H. R. 760

To impose sanctions with respect to Communist Chinese military and surveillance companies.

IN THE HOUSE OF REPRESENTATIVES

February 2, 2023

Mr. BARR introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committee on Financial Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To impose sanctions with respect to Communist Chinese military and surveillance companies.

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

This Act may be cited as the “Chinese Military and Surveillance Company Sanctions Act of 2023”.

SEC. 2. FINDINGS AND SENSE OF CONGRESS.

(a) FINDINGS.—Congress finds the following:

(1) Under Executive Order 13959 (85 Fed. Reg. 73185; relating to addressing the threat from
securities investments that finance Communist Chinese military companies) of November 17, 2020, the President found that the People’s Republic of China “increases the size of the country’s military-industrial complex by compelling civilian Chinese companies to support its military and intelligence activities. Those companies, though remaining ostensibly private and civilian, directly support the PRC’s military, intelligence, and security apparatuses and aid in their development and modernization.”. The President further determined that “the PRC exploits United States investors to finance the development and modernization of its military.”. As a result, Executive Order 13959 restricted transactions in publicly traded securities of Communist Chinese military companies listed pursuant to section 1237 of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (50 U.S.C. 1701 note).

(2) Although Executive Order 13959 targets transactions in public securities, it does not address financing options for Communist Chinese military companies through other forms of equity financing or debt financing, nor does it limit transactions with United States persons that may generate earnings in a manner that facilitates company growth.
(3) The Office of Foreign Assets Control (OFAC) of the Department of the Treasury, by imposing asset blocking through the Specially Designated Nationals (SDN) List, is able to forbid virtually any transaction between United States persons and a designated entity, including debt and equity financing, the exchange of goods and services, and the provision of material or technological support. Conversely, restrictions limited to publicly traded securities are less comprehensive, and in the case of certain Chinese companies of concern, may be irrelevant if the companies do not issue such securities.

(4) While restrictions on public securities are restricted to the dealings of United States persons, OFAC’s inclusion of a foreign entity on the SDN list deters third-country persons from dealing with a designated entity, amplifying the effects of United States sanctions globally.

(5) OFAC has long devoted significant resources to compiling evidence on SDNs that routinely withstand challenges in court, which enhances the effectiveness of United States sanctions, encourages allies to consider comparable measures, and strengthens national security.
(6) On June 3, 2021, the President issued Executive Order 14032, which transferred responsibility for naming Chinese military companies subject to investment restrictions to the Secretary of the Treasury, and expanded restrictions to entities operating in the surveillance technology sector of the Chinese economy.

(b) Sense of Congress.—It is the sense of the Congress that the national emergency declared under Executive Order 13959 calls for the President to—

(1) more fully cut off financing avenues for Communist Chinese military and surveillance companies;

(2) prevent adaptation by a company to partial restrictions that limit themselves to publicly traded securities;

(3) ensure that the United States assembles an appropriate evidentiary basis to support the effectiveness of sanctions;

(4) enhance the impact of economic sanctions by deterring third-country persons from dealing with the companies; and

(5) link the imposition of sanctions to clear objectives that serve to resolve the national emergency.
SEC. 3. SANCTIONS WITH RESPECT TO COMMUNIST CHINESE MILITARY AND SURVEILLANCE COMPANIES.

(a) IN GENERAL.—Not later than 180 days after the date on which the first updated list is submitted under section 1260H of the William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021 (10 U.S.C. 113 note) on or after the date of the enactment of this Act, the President shall impose the sanctions described in subsection (b) with respect to—

(1) each person that is on such updated list, and

(2) each foreign person listed in the Annex to Executive Order 14032 (86 Fed. Reg. 30145; relating to addressing the threat from securities investments that finance certain companies of the People’s Republic of China) of June 3, 2021, or determined by the Secretary of the Treasury, in consultation with the Secretary of State, and, as the Secretary of the Treasury determines appropriate, the Secretary of Defense, to engage in the activities described under section 1(a)(i) or 1(a)(ii) of such Executive Order 14032, if the President determines that the imposition of such sanctions meets appropriate evidentiary standards and advances the objective of resolving the national emergency.
described in Executive Order 14032 (86 Fed. Reg. 30145; relating to addressing the threat from securities investments that finance certain companies of the People’s Republic of China) of June 3, 2021.

(b) SANCTIONS DESCRIBED.—The President shall exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to the extent necessary to block and prohibit all transactions in property and interests in property of a person if such property and interests in property—

(1) are in the United States;

(2) come within the United States; or

(3) come within the possession or control of a United States person.

(e) PENALTIES.—The penalties set forth in section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) apply to violations of any license, order, or regulation issued under this section.

(d) WAIVER.—The President may waive the application of sanctions under this section if the President certifies in writing to the appropriate congressional committees that the waiver is in the national interest of the United States, with an explanation of the reasons therefor.
(e) Exception for Intelligence Activities.—Sanctions under this section shall not apply to any activity subject to the reporting requirements under title V of the National Security Act of 1947 (50 U.S.C. 3091 et seq.) or any authorized intelligence activities of the United States.

(f) Exception Relating to Importation of Goods.—

(1) In general.—The authorities and requirements to impose sanctions authorized under this section shall not include the authority or requirement to impose sanctions on the importation of goods.

(2) Good defined.—In this subsection, the term “good” means any article, natural or manmade substance, material, supply, or manufactured product, including inspection and test equipment, and excluding technical data.

(g) Conforming Requirement.—Not later than 180 days after the date of the enactment of this Act, the President shall revoke the prohibitions described in section 1(a) of Executive Order 14032 that are duplicative of, less restrictive than, or are otherwise made redundant by, the sanctions described in this section.
(h) APPROPRIATE CONGRESSIONAL COMMITTEES

Defined.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Foreign Affairs and the Committee on Financial Services of the House of Representatives; and

(2) the Committee on Foreign Relations and the Committee on Banking, Housing, and Urban Affairs of the Senate.

(i) SUNSET.—The authority to impose sanctions under this section, and any sanctions imposed under this section, shall terminate on the earlier of—

(1) the date that is 30 days after the date on which the President repeals the national emergency declared under Executive Order 13959 (85 Fed. Reg. 73185); or

(2) the date that is 7 years after the date of the enactment of this Act.