

The Honorable Nancy Pelosi
Speaker of the House of Representatives
235 Cannon House Office Building
Washington, D.C.
20515

The Honorable Zoe Lofgren
Chair
Committee on House Administration
1216 Longworth House Office Building
Washington, DC
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The Honorable Kevin McCarthy
Minority Leader of the House of
Representatives
2421 Rayburn House Office Building
Washington, DC
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The Honorable Rodney Davis
Ranking Member
Committee on House Administration
1216 Longworth House Office Building
Washington, DC
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Madam Speaker, Minority Leader McCarthy, Chair Lofgren and Ranking Member Davis:

We, the undersigned organizations, are a broad and diverse group of good government organizations committed to ensuring that our institutions and elected officials act on behalf of the people they serve. It is with this purpose in mind that we write to urge you to support legislation prohibiting Members of Congress from owning or trading individual stocks, bonds or other similar financial investments.

Our country is at an inflection point: the reports of Members' suspicious stock trades at the beginning of the pandemic¹ and the routine and bipartisan failures to comply with the STOCK Act² have severely harmed public confidence in Congress.³ This crisis of institutional legitimacy requires a swift and comprehensive response. We therefore urge you to pass legislation that addresses the full scope of the problem by eliminating a significant source of potential conflicts for Members.

We believe it is crucial that any legislation attempting to confront these problems include a blanket ban on trading or owning any individual stocks, bonds, commodities, futures, derivatives, options, or other similar financial assets, except widely held investment

¹ Jack Kelly, "Senators Accused of Insider Trading, Dumping Stocks After Coronavirus Briefing," *Forbes*, Mar. 20, 2020, available at <https://www.forbes.com/sites/jackkelly/2020/03/20/senators-accused-of-insider-trading-dumping-stocks-after-coronavirus-briefings/?sh=6809d59f4a45>.

² Dave Levinthal, "54 members of Congress have violated a law designed to stop insider trading and prevent conflicts-of-interest," *Business Insider*, Jan. 11, 2022, available at <https://www.businessinsider.com/congress-stock-act-violations-senate-house-trading-2021-9>.

³ Kedric Payne, Delaney Marsco, and Sophia Gonsalves-Brown, "Congressional Stock Trading During Pandemic Diminishes Public Trust," *Campaign Legal Center*, Apr. 28, 2020, available at <https://campaignlegal.org/update/congressional-stock-trading-during-pandemic-diminishes-public-trust>.

funds. We believe that placing assets into a qualified blind trust would only solve this problem if 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.

The prohibition must also extend to Members' spouses or dependent children: Members must not be permitted to simply transfer their individual assets to a close family member. A carve-out for spouses and dependent children would undermine much of the purpose of the legislation and allow the conflicts of interest presented to remain. A spouse or dependent child who appears to profit from a Member's actions or knowledge of the market is just as damaging to the public's perception of our government as a Member profiting themselves.

Finally, Congress must ensure that the 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. Specifically, it is crucial that Members understand that they will be subject to punishment or civil penalties if they violate the act: decades of academic research have proved that the certainty of sanction is the best deterrent.⁴ With that in mind, the legislation must not create an exclusive intent standard that would make enforcement of the legislation unworkable or unlikely. For example, a standard requiring proof that a member "knowingly" violated the act would make a very high bar for any enforcement and accountability for unethical conduct. Such a standard would defeat the purpose of the legislation, as it would likely result in Members believing that they can escape discipline and even potentially retain the benefits of trades made in violation of the law.

The American people widely support these policies across partisan lines⁵ and are calling on Congress to act.⁶ They have given you a mandate to pass bold, comprehensive legislation.⁷ By adopting the policies that we have set out above, you can help to end this problem that is eroding public trust in our government and undermining Congress's legitimacy.

⁴ See, e.g., Valerie Wright, "Deterrence in Criminal Justice: Evaluating Certainty vs. Severity of Punishment," The Sentencing Project, Nov. 2010, available at <https://www.sentencingproject.org/wp-content/uploads/2016/01/Deterrence-in-Criminal-Justice.pdf>.

⁵ Jon Green and Mark White, "The Public Thinks Members of Congress Shouldn't Be Able to Own Individual Stocks," *Data for Progress*, Mar. 19, 2020, available at <https://www.dataforprogress.org/blog/2020/3/19/the-public-thinks-members-of-congress-shouldnt-be-able-to-own-in-dividual-stocks>.

⁶ Claire Williams, "Most Voters of All Parties Support Congressional Stock Trading Restrictions," *Morning Consult*, Jan. 19, 2022, available at <https://morningconsult.com/2022/01/19/ban-stock-trading-congress-poll/>.

⁷ Olafimihan Oshin, "Two-thirds of Americans support banning lawmakers from trading stocks: poll," *The Hill*, Jan. 18, 2022, available at <https://thehill.com/homenews/house/590216-two-thirds-of-americans-support-banning-lawmakers-from-trading-stocks-new-poll>.

Our democracy is facing the largest crisis of public trust in a generation. Thankfully, you now have in your hands the tools to rebuild trust in our government and a mandate to use them. We look forward to working with you to pass this critical legislation and send President Biden the first comprehensive Congressional ethics legislation in almost a decade. Thank you for your attention to this matter.

Sincerely,

Campaign Legal Center
Center for Biological Diversity
Citizens for Responsibility and Ethics in Washington (CREW)
CommonDefense.us
DemCast USA
Democracy 21
The Digital Democracy Project
Fix Democracy First
Indivisible
Mainers for Accountable Leadership Action
Michiganders For Fair & Transparent Elections
MoveOn
Peace Action
Progressive Change Campaign Committee
Public Citizen
Revolving Door Project
SMART Legislation
Stand Up America
Transparency International U.S. Office