

118TH CONGRESS
1ST SESSION

S. 152

To prohibit the trading of the securities of certain Communist Chinese military companies on a national securities exchange, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 30, 2023

Mr. RUBIO (for himself, Mr. YOUNG, and Mr. BRAUN) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To prohibit the trading of the securities of certain Communist Chinese military companies on a national securities exchange, 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 “American Financial
5 Markets Integrity and Security Act”.

6 **SEC. 2. PROHIBITIONS RELATING TO CERTAIN COMMUNIST**
7 **CHINESE MILITARY COMPANIES.**

8 (a) DEFINITIONS.—In this section:

9 (1) COMMISSION.—The term “Commission”
10 means the Securities and Exchange Commission.

1 (2) CONTROL; INSURANCE COMPANY.—The
2 terms “control” and “insurance company” have the
3 meanings given the terms in section 2(a) of the In-
4 vestment Company Act of 1940 (15 U.S.C. 80a-
5 2(a)).

6 (3) COVERED ENTITY.—

7 (A) IN GENERAL.—The term “covered en-
8 tity” means any of the following:

9 (i) An entity on the list of specially
10 designated nationals and blocked persons
11 maintained by the Office of Foreign Assets
12 Control of the Department of the Treasury
13 (commonly referred to as the “SDN list”).

14 (ii) An entity on the Non-SDN Chi-
15 nese Military-Industrial Complex Compa-
16 nies List—

17 (I) established pursuant to Exec-
18 utive Order 13959 (50 U.S.C. 1701
19 note; relating to addressing the threat
20 from securities investments that fi-
21 nance Communist Chinese military
22 companies), as amended before, on, or
23 after the date of enactment of this
24 Act; and

1 (II) maintained by the Office of
2 Foreign Assets Control of the Depart-
3 ment of the Treasury.

4 (iii) A Chinese military company on
5 the list required under section 1260H of
6 the William M. (Mac) Thornberry National
7 Defense Authorization Act for Fiscal Year
8 2021 (Public Law 116–283; 10 U.S.C. 113
9 note).

10 (iv) An entity on the entity list main-
11 tained by the Bureau of Industry and Se-
12 curity of the Department of Commerce and
13 set forth in Supplement No. 4 to part 744
14 of title 15, Code of Federal Regulations.

15 (v) Any entity that is a parent, sub-
16 sidiary, or affiliate of, or an entity con-
17 trolled by, an entity described in any of
18 clauses (i) through (iv).

19 (B) GRACE PERIOD.—For the purposes of
20 this Act and the amendments made by this Act,
21 an entity shall be considered to be a covered en-
22 tity beginning on the date that is 1 year after
23 the date on which the entity first qualifies
24 under the applicable provision of subparagraph
25 (A).

1 (4) EXCHANGE; SECURITY.—The terms “ex-
2 change” and “security” have the meanings given
3 those terms in section 3(a) of the Securities Ex-
4 change Act of 1934 (15 U.S.C. 78c(a)).

5 (b) PROHIBITIONS.—

6 (1) LISTING ON EXCHANGE.—Beginning on the
7 date that is 1 year after the date of enactment of
8 this Act, the Commission shall prohibit a covered en-
9 tity from offering to sell or selling on an exchange
10 (or through any other method that is within the ju-
11 risdiction of the Commission to regulate, including
12 through the method of trading that is commonly re-
13 ferred to as the “over-the-counter” trading of securi-
14 ties) securities issued by the covered entity, includ-
15 ing pursuant to an exemption to section 5 of the Se-
16 curities Act of 1933 (15 U.S.C. 77e).

17 (2) INVESTMENTS; LIMITATION ON ACTIONS.—

18 (A) IN GENERAL.—The Investment Com-
19 pany Act of 1940 (15 U.S.C. 80a–1 et seq.) is
20 amended—

21 (i) in section 12(d) (15 U.S.C. 80a–
22 12(d)), by adding at the end the following:

23 “(4)(A) It shall be unlawful for any investment
24 company, or any person that would be an investment

1 company but for the application of paragraph (1) or
2 (7) of section 3(e), to invest in a covered entity.

3 “(B) In this paragraph, the term ‘covered enti-
4 ty’ has the meaning given the term in section 2(a)
5 of the American Financial Markets Integrity and Se-
6 curity Act.”; and

7 (ii) in section 13(c)(1) (15 U.S.C.
8 80a–13(c)(1))—

9 (I) in subparagraph (A), by strik-
10 ing “or” at the end;

11 (II) in subparagraph (B), by
12 striking the period at the end and in-
13 sserting “or”; and

14 (III) by adding at the end the
15 following:

16 “(C) are covered entities, as that term is
17 defined in section 12(d)(4)(B).”.

18 (B) EFFECTIVE DATE.—The amendments
19 made by subparagraph (A) shall take effect on
20 the date that is 1 year after the date of enact-
21 ment of this Act.

22 (3) FEDERAL FUNDS.—

23 (A) IN GENERAL.—Except as provided in
24 subparagraph (B), on and after the date that is
25 180 days after the date of enactment of this

1 Act, no Federal funds may be used to enter
2 into, extend, or renew a contract or purchasing
3 agreement with a covered entity.

4 (B) WAIVER.—The head of a Federal
5 agency may issue a national security waiver to
6 the prohibition in subparagraph (A) for a pe-
7 riod of not more than 2 years with respect to
8 a covered entity if the agency head submits to
9 Congress a notification that includes—

10 (i) a written justification for the waiv-
11 er; and

12 (ii) a plan for a phase-out of the
13 goods or services provided by the covered
14 entity.

15 (4) INVESTMENTS BY INSURANCE COMPA-
16 NIES.—

17 (A) IN GENERAL.—On and after the date
18 of enactment of this Act, an insurance company
19 may not invest in a covered entity.

20 (B) CERTIFICATION OF COMPLIANCE.—

21 (i) IN GENERAL.—Each insurance
22 company shall, on an annual basis, submit
23 to the Secretary of the Treasury a certifi-
24 cation of compliance with subparagraph
25 (A).

1 (ii) RESPONSIBILITIES OF THE SEC-
2 RETARY.—The Secretary of the Treasury
3 shall create a form for the submission re-
4 quired under clause (i) in such a manner
5 that minimizes the reporting burden on an
6 insurance company making the submission.

7 (C) SHARING INFORMATION.—The Sec-
8 retary of the Treasury, acting through the Fed-
9 eral Insurance Office, shall share the informa-
10 tion received under subparagraph (B) and co-
11 ordinate verification of compliance with State
12 insurance offices.

13 (c) QUALIFIED TRUSTS, ETC.—

14 (1) IN GENERAL.—Subsection (a) of section
15 401 of the Internal Revenue Code of 1986 is amend-
16 ed by inserting after paragraph (39) the following
17 new paragraph:

18 “(40) PROHIBITED INVESTMENTS.—A trust
19 which is part of a plan shall not be treated as a
20 qualified trust under this subsection unless the plan
21 provides that no part of the plan’s assets will be in-
22 vested in any covered entity (as defined in section
23 12(d)(4)(B) of the Investment Company Act of
24 1940).”.

1 (2) IRAS.—Paragraph (3) of section 408(a) of
2 such Code is amended by striking “contracts” and
3 inserting “contracts or in any covered entity (as de-
4 fined in section 12(d)(6)(B) of the Investment Com-
5 pany Act of 1940)”.

6 (3) FIDUCIARY DUTY.—Section 404 of the Em-
7 ployee Retirement Income Security Act of 1974 (29
8 U.S.C. 1104) is amended by adding at the end the
9 following new subsection:

10 “(f) PROHIBITED INVESTMENTS.—No fiduciary shall
11 cause any assets of a plan to be invested in any covered
12 entity (as defined in section 12(d)(4)(B) of the Investment
13 Company Act of 1940 (15 U.S.C. 80a–12(d)(4)(B))).”.

14 (4) EFFECTIVE DATE.—

15 (A) IN GENERAL.—Except as provided in
16 subparagraph (B), the amendments made by
17 this subsection shall apply to plan years begin-
18 ning after the date which is 180 days after the
19 date of the enactment of this Act.

20 (B) PLAN AMENDMENTS.—If subpara-
21 graph (C) applies to any retirement plan or
22 contract amendment—

23 (i) such plan or contract shall not fail
24 to be treated as being operated in accord-
25 ance with the terms of the plan during the

1 period described in subparagraph (C)(ii)
2 solely because the plan operates in accord-
3 ance with the amendments made by this
4 subsection, and

5 (ii) except as provided by the Sec-
6 retary of the Treasury (or the Secretary's
7 delegate), such plan or contract shall not
8 fail to meet the requirements of the Inter-
9 nal Revenue Code of 1986 or the Employee
10 Retirement Income Security Act of 1974
11 by reason of such amendment.

12 (C) AMENDMENTS TO WHICH PARAGRAPH
13 APPLIES.—

14 (i) IN GENERAL.—This paragraph
15 shall apply to any amendment to any plan
16 or annuity contract which—

17 (I) is made pursuant to the pro-
18 visions of this section, and

19 (II) is made on or before the last
20 day of the first plan year beginning
21 on or after the date which is 2 years
22 after the date of the enactment of this
23 Act (4 years after such date of enact-
24 ment, in the case of a governmental
25 plan).

1 (ii) CONDITIONS.—This paragraph
2 shall not apply to any amendment unless—

3 (I) during the period beginning
4 on the date which is 180 days after
5 the date of the enactment of this Act,
6 and ending on the date described in
7 clause (i)(II) (or, if earlier, the date
8 the plan or contract amendment is
9 adopted), the plan or contract is oper-
10 ated as if such plan or contract
11 amendment were in effect, and

12 (II) such plan or contract amend-
13 ment applies retroactively for such pe-
14 riod.

15 (D) SUBSEQUENT AMENDMENTS.—Rules
16 similar to the rules of subparagraphs (B) and
17 (C) shall apply in the case of any amendment
18 to any plan or annuity contract made pursuant
19 to any update of the list of Communist Chinese
20 military companies required by section 1237(b)
21 of the Strom Thurmond National Defense Au-
22 thorization Act for Fiscal Year 1999 (Public
23 Law 105–261; 50 U.S.C. 1701 note) which is
24 made after the effective date of the amend-
25 ments made by this subsection.

1 **SEC. 3. MODIFICATION OF REQUIREMENTS FOR LIST OF**
2 **COMMUNIST CHINESE MILITARY COMPANIES.**

3 Section 1237(b) of the Strom Thurmond National
4 Defense Authorization Act for Fiscal Year 1999 (Public
5 Law 105–261; 50 U.S.C. 1701 note) is amended—

6 (1) by striking paragraph (2) and inserting the
7 following:

8 “(2) REVISIONS TO THE LIST.—

9 “(A) ADDITIONS.—The Secretary of De-
10 fense, the Secretary of Commerce, or the Direc-
11 tor of National Intelligence may add a person
12 to the list required by paragraph (1) at any
13 time.

14 “(B) REMOVALS.—A person may be re-
15 moved from the list required by paragraph (1)
16 if the Secretary of Defense, the Secretary of
17 Commerce, and the Director of National Intel-
18 ligence agree to remove the person from the
19 list.

20 “(C) SUBMISSION OF UPDATES TO CON-
21 GRESS.—Not later than February 1 of each
22 year, the Secretary of Defense shall submit a
23 version of the list required in paragraph (1),
24 updated to include any additions or removals
25 under this paragraph, to the committees and of-
26 ficers specified in paragraph (1).”;

1 (2) by striking paragraph (3) and inserting the
2 following:

3 “(3) CONSULTATION.—In carrying out para-
4 graphs (1) and (2), the Secretary of Defense, the
5 Secretary of Commerce, and the Director of Na-
6 tional Intelligence shall consult with each other, the
7 Attorney General, and the Director of the Federal
8 Bureau of Investigation.”; and

9 (3) in paragraph (4), in the matter preceding
10 subparagraph (A), by striking “making the deter-
11 mination required by paragraph (1) and of carrying
12 out paragraph (2)” and inserting “this section”.

13 **SEC. 4. ANALYSIS OF FINANCIAL AMBITIONS OF THE GOV-**
14 **ERNMENT OF THE PEOPLE’S REPUBLIC OF**
15 **CHINA.**

16 (a) ANALYSIS REQUIRED.—The Director of the Of-
17 fice of Commercial and Economic Analysis of the Air
18 Force shall conduct an analysis of—

19 (1) the strategic importance to the Government
20 of the People’s Republic of China of inflows of
21 United States dollars through capital markets to the
22 People’s Republic of China;

23 (2) the methods by which that Government
24 seeks to manage such inflows;

1 (3) how the inclusion of the securities of Chi-
2 nese entities in stock or bond indexes affects such
3 inflows and serves the financial ambitions of that
4 Government; and

5 (4) how the listing of the securities of Chinese
6 entities on exchanges in the United States assists
7 in—

8 (A) meeting the strategic goals of that
9 Government, including defense, surveillance,
10 and intelligence goals; and

11 (B) the fusion of the civilian and military
12 components of that Government.

13 (b) SUBMISSION TO CONGRESS.—The Director of the
14 Office of Commercial and Economic Analysis of the Air
15 Force shall submit to Congress a report—

16 (1) setting forth the results of the analysis con-
17 ducted under subsection (a); and

18 (2) based on that analysis, making rec-
19 ommendations for best practices to mitigate any na-
20 tional security and economic risks to the United
21 States relating to the financial ambitions of the Gov-
22 ernment of the People’s Republic of China.

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