

**AMENDMENT TO RULES COMMITTEE PRINT**

**117-54**

**OFFERED BY MR. BANKS OF INDIANA**

At the appropriate place in division E, insert the following new section:

1 **SEC. \_\_\_\_ . PROHIBITION ON ANY THRIFT SAVING PLAN**  
2 **FUND INVESTING IN ENTITIES OF PEOPLE'S**  
3 **REPUBLIC OF CHINA.**

4 (a) **IN GENERAL.**—Section 8438 of title 5, United  
5 States Code, is amended by adding at the end the fol-  
6 lowing:

7 “(i) Notwithstanding any other provision of this sec-  
8 tion, no fund established or overseen by the Board may  
9 include an investment in any security of—

10 “(1) a PRC entity or the parent company of a  
11 PRC entity, if such entity or parent has 50 percent  
12 or more of its revenue earned over a three-year pe-  
13 riod in the People’s Republic of China, including  
14 Hong Kong and Macau;

15 “(2) a subsidiary of a parent company de-  
16 scribed under paragraph (1), where such subsidiary  
17 is either acknowledged by the parent, under effective

1 control of the parent, or where the parent entity  
2 holds more than 50 percent ownership;

3 “(3) any subsidiary that is owned or operated  
4 by an entity described in paragraph (1);

5 “(4) any entity that is subject to the Holding  
6 Foreign Companies Accountable Act (Public Law  
7 116–222); or

8 “(5) any entity that utilizes the variable inter-  
9 est entity structure to raise funds for or in connec-  
10 tion to a PRC entity or a PRC-controlled entity.”.

11 (b) DIVESTITURE OF ASSETS.—Not later than 30  
12 days after the date of enactment of this Act, the Federal  
13 Retirement Thrift Investment Board established under  
14 section 8472(a) of title 5, United States Code, shall—

15 (1) review whether any sums in the Thrift Sav-  
16 ings Fund are invested in violation of subsection (i)  
17 of section 8438 of that title, as added by subsection  
18 (a) of this section;

19 (2) if any sums are invested in the manner de-  
20 scribed in paragraph (1), divest those sums in a  
21 manner that is consistent with the legal and fidu-  
22 ciary duties provided under chapter 84 of that title,  
23 or any other applicable provision of law; and

24 (3) reinvest any sums divested under paragraph  
25 (2) in investments that do not violate subsection (i)

1 of section 8438 of that title, as added by subsection  
2 (a) of this section.

3 (c) PROHIBITION ON INVESTMENT OF TSP FUNDS  
4 IN ENTITIES BASED IN THE PEOPLE’S REPUBLIC OF  
5 CHINA THROUGH THE TSP MUTUAL FUND WINDOW.—  
6 Section 8438(b)(5) of title 5, United States Code, is  
7 amended by adding at the end the following:

8 “(E)(i) A mutual fund accessible through a  
9 mutual fund window authorized under this  
10 paragraph may not include an investment in  
11 any security of—

12 “(I) a PRC entity or the parent com-  
13 pany of a PRC entity, if such entity or  
14 parent has 75 percent or more of its rev-  
15 enue earned over a three-year period in the  
16 People’s Republic of China, including  
17 Hong Kong and Macau;

18 “(II) a subsidiary of a parent com-  
19 pany described under subclause (I), where  
20 such subsidiary is either acknowledged by  
21 the parent, under effective control of the  
22 parent, or where the parent entity holds  
23 more than 50 percent ownership;

1 “(III) any subsidiary that is owned or  
2 operated by an entity described in sub-  
3 clause (I);

4 “(IV) any entity that is subject to the  
5 Holding Foreign Companies Accountable  
6 Act (Public Law 116–222); or

7 “(V) any entity that utilizes the vari-  
8 able interest entity structure to raise funds  
9 for or in connection to a PRC entity or a  
10 PRC-controlled entity.

11 “(ii) For purposes of this subparagraph  
12 and section 8438(i)—

13 “(I) the term ‘PRC-controlled entity’  
14 means an entity where a PRC person has  
15 the power, direct or indirect, whether or  
16 not exercised, through the ownership of a  
17 majority or a dominant minority of the  
18 total outstanding voting interest in the en-  
19 tity, board representation, proxy voting, a  
20 special share, contractual arrangements,  
21 formal or informal arrangements to act in  
22 concert, or other means, to determine, di-  
23 rect, or decide important matters affecting  
24 the entity, in particular the power to deter-  
25 mine, direct, take, reach, or cause deci-

1 sions regarding such matters, or any other  
2 similarly important matters affecting the  
3 entity;

4 “(II) the term ‘PRC entity’—

5 “(aa) means any branch, part-  
6 nership, group or sub-group, associa-  
7 tion, estate, trust, corporation or divi-  
8 sion of a corporation, or organization  
9 organized under the laws of the Peo-  
10 ple’s Republic of China, including  
11 Hong Kong and Macau, if either its  
12 principal place of business is in the  
13 People’s Republic of China, including  
14 Hong Kong and Macau, or its equity  
15 securities are primarily traded on one  
16 or more exchanges in the People’s Re-  
17 public of China, including Hong Kong  
18 and Macau; and

19 “(bb) does not include any  
20 branch, partnership, group or sub-  
21 group, association, estate, trust, cor-  
22 poration or division of a corporation,  
23 or organization that can demonstrate  
24 that a majority of the equity interest

1 in such entity is ultimately owned by  
2 U.S. nationals;

3 “(III) the term ‘PRC government’—

4 “(aa) means any government or  
5 body exercising governmental func-  
6 tions in People’s Republic of China,  
7 including Hong and Macau; and

8 “(bb) includes national and sub-  
9 national governments, including their  
10 respective departments, agencies, and  
11 instrumentalities; and

12 “(IV) the term ‘PRC person’ means—

13 “(aa) any People’s Republic of  
14 China, including Hong Kong and  
15 Macau, (‘PRC’) national, PRC gov-  
16 ernment, or PRC entity;

17 “(bb) any entity over which con-  
18 trol is exercised or exercisable by a  
19 PRC national, PRC government, or  
20 PRC entity; or

21 “(cc) any entity over which con-  
22 trol is exercised or exercisable by a  
23 PRC person.”.

