117th CONGRESS

2nd Session

H. R. ____ / S. ____

To prohibit Members of Congress, their spouses and dependents, and senior Congressional staff from purchasing or selling certain investments, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES / SENATE

_____ __, 2022

______ introduced the following bill; which was referred to the __________

A BILL

To prohibit Members of Congress, their spouses and dependents, and senior Congressional staff from purchasing or selling certain investments, and for other purposes.

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 “To Restrict Unclean Stock Trading Act”, or the “TRUST Act.”

SEC. 2. DEFINITIONS.

In this Act—

(1) the term “commodity” has the meaning given the term in section 1a of the Commodity Exchange Act (7 U.S.C. 1a);

(2) the term “covered investment”—

(A) means investment in a security, a commodity, or a future, or any comparable economic interest acquired through synthetic means such as the use of a cryptocurrency or a derivative, including an option, warrant, or other, similar means.

(B) INCLUSIONS.—The term ‘covered investment’ includes an investment or economic interest described in subparagraph (A) that is held directly, or in which an individual has an indirect, beneficial, or economic interest, through—

(i) an investment fund;

(ii) a trust (other than a qualified blind trust);

(iii) an employee benefit plan; or

(iv) a deferred compensation plan, including a carried interest or other agreement tied to the performance of an investment, other than a fixed cash payment.

; and

(C) does not include—

(i) a widely held investment fund described in section 102(f)(8) of the Ethics in Government Act of 1978 (5 U.S.C. App.), if the widely held investment fund—

(a) does not present a conflict of interest; and

(b) is diversified;

(ii) a diversified exchange-traded fund (including any holdings of such a fund);

(iii) a United States Treasury bill, note, or bond;

(iv) compensation from the primary occupation of a spouse or dependent of a Member of Congress; or

(v) any investment fund held in a Federal, State, or local government employee retirement plan.

(vi) shares of Settlement Common Stock issued under section 7(g)(1)(A) of the Alaska Native Claims Settlement Act (43 U.S.C. 1606(g)(1)(A));

(vii) shares of Settlement Common Stock, as defined in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602); or

(viii) an interest in a small business concern, if the small business concern does not present a conflict of interest;

(D) CLARIFICATION.—An investment that achieves compliance with applicable environmental, social, and governance criteria shall not be considered to be a covered investment solely by reason of that compliance.

(3) the term “covered person” means—

(A) a sitting Member of Congress;

(B) the spouse of a Member of Congress;

(C) a child or other relative who is a resident of the immediate household of a Member of Congress

(D) an individual employed as an officer or employee of Congress, including

(i) any individual, other than a Member of Congress or the Vice President, whose compensation is disbursed by the Secretary of the Senate or the Chief Administrative Officer of the House of Representatives;

(ii) each officer or employee of the legislative branch (except any officer or employee of the Government Accountability Office) who, for at least 60 days, occupies a position for which the rate of basic pay is equal to or greater than 100 percent of the minimum rate of basic pay payable for GS–13 of the General Schedule;

(iii) each officer or employee of the Government Accountability Office who, for at least 60 consecutive days, occupies a position for which the rate of basic pay, minus the amount of locality pay that would have been authorized under section 5304 of title 5, United States Code (had the officer or employee been paid under the General Schedule) for the locality within which the position of such officer or employee is located (as determined by the Comptroller General), is equal to or greater than 100 percent of the minimum rate of basic pay payable for GS–13 of the General Schedule; and

(iv) at least one principal assistant designated for purposes of this paragraph by each Member who does not have an employee who occupies a position for which the rate of basic pay is equal to or greater than 100 percent of the minimum rate of basic pay payable for GS–13 of the General Schedule;

(4) the term “future” means a financial contract obligating the buyer to purchase an asset or the seller to sell an asset, such as a physical commodity or a financial instrument, at a predetermined future date and price;

(5) the term “security” has the meaning given the term in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

(6) the term ‘qualified blind trust’ means a qualified blind trust (as defined in section 102(f)(3)) of the Ethics in Government Act of 1978 (5 U.S.C. App.) that has been approved in writing by the applicable supervising ethics office under section 102(f)(3)(D) of the Ethics in Government Act of 1978 (5 U.S.C. App.);

(7) the term ‘qualified diversified trust’ means a qualified diversified trust (as defined in section 406(b) of the Ethics in Government Act of 1978 (5 U.S.C. App.) that has been approved in writing by the applicable supervising ethics office under section 102(f)(3)(D) of the Ethics in Government Act of 1978 (5 U.S.C. App.);

(8) the term ‘supervising ethics office’ has the meaning given the term in section 109 of the Ethics in Government Act of 1978 (5 U.S.C. App.);

(9) the term ‘initial property’ means an asset or financial interest transferred to a qualified blind trust or qualified diversified trust by, or on behalf of, an interested party or a relative of an interested party, regardless of whether the asset or financial interest is transferred to the qualified blind trust or qualified diversified trust on or after the date of establishment of the qualified blind trust or qualified diversified trust ; and

(10) the term ‘interested party’ has the meaning given the term in section 102(f)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.).

(11) the term “diversified”, with respect to an investment fund, means that the investment fund does not have a stated policy of overly concentrating its investments.

SEC. 3. PROHIBITIONS.

(a) Transactions.—Except as provided in sections 4 and 5, no covered person may—

(1) purchase or sell any covered investment; or

(2) enter into a transaction that creates a net short position in any security.

(b) Positions.—A covered person may not serve as an officer or member of any board of any for-profit association, corporation, partnership, or other entity.

SEC. 4. PLACEMENT OF CERTAIN ASSETS IN QUALIFIED BLIND TRUSTS OR QUALIFIED DIVERSIFIED TRUSTS.

(a) Current Covered Persons.—

(1) CERTIFICATION.—Not later than 30 days after the date of enactment of the TRUST Act, each current covered person shall submit to the applicable supervising ethics office a certification that, as applicable—

(A) for each covered investment owned by the covered person, the covered person will—

(i) divest the covered investment; or

(ii) place the covered investment in a qualified blind trust or qualified diversified trust, including by establishing a qualified blind trust or qualified diversified trust for that purpose, if necessary; or

(iii) place the covered investment in a widely held and diversified mutual fund, if possible; or

(B) the covered person does not own a covered investment.

(2) DIVESTITURE OR PLACEMENT IN QUALIFIED BLIND TRUST OR QUALIFIED DIVERSIFIED TRUST.—

(A) REQUIREMENT.—Subject to paragraph (3), not later than 120 days after the date of enactment of the TRUST Act, each current covered person shall divest, or place in a qualified blind trust or qualified diversified trust (including by establishing a qualified blind trust or qualified diversified trust for that purpose, if necessary) or a widely held and diversified mutual fund, each covered investment owned by the covered person.

(B) DIVESTITURE.—A current covered person shall divest a covered investment held by the covered person if—

(i) the covered person is unable to place the covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by the date described in subparagraph (A);

(ii) the covered person fails to obtain an extension pursuant to paragraph (3); and

(iii) the covered investment is the initial investment

(a) This provision must be fulfilled within 6 months of establishing the trust

(3) EXTENSIONS.—If a current covered person is unable to place a covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by the date described in paragraph (2)(A), the covered person may request, and the supervising ethics office may grant, 1 or more reasonable extensions, subject to the conditions that—

(A) the total period of time covered by all extensions granted to the covered person for the covered investment shall not exceed 180 days; and

(B) the period covered by a single extension shall be not longer than 45 days.

(b) New Covered Persons.—

(1) CERTIFICATION.—Not later than 30 days after the date on which an individual becomes a new covered person, the new covered person shall submit to the applicable supervising ethics office a certification that, as applicable—

(A) for each covered investment owned by the covered person, the covered person will—

(i) divest the covered investment; or

(ii) place the covered investment in a qualified blind trust or qualified diversified trust, including by establishing a qualified blind trust or qualified diversified trust for that purpose, if necessary; or

(iii) place the covered investment in a widely held and diversified mutual fund, if possible; or

(B) the covered person does not own a covered investment.

(2) DIVESTITURE OR PLACEMENT IN QUALIFIED BLIND TRUST OR QUALIFIED DIVERSIFIED TRUST.—

(A) REQUIREMENT.—Subject to paragraph (3), not later than 120 days after the date on which an individual becomes a new Member of Congress, the individual shall divest, or place in a qualified blind trust or qualified diversified trust (including by establishing a qualified blind trust or qualified diversified trust for that purpose, if necessary) or a widely held and diversified mutual fund, each covered investment owned by the Member of Congress or a spouse or dependent of the Member of Congress.

(B) DIVESTITURE.—A new Member of Congress shall divest a covered investment held by the Member of Congress or a spouse or dependent of the Member of Congress if—

(i) the Member of Congress, or the applicable spouse or dependent of the Member of Congress, is unable to place the covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by the date described in subparagraph (A);

(ii) the Member of Congress fails to obtain an extension pursuant to paragraph (3); and

(iii) the covered investment is the initial investment

(a) This provision must be fulfilled within 6 months of establishing the trust

(3) EXTENSIONS.—If a new Member of Congress, or a spouse or dependent of the Member of Congress, is unable to place a covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by the date described in paragraph (2)(A), the Member of Congress may request, and the supervising ethics office may grant, 1 or more reasonable extensions, subject to the conditions that—

(A) the total period of time covered by all extensions granted to the Member of Congress for the covered investment shall not exceed 180 days; and

(B) the period covered by a single extension shall be not longer than 45 days.

(c) Acquisitions During Service.—

(1) IN GENERAL.—Subject to paragraph (2), and any applicable rules issued pursuant to subsection (h)(3), effective beginning on the date of enactment of the TRUST Act, a covered person may not acquire a covered investment.

(2) INHERITANCES.—

(A) IN GENERAL.—Subject to subparagraph (B), a covered person who inherits a covered investment shall divest or place the covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by not later than 120 days after the date on which the covered investment is inherited.

(B) EXTENSIONS.—If a covered person is unable to place a covered investment in a qualified blind trust, a qualified diversified trust, or a widely held and diversified mutual fund by the date described in subparagraph (A), the covered person may request, and the supervising ethics office may grant, 1 or more reasonable extensions, subject to the conditions that—

(i) the total period of time covered by all extensions granted to the covered person for the covered investment shall not exceed 180 days; and

(ii) the period covered by a single extension shall be not longer than 45 days.

(d) Mingling Of Assets.—A spouse or dependent of a covered person may place a covered investment in a qualified blind trust or qualified diversified trust established by the covered person under subsection (a)(1)(A)(ii) or (b)(1)(A)(ii).

(e) Separation From Service And Cooling-Off Period Required For Control.—During the period beginning on the date on which an individual becomes a covered person and ending on the date that is 180 days after the date on which the individual ceases to serve as a covered person, the covered person may not—

(1) dissolve any qualified blind trust or qualified diversified trust in which a covered investment has been placed pursuant to subsection (a), (b), (c)(2), or (d); or

(2) except as provided in this section, otherwise control a covered investment.

(f) Reporting Requirements.—

(1) SUPERVISING ETHICS OFFICES.—Each supervising ethics office shall make available on the public website of the supervising ethics office—

(A) a copy of—

(i) each certification submitted to the supervising ethics office under subsection (a)(1) or (b)(1);

(ii) each qualified blind trust or qualified diversified trust agreement of each covered person;

(iii) each notice and other documentation submitted to the supervising ethics office under paragraph (2) or (3); and

(iv) each notice, rule, and other documentation issued or received by the supervising ethics office under subsection (g);

(B) a schedule of all assets placed in a qualified blind trust or qualified diversified trust by each covered person and interested party; and

(C) a description of each extension granted, and each civil penalty imposed, pursuant to this section.

(2) TRUSTEES.—Each trustee of a qualified blind trust or qualified diversified trust established by a covered person shall submit to the covered person and the applicable supervising ethics office a written notice in any case in which the trustee—

(A) learns that—

(i) an interested party has obtained knowledge of any trust property other than the initial property of the qualified blind trust or qualified diversified trust; or

(ii) the value of the initial property of the qualified blind trust or qualified diversified trust is less than $1,000; or

(B) divests any initial property of the qualified blind trust or qualified diversified trust.

(3) COVERED PERSONS.—Each covered person who is a beneficiary of a qualified blind trust or qualified diversified trust shall submit to the applicable supervising ethics office—

(A) a copy of the executed qualified blind trust or qualified diversified trust agreement by not later than 30 days after the date of execution;

(B) a list of each asset and each financial interest transferred to the qualified blind trust or qualified diversified trust by an interested party by not later than 30 days after the date of the transfer;

(C) a copy of each notice submitted to the covered person under paragraph (2) by not later than 30 days after the date of receipt;

(D) a written notice that an interested party has obtained knowledge of any holding of the qualified blind trust or qualified diversified trust by not later than the date that is 30 days after the date on which the covered person discovered that the knowledge had been obtained; and

(E) a written notice of dissolution of the qualified blind trust or qualified diversified trust by not later than 30 days after the date of dissolution.

SEC. 5. ADMINISTRATION AND ENFORCEMENT.

(a) Administration.—

(1) GUIDANCE.—The Select Committee on Ethics of the Senate and the Committee on Ethics of the House of Representatives are authorized to issue guidance on any matter contained in this Act, including—

(A) whether a covered person may hold an employee stock option, or similar instrument, that had not vested before the date on which the covered person was elected; and

(B) the process and timeline for when a covered person shall no longer serve as an officer or member of any board of any for-profit association, corporation, or other entity.

(b) Enforcement.—

(1) The Attorney General, Securities and Exchange Commission, or the Special Counsel may bring a civil action in the appropriate United States district court against any covered person who engages in conduct constituting a violation of this section and, upon proof of such conduct by a preponderance of the evidence, such covered person shall be subject to a civil penalty equal structured as:

(i) $10,000 for each cumulative violation;

(ii) 20 percent of the value of the covered investment that was purchased or sold, or the security in which a net short position was created, in violation of this title, as applicable at the time of sale;

(iii) $500 for each day during the period beginning on which the covered person is determined to be in violation and ending on the date the covered person is determined to be in compliance; and

(iv) disgorgement to the Treasury of the United States any profit from a transaction or holding involving a covered investment that is conducted in violation of the TRUST Act.

(2) The imposition of a civil penalty under this subsection does not preclude any other criminal or civil statutory, common law, or administrative remedy, which is available by law to the United States or any other person.

(e) Nonrecognition Of Gain.—

(1) IN GENERAL.—Paragraph (1) of section 1043(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking “and” at the end of subparagraph (A);

(B) by redesignating subparagraph (B) as subparagraph (C);

(C) by inserting after subparagraph (A) the following new subparagraph:

"(B) any covered person as defined by the TRUST Act, but only with respect to a divestment of property required by the TRUST Act of 2022, and"; and

(D) by striking "subparagraph (A)" in subparagraph (C), as so redesignated, and inserting "subparagraph (A) or (B), whichever is applicable".

(2) CERTIFICATE OF DIVESTITURE.—Subparagraph (B) of section 1043(b)(2) of such Code is amended—

(A) by striking "or by" and inserting "by"; and

(B) by inserting ", or by the applicable congressional ethics committee, in the case of any covered person as defined by the TRUST Act" after "judicial officers".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to sales of property after the date of the enactment of this Act.