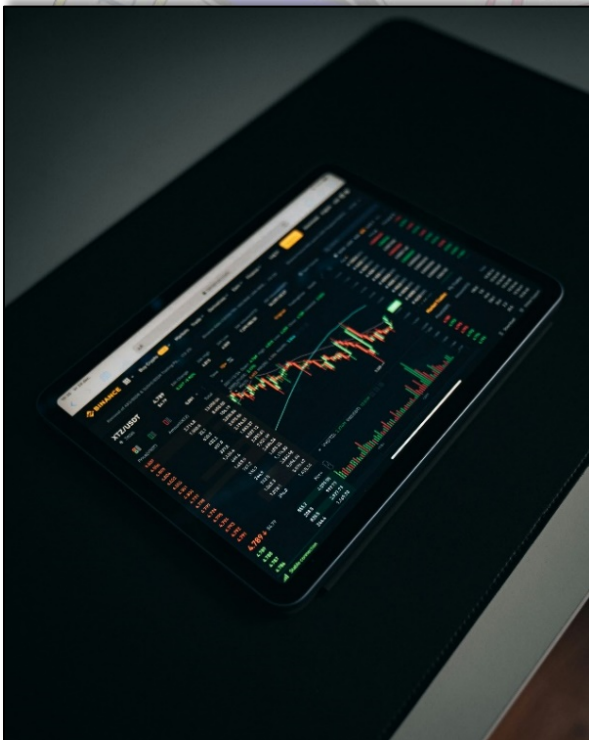


Congressional Stock Trading

People in many fields of endeavor are privy to valuable confidential information before it is made public: For example, business executives, investment bankers, and lawyers have access to information about impending corporate mergers and acquisitions; judges, juries, and court personnel have access to information about the probable outcome of court decisions; and officials at the FDA (Food and Drug Administration), EPA (Environmental Protection Agency), and other administrative agencies have access to information about the likely outcome of regulatory proceedings.



Congress enacted the Securities Act of 1933, which required registration of publicly traded companies -- making more information open and available to the public. A year later, Congress added more protections for investors. One of those provisions made it illegal to trade stock by corporate insiders who were privy to special information that could help or hurt a stock.

After many corporate scandals, Congress passed Sarbanes-Oxley in 2002 to improve corporate governance and audit independence. One of the measures added reporting requirements and tougher standards for insider trading. **Unfortunately, Congress forgot itself.** It remains perfectly legal for a member of

Congress to buy and sell stocks based on information that's not available to the public.

Politicians have used their positions and knowledge to line their pockets since the Stone Age. This is the ultimate form of insider trading, where the group that benefits drafts the legislation, and of course quietly let's themselves and friends position their investments to maximize financial gain long before the information is even before the legislature. It is difficult to imagine a more obvious betrayal of the public trust. It is even more difficult to imagine that such behavior could be completely legal.

A few thoughts:

- Stock trading by congress and their staffs presents a double-edged conflict of interest. They may vote on the basis of their trading plans or trade on the basis of their voting plans.
- Congress has lots of access to confidential information, but one key source is its power to investigate. Do we want Congress 'investigating' companies so that members or staffers can get stock tips?
- A study of trading by US Senators found that they were earning rates of returns from stock trading that would make Warren Buffet proud. Senators also appeared to know exactly when to buy or sell their holdings. Senators would buy stocks just before the shares suddenly outperformed the market by more than 25%. As every investor knows, you can't do that sort of thing routinely without having access to nonpublic information.
- The compensation argument for corporate insider trading cuts in exactly the opposite direction for government officials. We do not want them to receive extra compensation or outside compensation for doing their jobs. And, of course, all too frequently their access to this information is merely another form of a bribe, and that sure as hell is not legal.

Members of Congress, their staffs, and their families have access to information that the public does not; classified briefings, closed conference reports and personal conversations with government officials. All of these sources can give them nonpublic information that may have a significant value if traded upon. But not only do they access information, they create information and policy. When they act on legislation or negotiate legislative language, frequently that legislation has real financial consequences to an industry or company. Because they have access to and they create information, they must not betray the public's trust by using it for their own personal gain.



So, it's not illegal, but I think it's highly unethical, highly offensive, and wrong. Simply put, members of Congress, their staffs, and their families should be held to the same standard as the general public and should not be able to profit based on nonpublic information.

The American people need to know that their elected leaders play by the exact same rules that they play by. They also deserve the right to know their lawmakers' only interest is what's best for the country, not their own financial interests. Legislation that would prohibit members of Congress, congressional staff, and other federal employees, as well as their families, from using non-public information obtained through their official duties for personal gain in the stocks and commodities markets should be enacted. It would also prohibit private individuals and firms who attempt to mine such information from public officials to use it for insider trading. In addition, the legislation should insist that this group deposit their assets in blind trusts that only invest in index funds or in diversified mutual funds while they are a member of Congress.

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