

112TH CONGRESS
2^D SESSION

S. 2038

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

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 “Mem-
7 ber of Congress” means a member of the Senate or
8 House of Representatives, a Delegate to the House
9 of Representatives, and the Resident Commissioner
10 from Puerto Rico.

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

13 (A) an employee of the Senate; or

14 (B) an employee of the House of Rep-
15 resentatives.

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

18 (A) has the meaning given the term “em-
19 ployee” under section 2105 of title 5, United
20 States Code; and

21 (B) includes—

22 (i) the President;

23 (ii) the Vice President; and

24 (iii) an employee of the United States
25 Postal Service or the Postal Regulatory
26 Commission.

1 (4) JUDICIAL OFFICER.—The term “judicial of-
2 ficer” has the meaning given that term under sec-
3 tion 109(10) of the Ethics in Government Act of
4 1978.

5 **SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFOR-**
6 **MATION FOR PRIVATE PROFIT.**

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

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

18 (a) AFFIRMATION OF NON-EXEMPTION.—Members of
19 Congress and employees of Congress are not exempt from
20 the insider trading prohibitions arising under the securi-
21 ties laws, including section 10(b) of the Securities Ex-
22 change Act of 1934 and Rule 10b–5 thereunder.

23 (b) DUTY.—

24 (1) PURPOSE.—The purpose of the amendment
25 made by this subsection is to affirm a duty arising

1 from a relationship of trust and confidence owed by
2 each Member of Congress and each employee of
3 Congress.

4 (2) AMENDMENT.—Section 21A of the Securi-
5 ties Exchange Act of 1934 (15 U.S.C. 78u–1) is
6 amended by adding at the end the following:

7 “(g) DUTY OF MEMBERS AND EMPLOYEES OF CON-
8 GRESS.—

9 “(1) IN GENERAL.—For purposes of the insider
10 trading prohibitions arising under the securities
11 laws, including section 10(b) and Rule 10b–5 there-
12 under, each Member of Congress or employee of
13 Congress owes a duty arising from a relationship of
14 trust and confidence to the Congress, the United
15 States Government, and the citizens of the United
16 States with respect to material, nonpublic informa-
17 tion derived from such person’s position as a Mem-
18 ber of Congress or employee of Congress or gained
19 from the performance of such person’s official re-
20 sponsibilities.

21 “(2) DEFINITIONS.—In this subsection—

22 “(A) the term ‘Member of Congress’
23 means a member of the Senate or House of
24 Representatives, a Delegate to the House of

1 Representatives, and the Resident Commis-
2 sioner from Puerto Rico; and

3 “(B) the term ‘employee of Congress’
4 means—

5 “(i) an employee of the Senate; or

6 “(ii) an employee of the House of
7 Representatives.

8 “(3) RULE OF CONSTRUCTION.—Nothing in
9 this subsection shall be construed to impair or limit
10 the construction of the existing antifraud provisions
11 of the securities laws or the authority of the Com-
12 mission under those provisions.”.

13 **SEC. 5. CONFORMING CHANGES TO THE COMMODITY EX-**
14 **CHANGE ACT.**

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

17 (1) in paragraph (3), in the matter preceding
18 subparagraph (A)—

19 (A) by inserting “or any Member of Con-
20 gress or employee of Congress (defined in this
21 subsection as those terms are defined in section
22 2 of the Stop Trading on Congressional Knowl-
23 edge Act of 2012)” after “Federal Govern-
24 ment,” the first place it appears;

1 (B) by inserting “Member,” after “position
2 of the”; and

3 (C) by inserting “or by Congress” before
4 “in a manner”; and

5 (2) in paragraph (4)—

6 (A) in subparagraph (A), in the matter
7 preceding clause (i)—

8 (i) by inserting “or any Member of
9 Congress or employee of Congress” after
10 “Federal Government,” the first place it
11 appears;

12 (ii) by inserting “Member,” after “po-
13 sition of the”; and

14 (iii) by inserting “or by Congress” be-
15 fore “in a manner”;

16 (B) in subparagraph (B), in the matter
17 preceding clause (i), by inserting “or any Mem-
18 ber of Congress or employee of Congress” after
19 “Federal Government,”; and

20 (C) in subparagraph (C)—

21 (i) in the matter preceding clause (i),
22 by inserting “or by Congress”—

23 (I) before “that may affect”; and

24 (II) before “in a manner”; and

1 (ii) in clause (iii), by inserting “to
2 Congress, or any Member of Congress or
3 employee of Congress” after “Federal Gov-
4 ernment”.

5 **SEC. 6. PROMPT REPORTING OF FINANCIAL TRANS-**
6 **ACTIONS.**

7 (a) REPORTING REQUIREMENT.—Section 101 of the
8 Ethics in Government Act of 1978 is amended by adding
9 at the end the following subsection:

10 “(j) Not later than 30 days after any transaction re-
11 quired to be reported under section 102(a)(5)(B), the fol-
12 lowing persons, if required to file a report under any other
13 subsection of this section subject to any waivers and exclu-
14 sions, shall file a report of the transaction:

15 “(1) A Member of Congress.

16 “(2) An officer or employee of Congress re-
17 quired to file a report under this section.

18 “(3) The President.

19 “(4) The Vice President.

20 “(5) Each employee appointed to a position in
21 the executive branch, the appointment to which re-
22 quires advice and consent of the Senate, except
23 for—

24 “(A) an individual appointed to a posi-
25 tion—

1 “(i) as a Foreign Service Officer
2 below the rank of ambassador; or

3 “(ii) in the uniformed services for
4 which the pay grade prescribed by section
5 201 of title 37, United States Code is O–
6 6 or below; or

7 “(B) a special government employee, as de-
8 fined under section 202 of title 18, United
9 States Code.

10 “(6) Any employee in a position in the executive
11 branch who is a noncareer appointee in the Senior
12 Executive Service (as defined under section
13 3132(a)(7) of title 5, United States Code) or a simi-
14 lar personnel system for senior employees in the ex-
15 ecutive branch, such as the Senior Foreign Service,
16 except that the Director of the Office of Government
17 Ethics may, by regulation, exclude from the applica-
18 tion of this paragraph any individual, or group of in-
19 dividuals, who are in such positions, but only in
20 cases in which the Director determines such exclu-
21 sion would not affect adversely the integrity of the
22 Government or the public’s confidence in the integ-
23 rity of the Government.

24 “(7) The Director of the Office of Government
25 Ethics.

1 “(8) Any civilian employee, not described in
2 paragraph (5), employed in the Executive Office of
3 the President (other than a special government em-
4 ployee) who holds a commission of appointment from
5 the President.”.

6 (b) EFFECTIVE DATE.—The amendment made by
7 subsection (a) shall apply to transactions occurring on or
8 after the date that is 90 days after the date of enactment
9 of this Act.

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

11 (a) REPORT.—

12 (1) IN GENERAL.—Not later than 12 months
13 after the date of enactment of this Act, the Comp-
14 troller General of the United States, in consultation
15 with the Congressional Research Service, shall sub-
16 mit to the Committee on Homeland Security and
17 Governmental Affairs of the Senate and the Com-
18 mittee on Oversight and Government Reform and
19 the Committee on the Judiciary of the House of
20 Representatives a report on the role of political intel-
21 ligence in the financial markets.

22 (2) CONTENTS.—The report required by this
23 section shall include a discussion of—

1 (A) what is known about the prevalence of
2 the sale of political intelligence and the extent
3 to which investors rely on such information;

4 (B) what is known about the effect that
5 the sale of political intelligence may have on the
6 financial markets;

7 (C) the extent to which information which
8 is being sold would be considered non-public in-
9 formation;

10 (D) the legal and ethical issues that may
11 be raised by the sale of political intelligence;

12 (E) any benefits from imposing disclosure
13 requirements on those who engage in political
14 intelligence activities; and

15 (F) any legal and practical issues that may
16 be raised by the imposition of disclosure re-
17 quirements on those who engage in political in-
18 telligence activities.

19 (b) DEFINITION.—For purposes of this section, the
20 term “political intelligence” shall mean information that
21 is—

22 (1) derived by a person from direct communica-
23 tions with an executive branch employee, a Member
24 of Congress, or an employee of Congress; and

1 (2) provided in exchange for financial com-
2 pensation to a client who intends, and who is known
3 to intend, to use the information to inform invest-
4 ment decisions.

5 **SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL**
6 **DISCLOSURE FORMS OF MEMBERS OF CON-**
7 **GRESS AND CONGRESSIONAL STAFF.**

8 (a) PUBLIC, ON-LINE DISCLOSURE OF FINANCIAL
9 DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND
10 CONGRESSIONAL STAFF.—

11 (1) IN GENERAL.—Not later than August 31,
12 2012, or 90 days after the date of enactment of this
13 Act, whichever is later, the Secretary of the Senate
14 and the Sergeant at Arms of the Senate, and the
15 Clerk of the House of Representatives, shall ensure
16 that financial disclosure forms filed by Members of
17 Congress, officers of the House and Senate, can-
18 didates for Congress, and employees of the Senate
19 and the House of Representatives in calendar year
20 2012 and in subsequent years pursuant to title I of
21 the Ethics in Government Act of 1978 are made
22 available to the public on the respective official
23 websites of the Senate and the House of Representa-
24 tives not later than 30 days after such forms are
25 filed.

1 (2) EXTENSIONS.—The existing protocol allow-
2 ing for extension requests for financial disclosures
3 shall be retained. Notices of extension for financial
4 disclosure shall be made available electronically
5 under this subsection along with its related disclo-
6 sure.

7 (3) REPORTING TRANSACTIONS.—In the case of
8 a transaction disclosure required by section 101(j) of
9 the Ethics in Government Act of 1978, as added by
10 this Act, such disclosures shall be filed not later
11 than 30 days after the transaction. Notices of exten-
12 sion for transaction disclosure shall be made avail-
13 able electronically under this subsection along with
14 its related disclosure.

15 (4) EXPIRATION.—The requirements of this
16 subsection shall expire upon implementation of the
17 public disclosure system established under subsection
18 (b).

19 (b) ELECTRONIC FILING AND ON-LINE PUBLIC
20 AVAILABILITY OF FINANCIAL DISCLOSURE FORMS OF
21 MEMBERS OF CONGRESS, OFFICERS OF THE HOUSE AND
22 SENATE, AND CONGRESSIONAL STAFF.—

23 (1) IN GENERAL.—Subject to paragraph (6)
24 and not later than 18 months after the date of en-
25 actment of this Act, the Secretary of the Senate and

1 the Sergeant at Arms of the Senate and the Clerk
2 of the House of Representatives shall develop sys-
3 tems to enable—

4 (A) electronic filing of reports received by
5 them pursuant to section 103(h)(1)(A) of title
6 I of the Ethics in Government Act of 1978; and

7 (B) public access to financial disclosure re-
8 ports filed by Members of Congress, Officers of
9 the House and Senate, candidates for Congress,
10 and employees of the Senate and House of Rep-
11 resentatives, as well as reports of a transaction
12 disclosure required by section 101(j) of the Eth-
13 ics in Government Act of 1978, as added by
14 this Act, notices of extensions, amendments and
15 blind trusts, pursuant to title I of the Ethics in
16 Government Act of 1978 through databases
17 that—

18 (i) are maintained on the official
19 websites of the House of Representatives
20 and the Senate; and

21 (ii) allow the public to search, sort
22 and download data contained in the re-
23 ports.

24 (2) LOGIN.—No login shall be required to
25 search or sort the data contained in the reports

1 made available by this subsection. A login protocol
2 with the name of the user shall be utilized by a per-
3 son downloading data contained in the reports. For
4 purposes of filings under this section, section
5 105(b)(2) of the Ethics in Government Act of 1978
6 does not apply.

7 (3) PUBLIC AVAILABILITY.—Pursuant to sec-
8 tion 105(b)(1) of title I of the Ethics in Government
9 Act of 1978, electronic availability on the official
10 websites of the Senate and the House of Representa-
11 tives under this subsection shall be deemed to have
12 met the public availability requirement.

13 (4) FILERS COVERED.—Individuals required
14 under the Ethics in Government Act of 1978 or the
15 Senate Rules to file financial disclosure reports with
16 the Secretary of the Senate or the Clerk of the
17 House shall file reports electronically using the sys-
18 tems developed by the Secretary of the Senate, the
19 Sergeant at Arms of the Senate, and the Clerk of
20 the House.

21 (5) EXTENSIONS.—The existing protocol allow-
22 ing for extension requests for financial disclosures
23 shall be retained for purposes of this subsection. No-
24 tices of extension for financial disclosure shall be

1 made available electronically under this subsection
2 along with its related disclosure.

3 (6) ADDITIONAL TIME.—The requirements of
4 this subsection may be implemented after the date
5 provided in paragraph (1) if the Secretary of the
6 Senate or the Clerk of the House identify in writing
7 to relevant congressional committees an additional
8 amount of time needed.

9 (c) RECORDKEEPING.—Section 105(d) of the Ethics
10 in Government Act of 1978 is amended to read as follows:

11 “(d)(1) Any report filed with or transmitted to an
12 agency or supervising ethics office or to the Clerk of the
13 House of Representatives or the Secretary of the Senate
14 pursuant to this title shall be retained by such agency or
15 office or by the Clerk or the Secretary of the Senate, as
16 the case may be.

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

19 “(A) in the case of a Member of Congress until
20 a date that is 6 years from the date the individual
21 ceases to be a Member of Congress; and

22 “(B) in the case of all other reports filed pursu-
23 ant to this title, for a period of six years after re-
24 ceipt of the report.

1 “(3) After the relevant time period identified under
2 paragraph (2), the report shall be destroyed unless needed
3 in an ongoing investigation, except that in the case of an
4 individual who filed the report pursuant to section 101(b)
5 and was not subsequently confirmed by the Senate, or who
6 filed the report pursuant to section 101(c) and was not
7 subsequently elected, such reports shall be destroyed 1
8 year after the individual either is no longer under consid-
9 eration by the Senate or is no longer a candidate for nomi-
10 nation or election to the Office of President, Vice Presi-
11 dent, or as a Member of Congress, unless needed in an
12 ongoing investigation or inquiry.”.

13 **SEC. 9. OTHER FEDERAL OFFICIALS.**

14 (a) PROHIBITION OF THE USE OF NONPUBLIC IN-
15 FORMATION FOR PRIVATE PROFIT.—

16 (1) EXECUTIVE BRANCH EMPLOYEES.—The Of-
17 fice of Government Ethics shall issue such interpre-
18 tive guidance of the relevant Federal ethics statutes
19 and regulations, including the Standards of Ethical
20 Conduct for executive branch employees, related to
21 use of nonpublic information, as necessary to clarify
22 that no executive branch employee may use non-pub-
23 lic information derived from such person’s position
24 as an executive branch employee or gained from the

1 performance of such person's official responsibilities
2 as a means for making a private profit.

3 (2) JUDICIAL OFFICERS.—The Judicial Con-
4 ference of the United States shall issue such inter-
5 pretive guidance of the relevant ethics rules applica-
6 ble to Federal judges, including the Code of Conduct
7 for United States Judges, as necessary to clarify
8 that no judicial officer may use non-public informa-
9 tion derived from such person's position as a judicial
10 officer or gained from the performance of such per-
11 son's official responsibilities as a means for making
12 a private profit.

13 (b) APPLICATION OF INSIDER TRADING LAWS.—

14 (1) AFFIRMATION OF NON-EXEMPTION.—Exec-
15 utive branch employees and judicial officers are not
16 exempt from the insider trading prohibitions arising
17 under the securities laws, including section 10(b) of
18 the Securities Exchange Act of 1934 and Rule 10b-
19 5 thereunder.

20 (2) DUTY.—

21 (A) PURPOSE.—The purpose of the
22 amendment made by this paragraph is to affirm
23 a duty arising from a relationship of trust and
24 confidence owed by each executive branch em-
25 ployee and judicial officer.

1 (B) AMENDMENT.—Section 21A of the Se-
2 curities Exchange Act of 1934 (15 U.S.C. 78u-
3 1), as amended by this Act, is amended by add-
4 ing at the end the following:

5 “(h) DUTY OF OTHER FEDERAL OFFICIALS.—

6 “(1) IN GENERAL.—For purposes of the insider
7 trading prohibitions arising under the securities
8 laws, including section 10(b), and Rule 10b–5 there-
9 under, each executive branch employee and each ju-
10 dicial officer owes a duty arising from a relationship
11 of trust and confidence to the United States Govern-
12 ment and the citizens of the United States with re-
13 spect to material, nonpublic information derived
14 from such person’s position as an executive branch
15 employee or judicial officer or gained from the per-
16 formance of such person’s official responsibilities.

17 “(2) DEFINITIONS.—In this subsection—

18 “(A) the term ‘executive branch em-
19 ployee’—

20 “(i) has the meaning given the term
21 ‘employee’ under section 2105 of title 5,
22 United States Code;

23 “(ii) includes—

24 “(I) the President;

25 “(II) the Vice President; and

1 “(III) an employee of the United
2 States Postal Service or the Postal
3 Regulatory Commission; and

4 “(B) the term ‘judicial officer’ has the
5 meaning given that term under section 109(10)
6 of the Ethics in Government Act of 1978.

7 “(3) RULE OF CONSTRUCTION.—Nothing in
8 this subsection shall be construed to impair or limit
9 the construction of the existing antifraud provisions
10 of the securities laws or the authority of the Com-
11 mission under those provisions.”.

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

13 Nothing in this Act, the amendments made by this
14 Act, or the interpretive guidance to be issued pursuant
15 to sections 3 and 9 of this Act, shall be construed to—

16 (1) impair or limit the construction of the anti-
17 fraud provisions of the securities laws or the Com-
18 modities Exchange Act or the authority of the Secu-
19 rities and Exchange Commission or the Commodity
20 Futures Trading Commission under those provi-
21 sions;

22 (2) be in derogation of the obligations, duties
23 and functions of a Member of Congress, an employee
24 of Congress, an executive branch employee or a judi-

1 cial officer, arising from such person’s official posi-
2 tion; or

3 (3) be in derogation of existing laws, regula-
4 tions or ethical obligations governing Members of
5 Congress, employees of Congress, executive branch
6 employees or judicial officers.

7 **SEC. 11. EXECUTIVE BRANCH REPORTING.**

8 Not later than 2 years after the date of enactment
9 of this Act, the President shall—

10 (1) ensure that financial disclosure forms filed
11 by officers and employees referred to in section
12 101(j) of the Ethics in Government Act of 1978 (5
13 U.S.C. App.) are made available to the public as re-
14 quired by section 8(a) on appropriate official
15 websites of agencies of the executive branch; and

16 (2) develop systems to enable electronic filing
17 and public access, as required by section 8(b), to the
18 financial disclosure forms of such individuals.

19 **SEC. 12. PROMPT REPORTING AND PUBLIC FILING OF FI-**
20 **NANCIAL TRANSACTIONS FOR EXECUTIVE**
21 **BRANCH.**

22 (a) TRANSACTION REPORTING.—Each agency or de-
23 partment of the Executive branch and each independent
24 agency shall comply with the provisions of sections 6 with
25 respect to any of such agency, department or independent

1 agency’s officers and employees that are subject to the dis-
2 closure provisions under the Ethics in Government Act of
3 1978.

4 (b) PUBLIC AVAILABILITY.—Not later than 2 years
5 after the date of enactment of this Act, each agency or
6 department of the Executive branch and each independent
7 agency shall comply with the provisions of section 8, ex-
8 cept that the provisions of section 8 shall not apply to
9 a member of a uniformed service for which the pay grade
10 prescribed by section 201 of title 37, United States Code
11 is O–6 or below.

12 **SECTION 13. REQUIRING MORTGAGE DISCLOSURE.**

13 Section 102(a)(4)(A) of the Ethics in Government
14 Act of 1978 (5 U.S.C. App) is amended by striking
15 “spouse; and” and inserting the following: “spouse, except
16 that this exception shall not apply to a reporting indi-
17 vidual—

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

20 “(ii) described in section 101(b) who
21 has been nominated for appointment as an
22 officer or employee in the executive branch
23 described in subsection (f) of such section,
24 other than—

1 “(I) an individual appointed to a
2 position—

3 “(aa) as a Foreign Service
4 Officer below the rank of ambas-
5 sador; or

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

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

14 “(iii) described in section 101(f) who
15 is in a position in the executive branch the
16 appointment to which is made by the
17 President and requires advice and consent
18 of the Senate, other than—

19 “(I) an individual appointed to a
20 position—

21 “(aa) as a Foreign Service
22 Officer below the rank of ambas-
23 sador; or

24 “(bb) in the uniformed serv-
25 ices for which the pay grade pre-

1 scribed by section 201 of title 37,
 2 United States Code is O-6 or
 3 below; or

4 “(II) a special government em-
 5 ployee, as defined under section 202
 6 of title 18, United States Code; and”.

7 **SEC. 14. TRANSACTION REPORTING REQUIREMENTS.**

8 The transaction reporting requirements established
 9 by section 101(j) of the Ethics in Government Act of
 10 1978, as added by section 6 of this Act, shall not be con-
 11 strued to apply to a widely held investment fund (whether
 12 such fund is a mutual fund, regulated investment com-
 13 pany, pension or deferred compensation plan, or other in-
 14 vestment fund), if—

15 (1)(A) the fund is publicly traded; or

16 (B) the assets of the fund are widely diversified;

17 and

18 (2) the reporting individual neither exercises
 19 control over nor has the ability to exercise control
 20 over the financial interests held by the fund.

21 **SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND**
 22 **CRIMINAL OFFENSES.**

23 (a) APPLICATION TO OTHER ELECTED OFFICIALS.—

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

4 (A) in clause (i), by inserting “, the Presi-
5 dent, the Vice President, or an elected official
6 of a State or local government” after “Mem-
7 ber”; and

8 (B) in clause (ii), by inserting “, the Presi-
9 dent, the Vice President, or an elected official
10 of a State or local government” after “Mem-
11 ber”.

12 (2) FEDERAL EMPLOYEES RETIREMENT SYS-
13 TEM.—Section 8411(l)(2) of title 5, United States
14 Code, is amended—

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

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

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

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

3 “(iii) The offense—

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

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

9 “(bb) is described under
10 subparagraph (B)(xxix), (xxx), or
11 (xxxi), but only with respect to
12 an offense described under sub-
13 paragraph (B)(i), (iv), (xvi),
14 (xix), (xxiii), (xxiv), or (xxvi); or

15 “(II) is committed after the date
16 of enactment of the STOCK Act
17 and—

18 “(aa) is described under
19 subparagraph (B)(ii), (iii), (v),
20 (vi), (vii), (viii), (ix), (x), (xi),
21 (xii), (xiii), (xiv), (xv), (xvii),
22 (xviii), (xx), (xxi), (xxii), (xxv),
23 (xxvii), or (xxviii); or

24 “(bb) is described under
25 subparagraph (B)(xxix), (xxx), or

1 (xxx), but only with respect to
2 an offense described under sub-
3 paragraph (B)(ii), (iii), (v), (vi),
4 (vii), (viii), (ix), (x), (xi), (xii),
5 (xiii), (xiv), (xv), (xvii), (xviii),
6 (xx), (xxi), (xxii), (xxv), (xxvii),
7 or (xxviii).”; and

8 (2) by striking subparagraph (B) and inserting
9 the following:

10 “(B) An offense described in this subpara-
11 graph is only the following, and only to the ex-
12 tent that the offense is a felony:

13 “(i) An offense under section 201 of
14 title 18 (relating to bribery of public offi-
15 cials and witnesses).

16 “(ii) An offense under section 203 of
17 title 18 (relating to compensation to Mem-
18 ber of Congress, officers, and others in
19 matters affecting the Government).

20 “(iii) An offense under section 204 of
21 title 18 (relating to practice in the United
22 States Court of Federal Claims or the
23 United States Court of Appeals for the
24 Federal Circuit by Member of Congress).

1 “(iv) An offense under section 219 of
2 title 18 (relating to officers and employees
3 acting as agents of foreign principals).

4 “(v) An offense under section 286 of
5 title 18 (relating to conspiracy to defraud
6 the Government with respect to claims).

7 “(vi) An offense under section 287 of
8 title 18 (relating to false, fictitious or
9 fraudulent claims).

10 “(vii) An offense under section 597 of
11 title 18 (relating to expenditures to influ-
12 ence voting).

13 “(viii) An offense under section 599
14 of title 18 (relating to promise of appoint-
15 ment by candidate).

16 “(ix) An offense under section 602 of
17 title 18 (relating to solicitation of political
18 contributions).

19 “(x) An offense under section 606 of
20 title 18 (relating to intimidation to secure
21 political contributions).

22 “(xi) An offense under section 607 of
23 title 18 (relating to place of solicitation).

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

4 “(xiii) An offense under section 666
5 of title 18 (relating to theft or bribery con-
6 cerning programs receiving Federal funds).

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

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

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

19 “(xvii) An offense under section 1503
20 of title 18 (relating to influencing or injur-
21 ing officer or juror).

22 “(xviii) An offense under section 1505
23 of title 18 (relating to obstruction of pro-
24 ceedings before departments, agencies, and
25 committees).

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

4 “(xx) An offense under section 1951
5 of title 18 (relating to interference with
6 commerce by threats of violence).

7 “(xxi) An offense under section 1952
8 of title 18 (relating to interstate and for-
9 eign travel or transportation in aid of rack-
10 eteering enterprises).

11 “(xxii) An offense under section 1956
12 of title 18 (relating to laundering of mone-
13 tary instruments).

14 “(xxiii) An offense under section 1957
15 of title 18 (relating to engaging in mone-
16 tary transactions in property derived from
17 specified unlawful activity).

18 “(xxiv) An offense under chapter 96
19 of title 18 (relating to racketeer influenced
20 and corrupt organizations).

21 “(xxv) An offense under section 7201
22 of the Internal Revenue Code of 1986 (re-
23 lating to attempt to evade or defeat tax).

24 “(xxvi) An offense under section
25 104(a) of the Foreign Corrupt Practices

1 Act of 1977 (relating to prohibited foreign
2 trade practices by domestic concerns).

3 “(xxvii) An offense under section
4 10(b) of the Securities Exchange Act of
5 1934 (relating to fraud, manipulation, or
6 insider trading of securities).

7 “(xxviii) An offense under section
8 4c(a) of the Commodity Exchange Act (7
9 U.S.C. 6c(a)) (relating to fraud, manipula-
10 tion, or insider trading of commodities).

11 “(xxix) An offense under section 371
12 of title 18 (relating to conspiracy to com-
13 mit offense or to defraud United States),
14 to the extent of any conspiracy to commit
15 an act which constitutes—

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

22 “(II) an offense under section
23 207 of title 18 (relating to restrictions
24 on former officers, employees, and

1 elected officials of the executive and
2 legislative branches).

3 “(xxx) Perjury committed under sec-
4 tion 1621 of title 18 in falsely denying the
5 commission of an act which constitutes—

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

12 “(II) an offense under clause
13 (xxix), to the extent provided in such
14 clause.

15 “(xxxi) Subornation of perjury com-
16 mitted under section 1622 of title 18 in
17 connection with the false denial or false
18 testimony of another individual as specified
19 in clause (xxx).”.

20 **SEC. 16. LIMITATION ON BONUSES TO EXECUTIVES OF**
21 **FANNIE MAE AND FREDDIE MAC.**

22 Notwithstanding any other provision in law, senior
23 executives at the Federal National Mortgage Association
24 and the Federal Home Loan Mortgage Corporation are
25 prohibited from receiving bonuses during any period of

1 conservatorship for those entities on or after the date of
 2 enactment of this Act.

3 **SEC. 17. DISCLOSURE OF POLITICAL INTELLIGENCE AC-**
 4 **TIVITIES UNDER LOBBYING DISCLOSURE**
 5 **ACT.**

6 (a) DEFINITIONS.—Section 3 of the Lobbying Dislo-
 7 sure Act of 1995 (2 U.S.C. 1602) is amended—

8 (1) in paragraph (2)—

9 (A) by inserting after “lobbying activities”
 10 each place that term appears the following: “or
 11 political intelligence activities”; and

12 (B) by inserting after “lobbyists” the fol-
 13 lowing: “or political intelligence consultants”;
 14 and

15 (2) by adding at the end the following new
 16 paragraphs:

17 “(17) POLITICAL INTELLIGENCE ACTIVITIES.—
 18 The term ‘political intelligence activities’ means po-
 19 litical intelligence contacts and efforts in support of
 20 such contacts, including preparation and planning
 21 activities, research, and other background work that
 22 is intended, at the time it is performed, for use in
 23 contacts, and coordination with such contacts and
 24 efforts of others.

25 “(18) POLITICAL INTELLIGENCE CONTACT.—

1 “(A) DEFINITION.—The term ‘political in-
2 telligence contact’ means any oral or written
3 communication (including an electronic commu-
4 nication) to or from a covered executive branch
5 official or a covered legislative branch official,
6 the information derived from which is intended
7 for use in analyzing securities or commodities
8 markets, or in informing investment decisions,
9 and which is made on behalf of a client with re-
10 gard to—

11 “(i) the formulation, modification, or
12 adoption of Federal legislation (including
13 legislative proposals);

14 “(ii) the formulation, modification, or
15 adoption of a Federal rule, regulation, Ex-
16 ecutive order, or any other program, policy,
17 or position of the United States Govern-
18 ment; or

19 “(iii) the administration or execution
20 of a Federal program or policy (including
21 the negotiation, award, or administration
22 of a Federal contract, grant, loan, permit,
23 or license).

24 “(B) EXCEPTION.—The term ‘political in-
25 telligence contact’ does not include a commu-

1 nication that is made by or to a representative
2 of the media if the purpose of the communica-
3 tion is gathering and disseminating news and
4 information to the public.

5 “(19) POLITICAL INTELLIGENCE FIRM.—The
6 term ‘political intelligence firm’ means a person or
7 entity that has 1 or more employees who are polit-
8 ical intelligence consultants to a client other than
9 that person or entity.

10 “(20) POLITICAL INTELLIGENCE CONSULT-
11 ANT.—The term ‘political intelligence consultant’
12 means any individual who is employed or retained by
13 a client for financial or other compensation for serv-
14 ices that include one or more political intelligence
15 contacts.”.

16 (b) REGISTRATION REQUIREMENT.—Section 4 of the
17 Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is
18 amended—

19 (1) in subsection (a)—

20 (A) in paragraph (1)—

21 (i) by inserting after “whichever is
22 earlier,” the following: “or a political intel-
23 ligence consultant first makes a political
24 intelligence contact,”; and

1 (ii) by inserting after “such lobbyist”
2 each place that term appears the following:
3 “or consultant”;

4 (B) in paragraph (2), by inserting after
5 “lobbyists” each place that term appears the
6 following: “or political intelligence consultants”;
7 and

8 (C) in paragraph (3)(A)—

9 (i) by inserting after “lobbying activi-
10 ties” each place that term appears the fol-
11 lowing: “and political intelligence activi-
12 ties”; and

13 (ii) in clause (i), by inserting after
14 “lobbying firm” the following: “or political
15 intelligence firm”;

16 (2) in subsection (b)—

17 (A) in paragraph (3), by inserting after
18 “lobbying activities” each place that term ap-
19 pears the following: “or political intelligence ac-
20 tivities”;

21 (B) in paragraph (4)—

22 (i) in the matter preceding subpara-
23 graph (A), by inserting after “lobbying ac-
24 tivities” the following: “or political intel-
25 ligence activities”; and

1 (ii) in subparagraph (C), by inserting
2 after “lobbying activity” the following: “or
3 political intelligence activity”;

4 (C) in paragraph (5), by inserting after
5 “lobbying activities” each place that term ap-
6 pears the following: “or political intelligence ac-
7 tivities”;

8 (D) in paragraph (6), by inserting after
9 “lobbyist” each place that term appears the fol-
10 lowing: “or political intelligence consultant”;
11 and

12 (E) in the matter following paragraph (6),
13 by inserting “or political intelligence activities”
14 after “such lobbying activities”;

15 (3) in subsection (c)—

16 (A) in paragraph (1), by inserting after
17 “lobbying contacts” the following: “or political
18 intelligence contacts”; and

19 (B) in paragraph (2)—

20 (i) by inserting after “lobbying con-
21 tact” the following: “or political intel-
22 ligence contact”; and

23 (ii) by inserting after “lobbying con-
24 tacts” the following: “and political intel-
25 ligence contacts”; and

1 (4) in subsection (d), by inserting after “lob-
2 bying activities” each place that term appears the
3 following: “or political intelligence activities”.

4 (c) REPORTS BY REGISTERED POLITICAL INTEL-
5 LIGENCE CONSULTANTS.—Section 5 of the Lobbying Dis-
6 closure Act of 1995 (2 U.S.C. 1604) is amended—

7 (1) in subsection (a), by inserting after “lob-
8 bying activities” the following: “and political intel-
9 ligence activities”;

10 (2) in subsection (b)—

11 (A) in paragraph (2)—

12 (i) in the matter preceding subpara-
13 graph (A), by inserting after “lobbying ac-
14 tivities” the following: “or political intel-
15 ligence activities”;

16 (ii) in subparagraph (A)—

17 (I) by inserting after “lobbyist”
18 the following: “or political intelligence
19 consultant”; and

20 (II) by inserting after “lobbying
21 activities” the following: “or political
22 intelligence activities”;

23 (iii) in subparagraph (B), by inserting
24 after “lobbyists” the following: “and polit-
25 ical intelligence consultants”; and

1 (iv) in subparagraph (C), by inserting
2 after “lobbyists” the following: “or political
3 intelligence consultants”;

4 (B) in paragraph (3)—

5 (i) by inserting after “lobbying firm”
6 the following: “or political intelligence
7 firm”; and

8 (ii) by inserting after “lobbying activi-
9 ties” each place that term appears the fol-
10 lowing: “or political intelligence activities”;
11 and

12 (C) in paragraph (4), by inserting after
13 “lobbying activities” each place that term ap-
14 pears the following: “or political intelligence ac-
15 tivities”; and

16 (3) in subsection (d)(1), in the matter pre-
17 ceding subparagraph (A), by inserting “or a political
18 intelligence consultant” after “a lobbyist”.

19 (d) DISCLOSURE AND ENFORCEMENT.—Section 6(a)
20 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1605)
21 is amended—

22 (1) in paragraph (3)(A), by inserting after “lob-
23 bying firms” the following: “, political intelligence
24 consultants, political intelligence firms,”;

1 (2) in paragraph (7), by striking “or lobbying
2 firm” and inserting “lobbying firm, political intel-
3 ligence consultant, or political intelligence firm”; and

4 (3) in paragraph (8), by striking “or lobbying
5 firm” and inserting “lobbying firm, political intel-
6 ligence consultant, or political intelligence firm”.

7 (e) RULES OF CONSTRUCTION.—Section 8(b) of the
8 Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is
9 amended by striking “or lobbying contacts” and inserting
10 “lobbying contacts, political intelligence activities, or polit-
11 ical intelligence contacts”.

12 (f) IDENTIFICATION OF CLIENTS AND COVERED OF-
13 FICIALS.—Section 14 of the Lobbying Disclosure Act of
14 1995 (2 U.S.C. 1609) is amended—

15 (1) in subsection (a)—

16 (A) in the heading, by inserting “OR PO-
17 LITICAL INTELLIGENCE” after “LOBBYING”;

18 (B) by inserting “or political intelligence
19 contact” after “lobbying contact” each place
20 that term appears; and

21 (C) in paragraph (2), by inserting “or po-
22 litical intelligence activity, as the case may be”
23 after “lobbying activity”;

24 (2) in subsection (b)—

1 (A) in the heading, by inserting “OR PO-
2 LITICAL INTELLIGENCE” after “LOBBYING”;

3 (B) by inserting “or political intelligence
4 contact” after “lobbying contact” each place
5 that term appears; and

6 (C) in paragraph (2), by inserting “or po-
7 litical intelligence activity, as the case may be”
8 after “lobbying activity”; and

9 (3) in subsection (c), by inserting “or political
10 intelligence contact” after “lobbying contact”.

11 (g) ANNUAL AUDITS AND REPORTS BY COMP-
12 TROLLER GENERAL.—Section 26 of the Lobbying Disclo-
13 sure Act of 1995 (2 U.S.C. 1614) is amended—

14 (1) in subsection (a)—

15 (A) by inserting “political intelligence
16 firms, political intelligence consultants,” after
17 “lobbying firms”; and

18 (B) by striking “lobbying registrations”
19 and inserting “registrations”;

20 (2) in subsection (b)(1)(A), by inserting “polit-
21 ical intelligence firms, political intelligence consult-
22 ants,” after “lobbying firms”; and

23 (3) in subsection (c), by inserting “or political
24 intelligence consultant” after “a lobbyist”.

1 **TITLE II—PUBLIC CORRUPTION**
2 **PROSECUTION IMPROVEMENTS**

3 **SEC. 201. SHORT TITLE.**

4 This title may be cited as the “Public Corruption
5 Prosecution Improvements Act of 2012”.

6 **SEC. 202. VENUE FOR FEDERAL OFFENSES.**

7 (a) **IN GENERAL.**—The second undesignated para-
8 graph of section 3237(a) of title 18, United States Code,
9 is amended by adding before the period at the end the
10 following: “or in any district in which an act in further-
11 ance of the offense is committed”.

12 (b) **SECTION HEADING.**—The heading for section
13 3237 of title 18, United States Code, is amended to read
14 as follows:

15 **“SEC. 3237. OFFENSE TAKING PLACE IN MORE THAN ONE**
16 **DISTRICT.”.**

17 (c) **TABLE OF SECTIONS.**—The table of sections at
18 the beginning of chapter 211 of title 18, United States
19 Code, is amended so that the item relating to section 3237
20 reads as follows:

“Sec. 3237. Offense taking place in more than one district.”.

21 **SEC. 203. THEFT OR BRIBERY CONCERNING PROGRAMS RE-**
22 **CEIVING FEDERAL FINANCIAL ASSISTANCE.**

23 Section 666(a) of title 18, United States Code, is
24 amended—

1 (1) by striking “10 years” and inserting “20
2 years”;

3 (2) by striking “\$5,000” the second place and
4 the third place it appears and inserting “\$1,000”;

5 (3) by striking “anything of value” each place
6 it appears and inserting “any thing or things of
7 value”; and

8 (4) in paragraph (1)(B), by inserting after
9 “anything” the following: “or things”.

10 **SEC. 204. PENALTY FOR SECTION 641 VIOLATIONS.**

11 Section 641 of title 18, United States Code, is
12 amended by striking “ten years” and inserting “15
13 years”.

14 **SEC. 205. BRIBERY AND GRAFT; CLARIFICATION OF DEFINI-**
15 **TION OF “OFFICIAL ACT”; CLARIFICATION OF**
16 **THE CRIME OF ILLEGAL GRATUITIES.**

17 (a) DEFINITION.—Section 201(a) of title 18, United
18 States Code, is amended—

19 (1) in paragraph (2), by striking “and” at the
20 end;

21 (2) by amending paragraph (3) to read as fol-
22 lows:

23 “(3) the term ‘official act’—

24 “(A) means any act within the range of of-
25 ficial duty, and any decision or action on any

1 question, matter, cause, suit, proceeding, or
2 controversy, which may at any time be pending,
3 or which may by law be brought before any
4 public official, in such public official's official
5 capacity or in such official's place of trust or
6 profit; and

7 “(B) may be a single act, more than 1 act,
8 or a course of conduct; and”; and

9 (3) by adding at the end the following:

10 “(4) the term ‘rule or regulation’ means a Fed-
11 eral regulation or a rule of the House of Representa-
12 tives or the Senate, including those rules and regula-
13 tions governing the acceptance of gifts and campaign
14 contributions.”.

15 (b) CLARIFICATION.—Section 201(c)(1) of title 18,
16 United States Code, is amended to read as follows:

17 “(1) otherwise than as provided by law for the
18 proper discharge of official duty, or by rule or regu-
19 lation—

20 “(A) directly or indirectly gives, offers, or
21 promises any thing or things of value to any
22 public official, former public official, or person
23 selected to be a public official for or because of
24 any official act performed or to be performed by

1 such public official, former public official, or
2 person selected to be a public official;

3 “(B) directly or indirectly, knowingly gives,
4 offers, or promises any thing or things of value
5 with an aggregate value of not less than \$1000
6 to any public official, former public official, or
7 person selected to be a public official for or be-
8 cause of the official’s or person’s official posi-
9 tion;

10 “(C) being a public official, former public
11 official, or person selected to be a public offi-
12 cial, directly or indirectly, knowingly demands,
13 seeks, receives, accepts, or agrees to receive or
14 accept any thing or things of value with an ag-
15 gregate value of not less than \$1000 for or be-
16 cause of the official’s or person’s official posi-
17 tion; or

18 “(D) being a public official, former public
19 official, or person selected to be a public offi-
20 cial, directly or indirectly demands, seeks, re-
21 ceives, accepts, or agrees to receive or accept
22 any thing or things of value for or because of
23 any official act performed or to be performed by
24 such official or person;”.

1 **SEC. 206. AMENDMENT OF THE SENTENCING GUIDELINES**
2 **RELATING TO CERTAIN CRIMES.**

3 (a) **DIRECTIVE TO SENTENCING COMMISSION.**—Pur-
4 suant to its authority under section 994(p) of title 28,
5 United States Code, and in accordance with this section,
6 the United States Sentencing Commission forthwith shall
7 review and, if appropriate, amend its guidelines and its
8 policy statements applicable to persons convicted of an of-
9 fense under section 201, 641, 1346A, or 666 of title 18,
10 United States Code, in order to reflect the intent of Con-
11 gress that such penalties meet the requirements in sub-
12 section (b) of this section.

13 (b) **REQUIREMENTS.**—In carrying out this sub-
14 section, the Commission shall—

15 (1) ensure that the sentencing guidelines and
16 policy statements reflect Congress's intent that the
17 guidelines and policy statements reflect the serious
18 nature of the offenses described in paragraph (1),
19 the incidence of such offenses, and the need for an
20 effective deterrent and appropriate punishment to
21 prevent such offenses;

22 (2) consider the extent to which the guidelines
23 may or may not appropriately account for—

24 (A) the potential and actual harm to the
25 public and the amount of any loss resulting
26 from the offense;

1 (B) the level of sophistication and planning
2 involved in the offense;

3 (C) whether the offense was committed for
4 purposes of commercial advantage or private fi-
5 nancial benefit;

6 (D) whether the defendant acted with in-
7 tent to cause either physical or property harm
8 in committing the offense;

9 (E) the extent to which the offense rep-
10 resented an abuse of trust by the offender and
11 was committed in a manner that undermined
12 public confidence in the Federal, State, or local
13 government; and

14 (F) whether the violation was intended to
15 or had the effect of creating a threat to public
16 health or safety, injury to any person or even
17 death;

18 (3) assure reasonable consistency with other
19 relevant directives and with other sentencing guide-
20 lines;

21 (4) account for any additional aggravating or
22 mitigating circumstances that might justify excep-
23 tions to the generally applicable sentencing ranges;

24 (5) make any necessary conforming changes to
25 the sentencing guidelines; and

1 (c) DEPRIVATION OF EMPLOYMENT FOR POLITICAL
2 ACTIVITY.—Section 601(a) of title 18, United States
3 Code, is amended by striking “one year” and inserting “3
4 years”.

5 (d) INTIMIDATION TO SECURE POLITICAL CON-
6 TRIBUTIONS.—Section 606 of title 18, United States
7 Code, is amended by striking “three years” and inserting
8 “5 years”.

9 (e) SOLICITATION AND ACCEPTANCE OF CONTRIBU-
10 TIONS IN FEDERAL OFFICES.—Section 607(a)(2) of title
11 18, United States Code, is amended by striking “3 years”
12 and inserting “5 years”.

13 (f) COERCION OF POLITICAL ACTIVITY BY FEDERAL
14 EMPLOYEES.—Section 610 of title 18, United States
15 Code, is amended by striking “three years” and inserting
16 “5 years”.

17 **SEC. 209. ADDITIONAL WIRETAP PREDICATES.**

18 Section 2516(1)(c) of title 18, United States Code,
19 is amended—

20 (1) by inserting “section 641 (relating to em-
21 bezzlement or theft of public money, property, or
22 records), section 666 (relating to theft or bribery
23 concerning programs receiving Federal funds),”
24 after “section 224 (bribery in sporting contests),”;
25 and

1 under penalty of perjury is made or in which a proceeding
 2 takes place in connection with the oath, declaration, cer-
 3 tificate, verification, or statement.”.

4 (2) CLERICAL AMENDMENT.—The table of sec-
 5 tions at the beginning of chapter 79 of title 18,
 6 United States Code, is amended by adding at the
 7 end the following:

“1624. Venue.”.

8 **SEC. 211. PROHIBITION ON UNDISCLOSED SELF-DEALING**
 9 **BY PUBLIC OFFICIALS.**

10 (a) IN GENERAL.—Chapter 63 of title 18, United
 11 States Code, is amended by inserting after section 1346
 12 the following new section:

13 **“§ 1346A. Undisclosed self-dealing by public officials**

14 “(a) UNDISCLOSED SELF-DEALING BY PUBLIC OFFI-
 15 CIALS.—For purposes of this chapter, the term ‘scheme
 16 or artifice to defraud’ also includes a scheme or artifice
 17 by a public official to engage in undisclosed self-dealing.

18 “(b) DEFINITIONS.—As used in this section:

19 “(1) OFFICIAL ACT.—The term official act—

20 “(A) means any act within the range of of-
 21 ficial duty, and any decision or action on any
 22 question, matter, cause, suit, proceeding, or
 23 controversy, which may at any time be pending,
 24 or which may by law be brought before any
 25 public official, in such public official’s official

1 capacity or in such official's place of trust or
2 profit; and

3 “(B) may be a single act, more than one
4 act, or a course of conduct.

5 “(2) PUBLIC OFFICIAL.—The term ‘public offi-
6 cial’ means an officer, employee, or elected or ap-
7 pointed representative, or person acting for or on be-
8 half of the United States, a State, or a subdivision
9 of a State, or any department, agency or branch of
10 government thereof, in any official function, under
11 or by authority of any such department, agency, or
12 branch of government.

13 “(3) STATE.—The term ‘State’ includes a State
14 of the United States, the District of Columbia, and
15 any commonwealth, territory, or possession of the
16 United States.

17 “(4) UNDISCLOSED SELF-DEALING.—The term
18 ‘undisclosed self-dealing’ means that—

19 “(A) a public official performs an official
20 act for the purpose, in whole or in material
21 part, of furthering or benefitting a financial in-
22 terest, of which the public official has knowl-
23 edge, of—

24 “(i) the public official;

1 “(ii) the spouse or minor child of a
2 public official;

3 “(iii) a general business partner of the
4 public official;

5 “(iv) a business or organization in
6 which the public official is serving as an
7 employee, officer, director, trustee, or gen-
8 eral partner;

9 “(v) an individual, business, or orga-
10 nization with whom the public official is
11 negotiating for, or has any arrangement
12 concerning, prospective employment or fi-
13 nancial compensation; or

14 “(vi) an individual, business, or orga-
15 nization from whom the public official has
16 received any thing or things of value, oth-
17 erwise than as provided by law for the
18 proper discharge of official duty, or by rule
19 or regulation; and

20 “(B) the public official knowingly falsifies,
21 conceals, or covers up material information that
22 is required to be disclosed by any Federal,
23 State, or local statute, rule, regulation, or char-
24 ter applicable to the public official, or the know-
25 ing failure of the public official to disclose ma-

1 terial information in a manner that is required
 2 by any Federal, State, or local statute, rule,
 3 regulation, or charter applicable to the public
 4 official.

5 “(5) MATERIAL INFORMATION.—The term ‘ma-
 6 terial information’ means information—

7 “(A) regarding a financial interest of a
 8 person described in clauses (i) through (iv)
 9 paragraph (4)(A); and

10 “(B) regarding the association, connection,
 11 or dealings by a public official with an indi-
 12 vidual, business, or organization as described in
 13 clauses (iii) through (vi) of paragraph (4)(A).”.

14 (b) CONFORMING AMENDMENT.—The table of sec-
 15 tions for chapter 63 of title 18, United States Code, is
 16 amended by inserting after the item relating to section
 17 1346 the following new item:

“1346A. Undisclosed self-dealing by public officials.”.

18 (c) APPLICABILITY.—The amendments made by this
 19 section apply to acts engaged in on or after the date of
 20 the enactment of this Act.

21 **SEC. 212. DISCLOSURE OF INFORMATION IN COMPLAINTS**
 22 **AGAINST JUDGES.**

23 Section 360(a) of title 28, United States Code, is
 24 amended—

25 (1) in paragraph (2) by striking “or”;

1 (2) in paragraph (3), by striking the period at
2 the end, and inserting “; or”; and

3 (3) by inserting after paragraph (3) the fol-
4 lowing:

5 “(4) such disclosure of information regarding a
6 potential criminal offense is made to the Attorney
7 General, a Federal, State, or local grand jury, or a
8 Federal, State, or local law enforcement agency.”.

9 **SEC. 213. CLARIFICATION OF EXEMPTION IN CERTAIN**
10 **BRIBERY OFFENSES.**

11 Section 666(e) of title 18, United States Code, is
12 amended—

13 (1) by striking “This section does not apply
14 to”; and

15 (2) by inserting “The term ‘anything of value’
16 that is corruptly solicited, demanded, accepted or
17 agreed to be accepted in subsection (a)(1)(B) or cor-
18 ruptly given, offered, or agreed to be given in sub-
19 section (a)(2) shall not include,” before “bona fide
20 salary”.

21 **SEC. 214. CERTIFICATIONS REGARDING APPEALS BY**
22 **UNITED STATES.**

23 Section 3731 of title 18, United States Code, is
24 amended by inserting after “United States attorney” the

- 1 following: “, Deputy Attorney General, Assistant Attorney
- 2 General, or the Attorney General”.

Passed the Senate February 2, 2012.

Attest:

Secretary.

112TH CONGRESS
2^D SESSION

S. 2038

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.