

117TH CONGRESS
1ST SESSION

S. 570

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

MARCH 3, 2021

Mr. RUBIO (for himself, Mr. SCOTT of Florida, Mr. BRAUN, Mr. COTTON, Mr. KENNEDY, and Mr. SASSE) 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:

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

3 (2) CONTROL; INSURANCE COMPANY.—The
4 terms “control” and “insurance company” have the
5 meanings given the terms in section 2(a) of the In-
6 vestment Company Act of 1940 (15 U.S.C. 80a-
7 2(a)).

8 (3) COVERED ENTITY.—

9 (A) IN GENERAL.—The term “covered en-
10 tity”—

11 (i) means an entity on—

12 (I) the list of Communist Chinese
13 military companies required by section
14 1237(b) of the Strom Thurmond Na-
15 tional Defense Authorization Act for
16 Fiscal Year 1999 (Public Law 105-
17 261; 50 U.S.C. 1701 note); or

18 (II) the entity list maintained by
19 the Bureau of Industry and Security
20 of the Department of Commerce and
21 set forth in Supplement No. 4 to part
22 744 of the title 15, Code of Federal
23 Regulations; and

1 (ii) includes a parent, subsidiary, or
2 affiliate of, or an entity controlled by, an
3 entity described in clause (i).

4 (B) GRACE PERIOD.—For the purposes of
5 this Act, and the amendments made by this
6 Act, an entity shall be considered to be a cov-
7 ered entity beginning on the date that is 1 year
8 after the date on which the entity first qualifies
9 under the applicable provision of subparagraph
10 (A).

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

15 (b) PROHIBITIONS.—

16 (1) LISTING ON EXCHANGE.—Beginning on the
17 date that is 1 year after the date of enactment of
18 this Act, the Commission shall prohibit a covered en-
19 tity from offering to sell or selling on an exchange
20 (or through any other method that is within the ju-
21 risdiction of the Commission to regulate, including
22 through the method of trading that is commonly re-
23 ferred to as the “over-the-counter” trading of securi-
24 ties) securities issued by the covered entity, includ-

1 ing pursuant to an exemption to section 5 of the Se-
 2 curities Act of 1933 (15 U.S.C. 77e).

3 (2) INVESTMENTS; LIMITATION ON ACTIONS.—

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

7 (i) in section 12(d) (15 U.S.C. 80a–
 8 12(d)), by adding at the end the following:

9 “(4)(A) It shall be unlawful for any investment
 10 company, or any person that would be an investment
 11 company but for the application of paragraph (1) or
 12 (7) of section 3(e), to invest in a covered entity.

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

17 (ii) in section 13(c)(1) (15 U.S.C.
 18 80a–13(c)(1))—

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

21 (II) in subparagraph (B), by
 22 striking the period at the end and in-
 23 serting “or”; and

24 (III) by adding at the end the
 25 following:

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

3 (B) EFFECTIVE DATE.—The amendments
4 made by subparagraph (A) shall take effect on
5 the date that is 1 year after the date of enact-
6 ment of this Act.

7 (3) FEDERAL FUNDS.—

8 (A) IN GENERAL.—Except as provided in
9 subparagraph (B), on and after the date that is
10 180 days after the date of enactment of this
11 Act, no Federal funds may be used to enter
12 into, extend, or renew a contract or purchasing
13 agreement with a covered entity.

14 (B) WAIVER.—The head of a Federal
15 agency may issue a national security waiver to
16 the prohibition in subparagraph (A) for a pe-
17 riod of not more than 2 years with respect to
18 a covered entity if the agency head submits to
19 Congress a notification that includes—

20 (i) a written justification for the waiv-
21 er; and

22 (ii) a plan for a phase-out of the
23 goods or services provided by the covered
24 entity.

1 (4) INVESTMENTS BY INSURANCE COMPA-
2 NIES.—

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

6 (B) CERTIFICATION OF COMPLIANCE.—

7 (i) IN GENERAL.—Each insurance
8 company shall, on an annual basis, submit
9 to the Secretary of the Treasury a certifi-
10 cation of compliance with subparagraph
11 (A).

12 (ii) RESPONSIBILITIES OF THE SEC-
13 RETARY.—The Secretary of the Treasury
14 shall create a form for the submission re-
15 quired under clause (i) in such a manner
16 that minimizes the reporting burden on an
17 insurance company making the submission.

18 (C) SHARING INFORMATION.—The Sec-
19 retary of the Treasury, acting through the Fed-
20 eral Insurance Office, shall share the informa-
21 tion received under subparagraph (B) and co-
22 ordinate verification of compliance with State
23 insurance offices.

24 (c) QUALIFIED TRUSTS, ETC.—

1 (1) IN GENERAL.—Subsection (a) of section
2 401 of the Internal Revenue Code of 1986 is amend-
3 ed by inserting after paragraph (38) the following
4 new paragraph:

5 “(39) PROHIBITED INVESTMENTS.—A trust
6 which is part of a plan shall not be treated as a
7 qualified trust under this subsection unless the plan
8 provides that no part of the plan’s assets will be in-
9 vested in any covered entity (as defined in section
10 12(d)(6)(B) of the Investment Company Act of
11 1940).”.

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

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

21 “(f) PROHIBITED INVESTMENTS.—No fiduciary shall
22 cause any assets of a plan to be invested in any covered
23 entity (as defined in section 12(d)(6)(B) of the Investment
24 Company Act of 1940 (15 U.S.C. 80a–12(d)(6)(B))).”.

25 (4) EFFECTIVE DATE.—

1 (A) IN GENERAL.—Except as provided in
2 subparagraph (B), the amendments made by
3 this subsection shall apply to plan years begin-
4 ning after the date which is 180 days after the
5 date of the enactment of this Act.

6 (B) PLAN AMENDMENTS.—If subpara-
7 graph (C) applies to any retirement plan or
8 contract amendment—

9 (i) such plan or contract shall not fail
10 to be treated as being operated in accord-
11 ance with the terms of the plan during the
12 period described in subparagraph (C)(ii)
13 solely because the plan operates in accord-
14 ance with the amendments made by this
15 subsection, and

16 (ii) except as provided by the Sec-
17 retary of the Treasury (or the Secretary's
18 delegate), such plan or contract shall not
19 fail to meet the requirements of the Inter-
20 nal Revenue Code of 1986 or the Employee
21 Retirement Income Security Act of 1974
22 by reason of such amendment.

23 (C) AMENDMENTS TO WHICH PARAGRAPH
24 APPLIES.—

1 (i) IN GENERAL.—This paragraph
2 shall apply to any amendment to any plan
3 or annuity contract which—

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

6 (II) is made on or before the last
7 day of the first plan year beginning
8 on or after the date which is 2 years
9 after the date of the enactment of this
10 Act (4 years after such date of enact-
11 ment, in the case of a governmental
12 plan).

13 (ii) CONDITIONS.—This paragraph
14 shall not apply to any amendment unless—

15 (I) during the period beginning
16 on the date which is 180 days after
17 the date of the enactment of this Act,
18 and ending on the date described in
19 clause (i)(II) (or, if earlier, the date
20 the plan or contract amendment is
21 adopted), the plan or contract is oper-
22 ated as if such plan or contract
23 amendment were in effect, and

1 (II) such plan or contract amend-
2 ment applies retroactively for such pe-
3 riod.

4 (D) SUBSEQUENT AMENDMENTS.—Rules
5 similar to the rules of subparagraphs (B) and
6 (C) shall apply in the case of any amendment
7 to any plan or annuity contract made pursuant
8 to any update of the list of Communist Chinese
9 military companies required by section 1237(b)
10 of the Strom Thurmond National Defense Au-
11 thorization Act for Fiscal Year 1999 (Public
12 Law 105–261; 50 U.S.C. 1701 note) which is
13 made after the effective date of the amend-
14 ments made by this subsection.

15 **SEC. 3. MODIFICATION OF REQUIREMENTS FOR LIST OF**
16 **COMMUNIST CHINESE MILITARY COMPANIES.**

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

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

22 “(2) REVISIONS TO THE LIST.—

23 “(A) ADDITIONS.—The Secretary of De-
24 fense, the Secretary of Commerce, or the Direc-
25 tor of National Intelligence may add a person

1 to the list required by paragraph (1) at any
2 time.

3 “(B) REMOVALS.—A person may be re-
4 moved from the list required by paragraph (1)
5 if the Secretary of Defense, the Secretary of
6 Commerce, and the Director of National Intel-
7 ligence agree to remove the person from the
8 list.

9 “(C) SUBMISSION OF UPDATES TO CON-
10 GRESS.—Not later than February 1 of each
11 year, the Secretary of Defense shall submit a
12 version of the list required in paragraph (1),
13 updated to include any additions or removals
14 under this paragraph, to the committees and of-
15 ficers specified in paragraph (1).”;

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

18 “(3) CONSULTATION.—In carrying out para-
19 graphs (1) and (2), the Secretary of Defense, the
20 Secretary of Commerce, and the Director of Na-
21 tional Intelligence shall consult with each other, the
22 Attorney General, and the Director of the Federal
23 Bureau of Investigation.”; and

24 (3) in paragraph (4), in the matter preceding
25 subparagraph (A), by striking “making the deter-

1 mination required by paragraph (1) and of carrying
2 out paragraph (2)” and inserting “this section”.

3 **SEC. 4. ANALYSIS OF FINANCIAL AMBITIONS OF THE GOV-**
4 **ERNMENT OF THE PEOPLE’S REPUBLIC OF**
5 **CHINA.**

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

9 (1) the strategic importance to the Government
10 of the People’s Republic of China of inflows of
11 United States dollars through capital markets to the
12 People’s Republic of China;

13 (2) the methods by which that Government
14 seeks to manage such inflows;

15 (3) how the inclusion of the securities of Chi-
16 nese entities in stock or bond indexes affects such
17 inflows and serves the financial ambitions of that
18 Government; and

19 (4) how the listing of the securities of Chinese
20 entities on exchanges in the United States assists
21 in—

22 (A) meeting the strategic goals of that
23 Government, including defense, surveillance,
24 and intelligence goals; and

1 (B) the fusion of the civilian and military
2 components of that Government.

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

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

8 (2) based on that analysis, making rec-
9 ommendations for best practices to mitigate any na-
10 tional security and economic risks to the United
11 States relating to the financial ambitions of the Gov-
12 ernment of the People’s Republic of China.

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