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(Original Signature of Member)

116TH CONGRESS
2D SESSION

H. R. _____

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

IN THE HOUSE OF REPRESENTATIVES

Mr. GALLAGHER introduced the following bill; which was referred to the Committee on _____

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.—The term “control” has the
4 meaning given the term in section 2(a) of the Invest-
5 ment Company Act of 1940 (15 U.S.C. 80a–2(a)).

6 (3) COVERED ENTITY.—

7 (A) IN GENERAL.—The term “covered en-
8 tity”—

9 (i) means an entity on—

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

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

22 (ii) includes a parent, subsidiary, or
23 affiliate of, or an entity controlled by, an
24 entity described in clause (i).

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

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

12 (5) INSURANCE COMPANY.—The term “insur-
13 ance company” has the meaning given the term in
14 section 2(a) of the Investment Company Act of 1940
15 (15 U.S.C. 80a–2(a)).

16 (b) PROHIBITIONS.—

17 (1) LISTING ON EXCHANGE.—Beginning on the
18 date that is 1 year after the date of enactment of
19 this Act, the Commission shall prohibit a covered en-
20 tity from offering to sell or selling securities issued
21 by the covered entity, including pursuant to an ex-
22 emption to section 5 of the Securities Act of 1933
23 (15 U.S.C. 77e).

24 (2) INVESTMENTS; LIMITATION ON ACTIONS.—

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

4 (i) in section 12(d) (15 U.S.C. 80a–
5 12(d)), by adding at the end the following:

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

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

14 (ii) in section 13(c)(1)—

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

17 (II) in subparagraph (B), by
18 striking the period at the end and in-
19 serting “or”; and

20 (III) by adding at the end the
21 following:

22 “(C) are covered entities, as that term is
23 defined in section 12(d)(6)(B).”.

24 (B) EFFECTIVE DATE.—The amendments
25 made by subparagraph (A) shall take effect on

1 the date that is 1 year after the date of enact-
2 ment of this Act.

3 (3) FEDERAL FUNDS.—

4 (A) IN GENERAL.—Except as provided in
5 subparagraph (B), on and after the date that is
6 180 days after the date of enactment of this
7 Act, no Federal funds may be used to enter
8 into, extend, or renew a contract or purchasing
9 agreement with a covered entity.

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

16 (i) a written justification for the waiv-
17 er; and

18 (ii) a plan for a phase-out of the
19 goods or services provided by the covered
20 entity.

21 (4) INVESTMENTS BY INSURANCE COMPA-
22 NIES.—

23 (A) IN GENERAL.—On and after the date
24 of enactment of this Act, an insurance company
25 shall not invest in a covered entity.

1 (B) CERTIFICATION OF COMPLIANCE.—

2 (i) IN GENERAL.—Each insurance
3 company shall, on an annual basis, submit
4 to the Secretary of the Treasury a certifi-
5 cation of compliance with subparagraph
6 (A).

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

13 (C) SHARING INFORMATION.—The Sec-
14 retary of the Treasury, acting through the Fed-
15 eral Insurance Office, shall share the informa-
16 tion received under subparagraph (B) and co-
17 ordinate verification of compliance with State
18 insurance offices.

19 (c) QUALIFIED TRUSTS, ETC.—

20 (1) IN GENERAL.—Subsection (a) of section
21 401 of the Internal Revenue Code of 1986 is amend-
22 ed by inserting after paragraph (38) the following
23 new paragraph:

24 “(39) PROHIBITED INVESTMENTS.—A trust
25 which is part of a plan shall not be treated as a

1 qualified trust under this subsection unless the plan
2 provides that no part of the plan’s assets will be in-
3 vested in any covered entity (as defined in section
4 12(d)(6)(B) of the Investment Company Act of
5 1940).”.

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

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

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

19 (4) EFFECTIVE DATE.—

20 (A) IN GENERAL.—Except as provided in
21 subparagraph (B), the amendments made by
22 this subsection shall apply to plan years begin-
23 ning after the date which is 180 days after the
24 date of the enactment of this Act.

1 (B) PLAN AMENDMENTS.—If subpara-
2 graph (C) applies to any retirement plan or
3 contract amendment—

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

11 (ii) except as provided by the Sec-
12 retary of the Treasury (or the Secretary's
13 delegate), such plan or contract shall not
14 fail to meet the any requirements of the
15 Internal Revenue Code of 1986 or the Em-
16 ployee Retirement Income Security Act of
17 1974 by reason of such amendment.

18 (C) AMENDMENTS TO WHICH PARAGRAPH
19 APPLIES.—

20 (i) IN GENERAL.—This subparagraph
21 shall apply to any amendment to any plan
22 or annuity contract which—

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

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

8 (ii) CONDITIONS.—This subparagraph
9 shall not apply to any amendment unless—

10 (I) during the period beginning
11 on the date which is 180 days after
12 the date of the enactment of this Act,
13 and ending on the date described in
14 subclause (I)(bb) (or, if earlier, the
15 date the plan or contract amendment
16 is adopted), the plan or contract is op-
17 erated as if such plan or contract
18 amendment were in effect, and

19 (II) such plan or contract amend-
20 ment applies retroactively for such pe-
21 riod.

22 (D) SUBSEQUENT AMENDMENTS.—Rules
23 similar to the rules of subparagraphs (B) and
24 (C) shall apply in the case of any amendment
25 to any plan or annuity contract made pursuant

1 to any update of the list of Communist Chinese
2 military companies required by section 1237(b)
3 of the Strom Thurmond National Defense Au-
4 thorization Act for Fiscal Year 1999 (Public
5 Law 105–261; 50 U.S.C. 1701 note) which is
6 made after the effective date of the amend-
7 ments made by this subsection.

8 **SEC. 3. MODIFICATION OF REQUIREMENTS FOR LIST OF**
9 **COMMUNIST CHINESE MILITARY COMPANIES.**

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

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

15 “(2) REVISIONS TO THE LIST.—

16 “(A) ADDITIONS.—The Secretary of De-
17 fense, the Secretary of Commerce, or the Direc-
18 tor of National Intelligence may add a person
19 to the list required by paragraph (1) at any
20 time.

21 “(B) REMOVALS.—A person may be re-
22 moved from the list required by paragraph (1)
23 if the Secretary of Defense, the Secretary of
24 Commerce, and the Director of National Intel-

1 ligence agree to remove the person from the
2 list.

3 “(C) SUBMISSION OF UPDATES TO CON-
4 GRESS.—Not later than February 1 of each
5 year, the Secretary of Defense shall submit a
6 version of the list required paragraph (1), up-
7 dated to include any additions or removals
8 under this paragraph, to the committees and of-
9 ficers specified in paragraph (1).”;

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

12 “(3) CONSULTATION.—In carrying out para-
13 graphs (1) and (2), the Secretary of Defense, the
14 Secretary of Commerce, and the Director of Na-
15 tional Intelligence shall consult with each other, the
16 Attorney General, and the Director of the Federal
17 Bureau of Investigation.”; and

18 (3) in paragraph (4), by striking “making the
19 determination required by paragraph (1) and of car-
20 rying out paragraph (2)” and inserting “this sec-
21 tion”.

1 **SEC. 4. ANALYSIS OF FINANCIAL AMBITIONS OF THE GOV-**
2 **ERNMENT OF THE PEOPLE'S REPUBLIC OF**
3 **CHINA.**

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

7 (1) the strategic importance to the Government
8 of the People's Republic of China of inflows of
9 United States dollars through capital markets to the
10 People's Republic of China;

11 (2) the methods by which that Government
12 seeks to manage such inflows;

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

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

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

23 (B) the fusion of the civilian and military
24 components of that Government.

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

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

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