

118TH CONGRESS  
1ST SESSION

# H. R. 4008

To amend the Employment Retirement Income Security Act of 1974 to prohibit plan investments in foreign adversary and sanctioned entities, require disclosure of existing investments in such entities, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 12, 2023

Mr. BANKS (for himself, Mr. GALLAGHER, Mr. MOOLENAAR, and Mr. WITTMAN) introduced the following bill; which was referred to the Committee on Education and the Workforce

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## A BILL

To amend the Employment Retirement Income Security Act of 1974 to prohibit plan investments in foreign adversary and sanctioned entities, require disclosure of existing investments in such entities, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Americans’  
5 Retirement Savings Act” or “PARSA”.

1 **SEC. 2. PROHIBITION ON INVESTMENT IN CERTAIN ENTI-**  
2 **TIES.**

3 Section 404(a) of the Employee Retirement Income  
4 Security Act of 1974 (29 U.S.C. 1104(a)) is amended by  
5 adding at the end the following:

6 “(3) PROHIBITION ON INVESTMENT IN CERTAIN EN-  
7 TITIES.—

8 “(A) IN GENERAL.—For purposes of paragraph  
9 (1), a fiduciary of a plan may not be considered to  
10 act solely in the interest of the participants and  
11 beneficiaries of the plan if such fiduciary does not  
12 ensure that such plan does not engage in a trans-  
13 action that the fiduciary knows, or should know, will  
14 result in the plan—

15 “(i) acquiring an interest (as defined in  
16 section 103(h)) between the plan and a sanc-  
17 tioned entity or foreign adversary entity (as  
18 each such term is defined in section 103(h));

19 “(ii) lending money or extending credit to  
20 such an entity;

21 “(iii) furnishing goods, services, or facili-  
22 ties to such an entity; or

23 “(iv) transferring, directly or indirectly, to  
24 or for use by or for the benefit of such an enti-  
25 ty—

26 “(I) any assets of the plan; or

1                   “(II) any data with respect to any  
2                   participant or beneficiary of the plan.

3                   For the purposes of subelause (II), the term ‘fi-  
4                   duciary’ includes any person who exercises di-  
5                   rect or indirect discretionary authority, respon-  
6                   sibility, or control with respect to any partici-  
7                   pant beneficiary data.

8                   “(B) CONTINUATION OF CURRENT INVEST-  
9                   MENTS.—In the case of a plan holding an invest-  
10                  ment in a sanctioned entity or foreign adversary en-  
11                  tity on the date of enactment of the Protecting  
12                  Americans’ Retirement Savings Act, such plan may  
13                  continue to hold such investment if the fiduciary of  
14                  such plan complies with the requirements of sub-  
15                  paragraphs (I) and (J) of section 103(b)(3).

16                  “(C) CONTRACTUALLY OBLIGATED INVEST-  
17                  MENTS.—In the case of a plan that has entered into  
18                  a binding agreement prior to the date of enactment  
19                  of the Protecting Americans’ Retirement Savings  
20                  Act obligating such plan to engage in a transaction  
21                  described under subparagraph (A), if the fiduciary  
22                  of such plan complies with the requirements of sub-  
23                  paragraphs (I), (J), and (K) of section 103(b)(3),  
24                  such plan may fulfill the terms of such agreement  
25                  until such agreement—

1 “(i) expires; or

2 “(ii) allows for termination.”.

3 **SEC. 3. ADDITIONAL DISCLOSURES FOR EMPLOYEE RE-**  
4 **TIREMENT FUNDS.**

5 (a) IN GENERAL.—Section 103(b)(3) of the Em-  
6 ployee Retirement Income Security Act of 1974 (29  
7 U.S.C. 1023(b)(3)) is amended—

8 (1) in subparagraph (H)(iv), by striking the pe-  
9 riod at the end and inserting “; and”; and

10 (2) by inserting at the end the following:

11 “(I) a separate statement of all assets in the  
12 plan that consist, in whole or in part, of an interest  
13 in a sanctioned entity, including—

14 “(i) the aggregate value of such assets in  
15 the plan;

16 “(ii) the identity of each sanctioned entity  
17 in which such plan holds an interest; and

18 “(iii) information identifying each list  
19 under subsection (h)(5) on which such sanc-  
20 tioned entity is listed, and the reasons for which  
21 an entity may be placed on such list;

22 “(J) a separate statement of all assets in the  
23 plan that consist, in whole or in part, of an interest  
24 in a foreign adversary entity, including—

1           “(i) the aggregate value of such assets in  
2           the plan;

3           “(ii) the specific interest, and value there-  
4           of, that such plan holds in each such foreign  
5           adversary entity;

6           “(iii) the name of any investment vehicle  
7           through which the plan holds such interest;

8           “(iv) the name of the fiduciary responsible  
9           for such investment; and

10          “(v) a brief statement of factors considered  
11          by the fiduciary in maintaining such invest-  
12          ment;

13          “(K) a description of any ongoing agreement  
14          subject to section 404(a)(3)(C), including—

15               “(i) the assets involved in such agreement;

16               “(ii) the date on which such agreement ex-  
17               pires;

18               “(iii) the date on which such commitment  
19               may be terminated; and

20               “(iv) such other information as the Sec-  
21               retary may deem appropriate.”.

22          (b) DEFINITIONS.—Section 103 of the Employee Re-  
23          tirement Income Security Act of 1974 (29 U.S.C. 1023)  
24          is further amended by adding at the end the following new  
25          subsection:

1 “(h) DEFINITIONS.—In this section:

2 “(1) CONTROL.—The term ‘control’ has the  
3 meaning given in section 800.208 of title 31, Code  
4 of Federal Regulations (as in effect on the date of  
5 enactment of this Act).

6 “(2) EXPORT ADMINISTRATION REGULA-  
7 TIONS.—The term ‘Export Administration Regula-  
8 tions’ means the regulations set forth in subchapter  
9 C of chapter VII of title 15, Code of Federal Regu-  
10 lations, or successor regulations.

11 “(3) FOREIGN ADVERSARY.—The term ‘foreign  
12 adversary’—

13 “(A) has the meaning given the term ‘cov-  
14 ered nation’ in section 4872(d) of title 10,  
15 United States Code (as in effect on the date of  
16 enactment of this Act); and

17 “(B) includes any Special Administrative  
18 Region of any such covered nation.

19 “(4) FOREIGN ADVERSARY ENTITY.—The term  
20 ‘foreign adversary entity’ means—

21 “(A) any official governmental body at any  
22 level in a foreign adversary;

23 “(B) the armed forces of a foreign adver-  
24 sary;

1           “(C) the leading political party of a foreign  
2 adversary;

3           “(D) a person organized under the laws of,  
4 headquartered in, or with its principal place of  
5 business in a foreign adversary; or

6           “(E) a person subject to the direction or  
7 control of an entity listed in subparagraphs (A)  
8 through (D).

9           “(5) INTEREST.—The term ‘interest’ includes  
10 any interest—

11           “(A) held directly or indirectly through any  
12 chain of ownership; or

13           “(B) held as a derivative financial instru-  
14 ment or other contractual arrangement with re-  
15 spect to such sanctioned entity, including any  
16 financial instrument or other contract which  
17 seeks to replicate any financial return with re-  
18 spect to a sanctioned entity or interest in such  
19 sanctioned entity.

20           “(6) SANCTIONED ENTITY.—The term ‘sanc-  
21 tioned entity’ means an entity listed on any of the  
22 following lists:

23           “(A) The Non-SDN Chinese Military-In-  
24 dustrial Complex Companies List (NS-CMIC  
25 List) maintained by the Office of Foreign As-

1 sets Control of the Department of the Treasury  
2 under Executive Order 14032 (86 Fed. Reg.  
3 30145), or any successor order.

4 “(B) The list of Chinese military compa-  
5 nies identified by the Secretary of Defense pur-  
6 suant to section 1260H of the William M.  
7 (Mac) Thornberry National Defense Authoriza-  
8 tion Act for Fiscal Year 2021 (Public Law  
9 116–283; 10 U.S.C. 113 note).

10 “(C) The Entity List maintained by the  
11 Department of Commerce and set forth in Sup-  
12 plement No. 4 to part 744 of the Export Ad-  
13 ministration Regulations.

14 “(D) The Denied Persons List maintained  
15 by the Department of Commerce and described  
16 in section 764.3(a)(2) of the Export Adminis-  
17 tration Regulations.

18 “(E) The Unverified List set forth in Sup-  
19 plement No. 6 to part 744 of the Export Ad-  
20 ministration Regulations.

21 “(F) The Military End User List set forth  
22 in Supplement No. 7 to part 744 of the Export  
23 Administration Regulations.

24 “(G) The list of companies whose equip-  
25 ment or services are maintained by the Federal



1           Communications Commission under section 2(a)  
2           of the Secure and Trusted Communications  
3           Networks Act of 2019 (47 U.S.C. 1601(a)),  
4           commonly referred to as the FCC Covered list.

5           “(H) The Uyghur Forced Labor Preven-  
6           tion Act Entity List maintained by the Depart-  
7           ment of Homeland Security pursuant to Public  
8           Law 117–78.

9           “(I) The Withhold Release Orders and  
10          Findings List maintained by the Commissioner  
11          of U.S. Customs and Border Protection pursu-  
12          ant to Public Law 117–78.”.

13          (c) EFFECTIVE DATE.—

14           (1) REGULATIONS REQUIRED.—Not more than  
15          180 days after the enactment of this Act, the Sec-  
16          retary shall issue regulations implementing this Act.

17           (2) EFFECTIVE DATE OF REGULATIONS.—The  
18          regulations issued under paragraph (1) shall take ef-  
19          fect not later than 1 year after the date of enact-  
20          ment of this Act.

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