



Alerts

LOBBYING AND PUBLIC POLICY, FINANCIAL SERVICES AND PRODUCTS CLIENT ALERT: Taking STOCK: House Passes Amended Insider-Trading Bill February 10, 2012

Background

The Stop Trading on Congressional Knowledge Act (STOCK Act) was introduced in the House by Representative Louise Slaughter (D-NY) and Representative Tim Walz (D-MN) in March 2011 (H.R. 1148). Representative Slaughter had introduced similar legislation for the past six years, though the legislation only picked up momentum in Congress after the airing of a 60 Minutes report related to questionable congressional trading activity. Following the airing of the report, co-sponsorship of the bill exploded and the bill gained unstoppable momentum. Similar Senate bills were also introduced including S.2038, which ultimately became the Senate vehicle.

The legislation seeks to clarify the current law regarding insider trading by Members of Congress, staff, and Executive Branch officials. The bill creates a specific fiduciary duty for Members and staff with respect to knowledge obtained as a result of their position and prohibits certain federal employees from buying or selling securities, swaps, or commodity futures based on non-public, material information gained during the course of their employment. Under the legislation, such employees would have to report the purchase, sale or exchange of any stock, bond, or commodity future transaction in excess of a certain amount, within 30 days of the transaction. The legislation would also prohibit such employees from disclosing nonpublic information relating to any pending or prospective legislative action relating to commodities or securities. The leading Senate bill, S. 2038, and H.R. 1148 as introduced would also require the registration under the Lobbying Disclosure Act of "political intelligence consultants" when their clients use the information they aggregate or obtain to make financial decisions.

The legislation will likely create a chilling effect on communications with government officials and may require information aggregators to register as "political intelligence consultants."

Recent Developments

On February 2, 2012, the Senate passed its version of the STOCK Act (S. 2038) by a vote of 96-3. During Senate floor consideration of the bill, the Senate approved several amendments; including the "Grassley Amendment," which restored the "political intelligence" provisions of the Senate reported bill (the Senate Committee had proposed a GAO study). In addition, the Senate added a long pending amendment on public corruption which had been reported by the Senate Judiciary Committee. Following Senate passage, the House took up and passed S. 2038 under Suspension of the Rules with a substitute text. The House substitute struck the Senate provisions on "political intelligence consultants" as well as the public corruption language. The House added a provision restricting Members from participating in IPO's. The House passed the bill 417-2.

The House returned the bill to the Senate. At this point, the Senate has several options. It may insist on its amendments and request a conference with the House, it may amend the House passed bill and return it to the House, or it may accept the House passed bill as passed. An informal option is for the leaders of each Chamber to negotiate a compromise. If the bill goes to a Conference Committee, negotiations on the differences could consume a great deal of time. In addition, a "true" conference would include Members from several Senate and House Committees with jurisdiction. It is uncertain what course the Senate may take.

Side-By-Side Comparison

For a side-by-side comparison of the Senate and House versions of the STOCK Act, [click here](#). The Patton Boggs Financial Services Group is closely tracking developments related to the STOCK Act. Further information on the legislation is available by contacting Micah Green or Jim Christian.