synthetic
24 means, such as the use of a derivative, in-
25 cluding an option, warrant, or other simi-
26 lar means.

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

3 “(i) a diversified mutual fund;

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

6 “(iii) a United States Treasury bill,
7 note, or bond; or

8 “(iv) compensation from the primary
9 occupation of a spouse or dependent of a
10 Member of Congress.

11 “(2) MEMBER OF CONGRESS.—The term ‘Mem-
12 ber of Congress’ has the meaning given the term in
13 section 109.

14 “(3) QUALIFIED BLIND TRUST.—The term
15 ‘qualified blind trust’ has the meaning given the
16 term in section 102(f)(3).

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

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

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

1 **“SEC. 202. PROHIBITION ON CERTAIN TRANSACTIONS AND**
2 **HOLDINGS INVOLVING COVERED FINANCIAL**
3 **INSTRUMENTS.**

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

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

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

14 “(A) for a Member of Congress serving on
15 the date of enactment of the Banning Insider
16 Trading in Congress Act, 180 days after that
17 date of enactment; and

18 “(B) for any Member of Congress who
19 commences service as a Member of Congress
20 after the date of enactment of the Banning In-
21 sider Trading in Congress Act, 180 days after
22 the 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 Member of Congress or spouse of the
26 Member of Congress.

1 “(c) PENALTIES.—

2 “(1) DISGORGEMENT.—A Member of Congress
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) INCOME TAX.—A loss from a transaction
8 or holding involving a covered financial instrument
9 that is conducted in violation of this section may not
10 be deducted from the amount of income tax owed by
11 the applicable Member of Congress or spouse of a
12 Member of Congress.

13 “(3) FINES.—A Member of Congress who holds
14 or conducts a transaction involving, or whose spouse
15 holds or conducts a transaction involving, a covered
16 financial instrument in violation of this section may
17 be subject to a civil fine assessed by the supervising
18 ethics committee under section 204.

19 **“SEC. 203. CERTIFICATION OF COMPLIANCE.**

20 “(a) IN GENERAL.—Not less frequently than annu-
21 ally, each Member of Congress shall submit to the applica-
22 ble supervising ethics committee a written certification
23 that the Member of Congress has achieved compliance
24 with the requirements of this title.

1 “(b) PUBLICATION.—The supervising ethics commit-
2 tees shall publish each certification submitted under sub-
3 section (a) on a publicly available website.

4 **“SEC. 204. AUTHORITY OF SUPERVISING ETHICS COMMIT-**
5 **TEES.**

6 “(a) IN GENERAL.—The supervising ethics commit-
7 tees may implement and enforce the requirements of this
8 title, including by—

9 “(1) issuing—

10 “(A) for Members of Congress—

11 “(i) rules governing that implementa-
12 tion; and

13 “(ii) 1 or more reasonable extensions
14 to achieve compliance with this title, if the
15 supervising ethics committee determines
16 that a Member of Congress is making a
17 good faith effort to divest any covered fi-
18 nancial instruments; and

19 “(B) guidance relating to covered financial
20 instruments;

21 “(2) publishing on the Internet certifications
22 submitted by Members of Congress under section
23 203(a); and

1 “(3) assessing civil fines against any Member of
2 Congress who is in violation of this title, subject to
3 subsection (b).

4 “(b) REQUIREMENTS FOR CIVIL FINES.—

5 “(1) IN GENERAL.—Before imposing a fine pur-
6 suant to this section, a supervising ethics committee
7 shall provide to the applicable Member of Con-
8 gress—

9 “(A) a written notice describing each cov-
10 ered financial instrument transaction for which
11 a fine will be assessed; and

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

14 “(i) for a hearing; and

15 “(ii) to achieve compliance with the
16 requirements of this title.

17 “(2) PUBLICATION.—Each supervising ethics
18 committee shall publish on a publicly available
19 website a description of—

20 “(A) each fine assessed by the supervising
21 ethics committee pursuant to this section;

22 “(B) the reasons why each such fine was
23 assessed; and

1 “(C) the result of each assessment, includ-
2 ing any hearing under paragraph (1)(B)(i) re-
3 lating to the assessment.

4 “(3) APPEAL.—A Member of Congress may ap-
5 peal the assessment of a fine under this section to
6 a vote on the floor of the Senate or the House of
7 Representatives, as applicable, as a privileged mo-
8 tion.

9 **“SEC. 205. AUDIT BY GOVERNMENT ACCOUNTABILITY OF-**
10 **FICE.**

11 “Not later than 2 years after the date of enactment
12 of the Banning Insider Trading in Congress Act, the
13 Comptroller General of the United States shall—

14 “(1) conduct an audit of the compliance by
15 Members of Congress with the requirements of this
16 title; and

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

20 (b) CONFORMING AMENDMENTS.—

21 (1) Section 109 of the Ethics in Government
22 Act of 1978 (5 U.S.C. App.) is amended—

23 (A) in the matter preceding paragraph (1),
24 by striking “For the purposes of this title, the
25 term—” and inserting “In this title:”;

1 (B) in paragraph (1), by striking “means”
2 and all that follows through “Representatives;”
3 and inserting the following: “means, as applica-
4 ble—

5 “(A) the Select Committee on Ethics of
6 the Senate; and

7 “(B) the Committee on Ethics of the
8 House of Representatives.”;

9 (C) in each of paragraphs (2) through
10 (17), by striking the semicolon at the end of the
11 paragraph and inserting a period;

12 (D) in paragraph (18)—

13 (i) in subparagraph (B), by striking
14 “Standards of Official Conduct” and in-
15 serting “Ethics”; and

16 (ii) in subparagraph (D), by striking
17 “; and” at the end and inserting a period;

18 (E) in each of paragraphs (1) through
19 (19)—

20 (i) by inserting “The term” after the
21 paragraph designation; and

22 (ii) by inserting a paragraph heading,
23 the text of which is comprised of the term
24 defined in that paragraph; and

1 (F) by redesignating paragraphs (8) and
2 (9) as paragraphs (9) and (8), respectively, and
3 moving the paragraphs so as to appear in nu-
4 merical order.

5 (2) Section 101(f) of the Ethics in Government
6 Act of 1978 (5 U.S.C. App.) is amended—

7 (A) in paragraph (9), by striking “as de-
8 fined under section 109(12)”;

9 (B) in paragraph (10), by striking “as de-
10 fined under section 109(13)”;

11 (C) in paragraph (11), by striking “as de-
12 fined under section 109(10)”;

13 (D) in paragraph (12), by striking “as de-
14 fined under section 109(8)”.

15 (3) Section 103 of the Ethics in Government
16 Act of 1978 (5 U.S.C. App.) is amended—

17 (A) in subsection (j)(1), by striking
18 “Standards of Official Conduct” and inserting
19 “Ethics”; and

20 (B) in subsection (l)—

21 (i) in paragraph (9), by striking “, as
22 defined under section 109(12)”;

23 (ii) in paragraph (10), by striking “,
24 as defined under section 109(13)”.

1 (4) Section 105(b)(3)(A) of the Ethics in Gov-
2 ernment Act of 1978 (5 U.S.C. App.) is amended by
3 striking “described in section 109(8) or 109(10) of
4 this Act” and inserting “who is a judicial employee
5 or judicial officer”.

6 (5) Section 111(2) of the Ethics in Government
7 Act of 1978 (5 U.S.C. App.) is amended by striking
8 “Standards of Official Conduct” and inserting “Eth-
9 ics”.

10 (6) Section 402 of the Ethics in Government
11 Act of 1978 (5 U.S.C. App.) is amended—

12 (A) in subsection (b), by striking “title II
13 of” each place it appears; and

14 (B) in subsection (f)(2)(B)—

15 (i) by striking “Subject to clause (iv)
16 of this subparagraph, before” each place it
17 appears and inserting “Before”; and

18 (ii) by striking clause (iv).

19 (7) Section 503(1)(A) of the Ethics in Govern-
20 ment Act of 1978 (5 U.S.C. App.) is amended by
21 striking “Standards of Official Conduct” and insert-
22 ing “Ethics”.

23 (8) Section 3(4)(D) of the Lobbying Disclosure
24 Act of 1995 (2 U.S.C. 1602(4)(D)) is amended by
25 striking “legislative branch employee serving in a po-

1 sition described under section 109(13) of the Ethics
2 in Government Act of 1978 (5 U.S.C. App.)” and
3 inserting “officer or employee of the Congress (as
4 defined in section 109 of the Ethics in Government
5 Act of 1978 (5 U.S.C. App.))”.

6 (9) Section 21A of the Securities Exchange Act
7 of 1934 (15 U.S.C. 78u-1) is amended—

8 (A) in subsection (g)(2)(B)(ii), by striking
9 “section 109(11) of the Ethics in Government
10 Act of 1978 (5 U.S.C. App. 109(11))” and in-
11 serting “section 109 of the Ethics in Govern-
12 ment Act of 1978 (5 U.S.C. App.)”; and

13 (B) in subsection (h)(2)—

14 (i) in subparagraph (B), by striking
15 “section 109(8) of the Ethics in Govern-
16 ment Act of 1978 (5 U.S.C. App. 109(8))”
17 and inserting “section 109 of the Ethics in
18 Government Act of 1978 (5 U.S.C. App.)”;
19 and

20 (ii) in subparagraph (C), by striking
21 “under section 109(10) of the Ethics in
22 Government Act of 1978 (5 U.S.C. App.
23 109(10))” and inserting “in section 109 of

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

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