

Roll Call

Qualified blind trust proposal receives chilled reception at congressional stock hearing

Higher fines for reporting noncompliance possible

By Chris Marquette

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Members and experts raised doubts Thursday about the effectiveness and practicality of placing lawmaker assets in qualified blind trusts as the House Administration Committee mulled possible reforms to congressional stock trading.

“That got panned in the hearing by everybody. It sounds like that’s not workable,” Chairperson [Zoe Lofgren](#), D-Calif., said of the qualified blind trust proposal, in an interview after the hearing. “No. 1, you know what you put in, so it’s not really blind. No. 2, apparently it’s very bureaucratic and expensive. And No. 3, most people don’t have enough assets to actually get somebody to establish a qualified blind trust.”

Tightening restrictions on member stock trading has been a popular topic of discussion and many proposals have been circulated on Capitol Hill to address a perceived impropriety of lawmakers who sold off substantial stock holdings at the start of the coronavirus pandemic, as well as many members who have since failed to properly report stock transactions.

Reforms in consideration range from calls to ban members from owning and trading individual stocks to requiring lawmakers to place holdings in a qualified blind trust.

A measure by Rep. [Abigail Spanberger](#), D-Va., and Rep. [Chip Roy](#), R-Texas, (HR 336) would make members, spouses and their dependent children put individual company stocks in a qualified blind trust. A similar bill in the Senate (S 3494) was introduced by Sen. [Jon Ossoff](#), D-Ga., and Sen. [Mark Kelly](#), D-Ariz.

During the hearing, members and experts questioned whether being required to outsource their financial holdings to a third party in a qualified blind trust would be the right fix.

Ranking member [Rodney Davis](#) said he spoke to his wife’s financial adviser about the prospect of a blind trust and was told that such a move would be cumbersome and expensive. At LPL Financial, Davis said he would need a minimum investment of \$500,000 to be able to create a qualified blind trust.

“For example, most financial firms won't even take on a client for a blind trust, unless they meet certain asset requirements and activity requirements,” the Illinois Republican said. “I don't meet either of those requirements today.”

Donna Nagy, a business law professor at Indiana University's Maurer School of Law, said a qualified blind trust would not make sense for hundreds of lawmakers in Congress.

“You know, I think there might be some instances where a qualified blind trust is the vehicle that makes the most sense for an individualized member, but I don't think it makes any sense for hundreds of members of Congress to put themselves into the blind trust,” Nagy said.

The law professor also said she does not see blind trusts as a logical move.

“Not only is it expensive but also what is the purpose of it if the trustee is truly going to sell all of the original assets in order to make it blind and the member is going to give up complete control over what is in there. How is that functionally different — other than more expensive — than a diversified mutual fund,” Nagy said. “So I don't I don't get the fascination with qualified blind trusts.”

Jennifer Schulp, director of financial regulation studies at the CATO Institute, also said qualified blind trusts are expensive. “Compliance costs for blind trusts tend to be substantial,” she said.

Donald Sherman, senior vice president at Citizens for Responsibility and Ethics in Washington, in his prepared remarks expressed doubts on the effectiveness of mandating members place their individual company stocks in a qualified blind trust unless they sell the original investments.

“Placing individual assets into a qualified blind trust (“QBT”), absent a requirement to sell the original assets, is not a sufficient solution to the conflicts that these assets present,” Sherman said.

While the idea of putting assets into a qualified blind trust received a cold reception at the hearing, other potential changes, such as increasing fines for late or missed stock transaction reports, educating members more on reporting requirements and having members report more precise figures on their holdings rather than broad ranges, could be fertile ground for change.

The 2012 Stop Trading on Congressional Knowledge Act, or STOCK Act, expanded disclosure and filled a gap in insider trading laws by prohibiting members from trading on material, nonpublic information they get through their jobs in Congress. It requires members to disclose particular securities transactions worth more than \$1,000 by them, a spouse or child no later than 45 days following the trade execution date. The penalty for a late filing, known as a periodic transaction report, is \$200.

Those “penalties aren't high enough to promote compliance,” according to Sherman, a former counsel for the House Ethics Committee. Lofgren agreed.

“I think that’s correct,” she said when asked about increasing fines for noncompliance, adding that lawmakers “might want to calibrate” the fine depending on the severity of the reporting violation.

Currently, stock trades are reported in value ranges, such as between \$1,001-\$15,000 or \$50,001-\$100,000. On that front, Lofgren said “some precision there I think would be useful.”

She noted there was a lot of information presented in the hearing and members will need time to take it all into consideration.

“I think we need to synthesize the information we received,” Lofgren said. “Work up follow-up questions. See if there is an opportunity for a bipartisan approach and we’ll go from there.”

A bill introduced by Sen. Steve Daines, R-Mont., and Sen. Elizabeth Warren, D-Mass., would prohibit members and their spouses from owning an interest in or trading any stock, bond, commodity, future or other form of security. That measure (S. 3631) would impose a \$50,000 penalty for violations. Reps. Pramila Jayapal, D-Wash., and Matt Rosendale, R-Mont., have a companion version (HR 6678) in the House. Lawmakers could still trade widely held investments such as mutual funds and ETFs under those proposals.

After today’s hearing, it remains unclear what exactly lawmakers will put forward.