MEMORANDUM FOR ALL MEMBERS, OFFICERS, AND EMPLOYEES

FROM: Committee on Ethics
      Theodore E. Deutch, Chairman
      Kenny Marchant, Ranking Member

SUBJECT: Reminder of STOCK Act Requirements, Prohibition Against Insider Trading & New Certification Requirement

The Stop Trading on Congressional Knowledge of 2012 (STOCK) Act instituted several new ethics requirements. The purpose of this memorandum is to remind all House Members, officers, and employees of two of those requirements as well as introduce a new certification on Periodic Transaction Reports (PTRs). First, the memorandum will discuss the requirement that all Members, officers, and certain House employees periodically disclose certain securities transactions on PTRs. Second, the memorandum will discuss the provision of the STOCK Act that explicitly affirms that Members, officers, and all House employees are subject to the insider trading prohibitions arising under the securities laws. The Committee expects the House community to promptly and diligently comply with all applicable STOCK Act requirements.

PTR FILING REQUIREMENT

All Members, officers, and employees paid at the senior staff rate must disclose certain securities transactions over $1,000 on a PTR within 30 days of notice of the transaction, but in no case later than 45 days after the transaction. Reportable transactions include purchases, sales, or exchanges by the filer, the filer’s spouse, and or dependent children. Filers must disclose transactions involving stocks, bonds, commodities futures, options, private equity, cryptocurrencies and other

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2 House officers and employees whose “rate of basic pay is equal to or greater than 120 percent of the minimum rate of basic pay payable for GS-15 of the General Schedule” for at least 60 days at any time during a calendar year are considered to be paid at the senior staff rate. The applicable 120% calculation for that rate is $131,239 (or a monthly salary of more than $10,936) for calendar year 2020. Principal assistants and shared employees (who are not also paid at the senior staff rate) are not required to file PTRs.

3 The $1,000 threshold is based on the total dollar value of the transaction. It is not based on the loss or gain generated from the transaction.
securities on a PTR. However, PTRs are not required for widely held investment funds such as mutual funds, exchange-traded funds, and index funds. No PTR is required to be filed if there is no reportable securities activity.

For all Members, officers, and senior staff who are subject to PTR filing requirements, securities transactions must be reported twice: for the first time on a PTR no later than 45 days from the transaction, and then a second time on the annual FD Statement covering that calendar year. Transactions in certain types of widely held investment funds (e.g. mutual funds, exchange-traded funds, index funds, bond funds, and similar assets) only have to be reported on the annual FD statement.

PTRs may be filed with the Legislative Resource Center (LRC) by 1) using the online filing system available at https://fd.house.gov or by 2) mailing in a pre-printed PTR form available at https://ethics.house.gov/financial-disclosure/financial-disclosure-forms-and-filing to The Clerk, U.S. House of Representatives, Legislative Resource Center (LRC), B-81 Cannon House Office Building, Washington, DC 20515-6612. Members must submit the original, signed form with 2 photocopies. Officers and staff must submit the original, signed form with 1 photocopy. These forms may not be filed by email, scan, or fax.

The STOCK does not allow for extensions for PTRs. Transactions must be reported no later than 45 days after the transaction occurs. All late PTR filings are subject to a late filing fee of $200, up to as much as $200 per late transaction. However, there is a 30-day grace period before late fees are imposed. Late filing fees should be mailed to the LRC by check or money order made payable to the U.S. Treasury.

Any PTR submitted more than 30 days after the due date without the required late filing fee shall be deemed procedurally deficient and not properly filed.

**NEW CERTIFICATION REQUIREMENT**

Each PTR submission has always required a certification that the information provided is true, complete, and correct to the best of the reporting individual’s knowledge. The form has now been revised to expand the required certification statement to include an affirmation that the reporting individual has disclosed all securities transactions reportable pursuant to the STOCK Act.
FAILURE TO FILE OR FALSIFYING PTRs

Each Member, officer, and senior staffer is responsible for the completeness and accuracy of the information contained in the individual’s PTR, even if someone else prepared, or assisted in preparing, all or part of it. The EIGA provides that the Attorney General may pursue either civil or criminal penalties against an individual who knowingly and willfully falsifies a statement or fails to file a statement required by the EIGA. The maximum civil penalty is $61,585. The maximum criminal penalty is up to one year in prison and a fine of up to $61,585.4

In addition, 18 U.S.C. § 1001, as amended by the False Statements Accountability Act of 1996, is applicable PTRs. That criminal statute provides for a fine of up to $250,000 and/or imprisonment for up to five years for knowingly and willfully making any materially false, fictitious, or fraudulent statement or representation, or falsifying, concealing, or covering up a material fact, in a filing under the EIGA.

PROHIBITION AGAINST INSIDER TRADING

The STOCK Act explicitly affirmed that Members, officers, and all employees are subject to the insider trading prohibitions arising under the securities laws, which include Section 10(b) of the Securities Exchange Act of 1934 and 17 C.F.R. § 240.10b-5 (popularly known as Rule 10b-5). The prohibition applies to information learned both in an official capacity and in a personal capacity.

Members, officers, and employees may obtain material nonpublic information about a public company or economic sector (e.g., energy, telecommunications, or healthcare) during the course of their official duties or in their personal capacity from family, friends, acquaintances, or from their own involvement with a company. If the Member, officer, or employee chooses to trade on this information, they may have engaged in insider trading.

Material nonpublic information is any information concerning a company, security, industry or economic sector, or real or personal property that is not available to the general public and which an investor would likely consider important in making an investment decision. A good rule of thumb to determine whether information may be material nonpublic information is whether or not the release of that information to the public would have an effect on the price of the security or property.

**Example:** A House employee learns in a meeting with Food and Drug Administration (FDA) staff that a new Coronavirus vaccine is going to be approved by the FDA. The staffer is informed at the meeting that this information is confidential. The House employee then buys shares in the company that manufactures the vaccine. Once the news of the drug approval is made public, the company’s share price increases and the employee sells at a profit. As the STOCK Act explains, the employee would be subject to liability for violation of federal civil and criminal insider trading statutes. However, if the House employee waits to purchase the shares until the information regarding the FDA decision becomes public, the employee would not be subject to liability.

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If you have any questions regarding financial disclosure or wish to discuss any of the STOCK Act’s requirements, please contact the Committee at (202) 225-7103 or financial.disclosure@mail.house.gov.