

114TH CONGRESS
1ST SESSION

S. _____

To prevent conflicts of interest that stem from executive Government employees receiving bonuses or other compensation arrangements from non-government sources, from the revolving door that raises concerns about the independence of financial services regulators, and from the revolving door that casts aspersions over the awarding of Government contracts and other financial benefits.

IN THE SENATE OF THE UNITED STATES

Ms. BALDWIN introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To prevent conflicts of interest that stem from executive Government employees receiving bonuses or other compensation arrangements from nongovernment sources, from the revolving door that raises concerns about the independence of financial services regulators, and from the revolving door that casts aspersions over the awarding of Government contracts and other financial benefits.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Financial Services
3 Conflict of Interest Act”.

4 **SEC. 2. RESTRICTIONS ON PRIVATE SECTOR PAYMENT FOR**
5 **GOVERNMENT SERVICE.**

6 Section 209 of title 18, United States Code, is
7 amended—

8 (1) in subsection (a)—

9 (A) by striking “any salary” and inserting
10 “any bonus, salary”; and

11 (B) by striking “his services” and inserting
12 “services rendered or to be rendered”; and

13 (2) in subsection (b)—

14 (A) by inserting “(1)” after “(b)”; and

15 (B) by adding at the end the following:

16 “(2) For purposes of paragraph (1), a pension, retire-
17 ment, group life, health or accident insurance, profit-shar-
18 ing, stock bonus, or other employee welfare or benefit plan
19 that makes payment of compensation contingent on ac-
20 cepting a position in the Federal Government shall not
21 be considered bona fide.

22 “(3) For purposes of paragraph (2), compensation in-
23 cludes a retention award or bonus, severance pay, and any
24 other payment linked to future service in the Federal Gov-
25 ernment in any way.”.

1 **SEC. 3. REQUIREMENTS RELATING TO SLOWING THE RE-**
2 **VOLVING DOOR AMONG FINANCIAL SERVICES**
3 **REGULATORS.**

4 (a) IN GENERAL.—The Ethics in Government Act of
5 1978 (5 U.S.C. App.) is amended by adding at the end
6 the following:

7 **“TITLE VI—SPECIAL REQUIRE-**
8 **MENTS FOR FINANCIAL SERV-**
9 **ICES REGULATORS**

10 **“SEC. 601. DEFINITIONS.**

11 “(a) IN GENERAL.—In this title, the terms ‘des-
12 ignated agency ethics official’ and ‘executive branch’ have
13 the meanings given such terms under section 109.

14 “(b) OTHER DEFINITIONS.—In this title:

15 “(1) COVERED FINANCIAL SERVICES AGENCY.—

16 The term ‘covered financial services agency’—

17 “(A) means a primary financial regulatory
18 agency (as defined in section 2 of the Dodd-
19 Frank Wall Street Reform and Consumer Pro-
20 tection Act (12 U.S.C. 5301); and

21 “(B) includes—

22 “(i) the Board of Governors of the
23 Federal Reserve System;

24 “(ii) the Office of the Comptroller of
25 the Currency;

1 “(iii) the Federal Deposit Insurance
2 Corporation;

3 “(iv) the National Credit Union Ad-
4 ministration;

5 “(v) the Securities and Exchange
6 Commission;

7 “(vi) the Federal Housing Finance
8 Agency;

9 “(vii) the Bureau of Consumer Finan-
10 cial Protection;

11 “(viii) the Commodity Futures Trad-
12 ing Commission; and

13 “(ix) the Department of the Treasury.

14 “(2) COVERED FINANCIAL SERVICES REGU-
15 LATOR.—The term ‘covered financial services regu-
16 lator’ means an officer or employee of a covered fi-
17 nancial services agency who occupies—

18 “(A) a supervisory position classified above
19 GS–15 of the General Schedule;

20 “(B) in the case of a position not under
21 the General Schedule, a supervisory position for
22 which the rate of basic pay is not less than 120
23 percent of the minimum rate of basic pay for
24 GS–15 of the General Schedule; or

1 “(C) any other supervisory position deter-
2 mined to be of equal classification by the Direc-
3 tor of the Office of Government Ethics.

4 “(3) FORMER CLIENT.—The term ‘former cli-
5 ent’—

6 “(A) means a person for whom a covered
7 financial services regulator served personally as
8 an agent, attorney, or consultant during the 2-
9 year period ending on the date (after such serv-
10 ice) on which the covered financial services reg-
11 ulator begins service in the Federal Govern-
12 ment; and

13 “(B) does not include—

14 “(i) instances in which the service
15 provided was limited to a speech or similar
16 appearance; or

17 “(ii) a client of the former employer
18 of the covered financial services regulator
19 to whom the covered financial services reg-
20 ulator did not personally provide such serv-
21 ices.

22 “(4) FORMER EMPLOYER.—The term ‘former
23 employer’—

24 “(A) means a person for whom a covered
25 financial services regulator served as an em-

1 employee, officer, director, trustee, or general part-
2 ner during the 2-year period ending on the date
3 (after such service) on which the covered finan-
4 cial services regulator begins service in the Fed-
5 eral Government; and

6 “(B) does not include—

7 “(i) an entity in the Federal Govern-
8 ment, including an executive branch agen-
9 cy;

10 “(ii) a State or local government;

11 “(iii) the District of Columbia;

12 “(iv) an Indian tribe, as defined in
13 section 4 of the Indian Self-Determination
14 and Education Assistance Act (25 U.S.C.
15 450b); or

16 “(v) the government of a territory or
17 possession of the United States.

18 **“SEC. 602. CONFLICT OF INTEREST AND ELIGIBILITY**
19 **STANDARDS FOR FINANCIAL SERVICES REG-**
20 **ULATORS.**

21 “(a) IN GENERAL.—A covered financial services reg-
22 ulator shall not make, participate in making, or in any
23 way attempt to use the official position of the covered fi-
24 nancial services regulator to influence a particular matter
25 that provides a direct and substantial pecuniary benefit

1 for a former employer or former client of the covered fi-
2 nancial services regulator.

3 “(b) RECUSAL.—A covered financial services regu-
4 lator shall recuse himself or herself from any official ac-
5 tion that would violate subsection (a).

6 “(c) WAIVER.—

7 “(1) IN GENERAL.—The head of the covered fi-
8 nancial services agency employing a covered financial
9 services regulator, in consultation with the Director
10 of the Office of Government Ethics, may grant a
11 written waiver of the restrictions under subsection
12 (a) if, and to the extent that, the head of the cov-
13 ered financial services agency certifies in writing
14 that—

15 “(A) the application of the restriction to
16 the particular matter is inconsistent with the
17 purposes of the restriction; or

18 “(B) it is in the public interest to grant
19 the waiver.

20 “(2) PUBLICATION.—The Director of the Office
21 of Government Ethics shall make each waiver under
22 paragraph (1) publicly available on the website of
23 the Office of Government Ethics.

1 **“SEC. 603. NEGOTIATING FUTURE PRIVATE SECTOR EM-**
2 **PLOYMENT.**

3 “(a) PROHIBITION.—Except as provided in sub-
4 section (c), and notwithstanding any other provision of
5 law, a covered financial services regulator may not partici-
6 pate in any particular matter which involves, to the knowl-
7 edge of the covered financial services regulator, an indi-
8 vidual or entity with whom the covered financial services
9 regulator is in negotiations of future employment or has
10 an arrangement concerning prospective employment.

11 “(b) DISCLOSURE OF EMPLOYMENT NEGOTIA-
12 TIONS.—

13 “(1) IN GENERAL.—If a covered financial serv-
14 ices regulator begins any negotiations of future em-
15 ployment with another person, or an agent or inter-
16 mediary of another person, or other discussion or
17 communication with another person, or an agent or
18 intermediary of another person, mutually conducted
19 with a view toward reaching an agreement regarding
20 possible employment of the covered financial services
21 regulator, the covered financial services regulator
22 shall notify the designated agency ethics official of
23 the covered financial services agency employing the
24 covered financial services regulator regarding the ne-
25 gotiations, discussions, or communications.

1 “(2) INFORMATION.—A designated agency eth-
2 ics official receiving notice under paragraph (1),
3 after consultation with the Director of the Office of
4 Government Ethics, shall inform the covered finan-
5 cial services regulator of any potential conflicts of
6 interest involved in any negotiations, discussions, or
7 communications with the other person and the pro-
8 hibitions applicable.

9 “(c) WAIVERS ONLY WHEN EXCEPTIONAL CIR-
10 CUMSTANCES EXIST.—

11 “(1) IN GENERAL.—The head of a covered fi-
12 nancial services agency may only grant a waiver of
13 subsection (a) if the head determines that excep-
14 tional circumstances exist.

15 “(2) REVIEW AND PUBLICATION.—For any
16 waiver granted under paragraph (1), the Director of
17 the Office of Government Ethics shall—

18 “(A) review the circumstances relating to
19 the waiver and the determination that excep-
20 tional circumstances exist; and

21 “(B) make the waiver publicly available on
22 the website of the Office of Government Ethics,
23 which shall include—

24 “(i) the name of the private person or
25 persons involved in the negotiations or ar-

1 rangement concerning prospective employ-
2 ment; and

3 “(ii) the date on which the negotia-
4 tions or arrangements commenced.

5 “(d) SCOPE.—For purposes of this section, the term
6 ‘negotiations of future employment’ is not limited to dis-
7 cussions of specific terms or conditions of employment in
8 a specific position.

9 **“SEC. 604. RECORDKEEPING.**

10 “The Director of the Office of Government Ethics
11 shall—

12 “(1) receive all employment histories, recusal
13 and waiver records, and other disclosure records for
14 covered executive branch officials necessary for mon-
15 itoring compliance to this title;

16 “(2) promulgate rules and regulations, in con-
17 sultation with Director of the Office of Personnel
18 Management and the Attorney General, for imple-
19 mentation of this title;

20 “(3) provide guidance and assistance where ap-
21 propriate to facilitate compliance with this title;

22 “(4) review and, where necessary, assist des-
23 ignated agency ethics officers in providing advice to
24 covered financial services regulators regarding com-
25 pliance with this title; and

1 “(5) if the Director determines that a violation
2 of this title may have occurred, and in consultation
3 with the designated agency ethics officer and the
4 Counsel to the President, refer the compliance case
5 to the United States Attorney for the District of Co-
6 lumbia for enforcement action.

7 **“SEC. 605. PENALTIES AND INJUNCTIONS.**

8 “(a) CRIMINAL PENALTIES.—

9 “(1) IN GENERAL.—Any person who violates
10 section 602 or 603 shall be fined under title 18,
11 United States Code, imprisoned for not more than
12 1 year, or both.

13 “(2) WILLFUL VIOLATIONS.—Any person who
14 willfully violates section 602 or 603 shall be fined
15 under title 18, United States Code, imprisoned for
16 not more than 5 years, or both.

17 “(b) CIVIL ENFORCEMENT.—

18 “(1) IN GENERAL.—The Attorney General may
19 bring a civil action in the appropriate United States
20 district court against any person who violates, or
21 who the Attorney General has reason to believe is
22 engaging in conduct that violates, section 602 or
23 603.

24 “(2) CIVIL PENALTY.—

1 “(A) IN GENERAL.—Upon proof by a pre-
2 ponderance of the evidence that a person vio-
3 lated section 602 or 603, the court shall impose
4 a civil penalty of not more than the greater
5 of—

6 “(i) \$100,000 for each violation; or

7 “(ii) the amount of compensation the
8 person received or was offered for the con-
9 duct constituting the violation.

10 “(B) RULE OF CONSTRUCTION.—A civil
11 penalty under this subsection shall be in addi-
12 tion to any other criminal or civil statutory,
13 common law, or administrative remedy, avail-
14 able to the United States or any other person.

15 “(3) INJUNCTIVE RELIEF.—

16 “(A) IN GENERAL.—In a civil action
17 brought under paragraph (1) against a person,
18 the Attorney General may petition the court for
19 an order prohibiting the person from engaging
20 in conduct that violates section 602 or 603. The
21 court may issue such an order if the court finds
22 by a preponderance of the evidence that the
23 conduct of the person violates section 602 or
24 603.

1 “(B) RULE OF CONSTRUCTION.—The filing
2 of a petition seeking injunctive relief under this
3 paragraph shall not preclude any other remedy
4 which is available by law to the United States
5 or any other person.”.

6 **SEC. 4. PROHIBITION OF PROCUREMENT OFFICERS AC-**
7 **CEPTING EMPLOYMENT FROM GOVERNMENT**
8 **CONTRACTORS.**

9 (a) EXPANSION OF PROHIBITION ON ACCEPTANCE
10 BY FORMER OFFICIALS OF COMPENSATION FROM CON-
11 TRACTORS.—Section 2104 of title 41, United States Code,
12 is amended—

13 (1) in subsection (a)—

14 (A) in the matter preceding paragraph

15 (1)—

16 (i) by striking “or consultant” and in-
17 serting “consultant, lawyer, or lobbyist”;

18 and

19 (ii) by striking “one year” and insert-
20 ing “2 years”; and

21 (B) in paragraph (3), by striking “person-
22 ally made for the Federal agency” and inserting

23 “participated personally and substantially in”;

24 and

1 (2) by amending subsection (b) to read as fol-
2 lows:

3 “(b) PROHIBITION ON COMPENSATION FROM AFFILI-
4 ATES AND SUBCONTRACTORS.—A former official respon-
5 sible for a Government contract referred to in paragraph
6 (1), (2), or (3) of subsection (a) shall be prohibited from
7 accepting compensation for two years after awarding such
8 contract from any division, affiliate, or subcontractor of
9 the contractor.”.

10 (b) REQUIREMENT FOR PROCUREMENT OFFICERS
11 TO DISCLOSE JOB OFFERS MADE ON BEHALF OF REL-
12 ATIVES.—Section 2103(a) of title 41, United States Code,
13 is amended in the matter preceding paragraph (1) by in-
14 serting after “that official” the following: “, or for a rel-
15 ative (as defined in section 3110 of title 5) of that offi-
16 cial,”.

17 (c) REQUIREMENT ON AWARD OF GOVERNMENT
18 CONTRACTS TO FORMER EMPLOYERS.—

19 (1) IN GENERAL.—Chapter 21 of title 41,
20 United States Code, is amended by adding at the
21 end the following:

1 **“§ 2108. Prohibition on involvement by certain**
2 **former contractor employees in procure-**
3 **ments**

4 “An employee of the Federal Government may not
5 be personally and substantially involved with any award
6 of a contract to, or the administration of a contract award-
7 ed to, a contractor that is a former employer of the em-
8 ployee during the 2-year period beginning on the date on
9 which the employee leaves the employment of the con-
10 tractor.”.

11 (2) TECHNICAL AND CONFORMING AMEND-
12 MENT.—The table of sections for chapter 21 of title
13 41, United States Code, is amended by adding at
14 the end the following:

“2108. Prohibition on involvement by certain former contractor employees in
procurements.”.

15 (d) REGULATIONS.—The Administrator for Federal
16 Procurement Policy and the Director of the Office of Man-
17 agement and Budget shall—

18 (1) in consultation with the Director of the Of-
19 fice of Personnel Management and the Counsel to
20 the President, promulgate regulations to carry out
21 and ensure the enforcement of chapter 21 of title
22 41, United States Code, as amended by this section;
23 and

1 United States) in any formal or informal
2 appearance before;

3 “(ii) with the intent to influence,
4 make any oral or written communication
5 on behalf of any other person (except the
6 United States) to; or

7 “(iii) knowingly aid, advise, or assist
8 in—

9 “(I) representing any other per-
10 son (except the United States) in any
11 formal or informal appearance before;
12 or

13 “(II) making, with the intent to
14 influence, any oral or written commu-
15 nication on behalf of any other person
16 (except the United States) to,

17 any court of the United States, or any officer
18 or employee thereof, in connection with any ju-
19 dicial or other proceeding, which was actually
20 pending under his or her official responsibility
21 as a covered financial services regulator during
22 the 1-year period ending on the date his or her
23 employment as a covered financial services reg-
24 ulator ceases or in which he or she participated

1 personally and substantially as a covered finan-
2 cial services regulator; or

3 “(B) during the 2-year period beginning on
4 the date his or her employment as a covered fi-
5 nancial services regulator ceases—

6 “(i) knowingly act as a lobbyist or
7 agent for, or otherwise represent, any
8 other person for compensation (except the
9 United States) in any formal or informal
10 appearance before;

11 “(ii) with the intent to influence,
12 make any oral or written communication
13 or conduct any lobbying activities on behalf
14 of any other person (except the United
15 States) to; or

16 “(iii) knowingly aid, advise, or assist
17 in—

18 “(I) representing any other per-
19 son (except the United States) in any
20 formal or informal appearance before;
21 or

22 “(II) making, with the intent to
23 influence, any oral or written commu-
24 nication or conduct any lobbying ac-

1 tivities on behalf of any other person
2 (except the United States) to,
3 any department or agency of the executive
4 branch or Congress (including any committee of
5 Congress), or any officer or employee thereof,
6 in connection with any matter which is pending
7 before the department, agency, or Congress.

8 “(2) PENALTY.—Any person who violates para-
9 graph (1) shall be punished as provided in section
10 216.

11 “(3) DEFINITIONS.—In this subsection—

12 “(A) the term ‘covered financial services
13 regulator’ has the meaning given that term
14 under section 601 of the Ethics in Government
15 Act of 1978 (5 U.S.C. App.); and

16 “(B) the terms ‘lobbyist’ and ‘lobbying ac-
17 tivities’ have the meanings given such terms in
18 section 3 of the Lobbying Disclosure Act of
19 1995 (2 U.S.C. 1602).”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 (1) Section 103(a) of the Honest Leadership
22 and Open Government Act of 2007 (2 U.S.C.
23 4702(a)) is amended by striking “section 207(e)”
24 each place it appears and inserting “section 207(f)”.

1 (2) Section 207 of title 18, United States Code,
2 as amended by subsection (a), is amended—

3 (A) in subsection (g), as so redesignated,
4 by striking “or (e)” and inserting “or (f)”;

5 (B) in subsection (j)(1)(B), as so redesign-
6 nated, by striking “subsection (f)” and insert-
7 ing “subsection (g)”; and

8 (C) in subsection (k), as so redesignated—

9 (i) in paragraph (2), in the matter
10 preceding subparagraph (A), by striking
11 “and (e)” and inserting “(e), and (f)”;

12 (ii) in paragraph (4), by striking “and
13 (e)” and inserting “(e), and (f)”; and

14 (iii) in paragraph (7)—

15 (I) in subparagraph (A), by strik-
16 ing “and (e)” and inserting “(e), and
17 (f)”; and

18 (II) in subparagraph (B)(ii), in
19 the matter preceding subclause (I), by
20 striking “subsections (c), (d), or (e)”
21 and inserting “subsection (c), (d), (e),
22 or (f)”.

23 (3) Section 141(b)(3) of the Trade Act of 1974
24 (19 U.S.C. 2171(b)(3)) is amended by striking “sec-
25 tion 207(f)(3)” and inserting “207(g)(3)”.

1 (4) Section 7802(b)(3)(B) of the Internal Rev-
2 enue Code of 1986 is amended by striking “and (f)
3 of section 207” and inserting “and (g) of section
4 207”.

5 (5) section 106(p)(6)(I)(ii) of title 49, United
6 States Code, is amended by striking “and (f) of sec-
7 tion 207” and inserting “and (g) of section 207”.

8 **SEC. 6. RESTRICTIONS ON FEDERAL EXAMINERS AND SU-**
9 **PERVISORS OF FINANCIAL INSTITUTIONS.**

10 (a) IN GENERAL.—Section 10(k) of the Federal De-
11 posit Insurance Act (12 U.S.C. 1820(k)) is amended—

12 (1) in the subsection heading—

13 (A) by striking “One-Year” and inserting
14 “Two-Year”; and

15 (B) by striking “Examiners” and inserting
16 “Examiners and Supervisors”;

17 (2) in paragraph (1)—

18 (A) by striking subparagraph (B) and in-
19 serting the following:

20 “(B) served—

21 “(i) not less than 2 months during the
22 final 12 months of the employment of the
23 person with such agency or entity as the
24 senior examiner (or a functionally equiva-
25 lent position) of a depository institution or

1 depository institution holding company
2 with continuing, broad responsibility for
3 the examination (or inspection) of that de-
4 pository institution or depository institu-
5 tion holding company on behalf of the rel-
6 evant agency or Federal reserve bank; or

7 “(ii) as a supervisor of the senior ex-
8 aminer with responsibility for managing
9 the oversight of not more than 5 deposi-
10 tory institutions or depository institution
11 holding companies on behalf of the rel-
12 evant agency or Federal reserve bank;
13 and”; and

14 (B) in subparagraph (C)—

15 (i) in the matter preceding clause (i),
16 by striking “1 year” and inserting “2
17 years”;

18 (ii) in clause (i), by striking “or” and
19 inserting a semicolon;

20 (iii) in clause (ii), by striking the pe-
21 riod at the end and inserting a semicolon;
22 and

23 (iv) by adding at the end the fol-
24 lowing:

1 “(iii) a business entity, firm, or asso-
2 ciation that represents the depository insti-
3 tution or depository institution holding
4 company for compensation.”;

5 (3) by redesignating paragraphs (2) through
6 (6) as paragraphs (3) through (7), respectively;

7 (4) by inserting after paragraph (1) the fol-
8 lowing:

9 “(2) APPLICATION OF PENALTIES FOR SUPER-
10 VISORS.—A supervisor of a large financial service
11 regulatory agency or a supervisor of a senior exam-
12 iner shall be subject to the penalties described in
13 paragraph (7) if the supervisor of the senior exam-
14 iner or the senior examiner knowingly accepts com-
15 pensation during the period beginning on the date
16 on which the service of the supervisor or senior ex-
17 aminer is terminated and ending on the date that is
18 2 years after the date on which the service on which
19 the service of the supervisor or senior examiner is
20 terminated—

21 “(A) as—

22 “(i) an employee;

23 “(ii) an officer;

24 “(iii) a director; or

25 “(iv) a consultant; and

1 “(B) from—

2 “(i) a depository institution;

3 “(ii) a depository institution holding
4 company that is designated by the Finan-
5 cial Stability Oversight Council as a sys-
6 temically important financial market utility
7 under section 804 of the Payment, Clear-
8 ing, and Settlement Supervision Act of
9 2010 (12 U.S.C. 5463); or

10 “(iii) a business entity, firm, or asso-
11 ciation that represents an institution de-
12 scribed in clause (ii) for compensation.”;

13 (5) in paragraph (4), as so redesignated, by
14 striking “or other company.” and inserting “or other
15 company, firm, or association.”; and

16 (6) in the matter preceding clause (i) of sub-
17 paragraph (A) of paragraph (7), as so redesignated,
18 by striking “other company” and inserting “other
19 company, firm, or association”.

20 (b) TECHNICAL AND CONFORMING AMENDMENTS.—

21 Section 10(k) of the Federal Deposit Insurance Act (12
22 U.S.C. 1820(k)) is amended—

23 (1) in paragraph (1), by striking “paragraph
24 (6)” and inserting “paragraph (7)”;

1 (2) in paragraph (5)(A), as so redesignated, by
2 inserting “and paragraph (2)” before the period at
3 the end; and

4 (3) in paragraph (7), as so redesignated—

5 (A) in subparagraph (A)—

6 (i) by striking “subject to paragraph
7 (1)” and inserting “subject to paragraph
8 (1) or (2)”; and

9 (ii) by striking “paragraph (1)(C)”
10 and inserting “paragraph (1)(C) or para-
11 graph (2)”; and

12 (B) in subparagraph (C)—

13 (i) by striking “person described in
14 paragraph (1)” and inserting “person de-
15 scribed in paragraph (1) or (2)”; and

16 (ii) by inserting “paragraph (2)” be-
17 fore the period at the end.

18 **SEC. 7. SEVERABILITY.**

19 If any provision of this Act or any amendment made
20 by this Act, or any application of such provision or amend-
21 ment to any person or circumstance, is held to be uncon-
22 stitutional, the remainder of the provisions of this Act and
23 the amendments made by this Act and the application of
24 the provision or amendment to any other person or cir-
25 cumstance shall not be affected.