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Congressional Insider Trading Should Be Banned

Published: Monday, 14 Nov 2011 | 10:55 AM ET
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Want a good stock tip?

Ask a Congressman. Or a Senator. Or a Capitol Hill staffer.

I've covered **insider trading on Capitol Hill** several times over the last few years. It is now well known that lawmakers and staffers **trade on informational advantages** they have by virtue of their positions in the government.

But the news broken on **CNBC by Eamon Javers** last week and the report on **60 Minutes Sunday night** is bringing renewed attention to this issue.

The thing to know about this issue is that it is not like corporate insider trading. There are plenty of strong arguments against banning trading on non-public information by corporate insiders, including the ideas that allowing insider trading can be a form of compensation for executives and that insider trading leads to better public pricing of securities (because the price reflects non-public information).

Even the guy who basically wrote the book on the case against insider trading bans—Henry Manne, Dean Emeritus at George Mason University and Adjunct Scholar at the Cato Institute—thinks **insider trading** by lawmakers should be banned.

In my 1966 book [Insider Trading and the Stock Market] I said unequivocally that insider trading by any government officials on information received in the course of their work should be outlawed.

The economic consequences of this trading on stock prices will be the same as any other informed trading, but there are many other aspects to the economic argument for legalizing insider trading generally that just will not pass the 'smell test' for government officials.

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.

But proof will always be difficult (there are many ways government officials can hide the use of inside information, including using the information as a currency with which to pay off other contacts, thus avoiding buying or selling the securities themselves), and enforcement of any law against insider trading will be minimal at best. You can be sure that the SEC [US Securities and Exchange Commission] will not actively monitor Congressional trading, and the usual disclosure techniques will rarely elicit sufficient legal proof of a violation of the law.

Ultimately the only thing that will reduce the value of the use of inside information by government officials is for the government to be involved in far, far fewer matters than it is at present, thus curtailing the amount of valuable information the government can force out of citizens."

As you can tell, Manne's a pessimist about actually enforcing insider trading rules against members of Congress. The regulators are overseen by Congress, which means that the regulators will have a difficult time overseeing Congressional trading. But if there were a ban in place, perhaps the press could play an important role of bringing pressure to bear on Congressional traders, raising the cost of engaging in insider trading.

Or, perhaps, the thing we need is a complete ban on trading altogether. As a CNBC employee, I cannot trade. Why can Nancy Pelosi?