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.

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Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,
SECTION 1. SHORT TITLE.

This Act may be cited as the “Stop Trading on Congressional Knowledge Act of 2012” or the “STOCK Act”.

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMBER OF CONGRESS.—The term “Member of Congress” means a member of the Senate or House of Representatives, a Delegate to the House of Representatives, and the Resident Commissioner from Puerto Rico.

(2) EMPLOYEE OF CONGRESS.—The term “employee of Congress” means—

(A) an employee of the Senate; or

(B) an employee of the House of Representatives.

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

(A) has the meaning given the term “employee” under section 2105 of title 5, United States Code; and

(B) includes—

(i) the President;

(ii) the Vice President; and

(iii) an employee of the United States Postal Service or the Postal Regulatory Commission.
(4) **Judicial Officer.**—The term “judicial officer” has the meaning given that term under section 109(10) of the Ethics in Government Act of 1978.

**SEC. 3. PROHIBITION OF THE USE OF NONPUBLIC INFORMATION FOR PRIVATE PROFIT.**

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

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

(a) **Affirmation of Non-exemption.**—Members of Congress and employees of Congress are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(b) **Duty.**—

(1) **Purpose.**—The purpose of the amendment made by this subsection is to affirm a duty arising
from a relationship of trust and confidence owed by each Member of Congress and each employee of Congress.

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

“(g) Duty of Members and Employees of Congress.—

“(1) In general.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b) and Rule 10b–5 thereunder, each Member of Congress or employee of Congress owes a duty arising from a relationship of trust and confidence to the Congress, the United States Government, and the citizens of the United States with respect to material, nonpublic information derived from such person’s position as a Member of Congress or employee of Congress or gained from the performance of such person’s official responsibilities.

“(2) Definitions.—In this subsection—

“(A) the term ‘Member of Congress’ means a member of the Senate or House of Representatives, a Delegate to the House of
Representatives, and the Resident Commissioner from Puerto Rico; and

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

“(i) an employee of the Senate; or

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

“(3) Rule of construction.—Nothing in this subsection shall be construed to impair or limit the construction of the existing antifraud provisions of the securities laws or the authority of the Commission under those provisions.”.

SEC. 5. CONFORMING CHANGES TO THE COMMODITY EXCHANGE ACT.

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

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

(A) by inserting “or any Member of Congress or employee of Congress (defined in this subsection as those terms are defined in section 2 of the Stop Trading on Congressional Knowledge Act of 2012)” after “Federal Government,” the first place it appears;
(B) by inserting “Member,” after “position of the”; and

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

(2) in paragraph (4)—

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

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

(ii) by inserting “Member,” after “position of the”; and

(iii) by inserting “or by Congress” before “in a manner”; and

(B) in subparagraph (B), in the matter preceding clause (i), by inserting “or any Member of Congress or employee of Congress” after “Federal Government,”; and

(C) in subparagraph (C)—

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

(I) before “that may affect”; and

(II) before “in a manner”; and
(ii) in clause (iii), by inserting “to Congress, or any Member of Congress or employee of Congress” after “Federal Government”.

SEC. 6. PROMPT REPORTING OF FINANCIAL TRANSACTIONS.

(a) Reporting Requirement.—Section 101 of the Ethics in Government Act of 1978 is amended by adding at the end the following subsection:

“(j) Not later than 30 days after any transaction required to be reported under section 102(a)(5)(B), the following persons, if required to file a report under any other subsection of this section subject to any waivers and exclusions, shall file a report of the transaction:

“(1) A Member of Congress.

“(2) An officer or employee of Congress required to file a report under this section.

“(3) The President.

“(4) The Vice President.

“(5) Each employee appointed to a position in the executive branch, the appointment to which requires advice and consent of the Senate, except for—

“(A) an individual appointed to a position—
“(i) as a Foreign Service Officer below the rank of ambassador; or

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

“(B) a special government employee, as defined under section 202 of title 18, United States Code.

“(6) Any employee in a position in the executive branch who is a noncareer appointee in the Senior Executive Service (as defined under section 3132(a)(7) of title 5, United States Code) or a similar personnel system for senior employees in the executive branch, such as the Senior Foreign Service, except that the Director of the Office of Government Ethics may, by regulation, exclude from the application of this paragraph any individual, or group of individuals, who are in such positions, but only in cases in which the Director determines such exclusion would not affect adversely the integrity of the Government or the public’s confidence in the integrity of the Government.

“(7) The Director of the Office of Government Ethics.
“(8) Any civilian employee, not described in paragraph (5), employed in the Executive Office of the President (other than a special government employee) who holds a commission of appointment from the President.”.

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

SEC. 7. REPORT ON POLITICAL INTELLIGENCE ACTIVITIES.

(a) REPORT.—

(1) IN GENERAL.—Not later than 12 months after the date of enactment of this Act, the Comptroller General of the United States, in consultation with the Congressional Research Service, shall submit to the Committee on Homeland Security and Governmental Affairs of the Senate and the Committee on Oversight and Government Reform and the Committee on the Judiciary of the House of Representatives a report on the role of political intelligence in the financial markets.

(2) CONTENTS.—The report required by this section shall include a discussion of—
(A) what is known about the prevalence of the sale of political intelligence and the extent to which investors rely on such information;
(B) what is known about the effect that the sale of political intelligence may have on the financial markets;
(C) the extent to which information which is being sold would be considered non-public information;
(D) the legal and ethical issues that may be raised by the sale of political intelligence;
(E) any benefits from imposing disclosure requirements on those who engage in political intelligence activities; and
(F) any legal and practical issues that may be raised by the imposition of disclosure requirements on those who engage in political intelligence activities.

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

(1) derived by a person from direct communications with an executive branch employee, a Member of Congress, or an employee of Congress; and
(2) provided in exchange for financial compensation to a client who intends, and who is known to intend, to use the information to inform investment decisions.

SEC. 8. PUBLIC FILING AND DISCLOSURE OF FINANCIAL DISCLOSURE FORMS OF MEMBERS OF CONGRESS AND CONGRESSIONAL STAFF.

(a) Public, On-line Disclosure of Financial Disclosure Forms of Members of Congress and Congressional Staff.—

(1) In general.—Not later than August 31, 2012, or 90 days after the date of enactment of this Act, whichever is later, the Secretary of the Senate and the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, shall ensure that financial disclosure forms filed by Members of Congress, officers of the House and Senate, candidates for Congress, and employees of the Senate and the House of Representatives in calendar year 2012 and in subsequent years pursuant to title I of the Ethics in Government Act of 1978 are made available to the public on the respective official websites of the Senate and the House of Representatives not later than 30 days after such forms are filed.
(2) Extensions.—The existing protocol allowing for extension requests for financial disclosures shall be retained. Notices of extension for financial disclosure shall be made available electronically under this subsection along with its related disclosure.

(3) Reporting Transactions.—In the case of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, such disclosures shall be filed not later than 30 days after the transaction. Notices of extension for transaction disclosure shall be made available electronically under this subsection along with its related disclosure.

(4) Expiration.—The requirements of this subsection shall expire upon implementation of the public disclosure system established under subsection (b).

(b) Electronic Filing and On-line Public Availability of Financial Disclosure Forms of Members of Congress, Officers of the House and Senate, and Congressional Staff.—

(1) In general.—Subject to paragraph (6) and not later than 18 months after the date of enactment of this Act, the Secretary of the Senate and
the Sergeant at Arms of the Senate and the Clerk of the House of Representatives shall develop systems to enable—

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

(B) public access to financial disclosure reports filed by Members of Congress, Officers of the House and Senate, candidates for Congress, and employees of the Senate and House of Representatives, as well as reports of a transaction disclosure required by section 101(j) of the Ethics in Government Act of 1978, as added by this Act, notices of extensions, amendments and blind trusts, pursuant to title I of the Ethics in Government Act of 1978 through databases that—

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

(ii) allow the public to search, sort and download data contained in the reports.

(2) LOGIN.—No login shall be required to search or sort the data contained in the reports.
made available by this subsection. A login protocol with the name of the user shall be utilized by a person downloading data contained in the reports. For purposes of filings under this section, section 105(b)(2) of the Ethics in Government Act of 1978 does not apply.

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

(4) **FILERS COVERED.**—Individuals required under the Ethics in Government Act of 1978 or the Senate Rules to file financial disclosure reports with the Secretary of the Senate or the Clerk of the House shall file reports electronically using the systems developed by the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House.

(5) **EXTENSIONS.**—The existing protocol allowing for extension requests for financial disclosures shall be retained for purposes of this subsection. Notices of extension for financial disclosure shall be
made available electronically under this subsection
along with its related disclosure.

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

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

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

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

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

“(B) in the case of all other reports filed pursu-
ant to this title, for a period of six years after re-
ceipt of the report.
“(3) After the relevant time period identified under paragraph (2), the report shall be destroyed unless needed in an ongoing investigation, except that in the case of an individual who filed the report pursuant to section 101(b) and was not subsequently confirmed by the Senate, or who filed the report pursuant to section 101(c) and was not subsequently elected, such reports shall be destroyed 1 year after the individual either is no longer under consideration by the Senate or is no longer a candidate for nomination or election to the Office of President, Vice President, or as a Member of Congress, unless needed in an ongoing investigation or inquiry.”.

SEC. 9. OTHER FEDERAL OFFICIALS.

(a) Prohibition of the Use of Nonpublic Information for Private Profit.—

(1) Executive branch employees.—The Office of Government Ethics shall issue such interpretive guidance of the relevant Federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, related to use of nonpublic information, as necessary to clarify that no executive branch employee may use non-public information derived from such person’s position as an executive branch employee or gained from the
performance of such person’s official responsibilities as a means for making a private profit.

(2) Judicial Officers.—The Judicial Conference of the United States shall issue such interpretive guidance of the relevant ethics rules applicable to Federal judges, including the Code of Conduct for United States Judges, as necessary to clarify that no judicial officer may use non-public information derived from such person’s position as a judicial officer or gained from the performance of such person’s official responsibilities as a means for making a private profit.

(b) Application of Insider Trading Laws.—

(1) Affirmation of Non-exemption.—Executive branch employees and judicial officers are not exempt from the insider trading prohibitions arising under the securities laws, including section 10(b) of the Securities Exchange Act of 1934 and Rule 10b–5 thereunder.

(2) Duty.—

(A) Purpose.—The purpose of the amendment made by this paragraph is to affirm a duty arising from a relationship of trust and confidence owed by each executive branch employee and judicial officer.
(B) AMENDMENT.—Section 21A of the Securities Exchange Act of 1934 (15 U.S.C. 78u–1), as amended by this Act, is amended by adding at the end the following:

“(h) DUTY OF OTHER FEDERAL OFFICIALS.—

“(1) IN GENERAL.—For purposes of the insider trading prohibitions arising under the securities laws, including section 10(b), and Rule 10b–5 thereunder, each executive branch employee and each judicial officer owes a duty arising from a relationship of trust and confidence to the United States Government and the citizens of the United States with respect to material, nonpublic information derived from such person’s position as an executive branch employee or judicial officer or gained from the performance of such person’s official responsibilities.

“(2) DEFINITIONS.—In this subsection—

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

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

“(ii) includes—

“(I) the President;

“(II) the Vice President; and
“(III) an employee of the United States Postal Service or the Postal Regulatory Commission; and

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

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

SEC. 10. RULE OF CONSTRUCTION.

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

(1) impair or limit the construction of the anti-fraud provisions of the securities laws or the Commodity Exchange Act or the authority of the Securities and Exchange Commission or the Commodity Futures Trading Commission under those provisions;

(2) be in derogation of the obligations, duties and functions of a Member of Congress, an employee of Congress, an executive branch employee or a judi-
cial officer, arising from such person’s official position; or

(3) be in derogation of existing laws, regulations or ethical obligations governing Members of Congress, employees of Congress, executive branch employees or judicial officers.

SEC. 11. EXECUTIVE BRANCH REPORTING.

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

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

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

SEC. 12. PROMPT REPORTING AND PUBLIC FILING OF FINANCIAL TRANSACTIONS FOR EXECUTIVE BRANCH.

(a) TRANSACTION REPORTING.—Each agency or department of the Executive branch and each independent agency shall comply with the provisions of sections 6 with respect to any of such agency, department or independent
agency’s officers and employees that are subject to the disclosure provisions under the Ethics in Government Act of 1978.

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

SECTION 13. REQUIRING MORTGAGE DISCLOSURE.

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

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

“(ii) described in section 101(b) who has been nominated for appointment as an officer or employee in the executive branch described in subsection (f) of such section, other than—
“(I) an individual appointed to a position—

“(aa) as a Foreign Service Officer below the rank of ambassador; or

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

“(II) a special government employee, as defined under section 202 of title 18, United States Code; or

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

“(I) an individual appointed to a position—

“(aa) as a Foreign Service Officer below the rank of ambassador; or

“(bb) in the uniformed services for which the pay grade prescribed by section 201 of title 37, United States Code is O–6 or below; or
scribed by section 201 of title 37,
United States Code is O–6 or
below; or
“(II) a special government em-
ployee, as defined under section 202
of title 18, United States Code; and”.

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

(1)(A) the fund is publicly traded; or
(B) the assets of the fund are widely diversified;

and

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

SEC. 15. APPLICATION TO OTHER ELECTED OFFICIALS AND
CRIMINAL OFFENSES.
(a) Application to Other Elected Officials.—
(1) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8332(o)(2)(A) of title 5, United States Code, is amended—

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

(B) in clause (ii), by inserting “, the President, the Vice President, or an elected official of 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 sub-

paragraph (B)(i), (iv), (xvi),

(xix), (xxiii), (xxiv), or (xxvi); or

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

“(aa) is described under subparagraph (B)(ii), (iii), (v),

(vi), (vii), (viii), (ix), (x), (xi),

(xii), (xiii), (xiv), (xv), (xvi),

(xviii), (xx), (xxi), (xxii), (xxv),

(xxvii), or (xxviii); or

“(bb) is described under subparagraph (B)(xxix), (xxx), or
(xxxii), but only with respect to
an offense described under sub-
paragraph (B)(ii), (iii), (v), (vi),
(vii), (viii), (ix), (x), (xi), (xii),
(xiii), (xiv), (xv), (xvii), (xviii),
(xx), (xxi), (xxii), (xxv), (xxvii),
or (xxviii).”; and

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

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

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

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

“(iii) An offense under section 204 of
title 18 (relating to practice in the United
States Court of Federal Claims or the
United States Court of Appeals for the
Federal Circuit by Member of Congress).
“(iv) An offense under section 219 of title 18 (relating to officers and employees acting as agents of foreign principals).

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

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

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

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

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

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

“(xi) An offense under section 607 of title 18 (relating to place of solicitation).
“(xii) An offense under section 641 of title 18 (relating to public money, property or records).

“(xiii) An offense under section 666 of title 18 (relating to theft or bribery concerning programs receiving Federal funds).

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

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

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

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

“(xviii) An offense under section 1505 of title 18 (relating to obstruction of proceedings before departments, agencies, and committees).
“(xix) An offense under section 1512 of title 18 (relating to tampering with a witness, victim, or an informant).

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

“(xxi) An offense under section 1952 of title 18 (relating to interstate and foreign travel or transportation in aid of racketeering enterprises).

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

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

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

“(xxv) An offense under section 7201 of the Internal Revenue Code of 1986 (relating to attempt to evade or defeat tax).

“(xxvi) An offense under section 104(a) of the Foreign Corrupt Practices
Act of 1977 (relating to prohibited foreign trade practices by domestic concerns).

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

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

“(xxix) An offense under section 371 of title 18 (relating to conspiracy to commit offense or to defraud United States), to the extent of any conspiracy to commit an act which constitutes—

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

“(II) an offense under section 207 of title 18 (relating to restrictions on former officers, employees, and
elected officials of the executive and legislative branches).

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

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

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

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

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

Notwithstanding any other provision in law, senior executives at the Federal National Mortgage Association and the Federal Home Loan Mortgage Corporation are prohibited from receiving bonuses during any period of
conservatorship for those entities on or after the date of enactment of this Act.

SEC. 17. DISCLOSURE OF POLITICAL INTELLIGENCE ACTIVITIES UNDER LOBBYING DISCLOSURE ACT.

(a) DEFINITIONS.—Section 3 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1602) is amended—

(1) in paragraph (2)—

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

(B) by inserting after “lobbyists” the following: “or political intelligence consultants”; and

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

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

“(18) POLITICAL INTELLIGENCE CONTACT.—
“(A) DEFINITION.—The term ‘political intelligence contact’ means any oral or written communication (including an electronic communication) to or from a covered executive branch official or a covered legislative branch official, the information derived from which is intended for use in analyzing securities or commodities markets, or in informing investment decisions, and which is made on behalf of a client with regard to—

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

“(ii) the formulation, modification, or adoption of a Federal rule, regulation, Executive order, or any other program, policy, or position of the United States Government; or

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

“(B) EXCEPTION.—The term ‘political intelligence contact’ does not include a commu-
communication that is made by or to a representative of the media if the purpose of the communication is gathering and disseminating news and information to the public.

“(19) Political intelligence firm.—The term ‘political intelligence firm’ means a person or entity that has 1 or more employees who are political intelligence consultants to a client other than that person or entity.

“(20) Political intelligence consultant.—The term ‘political intelligence consultant’ means any individual who is employed or retained by a client for financial or other compensation for services that include one or more political intelligence contacts.”.

(b) Registration Requirement.—Section 4 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1603) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by inserting after “whichever is earlier,” the following: “or a political intelligence consultant first makes a political intelligence contact,”; and
(ii) by inserting after “such lobbyist” each place that term appears the following: “or consultant”; 

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

(C) in paragraph (3)(A)—

(i) by inserting after “lobbying activities” each place that term appears the following: “and political intelligence activities”; and  

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

(2) in subsection (b)—

(A) in paragraph (3), by inserting after “lobbying activities” each place that term appears the following: “or political intelligence activities”; 

(B) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting after “lobbying activities” the following: “or political intelligence activities”; and
(ii) in subparagraph (C), by inserting after “lobbying activity” the following: “or political intelligence activity”;

(C) in paragraph (5), by inserting after “lobbying activities” each place that term appears the following: “or political intelligence activities”;

(D) in paragraph (6), by inserting after “lobbyist” each place that term appears the following: “or political intelligence consultant”; and

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

(3) in subsection (c)—

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

(B) in paragraph (2)—

(i) by inserting after “lobbying contact” the following: “or political intelligence contact”; and

(ii) by inserting after “lobbying contacts” the following: “and political intelligence contacts”; and
(4) in subsection (d), by inserting after “lobbying activities” each place that term appears the following: “or political intelligence activities”.

(c) Reports by Registered Political Intelligence Consultants.—Section 5 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1604) is amended—

(1) in subsection (a), by inserting after “lobbying activities” the following: “and political intelligence activities”;

(2) in subsection (b)—

(A) in paragraph (2)—

(i) in the matter preceding subparagraph (A), by inserting after “lobbying activities” the following: “or political intelligence activities”; 

(ii) in subparagraph (A)—

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

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

(iii) in subparagraph (B), by inserting after “lobbyists” the following: “and political intelligence consultants”; and
(iv) in subparagraph (C), by inserting after “lobbyists” the following: “or political intelligence consultants”;

(B) in paragraph (3)—

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

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

(C) in paragraph (4), by inserting after “lobbying activities” each place that term appears the following: “or political intelligence activities”; and

(3) in subsection (d)(1), in the matter preceding subparagraph (A), by inserting “or a political intelligence consultant” after “a lobbyist”.

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

(1) in paragraph (3)(A), by inserting after “lobbying firms” the following: “, political intelligence consultants, political intelligence firms,”;
(2) in paragraph (7), by striking “or lobbying firm” and inserting “lobbying firm, political intelligence consultant, or political intelligence firm”; and

(3) in paragraph (8), by striking “or lobbying firm” and inserting “lobbying firm, political intelligence consultant, or political intelligence firm”.

(e) Rules of Construction.—Section 8(b) of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1607(b)) is amended by striking “or lobbying contacts” and inserting “lobbying contacts, political intelligence activities, or political intelligence contacts”.

(f) Identification of Clients and Covered Officials.—Section 14 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1609) is amended—

(1) in subsection (a)—

(A) in the heading, by inserting “or Political Intelligence” after “Lobbying”; 

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

(C) in paragraph (2), by inserting “or political intelligence activity, as the case may be” after “lobbying activity”; 

(2) in subsection (b)—
(A) in the heading, by inserting "OR POLITICAL INTELLIGENCE" after "LOBBING";

(B) by inserting "or political intelligence contact" after "lobbying contact" each place that term appears; and

(C) in paragraph (2), by inserting "or political intelligence activity, as the case may be" after "lobbying activity"; and

(3) in subsection (c), by inserting "or political intelligence contact" after "lobbying contact".

(g) ANNUAL AUDITS AND REPORTS BY COMPTROLLER GENERAL.—Section 26 of the Lobbying Disclosure Act of 1995 (2 U.S.C. 1614) is amended—

(1) in subsection (a)—

(A) by inserting "political intelligence firms, political intelligence consultants," after "lobbying firms"; and

(B) by striking "lobbying registrations" and inserting "registrations";

(2) in subsection (b)(1)(A), by inserting "political intelligence firms, political intelligence consultants," after "lobbying firms"; and

(3) in subsection (e), by inserting "or political intelligence consultant" after "a lobbyist".
TITLE II—PUBLIC CORRUPTION

PROSECUTION IMPROVEMENTS

SEC. 201. SHORT TITLE.

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

SEC. 202. VENUE FOR FEDERAL OFFENSES.

(a) In General.—The second undesignated paragraph of section 3237(a) of title 18, United States Code, is amended by adding before the period at the end the following: “or in any district in which an act in furtherance of the offense is committed”.

(b) Section Heading.—The heading for section 3237 of title 18, United States Code, is amended to read as follows:

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

(c) Table of Sections.—The table of sections at the beginning of chapter 211 of title 18, United States Code, is amended so that the item relating to section 3237 reads as follows:

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

SEC. 203. THEFT OR BRIBERY CONCERNING PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE.

Section 666(a) of title 18, United States Code, is amended—
(1) by striking “10 years” and inserting “20 years”;

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

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

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

SEC. 204. PENALTY FOR SECTION 641 VIOLATIONS.

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

SEC. 205. BRIBERY AND GRAFT; CLARIFICATION OF DEFINITION OF “OFFICIAL ACT”; CLARIFICATION OF THE CRIME OF ILLEGAL GRATUITIES.

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

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

(2) by amending paragraph (3) to read as follows:

“(3) the term ‘official act’—

“(A) means any act within the range of official duty, and any decision or action on any
question, matter, cause, suit, proceeding, or
controversy, which may at any time be pending,
or which may by law be brought before any
public official, in such public official’s official
capacity or in such official’s place of trust or
profit; and

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

(3) by adding at the end the following:

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

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

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

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

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

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

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

†S 2038 ES
SEC. 206. AMENDMENT OF THE SENTENCING GUIDELINES RELATING TO CERTAIN CRIMES.

(a) Directive to Sentencing Commission.—Pursuant to its authority under section 994(p) of title 28, United States Code, and in accordance with this section, the United States Sentencing Commission forthwith shall review and, if appropriate, amend its guidelines and its policy statements applicable to persons convicted of an offense under section 201, 641, 1346A, or 666 of title 18, United States Code, in order to reflect the intent of Congress that such penalties meet the requirements in subsection (b) of this section.

(b) Requirements.—In carrying out this subsection, the Commission shall—

(1) ensure that the sentencing guidelines and policy statements reflect Congress’s intent that the guidelines and policy statements reflect the serious nature of the offenses described in paragraph (1), the incidence of such offenses, and the need for an effective deterrent and appropriate punishment to prevent such offenses;

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

(A) the potential and actual harm to the public and the amount of any loss resulting from the offense;
(B) the level of sophistication and planning involved in the offense;
(C) whether the offense was committed for purposes of commercial advantage or private financial benefit;
(D) whether the defendant acted with intent to cause either physical or property harm in committing the offense;
(E) the extent to which the offense represented an abuse of trust by the offender and was committed in a manner that undermined public confidence in the Federal, State, or local government; and
(F) whether the violation was intended to or had the effect of creating a threat to public health or safety, injury to any person or even death;
(3) assure reasonable consistency with other relevant directives and with other sentencing guidelines;
(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;
(5) make any necessary conforming changes to the sentencing guidelines; and
(6) assure that the guidelines adequately meet the purposes of sentencing as set forth in section 3553(a)(2) of title 18, United States Code.

SEC. 207. EXTENSION OF STATUTE OF LIMITATIONS FOR SERIOUS PUBLIC CORRUPTION OFFENSES.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3302. Corruption offenses

"Unless an indictment is returned or the information is filed against a person within 6 years after the commission of the offense, a person may not be prosecuted, tried, or punished for a violation of, or a conspiracy or an attempt to violate the offense in—

"(1) section 201 or 666;

"(2) section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official;

"(3) section 1951, if the offense involves extortion under color of official right;

"(4) section 1952, to the extent that the unlawful activity involves bribery; or"
“(5) section 1962, to the extent that the racketeering activity involves bribery chargeable under State law, involves a violation of section 201 or 666, section 1341 or 1343, when charged in conjunction with section 1346 and where the offense involves a scheme or artifice to deprive another of the intangible right of honest services of a public official, or section 1951, if the offense involves extortion under color of official right.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by adding at the end the following new item:

“3302. Corruption offenses.”.

(c) APPLICATION OF AMENDMENT.—The amendments made by this section shall not apply to any offense committed before the date of enactment of this Act.

SEC. 208. INCREASE OF MAXIMUM PENALTIES FOR CERTAIN PUBLIC CORRUPTION RELATED OFFENSES.

(a) SOLICITATION OF POLITICAL CONTRIBUTIONS.—
Section 602(a)(4) of title 18, United States Code, is amended by striking “3 years” and inserting “5 years”.

(b) PROMISE OF EMPLOYMENT FOR POLITICAL ACTIVITY.—Section 600 of title 18, United States Code, is amended by striking “one year” and inserting “3 years”.

†S 2038 ES
(c) Deprivation of Employment for Political Activity.—Section 601(a) of title 18, United States Code, is amended by striking “one year” and inserting “3 years”.

(d) Intimidation To Secure Political Contributions.—Section 606 of title 18, United States Code, is amended by striking “three years” and inserting “5 years”.

(e) Solicitation and Acceptance of Contributions in Federal Offices.—Section 607(a)(2) of title 18, United States Code, is amended by striking “3 years” and inserting “5 years”.

(f) Coercion of Political Activity by Federal Employees.—Section 610 of title 18, United States Code, is amended by striking “three years” and inserting “5 years”.

SEC. 209. ADDITIONAL WIRETAP PREDICATES.

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

(1) by inserting “section 641 (relating to embezzlement or theft of public money, property, or records), section 666 (relating to theft or bribery concerning programs receiving Federal funds),” after “section 224 (bribery in sporting contests),”; and
by inserting “section 1031 (relating to major fraud against the United States)” after “section 1014 (relating to loans and credit applications generally; renewals and discounts),”.

SEC. 210. EXPANDING VENUE FOR PERJURY AND OBSTRUCTION OF JUSTICE PROCEEDINGS.

(a) IN GENERAL.—Section 1512(i) of title 18, United States Code, is amended to read as follows:

“(i) A prosecution under section 1503, 1504, 1505, 1508, 1509, 1510, or this section may be brought in the district in which the conduct constituting the alleged offense occurred or in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected.”.

(b) PERJURY.—

(1) IN GENERAL.—Chapter 79 of title 18, United States Code, is amended by adding at the end the following:

§ 1624. Venue

“A prosecution under section 1621(1), 1622 (in regard to subornation of perjury under 1621(1)), or 1623 of this title may be brought in the district in which the oath, declaration, certificate, verification, or statement
under penalty of perjury is made or in which a proceeding takes place in connection with the oath, declaration, certificate, verification, or statement.”.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 79 of title 18, United States Code, is amended by adding at the end the following:

“1624. Venue.”.

SEC. 211. PROHIBITION ON UNDISCLOSED SELF DEALING BY PUBLIC OFFICIALS.

(a) In General.—Chapter 63 of title 18, United States Code, is amended by inserting after section 1346 the following new section:

§ 1346A. Undisclosed self dealing by public officials

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

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

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

“(A) means any act within the range of official duty, and any decision or action on any question, matter, cause, suit, proceeding, or controversy, which may at any time be pending, or which may by law be brought before any public official, in such public official’s official
capacity or in such official’s place of trust or profit; and

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

“(2) PUBLIC OFFICIAL.—The term ‘public official’ means an officer, employee, or elected or appointed representative, or person acting for or on behalf of the United States, a State, or a subdivision of a State, or any department, agency or branch of government thereof, in any official function, under or by authority of any such department, agency, or branch of government.

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

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

“(A) a public official performs an official act for the purpose, in whole or in material part, of furthering or benefitting a financial interest, of which the public official has knowledge, of—

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

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

“(iv) a business or organization in which the public official is serving as an employee, officer, director, trustee, or general partner;

“(v) an individual, business, or organization with whom the public official is negotiating for, or has any arrangement concerning, prospective employment or financial compensation; or

“(vi) an individual, business, or organization from whom the public official has received any thing or things of value, otherwise than as provided by law for the proper discharge of official duty, or by rule or regulation; and

“(B) the public official knowingly falsifies, conceals, or covers up material information that is required to be disclosed by any Federal, State, or local statute, rule, regulation, or charter applicable to the public official, or the knowing failure of the public official to disclose ma-
terial information in a manner that is required
by any Federal, State, or local statute, rule,
regulation, or charter applicable to the public
official.

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

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

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

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

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

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

SEC. 212. DISCLOSURE OF INFORMATION IN COMPLAINTS
AGAINST JUDGES.

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

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

†S 2038 ES
(2) in paragraph (3), by striking the period at the end, and inserting “; or”; and

(3) by inserting after paragraph (3) the following:

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

SEC. 213. CLARIFICATION OF EXEMPTION IN CERTAIN BRIBERY OFFENSES.

Section 666(c) of title 18, United States Code, is amended—

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

(2) by inserting “The term ‘anything of value’ that is corruptly solicited, demanded, accepted or agreed to be accepted in subsection (a)(1)(B) or corruptly given, offered, or agreed to be given in subsection (a)(2) shall not include,” before “bona fide salary”.

SEC. 214. CERTIFICATIONS REGARDING APPEALS BY UNITED STATES.

Section 3731 of title 18, United States Code, is amended by inserting after “United States attorney” the
following: “Deputy Attorney General, Assistant Attorney General, or the Attorney General”.

Passed the Senate February 2, 2012.

Attest:

Secretary.
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.

S. 2038
113TH CONGRESS 2D SESSION