

**STOCK ACT MAY LEAD TO ADDITIONAL
INSIDER TRADING ENFORCEMENT ACTIONS**

On March 22, 2012, the United States Senate unanimously passed legislation prohibiting insider trading by members and employees of Congress, as well as certain other federal officers and employees. Having been passed by the House of Representatives on February 9, 2012, the Stop Trading on Congressional Knowledge Act of 2012 (the “STOCK Act”) will now go before President Obama, who has indicated that he will sign it into law.

The STOCK Act amends sections of the Commodity Exchange Act, the Securities Exchange Act of 1934 and the Ethics in Government Act of 1978 to clarify that existing insider trading laws apply to members of Congress and government officers and employees and to augment disclosure requirements for such persons. Committees in the Senate and the House of Representatives are to issue guidance clarifying that a member of Congress or a congressional employee may not use nonpublic information derived from such person’s position as a means for making a private profit, presumably through either insider trading or the receipt of a benefit in exchange for such information. The STOCK Act makes clear that for purposes of the insider trading laws, each member of Congress and congressional employee owes a duty to the citizens of the United States, arising from a relationship of trust and confidence with those citizens, with respect to any material, nonpublic information derived from such person’s position.

The Dodd-Frank Act prohibits any employee of any department or agency of the federal government from providing any material, nonpublic information derived from the employee’s position to another person for personal gain with intent to assist such other person in trading commodity futures, options or swaps on the basis of such information. Further, it is unlawful under the Dodd-Frank Act for any person who receives any such information from a federal government employee to knowingly use such information to trade commodity futures, options or swaps.

The STOCK Act extends these prohibitions to members and employees of Congress and judicial officers or employees. As such, it will also be illegal for any person who receives material, nonpublic information from a member of Congress or his or her staff to trade futures, options and swaps on the basis of such information. Violations of this provision may become a predicate for enforcement actions in the future, including criminal enforcement actions, on the basis of a breach of duty and misappropriation of information emanating from members of Congress and their staff. Investment advisers and other clients that have discussions with members of Congress or their staff should be sensitive to the enhanced scrutiny that may be applied to such contacts.

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