

## S 2038

### STOCK Act

**Congress:** 112 (2011–2013, Ended)

**Chamber:** Senate

**Policy Area:** Government Operations and Politics

**Introduced:** Jan 26, 2012

**Current Status:** By Senator Lieberman from Committee on Homeland Security and Governmental Affairs filed written report

**Latest Action:** By Senator Lieberman from Committee on Homeland Security and Governmental Affairs filed written report. Report No. 112-244. (Dec 3, 2012)

**Law:** 112-105 (Enacted Dec 3, 2012)

**Official Text:** <https://www.congress.gov/bill/112th-congress/senate-bill/2038>

### Sponsor

**Name:** Sen. Lieberman, Joseph I. [ID-CT]

**Party:** Democratic • **State:** CT • **Chamber:** Senate

### Cosponsors

No cosponsors are listed for this bill.

### Committee Activity

| Committee  | Chamber | Activity                  | Date         |
|--|---------|---------------------------|--------------|
| Homeland Security and Governmental Affairs Committee | Senate  | Reported Original Measure | Jan 26, 2012 |

### Subjects & Policy Tags

#### Policy Area:

Government Operations and Politics

### Related Bills

| Bill        | Relationship | Last Action  |
|-------------|--------------|--|
| 112 HR 4054 | Related bill | Feb 28, 2012: Referred to the Subcommittee on the Constitution.  |
| 112 HR 1148 | Related bill | Feb 1, 2012: Motion to Discharge Committee filed by Mr. Walz (MN). Petition No: 112-3. ( <a href="http://clerk.house.gov/112/lrc/pd/petitions/DisPet0003.xml">http://clerk.house.gov/112/lrc/pd/petitions/DisPet0003.xml</a> ) Discharge petition text with signatures.) |

**(This measure has not been amended since it was passed by the House on February 9, 2012. The summary of that version is repeated here.)**

Stop Trading on Congressional Knowledge Act of 2012 or STOCK Act - (Sec. 3) Requires the congressional ethics committees to issue interpretive guidance of the rules of each chamber, including rules on conflicts of interest and gifts, with respect to the prohibition against the use by Members of Congress and congressional employees (including legislative branch officers and employees), as a means for making a private profit, of any nonpublic information derived from their positions as Members or congressional employees, or gained from performance of the individual's official responsibilities.

(Sec. 4) Declares that such Members and employees are not exempt from the insider trading prohibitions arising under the securities laws, including the Securities Exchange Act of 1934 and Rule 10b-5.

Amends the Securities Exchange Act of 1934 to declare that such Members and employees owe a duty arising from a relationship of trust and confidence to Congress, the U.S. government, and U.S. citizens with respect to material, nonpublic information derived from their positions as Members or congressional employees or gained from performance of the individual's official responsibilities.

(Sec. 5) Amends the Commodity Exchange Act to apply to Members and congressional employees, or to judicial officers or employees its prohibitions against certain transactions, involving the purchase or sale of any commodity in interstate commerce, or for future delivery, or any swap.

(Sec. 6) Amends the Ethics in Government Act of 1978 (EGA) to require specified individuals to file reports within 30 to 45 days after receiving notice of a purchase, sale, or exchange which exceeds \$1,000 in stocks, bonds, commodities futures, and other forms of securities and subject to any waivers and exclusions.

Lists such individuals as: (1) the President; (2) the Vice President; (3) executive officers or employees, including certain special government employees and members of a uniformed service; (4) appointed administrative law judges; (5) executive branch employees in positions excepted from the competitive service because of their confidential or policymaking character (except those excluded from such exception by the Director of the Office of Government Ethics [OGE]); (6) the Postmaster General, the Deputy Postmaster General, each Governor of the Board of Governors of the U.S. Postal Service, and certain U.S. Postal Service officers or employees; (7) the OGE Director and each designated agency ethics official; (8) civilian employees of the Executive Office of the President (other than a special government employee) appointed by the President; (9) Members of Congress; and (10) congressional officers and employees.

(Sec. 7) Directs the Comptroller General to report to specified congressional committees on the role of political intelligence in the financial markets.

(Sec. 8) Requires the Secretary of the Senate, the Sergeant at Arms of the Senate, and the Clerk of the House of Representatives, by August 31, 2012, or 90 days after the enactment of this Act, to ensure that financial disclosure forms filed by Members, candidates for Congress, and congressional officers and employees, in calendar year 2012 and in subsequent years be made available to the public on the respective official Senate and House websites within 30 days after filing. Terminates such requirement upon implementation of the following public disclosure systems.

Directs the Secretary, the Sergeant at Arms, and the Clerk to develop systems to enable the electronic filing of such

reports as well as their on-line public availability.

Amends EGA to revise the retention period for mandatory public availability of financial disclosure reports. Requires retention and public availability of the financial disclosure reports of a Member of Congress until six years after the date the individual ceases to be a Member (currently, six years after receipt of the report).

(Sec. 9) Requires the OGE to issue interpretive guidance of the relevant federal ethics statutes and regulations, including the Standards of Ethical Conduct for executive branch employees, to specify that no such individual may use non-public information derived from his or her position or gained from the performance of official responsibilities as a means for making a private profit.

Requires the U.S. Judicial Conference to issue interpretive guidance of similar ethics rules, including the Code of Conduct for U.S. Judges, applicable to: (1) federal judges, and (2) judicial employees.

Declares that executive branch employees, judicial officers, and judicial employees are not exempt from the insider trading prohibitions arising under the securities laws, including the Securities Exchange Act of 1934 and Rule 10b-5.

Amends the Securities Exchange Act of 1934 to declare that such individuals owe a duty arising from a relationship of trust and confidence to the federal government and U.S. citizens with respect to material, nonpublic information derived from their positions as executive branch employees, judicial officers, or judicial employees gained from performance of the individual's official responsibilities.

(Sec. 11) Directs the President to ensure that financial disclosure forms filed in calendar year 2012 and in subsequent years by executive branch employees are publicly available on appropriate official websites of executive branch agencies within 30 days after such forms are filed.

Requires the OGE Director to develop systems to enable electronic filing and public access to these financial disclosure forms.

(Sec. 12) Amends the Securities and Exchange Act of 1934 to prohibit individuals required to file financial disclosure reports under EGA from purchasing securities that are the subject of an initial public offering in any manner other than is available to members of the public generally.

(Sec. 13) Amends EGA to require the financial disclosure report of the following individuals to include any secured mortgage which is their personal residence or that of his or her spouse: (1) the President, the Vice President, Members of Congress; and (2) certain individuals nominated for appointments as executive branch officers or employees (except those nominated to positions as Foreign Service Officers or a grade or rank in the uniformed services with a pay grade of 0-6 or below).

(Sec. 14) Declares that the transaction reporting requirements established by this Act shall not be construed to apply to a widely held investment fund (whether a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund): (1) if the fund is publicly traded or its assets 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) Denies Civil Service Retirement System (CSRS) or Federal Employees' Retirement System (FERS) retirement benefits (other than a lump-sum reimbursement of personal contributions) to the President, the Vice President, or an elected official of a state or local government, if convicted of certain felonies.

(Sec. 16) Prohibits senior executives at the Federal National Mortgage Association (Fannie Mae) and the Federal Home Loan Mortgage Corporation (Freddie Mac) (government-sponsored enterprises [GSEs]) from receiving bonuses during any period of conservatorship on or after the enactment of this Act.

(Sec. 17) Prohibits an individual required to file a financial disclosure report under EGA from directly negotiating or having any agreement of future employment or compensation without filing a signed disclosure statement, within three business days after commencement of the negotiation or agreement, with the individual's supervising ethics office.

Requires such an individual to recuse himself or herself whenever there is or there appears to be a conflict of interest with respect to the subject matter of the statement. Requires the individual, upon such a recusal, to notify the supervising ethics office and submit the relevant disclosure statement.

(Sec. 18) Amends the federal criminal code to subject to a fine or imprisonment of up to 15 years, or both, as well as possible disqualification from holding federal office, certain covered government persons, in addition to Member of Congress and congressional employees, who with the intent to influence, on the basis of partisan political affiliation, an employment decision or employment practice of any private entity: (1) takes or withholds, or offers or threatens to take or withhold, an official act; or (2) influences, or offers or threatens to influence, the official act of another.

Extends the meaning of "covered government person" (currently restricted to Members of Congress and congressional employees) to include the President, Vice President, an employee of the U.S. Postal Service or the Postal Regulatory Commission, or any other executive branch employee.

(Sec. 19) Makes conforming amendments to EGA and the Honest Leadership and Open Government Act of 2007.

Requires retention and public availability of the financial disclosure reports of Members of the House until six years after the date an individual ceases to be a Member of Congress (currently, six years after receipt of the report).

## Actions Timeline

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- **Dec 3, 2012:** By Senator Lieberman from Committee on Homeland Security and Governmental Affairs filed written report. Report No. 112-244.
- **Apr 4, 2012:** Signed by President.
- **Apr 4, 2012:** Became Public Law No: 112-105.
- **Mar 28, 2012:** Presented to President.
- **Mar 27, 2012:** Message on Senate action sent to the House.
- **Mar 22, 2012:** Considered by Senate (Message from the House considered). (consideration: CR S1977-1981)
- **Mar 22, 2012:** Cloture on the motion to concur in the House amendment to the bill (S. 2038) invoked in Senate by Yea-Nay Vote. 96 - 3. Record Vote Number: 56. (consideration: CR S1980-1981; text: CR S1980)
- **Mar 22, 2012:** Motion by Senator Reid to refer to Senate Committee on Homeland Security and Governmental Affairs the House message on S. 2038 with instructions to report back forthwith with amendment (SA 1942) fell when cloture invoked on the motion to concur in the House amendment to the bill (S. 2038) in Senate. (consideration: CR S1981)
- **Mar 22, 2012:** Motion by Senator Reid to concur in the House amendment to the bill (S. 2038) with an amendment (SA 1940) withdrawn in Senate by Unanimous Consent. (consideration: CR S1981)
- **Mar 22, 2012:** Resolving differences -- Senate actions: Senate agreed to House amendment to the bill (S. 2038) by Unanimous Consent.
- **Mar 22, 2012:** Senate agreed to House amendment to the bill (S. 2038) by Unanimous Consent.
- **Mar 20, 2012:** Measure laid before Senate by unanimous consent. (consideration: CR S1839-1840)
- **Mar 20, 2012:** Motion by Senator Reid to concur in the House amendment to the bill (S. 2038) made in Senate. (consideration: CR S1839)
- **Mar 20, 2012:** Cloture motion on the motion to concur in the House amendment to the bill (S. 2038) presented in Senate. (consideration: CR S1839; text: CR S1839)
- **Mar 20, 2012:** Motion by Senator Reid to concur in the House amendment to the bill (S. 2038) with an amendment (SA 1940) made in Senate. (consideration: CR S1839)
- **Mar 20, 2012:** Motion by Senator Reid to refer to Senate Committee on Homeland Security and Governmental Affairs the House message on S. 2038 with instructions to report back forthwith with amendment (SA 1942) made in Senate. (consideration: CR S1839)
- **Feb 9, 2012:** Mr. Smith (TX) moved to suspend the rules and pass the bill, as amended.
- **Feb 9, 2012:** Considered under suspension of the rules. (consideration: CR H645-657)
- **Feb 9, 2012:** DEBATE - The House proceeded with forty minutes of debate on S. 2038.
- **Feb 9, 2012:** Passed/agreed to in House: On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 417 - 2 (Roll no. 47). (text: CR H645-648)
- **Feb 9, 2012:** On motion to suspend the rules and pass the bill, as amended Agreed to by the Yeas and Nays: (2/3 required): 417 - 2 (Roll no. 47). (text: CR H645-648)
- **Feb 9, 2012:** Motion to reconsider laid on the table Agreed to without objection.
- **Feb 9, 2012:** Message on House action received in Senate and at desk: House amendment to Senate bill.
- **Feb 6, 2012:** Message on Senate action sent to the House.
- **Feb 6, 2012:** Received in the House.
- **Feb 6, 2012:** Held at the desk.
- **Feb 2, 2012:** Considered by Senate. (consideration: CR S290-315)
- **Feb 2, 2012:** Passed/agreed to in Senate: Passed Senate with an amendment by Yea-Nay Vote. 96 - 3. Record Vote Number: 14. (text: CR S310-315)
- **Feb 2, 2012:** Passed Senate with an amendment by Yea-Nay Vote. 96 - 3. Record Vote Number: 14. (text: CR S310-315)
- **Feb 1, 2012:** Considered by Senate. (consideration: CR: S238-250, S250-254)
- **Jan 31, 2012:** Motion to proceed to measure considered in Senate. (consideration: CR S181)
- **Jan 31, 2012:** Motion to proceed to consideration of measure agreed to in Senate by Voice Vote. (consideration: CR S181)
- **Jan 31, 2012:** Measure laid before Senate by unanimous consent. (consideration: CR S187-193, S194-200, S201-202)
- **Jan 30, 2012:** Motion to proceed to measure considered in Senate. (consideration: CR S142-149)
- **Jan 30, 2012:** Cloture on the motion to proceed to the measure invoked in Senate by Yea-Nay Vote. 93 - 2. Record

Vote Number: 3. (consideration: CR S148-149; text: CR S148-149)

- **Jan 26, 2012:** Introduced in Senate
- **Jan 26, 2012:** Committee on Homeland Security and Governmental Affairs. Original measure reported to Senate by Senator Lieberman. Without written report.
- **Jan 26, 2012:** Placed on Senate Legislative Calendar under General Orders. Calendar No. 301.
- **Jan 26, 2012:** Motion to proceed to consideration of measure made in Senate. (consideration: CR S120; text: CR S120)
- **Jan 26, 2012:** Cloture motion on the motion to proceed to the measure presented in Senate. (consideration: CR S120)