H. R. 11

To amend title 5, United States Code, to restrict trading and ownership of certain financial instruments by Members of Congress and their spouses and dependents, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. FITZPATRICK introduced the following bill; which was referred to the Committee on _______________________

A BILL

To amend title 5, United States Code, to restrict trading and ownership of certain financial instruments by Members of Congress and their spouses and dependents, and for other purposes.

1 Be it enacted by the Senate and House of Representa-

2 tives of the United States of America in Congress assembled,

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the “Bipartisan Restoring

5 Faith in Government Act”.

(Original Signature of Member)
SEC. 2. PROHIBITION OF CONGRESSIONAL OWNERSHIP OF FINANCIAL INVESTMENTS.

(a) IN GENERAL.—Chapter 131 of title 5, United States Code, is amended by adding at the end the following:

“SUBCHAPTER IV—PROHIBITION ON CONGRESSIONAL OWNERSHIP OF FINANCIAL INVESTMENTS

§13151. Definitions

“In this subchapter:

“(1) COVERED FINANCIAL INSTRUMENT.—The term ‘covered financial instrument’ means—

“(A) any investment in—

“(i) a security (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a));

“(ii) a security future (as defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))); or

“(iii) a commodity (as defined in section 1a of the Commodity Exchange Act (7 U.S.C. 1a)); and

“(B) any economic interest comparable to an interest described in subclause (I) that is acquired through synthetic means, such as the
use of a derivative, including an option, warrant, or other similar means.

“(2) COVERED INDIVIDUAL.—The term ‘covered individual’ means any of the following:

“(A) A Member of Congress.
“(B) The spouse of a Member of Congress.
“(C) The dependent of a Member of Congress.

“(3) DEPENDENT.—The term ‘dependent’ has the meaning given that term in section 13101.

“(4) MEMBER OF CONGRESS.—The term ‘Member of Congress’ has the meaning given that term in section 13101.

“(5) QUALIFIED BLIND TRUST.—The term ‘qualified blind trust’ has the meaning given that term in section 13104(f)(3).

“(6) SUPERVISING ETHICS OFFICE.—The term ‘supervising ethics office’ has the meaning given that term in section 13101.

§ 13152. Limitation on owning or trading certain assets

“(a) REQUIREMENT.—
“(1) IN GENERAL.—Except as provided in this section, no covered individual may own or trade a covered financial instrument.
“(2) EXCEPTIONS.—Nothing in this subchapter shall be construed to prevent a covered individual from owning or trading—

“(A) a widely held investment fund (as that term is described in section 13104(f)(8)) that is registered as a management company under the Investment Company Act, as amended (15 U.S.C. 80a-1 et seq.);

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

“(C) any bond issued by a State or local government; or

“(D) any investment under the Thrift Savings Plan.

“(b) COMPLIANCE.—

“(1) IN GENERAL.—To comply with the requirement under subsection (a), a covered individual shall divest of a covered financial instrument through sale or placement in a qualified blind trust in accordance with subsection (c).

“(2) ASSETS ACQUIRED THROUGH SPECIAL CIRCUMSTANCES.—In the event that a covered individual acquires a covered financial instrument after the date of enactment of the Bipartisan Restoring Faith in Government Act other than by purchase,
the covered individual shall have 90 days from the
date on which such individual received such instru-
ment to divest of such instrument through any
means provided under paragraph (1).

“(c) Time Period for Compliance.—

“(1) Covered individuals as of date of

enactment.—

“(A) In general.—An individual who is a
covered individual as of the date of enactment
of Bipartisan Restoring Faith in Government
Act shall have 90 days following the date of en-
actment of such Act to divest of such instru-
ment through any means provided under sub-
section (b)(1).

“(B) Special rule for spouses.—A
covered individual who is a spouse of a Member
of Congress and who receives any financial in-
strument as compensation for their primary em-
ployment shall divest of such financial instru-
ment not later than 90 days after the date that
the spouse is contractually permitted to sell the
covered investment.

“(2) Covered individuals after date of

enactment.—An individual who becomes a covered
individual after the date of enactment of the Bipar-
tisan Restoring Faith in Government Act shall have 90 days from the date on which such individual becomes a covered individual to divest of such instrument through any means provided under subsection (b)(1).

“(3) QUALIFIED BLIND TRUST REQUIREMENTS.—Notwithstanding paragraphs (1) and (2), a qualified blind trust may not be established for purposes of complying with this subchapter without the prior approval of the supervising ethics office. With respect to any such trust so approved, the applicable trustee—

“(A) shall divest of any such instrument placed in the trust not later than 6 months after the trust is established;

“(B) shall certify to the applicable supervising ethics office on an annual basis that the trustee has not provided any information on the trust’s assets or transactions to the applicable covered individual; and

“(C) may not have a close personal or business relationship with the applicable covered individual.

“(d) INCOME TAX.—A loss from a transaction or holding involving a covered financial instrument that is
conducted in violation of this section may not be deducted from the amount of income tax owed by the covered individual.

“(e) Assets Upon Separation.—In the case of a spouse or dependent who ceases to be a covered individual, such spouse or dependent may regain control over any covered financial instrument that was placed into a qualified blind trust pursuant to subsection (a).

“(f) Proof of Compliance.—

“(1) Submission.—A Member of Congress shall submit to the supervising ethics office a pledge of compliance with the requirements of this subchapter, and shall produce, upon request of the supervising ethics office, material or information determined by the supervising ethics committee to be necessary to indicate compliance with the provisions of this subchapter.

“(2) Certificate.—The supervising ethics office shall provide each Member of Congress in compliance with the provisions of this Act with a certificate of compliance.

“(3) Publication.—The supervising ethics office shall make available, on a publicly accessible website, all certificates issued under this subsection.
§ 13153. Enforcement

(a) Referral.—The supervising ethics office shall refer to the Attorney General the name of any covered individual who such office has reasonable cause to believe has willfully failed to comply with the requirements of section 13152.

(b) Penalty.—

(1) In General.—The Attorney General may bring a civil action in any appropriate United States district court against any covered individual who knowingly and willfully fails to comply with section 13152. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed $50,000.

(2) Limitation.—A covered individual may not pay any penalty resulting from a civil action under paragraph (1) using—

(A) funds from a Members’ Representative Allowance or Senators’ Official Personnel and Office Expense Account (as the case may be); or

(B) funds of any political committee under the Federal Election Campaign Act of 1971 (52 U.S.C. 30101 et seq.).”.

(b) Application of Tax Rules for Sales of Property to Comply With Conflict-of-Interest
REQUIREMENTS.—Section 1043 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

“(d) APPLICATION TO PROHIBITION ON CONGRESSIONAL OWNERSHIP OF CERTAIN ASSETS.—

“(1) TREATMENT AS CONFLICT OF INTEREST STATUTE.—For purposes of subsection (b)(2)(A), subchapter IV of chapter 131 of title 5, United States Code, shall be treated as a Federal conflict of interest statute.

“(2) COVERED INDIVIDUALS TREATED AS ELIGIBLE PERSONS.—For purposes of this section—

“(A) the term ‘eligible person’ shall include covered individuals (as defined in section 13151 of title 5, United States Code), and

“(B) such covered individuals shall be treated as referred to in subsection (b)(1)(A) for purposes of applying subsection (b)(5)(A).

“(3) CERTIFICATES OF DIVESTITURE ISSUED BY ETHICS COMMITTEE.—In the case of any covered individual referred to in paragraph (2)(A), a certificate of divestiture meets the requirement of subsection (b)(2)(B) if such certificate is issued by the applicable Congressional ethics committee.”.
(c) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 13146 the following:

“SUBCHAPTER IV—PROHIBITION ON CONGRESSIONAL OWNERSHIP OF FINANCIAL INVESTMENTS

‘13151. Definitions.
‘13152. Limitation on owning or trading certain assets.
‘13153. Enforcement.”.