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The Hon. Spencer Bachus, Chairman
The Hon. Barney Frank, Ranking Member
Committee on Financial Services
U.S. House of Representatives
2129 Rayburn House Office Building
Washington, D.C. 20515

Dec. 5, 2011

**Statement Submitted on Behalf of Public Citizen
Supporting the “Stop Trading on Congressional Knowledge” (STOCK) Act**

Dear Chairman and Ranking Member:

Public Citizen strongly supports passage of the bipartisan legislation designed to prevent congressional insider trading, known as the “Stop Trading on Congressional Knowledge” (STOCK) Act.

The STOCK Act is common sense legislation that has languished in Congress for years. But the legislation (H.R. 1148), introduced by Reps. Timothy Walz (D-Minn.) and Louise McIntosh Slaughter (D-NY), has now gained more than 150 co-sponsors and appears to be moving rapidly through both the House and the Senate. The long-overdue legislation would apply the laws against insider trading to members and staff of Congress and provide an important system of transparency for commodities and securities trading to help ensure that the law is monitored and enforced.

It comes as quite a surprise to most Americans that the laws against insider trading are not clearly and uniformly applied to members and staff of Congress. “Insider trading” under the Securities Exchange Act is generally defined as the buying or selling of securities or commodities based on non-public information in violation of confidentiality – either to the issuing company or the source of information. Unfortunately, most ethics and enforcement officers believe that, since members and staff of Congress do not owe a duty of confidentiality to the federal government, the law against insider trading does not apply to information gained by members and staff in the course of their official duties. As a result, there have been no enforcement actions taken against members or staff for trading on congressional non-public information.

While it is noteworthy that a handful of scholars argue the insider trading law should be interpreted to apply to Congress, and the House ethics committee recently issued a memorandum suggesting that it deems such insider trading as a violation of the trust of office, the fact of the matter is that the law has not been applied to Congress. A statement from Robert Khuzami,

enforcement director with the Securities Exchange Commission (SEC), recognizes that the SEC has never pursued charges of congressional insider trading, even though theoretically the agency may be able to do so. The STOCK Act would make it very clear to all that congressional insider trading is illegal. The measure further creates a system of full transparency of stock trading by members, staff and others who do business with Congress so that the law can be realistically enforced.

Certain technical corrections should be made to improve the legislative language. For example, it should be clear that material non-public information about administrative actions, such as the issuing of government contracts, should be covered as well as legislative actions. Also, the practice of “shorting” in the stock markets should be considered part of stock trading subject to regulation and disclosure. These and other technical issues should be ironed out as the legislation moves forward.

The STOCK Act is a legislative imperative. Many members of Congress and their staff are very active traders in the stock market, and disturbingly, much of this trading goes on in the very markets they oversee. Academic research has even attempted to quantify the problem. Independent studies have found “abnormal returns” from the common stock investments of members of Congress – returns that generally provided congressional investors with a 6 percent higher rate of return than enjoyed by other investors in the House and a 12 percent higher rate in the senate.

In the wake of the recent financial collapse, Congress is actively engaged in overseeing Wall Street, the financial markets, and U.S. financial regulators. The possibility that government insiders could “cash in” has provoked understandable public outrage.

The time to pass this legislation is now. Do not be swayed by arguments that the law is unnecessary and that theoretically the current laws against insider trading could be applied to Congress. The bare fact is that the laws have not been applied to Congress.

With the federal government assuming a larger role in financial services under the watchful eye of Congress, it is imperative that Congress act quickly to assure the nation that the government’s involvement is solely in the public’s interest. Public Citizen encourages the committee to pass the STOCK Act and send it to the full floor for consideration.

Sincerely,

David Arkush, Director, Public Citizen’s Congress Watch
Lisa Gilbert, Deputy Director, Public Citizen’s Congress Watch
Craig Holman, Government Affairs Lobbyist, Public Citizen