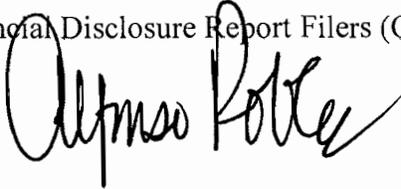




**U.S. Customs and  
Border Protection**

DATE: MAY 09 2012

MEMORANDUM FOR: CBP Public Financial Disclosure Report Filers (OGE 278)

FROM: Alfonso Robles  
Chief Counsel 

SUBJECT: Interim Guidance on the STOCK Act

This memorandum provides additional, interim guidance regarding the new financial and job search reporting obligations imposed by the recently enacted Stop Trading on Congressional Knowledge Act of 2012 (STOCK Act). These new obligations apply to all CBP employees required to file an OGE Form 278 Public Financial Disclosure Report by virtue of their position. The reporting obligations outlined below also apply to employees who act in such a position for more than 60 days in a calendar year. By memorandum dated April 6, 2012, from the DHS Designated Agency Ethics Official, copy attached, you were provided with a summary of some of the STOCK Act's key provisions. We amplify below on that earlier guidance.

**I. Section 17 – Post-Employment Negotiation Restrictions**

- You must file a signed statement with the Associate Chief Counsel (Ethics, Labor and Employment), Office of Chief Counsel, Headquarters, **within three (3) business days** of commencing negotiations or entering into an agreement for future employment or compensation. The statement must identify the name of the private entity or entities involved in the negotiations or agreement, and it must state the date that such negotiations or agreement commenced. For ease in meeting this reporting obligation, see the attached "Statement of Job Negotiations and Agreement" form that you can utilize to comply with this provision.
- The requirements of Section 17 are triggered when an employee directly negotiates or enters into an agreement with a non-federal entity or entities for future employment or compensation.
- A "negotiation" begins when an employee enters into a discussion or communication with another person, or such person's agent or intermediary, that is mutually conducted with a view toward reaching an agreement regarding possible employment or compensation with that person.
- Section 17 of the STOCK Act covers only negotiations and agreements for **future employment**, which is employment commencing after termination of federal government employment.
- You are **not** required to report negotiations or agreements for future employment with other offices within the **Federal government**.

- When the negotiations or agreement for future employment or compensation create a conflict of interest, or an appearance of a conflict of interest, you must recuse yourself from working on any matters of the non federal entity with whom you are negotiating and notify the Associate Chief Counsel (Ethics, Labor and Employment), Office of Chief Counsel, Headquarters. We are available to assist you with regards to any questions you might have on whether recusal is appropriate.
- Your servicing CBP Associate/Assistant Chief Counsel is available to assist you with any questions that you might have on whether any action anticipated or taken towards future employment constitutes a “negotiation” for purposes of the STOCK Act.

## II. Section 6 – Prompt Reporting of Financial Transactions

- **Effective July 3, 2012**, you must report within 30 days of receiving notification of a reportable transaction, but in no case later than 45 days after such transaction, sales or purchases of certain securities (such as stocks and bonds), that are reportable on your annual OGE Form 278 (exceed a minimum threshold of \$1,000 per transaction).
- This requirement does not apply if the sale or purchase is to a widely held investment fund that is publicly traded or widely diversified and the reporting individual neither exercises control over, nor has the ability to exercise control over, the financial interests held by the fund.
- In summary, sales or purchases of stocks and bonds in excess of the minimum threshold of \$1,000 must now be reported within 30 or 45 days unless they fall within the exception for widely held investment fund.
- We anticipate providing further instruction on the specific requirements and reporting process for this reporting requirement, including the proper format for reporting such transactions and the location where the reports should be filed, as the Office of Government Ethics (OGE) issues additional implementing guidance.
- Your servicing Associate/Assistant Chief Counsel office is available to advise you if you have any question regarding this new reporting requirement.

## III. Section 11 – Executive Branch Reporting

- **Effective August 31, 2012**, the STOCK Act requires all OGE Form 278s filed in 2012, and in subsequent years, to be posted on the DHS website not later than 30 days after such forms are filed. As always, please make certain that your submissions are accurate and complete. In addition, you should not include on the OGE 278 account numbers or other personal information that is not otherwise required to be reported.

Attachment(s)