



It's crunch time for the push to ban Congress from trading stocks

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A China competition bill, additional Ukraine aid, further COVID-19 funding, addressing inflation and more.

U.S. lawmakers face a big to-do list before they take their August recess and then focus primarily on November's midterm elections, but advocates for a ban on congressional trading of individual stocks sound upbeat about lawmakers managing to deliver on that issue.

"I think there's great momentum. It's just not public," said Donald Sherman, senior vice president and chief counsel for the Citizens for Responsibility and Ethics in Washington (CREW), a watchdog group.

"My understanding is that there's a Senate compromise bill that is going to be released relatively soon. That is a compromise insofar as it combined elements from lots of people's bills."

Sherman said by "soon" he means "by this time next month."

The CREW expert also pointed to some progress in the House of Representatives, following the House Administration Committee's April 7 hearing on possible new limits on the buying and selling of individual stocks by lawmakers. Sherman said he received "pretty robust" additional questions from that panel earlier this week after testifying at that hearing — "which suggests to me that members are in the weeds on what comprehensive legislation might look like."

"I would think that the Senate would aim to get something across the finish line before August recess, so that then the House can resolve and pass something in the fall," Sherman added.

"This is an issue that members of Congress are either going to run on — or run from — in November. And so I think that timeline makes sense, in order to ensure that members can go back to their districts in the fall and demonstrate that they have gotten this across the finish line."

Around 63% of all voters favor a ban on stock trading for lawmakers, with support at 69% among Democrats and 58% among Republicans, according to a recent Morning Consult/Politico poll. But the issue doesn't rank as urgent, as Americans are focused on inflation, Russia's invasion of Ukraine, immigration, climate change and election laws, according to a Quinnipiac University survey.

The raft of bipartisan bills aiming to stop congressional trading in individual stocks has been driven in part by reports about lawmakers who bought and sold stocks in the COVID-19 pandemic's early days after they were privy to warnings — along with news that many lawmakers have been late with their disclosures. Other reports have raised additional questions, including a MarketWatch article in January that revealed how Congress resembled a Wall Street trading desk last year, with lawmakers and their family members making an estimated total of \$355 million worth of stock trades as the market SPX, -0.10% DJIA, -0.30% soared.

Senate Majority Leader Chuck Schumer, the New York Democrat, told reporters last week that he hopes to have stock-trading legislation to vote on “this year.”

“That’s a sign that there still is some momentum there, but there’s not a desire to commit to a particular timeline,” said Jennifer Schulp, an expert from the Cato Institute, a libertarian think tank.

“I view this as one that could pretty quickly shift,” she added, meaning the timing for a vote “could very easily turn into June or July, if it if it turns into a priority.”

Schulp, the director of financial regulation studies at the Cato’s Center for Monetary and Financial Alternatives, said she doesn’t support a ban on congressional trading of individual stocks, saying it wouldn’t restore trust in Congress or address other conflicts of interests.

She favors measures that would increase transparency, such as cutting the amount of time allowed between a trade and the required disclosure, or raising the penalties for not filing disclosures correctly. She also was a witness at the April 7 hearing.

While Congress is busy trying to tackle inflation, a baby-formula shortage and other matters, the push for a stock-trading ban is “not in contention with those other issues,” said Liz Hempowicz, director of public policy at the Project on Government Oversight (POGO), a watchdog that has lobbied for a ban that would cover lawmakers, their spouses and dependents.

“I think it’s all related, and the public needs to know that Congress can approach those kitchen-table issues with clear eyes and with the public interest at the front and center,” Hempowicz said. The alternative is Americans end up concerned about lawmakers handling a matter “with their own pocketbook in mind,” she said.

Public sentiment in favor of a ban helps make her “cautiously optimistic” on achieving it, added Hempowicz, who was among the witnesses on April 7 as well.

“Things are moving. It’s just behind the scenes,” she said.

Critics of a ban say it would discourage people from running for office, or it would be difficult to implement, especially with blind trusts being considered. Another argument is that U.S. lawmakers should understand what it's like to invest in stocks given that they decide policy about the equity market.

Rep. Spanberger's take, President Biden's role

One House lawmaker who has co-sponsored one of the bills that would end congressional trading in individual stocks sounded somewhat discouraged in an interview this week, even as she seemed excited by Schumer's comment about a Senate vote in 2022.

"Hopefully we'll see them lead by example — faster than we might see action in the House, which is sad to me since we're supposed to be the people's House," said Democratic Rep. Abigail Spanberger of Virginia, referring to the Senate.

"But if that's the reality, then I look forward to them doing the right thing, and then ideally, hopefully, the House will follow suit."

The Senate is dealing with "too many competing ideas," but the problem in the House "is not coalescing around legislation," she said. "The issue is House leadership doesn't want to move this. That's the problem in the House."

House Speaker Nancy Pelosi, the California Democrat, defended stock trading by lawmakers and their spouses in December, but then in January reversed herself to some extent, asking the House Administration Committee to look into a possible ban on congressional trading and saying: "I just don't buy into that. But if members want to do that, I'm OK with that."

Pelosi ranked as the eighth-biggest trader last year among Congress's more than 500 members, with \$12 million in buys and no sells. That's according to MarketWatch's January report, which used a Capitol Trades analysis of disclosures filed by members of Congress for their trading activity or for their family members' buys and sells.

When asked what she's doing to win over Pelosi, Spanberger said: "Getting more co-sponsors." Her bill, introduced with Republican Rep. Chip Roy of Texas, has attracted more than 60 co-sponsors — "quite a lot of co-sponsors for a bill that's not imminently coming for a vote," she said.

The Virginia Democrat decried seeing fellow lawmakers buy shares in pharmaceutical or cleaning-supply companies during the onset of the COVID pandemic, as well as buying stock in a defense company that's "going to be producing massive amounts of specific weaponry for a war in Ukraine that we knew was coming."

"The fact that there are members of Congress who think they're 'right' to be able to buy stocks, which equates to profiting off that information, is to me just unconscionable," Spanberger said.

"I'm continuing to build up a coalition of people who believe that this reform is necessary. But I can't change everybody's minds. And sadly there's numbers behind why some people might not be inclined to support it."

An additional hurdle could be the 50-50 Senate's filibuster rule, in which 60 votes are required to end debate on most items, so the minority party is able to stymie the majority's efforts. But some Republican senators have backed bills focused on congressional trading, including Tennessee's Marsha Blackburn, Montana's Steve Daines, South Carolina's Lindsey Graham and Missouri's Josh Hawley.

Another watchdog group that's pushing for a ban is planning to get President Joe Biden involved, hoping that could spark action.

"We will send a letter requesting that he push this through and basically follow his campaign promise to push for laws where Congress is not influenced by their personal financial holdings," said Kedric Payne, senior director of ethics and general counsel at the Campaign Legal Center (CLC). That refers to a Biden campaign pledge to work with Congress to enact laws that would stop lawmakers from being influenced by those holdings.

That letter, with signatures from a range of groups, is likely to go out this week or next week, according to Payne.

The CLC expert ties passage of 2012's STOCK Act to a strong nudge from then-President Barack Obama during a State of the Union address. That law requires disclosures of stock trades by lawmakers, and it aims to help prevent politicians from insider trading, but it's viewed as insufficient by some watchdog groups.

"It was recognized" a decade ago that the president could deliver "a push from outside of the legislature, and that's what needs to happen now," Payne said.

"This problem of perceived conflicts of interest with stock trading is not going away, and it will get worse unless Congress acts right away," he added.