

## Critical Elements of Final Congressional Stock Ban Legislation

Any legislation attempting to address the problems raised by members of Congress trading and owning individual stocks, commodities, or other financial instruments must be **clear** and **comprehensive**. The following specific provisions must be included in any legislation that aims to meet those requirements:

1. The legislation must include a **comprehensive** ban on **trading or owning** individual financial instruments. We do not believe that placing individual assets into a blind trust is a sufficient solution to the conflicts that these assets present: a trust is only “blind” when the beneficiary *does not know what assets the trust holds*. This means that trustees must be directed to sell all the member’s individual assets, and members must not be permitted to retain any individual assets held prior to joining Congress.
  - a. We therefore recommend that Congress adopt the provisions of the Bipartisan Ban on Congressional Stock Ownership Act (“Warren-Daines”) related to divestment (subsection (b)).
2. The legislation must include a **clear** and **workable enforcement mechanism**. Congress should ensure that the final bill’s enforcement mechanism is both clear enough that members understand precisely what will happen should they violate the act, and significant enough to serve as a **functional deterrent**.
  - a. We therefore recommend that Congress adopt provisions included in Sen. Ossoff and Sen Kelly’s Ban Congressional Stock Trading Act (“Ossoff-Kelly”) (subsection (g)(2), imposing a civil penalty equal to the monthly rate of pay), Warren-Daines (subsection (d), imposing a \$50,000 penalty for each violation), and Sen. Hawley’s Banning Insider Trading in Congress Act (section 202(c)(1), requiring disgorgement of any gains from a trade made in violation of the act to the U.S. Treasury), whichever is greater.
3. Congress must also ensure that the legislation does not create an **intent** standard that would make enforcement of the legislation unworkable or unlikely--such as a standard requiring proof that a member “knowingly” violated the act.
  - a. We therefore recommend that Congress adopt the intent standard from either Ossoff-Kelly (subsection (g)(2)(A), fine assessed on proof of violation), or from Warren-Daines, (subsection (d), fine assessed following proof of conduct amounting to a violation by a preponderance of the evidence).
4. The legislation must include a **comprehensive** prohibition on members’ **spouses** or **dependent children** owning or trading individual financial assets. Members must not be permitted to simply transfer their individual assets to a close family member as it would defeat the purpose of the legislation.
  - a. We therefore recommend that Congress adopt the prohibition found in Ossoff-Kelly ( Section 202(a)(2)(A)).