

THE FALLOUT FROM NEWMAN CONTINUES AS CONGRESS WEIGHS IN

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**Jeanine
Kerridge**
Partner

As [previously reported](#), the *Newman* decision caused turmoil in the world of insider trading and the fallout continues. Earlier this month, prosecutors told a federal judge in Manhattan that *Newman* had invalidated the guilty plea for insider trading of John Johnson, former Wyoming Retirement System CIO, because the admissions he had made in 2013 were now insufficient to support the plea. Prosecutors were planning to prosecute if Johnson did not enter a new plea that would suffice under *Newman*. Meanwhile, Congress has weighed in with three proposed bills that would statutorily define insider trading and eliminate the requirement under *Newman* that:

- the tippee know both that the tipper breached a duty of confidentiality and
- the tipper received a personal benefit of “some consequence.”

Two bills introduced by Democrats have been pending without bipartisan support and have stalled. The broadest of these is the [Stop Illegal Insider Trading Act](#), which was introduced by Sen. Jack Reed (D - RI) and Sen. Robert Menendez (D - NJ). The Stop Illegal Insider Trading Act would make it illegal to trade on “material information” that the person “knows or has reason to know” is not publicly available – excluding information a person developed from publicly available sources. The second bill is the [Ban Insider Trading Act of 2015](#), which was introduced by Rep. Stephen Lynch (D - MA), and would redefine “material” nonpublic information as information that would likely affect the stock’s price if it were made public. Most recently, Rep. Jim Himes (D - CT) and Rep. Steven Womack (R - AK), introduced the [first bill with bipartisan support](#), which would ban trading based on material, nonpublic information that the person knew or recklessly disregarded was wrongfully obtained. Whether any of these bills become law, fallout from *Newman* continues the push to clearly define insider trading in the courts and Congress. We will continue to monitor and provide updates on this trend.

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