

The role of our congressmen and women is to represent the people. That has been clear since the creation of our Constitution. As they set the course for the future of the United States, they have been tasked with the duty of keeping their constituents' best interests at the forefront of their minds. However, they have been profiting from their roles by far greater sums than simply their salaries.

Due to the nature of legislating, our representatives are privy to the most expert, current, and critical information relevant to the state of our country—much of which is not available to the public. Through committee meetings and hearings, members of Congress are highly attuned to our geopolitical position and the economic standing of our markets. They are some of the most well-informed people in the country, and they have been using their positions of power and information privilege to make massive personal gains in the U.S. stock market.

By purchasing and selling stocks based on information they have accumulated through their role on the Hill, they are abusing their position of power. By holding stocks and legislating based on their own holdings, they are turning their back on the responsibilities they were elected to perform. Congressional trading is eroding the public's trust in our representatives and incentivizes them to serve disingenuously. We are in dire need of legislation that better regulates congressional trading—and any subsequent violations—to protect the interests of the people and end iniquitous profiteering.

In addition to breaking the law, public officials that profit from trading on insider information are exploiting the position they were elected to serve. In March 2020, then Senator Kelly Loeffler (R-GA) sold off almost all of the individual stocks she owned the day after receiving a private briefing about the Coronavirus—all of which plummeted during the pandemic. Reports also followed of her investing in stocks that would benefit from the pandemic. The changes in her portfolio holdings occurred before the public was aware of the threat that Covid-19 posed.

There is a long history of insider trading and abuse of power for profit on Capitol Hill. In the late 1700s, there was a case of congressional insider trading in relation to the bond market. Knowing that bond values were about to skyrocket, “members of Congress secretly scooped up thousands of the bonds from unsuspecting farmers and war veterans, paying pennies on the dollar.” Exploitation of information asymmetry has been present in our system since its inception, but it's time that it stops.

There have been efforts to curb insider trading throughout our federal government. The Senate Select Committee in Standards and Conduct was created in 1964 to oversee the implementation and upholding of regulations imposed on the Senate, which includes insider trading. This was shortly followed by the creation of the House Committee on Standards of Official Conduct in 1967. In the 1968 court case of SEC v. Texas Gulf Sulphur, the majority opinion concluded that “all members of the investing public should be subject to identical market risks,” which clearly opposes the use of a congressional position, and the benefits that come with it, to make privately-informed trades.

Unfortunately, regulations have remained weak and enforcement abysmal. Following the economic crash of 2009, there was a strong push for more accountability and transparency of congressional stock trading. In 2012, the Stop Trading on Congressional Knowledge Act, known as the STOCK Act, was passed as an attempt to impose such standards. According to the legislation, members of Congress and staffers must report trades over \$1,000 within 30 days of the trade (or 45 days for spouses or dependents). This was an improvement from the former 365-day reporting period allotment. Unfortunately, throughout the legislative process, the Act was greatly weakened. The inadequacy of the act means members of Congress frequently violate reporting requirements with little to no accountability. The late fee for the first violation is a mere \$200 and is

infrequently paid. Additionally, under the STOCK Act, paying fines is largely based on an honor system: it is up for the congressperson and staffers to see that a trade has been made and that a report has not been filed within the 30 days, and then make the necessary payment for the violation. Staffers report that the process to pay these fines is often unclear. Additionally, information around who has paid their fines for reporting violations is confidential, completely negating the intention of transparency in congressional trading.

New legislation needs to be passed because the STOCK Act has not been effective. In early 2022, Senator Elizabeth Warren (D-MA) proposed legislation that would ban members of Congress from holding individual stocks at all. This only permits them to trade assets such as index funds and mutual funds. In another effort to regulate congressional trading, freshman Senator Jon Ossof (D-GA) introduced a bill that would require members, spouses, and dependents of a congressperson to place all holdings in a blind trust until 180 days after their termination of service. Both strategies would place a far more effective limitation on the trading allowed in Congress and help bring trust back into the picture of civil service.

A blind trust is the best choice of action to help restore credibility in Congress. By eradicating the conflict of interest between portfolio performance and the people, we can ensure that our elected officials are legislating for their constituents, not their personal finances. If members are permitted to trade in index and mutual funds, room is left for personal interest to guide legislative decisions.

A third-party management system enshrines credibility in trades and clarifies violations to congressional trading. Proving that a stock was traded by a congressperson is much easier than proving insider trading. A ban on personal trading makes regulations cut-and-dry and ends coquetry with unethical trading. By removing ambiguity from the system, increased accountability can follow. Unfortunately, for these measures to be taken, we would have to see congresspeople regulate themselves, much like the aforementioned “honor system” that has plagued the Stock Act. As a consequence, few candidates run their campaigns with this issue at the front, leading to a dearth of citizen awareness around this information exploitation. Congress would have to set their financial incentive aside to govern for the people, something that would be out-of-character for many of the avaricious members that strut the Capitol building. So, tame your optimism, but contact your representative and demand the enactment of thoughtful and efficacious congressional stock trading regulations.