

AMENDMENT TO RULES COMM. PRINT 117–13
OFFERED BY MR. PERRY OF PENNSYLVANIA

In division E, insert after title LIII the following:

1 **TITLE LIV—PROTECTING AMERI-**
2 **CANS FROM CORPORATE**
3 **HUMAN RIGHTS ABUSERS**
4 **ACT**

5 **SEC. 5401. SHORT TITLE; PURPOSE.**

6 (a) **SHORT TITLE.**—This title may be cited as the
7 “Protecting Americans from Corporate Human Rights
8 Abusers Act”.

9 (b) **PURPOSE.**—The purpose of this title is to codify
10 into law the provisions of Executive Order 14032 of June
11 3, 2021 (86 Fed. Reg. 30145; relating to Addressing the
12 Threat From Securities Investments That Finance Cer-
13 tain Companies of the People’s Republic of China), as in
14 effect on the date of the enactment of this Act.

15 **Subtitle A—Chinese Corporate**
16 **Human Rights Abusers List**

17 **SEC. 5411. FINDINGS.**

18 Congress finds the following:

19 (1) In its 2020 report to Congress, the bipar-
20 tisan United States-China Economic and Security

1 Review Commission issued the following key find-
2 ings:

3 (A) As Beijing strategically opens its fi-
4 nancial sector to secure foreign capital and
5 global investment indices shift asset allocations
6 toward Chinese securities, United States inves-
7 tors' exposure to the unique and significant
8 risks accumulated in China's capital markets
9 rises. These risks center around the opacity of
10 China's financial system and Beijing's inter-
11 ference in market activity to advance its polit-
12 ical objectives.

13 (B) Increased financial exposure to China
14 threatens to undermine the efforts of the
15 United States to defend against China's unfair
16 economic practices and protect the policy inter-
17 ests of the United States. Several Chinese com-
18 panies included in global investment indices are
19 subject to United States export controls but not
20 investment restrictions. This mismatch enables
21 problematic Chinese companies to continue rais-
22 ing United States capital and reduces the
23 strength with which the United States can de-
24 fend against companies that threaten national
25 security.

1 (C) Beijing continues to deny United
2 States audit regulators full visibility into the fi-
3 nancials of U.S.-listed Chinese companies in
4 line with United States accounting standards.
5 These evasions from effective regulation and
6 oversight, together with United States-listed
7 Chinese companies' complex ownership struc-
8 tures, deprive United States investors of both
9 full transparency and the opportunity for legal
10 redress in cases of accounting fraud, eroding
11 the integrity of United States capital markets.

12 (2) The Chinese Communist Party's commit-
13 ment to their Military-Civil Fusion development
14 strategy, which supports the modernization goals of
15 the People's Liberation Army (PLA) by ensuring its
16 access to advanced technologies and expertise ac-
17 quired and developed by even those Chinese compa-
18 nies, universities, and research programs that ap-
19 pear to be civilian entities, remains a grave threat
20 to the national security of the United States.

21 (3) The efforts of the Government of the
22 United States to stymie China's utilization of United
23 States capital markets is an ongoing, multi-agency,
24 and decades-long effort. The colloquially-titled Sec-
25 tion 1237 List of the Strom Thurmond National De-

1 fense Authorization Act for Fiscal Year 1999, as
2 well as the Section 1260H List of the William M.
3 (Mac) Thornberry National Defense Authorization
4 Act for Fiscal Year 2021, both highlight companies
5 who pose a serious threat to the national security of
6 the United States.

7 (4) On June 3, 2021, the Department of De-
8 fense released a list of 47 entities identified as Chi-
9 nese military companies operating in the United
10 States in accordance with section 1260H of the Wil-
11 liam M. (“Mac”) Thornberry National Defense Au-
12 thorization Act for Fiscal Year 2021 (Public Law
13 116–283).

14 (5) On January 14, 2021, the Department of
15 Defense released the names of additional “Com-
16 munist Chinese military companies” operating di-
17 rectly or indirectly in the United States in accord-
18 ance with the statutory requirement of section 1237
19 of the National Defense Authorization Act for Fiscal
20 Year 1999. Those companies included: Advanced
21 Micro-Fabrication Equipment Inc. (AMEC),
22 Luokung Technology Corp. (LKCO), Xiaomi Cor-
23 poration, Beijing Zhongguancun Development In-
24 vestment Center, GOWIN Semiconductor Corp,
25 Grand China Air Co. Ltd. (GCAC), Global Tone

1 Communication Technology Co. Ltd. (GTCOM),
2 China National Aviation Holding Co. Ltd. (CNAH),
3 and Commercial Aircraft Corporation of China, Ltd.
4 (COMAC).

5 (6) On March 12, 2021, the United States Dis-
6 trict Court for the District of Columbia issued an
7 order in *Xiaomi Corporation v. Department of De-*
8 *fense* (Case No. 1:21-cv-00280-RC) that forestalled
9 the Defense Department's designation of the Xiaomi
10 Corporation as a Communist Chinese military com-
11 pany. On May 6, 2021, the Nasdaq-listed Luokung
12 Technology Corporation became the second China-
13 based company to avoid sanctions imposed under
14 Executive Order 13959. These companies have been
15 able to avoid sanctions because the Chinese Com-
16 munist Party actively blocks United States Govern-
17 ment agencies from obtaining information relevant
18 to determining the ownership and control of China-
19 based enterprises.

20 (7) Several Chinese military or military related
21 companies, as well as surveillance and technology
22 companies, including Hikvision, a major manufac-
23 turer of video surveillance equipment, materially
24 contribute to either the ongoing genocide in Xinjiang
25 or to other gross violations of internationally recog-

1 nized human rights across the People’s Republic of
2 China (PRC).

3 (8) On January 19, 2021, then-Secretary of
4 State Michael R. Pompeo determined that the Chi-
5 nese Communist Party (CCP) has committed geno-
6 cide against the predominantly Muslim Uyghurs and
7 other ethnic and religious minority groups in
8 Xinjiang.

9 (9) Then-Secretary Pompeo’s designation cited
10 the State Department’s exhaustive documentation of
11 CCP human rights abuses in Xinjiang, indicating
12 that “since at least March 2017, local authorities
13 dramatically escalated their decades-long campaign
14 of repression against Uyghur Muslims and members
15 of other ethnic and religious minority groups, includ-
16 ing ethnic Kazakhs and ethnic Kyrgyz”.

17 (10) The genocide determination also cited the
18 CCP’s regular dehumanization of the Uyghur people
19 in Xinjiang, including by labeling them as “malig-
20 nant tumors”, citing the Islamic faith as a “commu-
21 nicable plague”, and justifying the grotesque treat-
22 ment of the Uyghur people in stark, unsettling
23 terms: “you can’t uproot all the weeds hidden among
24 the crops in the field one-by-one; you need to spray
25 chemicals to kill them all”.

1 (11) On April 21, 2021, the United States
2 House Committee on Foreign Affairs approved with-
3 out objection H.R. 1155, which affirmed that the
4 PRC, since 2017, has arbitrarily detained as many
5 as 1.8 million Uyghurs, Kazakhs, Kyrgyz, and mem-
6 bers of other Muslim minority groups in a system of
7 extrajudicial mass internment camps, in addition to
8 arbitrarily detaining many in formal prisons and de-
9 tention centers, and has subjected detainees to
10 forced labor, torture, political indoctrination, and
11 other severe human rights abuses.

12 (12) The State Department's January 2021
13 genocide designation further cited the forced steri-
14 lization of Uyghur and other minority women, with
15 the purpose of eliminating the minority population
16 in Xinjiang.

17 (13) Media reporting has documented wide-
18 spread and systemic efforts by PRC authorities to
19 force Uyghur women to take contraceptives or to
20 subject them to sterilization or abortion, threatening
21 to detain those who do not comply.

22 (14) In many detention facilities and labor
23 camps across the PRC, Falun Gong prisoners of
24 conscience have at times comprised the majority of
25 the population, and have been said to receive the

1 longest sentences and the worst treatment, including
2 torture.

3 (15) The persecution and killing of religious
4 and political prisoners for any purpose, including for
5 the purpose of selling their organs for transplant, is
6 an egregious and intolerable violation of the funda-
7 mental right to life.

8 (16) On November 18, 2020, the United States
9 House of Representatives approved without objection
10 H. Res. 697, which “affirms the cultural and reli-
11 gious significance of the goal of genuine autonomy
12 for the people of Tibet and the deep bond between
13 the American and Tibetan people”.

14 (17) The Foreign Relations Authorization Act,
15 Fiscal Years 1992 and 1993 established, with re-
16 spect to Tibet, the following sense of Congress: “It
17 is the policy of the United States to oppose aggres-
18 sion and other illegal uses of force by one country
19 against the sovereignty of another as a manner of
20 acquiring territory, and to condemn violations of
21 international law, including the illegal occupation of
22 one country by another.”.

23 (18) Protecting United States capital markets
24 against PRC-based companies that support the
25 PLA’s modernization efforts or else aid and abet

1 grotesque and barbaric violations of internationally
2 recognized human rights is a national security im-
3 perative.

4 (19) As argued by the Uyghur Human Rights
5 Project: “[It is] still legal for shareholders to make
6 profits from ownership of these complicit Chinese
7 companies, some of which are publicly traded, in-
8 cluding through ‘emerging markets’ indexes. It is
9 time for much more serious action: no U.S. persons
10 should be permitted to hold the stocks and bonds of
11 the Chinese companies that are under U.S. human
12 rights sanctions.”.

13 **SEC. 5412. DEFINITIONS; REPORT ON CHINESE CORPORATE**
14 **HUMAN RIGHTS ABUSERS WITH SECURITIES**
15 **TRADED BY UNITED STATES PERSONS.**

16 (a) DEFINITIONS.—In this subtitle:

17 (1) AFFILIATE.—The term “affiliate”—

18 (A) has the meaning given such term in
19 section 230.405 of title 17, Code of Federal
20 Regulations (as in effect on the date of the en-
21 actment of this Act));

22 (B) means a person that is closely associ-
23 ated with another person typically in a depend-
24 ent or subordinate position; or

1 (C) means a person that has a common
2 purpose or shared characteristics with another
3 person.

4 (2) APPROPRIATE COMMITTEES OF CON-
5 GRESS.—The term “appropriate committees of Con-
6 gress” means—

7 (A) the Committee on Foreign Relations,
8 the Select Committee on Intelligence, the Com-
9 mittee on Banking, Housing, and Urban Af-
10 fairs, and the Committee on Armed Services of
11 the Senate; and

12 (B) the Committee on Foreign Affairs, the
13 Permanent Select Committee on Intelligence,
14 the Committee on Financial Services, and the
15 Committee on Armed Services of the House of
16 Representatives.

17 (3) COVERED ENTITY.—The term “covered en-
18 tity”—

19 (A) means an entity identified in the re-
20 port required by subsection (b); and

21 (B) includes any affiliate of such entity.

22 (4) ENTITY.—The term “entity” means a gov-
23 ernment or instrumentality of such government,
24 partnership, association, trust, joint venture, cor-
25 poration, group, subgroup, or other organization.

1 (5) PERSON.—The term “person” means an in-
2 dividual or entity.

3 (6) PRC.—The term “PRC” means the Peo-
4 ple’s Republic of China.

5 (7) PUBLICLY-TRADED SECURITIES.—The term
6 “publicly-traded securities” includes any security (as
7 defined in section 3(a) of the Securities Exchange
8 Act of 1934 (15 U.S.C. 78)), denominated in any
9 currency that trades on a securities exchange or
10 through the method of trading that is commonly re-
11 ferred to as “over-the-counter”, in any jurisdiction.

12 (8) TRANSACTION.—The term “transaction”
13 means the purchase for value, or sale, of any pub-
14 licly-traded security.

15 (9) UNITED STATES PERSON.—The term
16 “United States person” means—

17 (A) any United States citizen, permanent
18 resident alien, or entity (including foreign
19 branches) organized under the laws of the
20 United States or any jurisdiction within the
21 United States; or

22 (B) any person in the United States.

23 (b) REPORT.—

24 (1) IN GENERAL.—Not later than 180 days
25 after the date of the enactment of this Act, and an-

1 nually thereafter for 5 years, the Secretary of State,
2 in consultation with the Director of National Intel-
3 ligence and the Secretary of the Treasury, shall sub-
4 mit to the appropriate committees of Congress a re-
5 port that describes the risks posed to the United
6 States by the presence in United States capital mar-
7 kets of entities incorporated in the PRC, or entities
8 owned, controlled, or are entitled to a share of the
9 profits of entities incorporated in the PRC.

10 (2) MATTERS TO BE INCLUDED.—The report
11 required by paragraph (1) shall—

12 (A) identify entities described in paragraph

13 (1)—

14 (i) whose shares are publicly-traded
15 by United States persons;

16 (ii) based on the factors for consider-
17 ation described in paragraph (3), have
18 knowingly and materially contributed to—

19 (I) activities that both undermine
20 and pose an unusual and extraor-
21 dinary threat to the national security,
22 foreign policy, or economy of the
23 United States;

24 (II) serious abuses of internation-
25 ally recognized human rights; or

1 (III) a substantially increased fi-
2 nancial risk exposure for United
3 States-based investors;

4 (B) describe the activities of entities identi-
5 fied pursuant to subparagraph (A) and the im-
6 plications of such activities for the United
7 States;

8 (C) develop policy recommendations for the
9 United States Government, State governments,
10 United States financial institutions, United
11 States equity and debt exchanges, and other
12 relevant stakeholders to address the risks posed
13 by the presence in United States capital mar-
14 kets of entities identified pursuant to subpara-
15 graph (A); and

16 (D) identify entities described in para-
17 graph (1) that are included on the entity list.

18 (3) FACTORS FOR CONSIDERATION.—The fac-
19 tors for consideration described in this paragraph,
20 with respect to an entity, are whether or the extent
21 to which the entity—

22 (A) has materially contributed to the devel-
23 opment or manufacture, or sold or facilitated
24 procurement by the People’s Liberation Army

1 (PLA), of military equipment or component
2 parts of such equipment;

3 (B) has contributed to the construction
4 and militarization of features in the South
5 China Sea;

6 (C) has been sanctioned by the United
7 States or has been determined to have con-
8 ducted business with sanctioned entities;

9 (D) has engaged in an act or a series of
10 acts of intellectual property theft;

11 (E) has engaged in corporate or economic
12 espionage;

13 (F) has contributed to the proliferation of
14 nuclear or missile technology in violation of
15 United Nations Security Council resolutions or
16 United States sanctions;

17 (G) has contributed to the repression of
18 distinct religious and ethnic groups, including
19 in the Uyghur or Tibet Autonomous Regions;

20 (H) has contributed to the repression of
21 pro-democracy activists, journalists, and pub-
22 lishers in Hong Kong and throughout the PRC;

23 (I) has contributed to the development of
24 technologies that enable censorship directed or
25 directly supported by the PRC Government;

1 (J) has failed to comply fully with—

2 (i) the securities laws (as defined in
3 section 3(a) of the Securities Exchange Act
4 of 1934 (15 U.S.C. 78c));

5 (ii) a required audit by the Public
6 Company Accounting Oversight Board; or

7 (iii) a material risk disclosure require-
8 ment of the Securities and Exchange Com-
9 mission; or

10 (K) has contributed to other activities or
11 behavior determined to be relevant by the Presi-
12 dent.

13 (4) FORM.—The report required by paragraph
14 (1) shall be submitted in unclassified form, but may
15 include a classified annex.

16 (5) PUBLICATION.—The unclassified portion of
17 the report required by paragraph (1) shall be made
18 accessible to the public online through publication on
19 a relevant United States Government website and in
20 the Federal Register.

21 (6) ENTITY LIST DEFINED.—

22 (A) IN GENERAL.—In paragraph (2)(D),
23 the term “entity list” means the list maintained
24 and set forth in Supplement No. 4 to part 744
25 of the Export Administration Regulations.

1 (B) EXPORT ADMINISTRATION REGULA-
2 TIONS DEFINED.—In subparagraph (A), the
3 term “Export Administration Regulations”
4 means the regulations set forth in subchapter C
5 of chapter VII of title 15, Code of Federal Reg-
6 ulations, or successor regulations.

7 **SEC. 5413. CHINESE CORPORATE HUMAN RIGHTS ABUSERS**
8 **LIST; SANCTIONS.**

9 (a) CHINESE CORPORATE HUMAN RIGHTS ABUSERS
10 LIST.—

11 (1) IN GENERAL.—The Secretary of State, act-
12 ing through the Under Secretary of State for Civil-
13 ian Security, Democracy, and Human Rights and
14 the head of the Office of the Under Secretary of
15 State for Arms Control and International Security,
16 shall, based on the most recent information avail-
17 able, identify each covered entity that—

18 (A) is engaged in, complicit in, or other-
19 wise responsible for, directly or indirectly, gross
20 violations of internationally recognized human
21 rights or serious human rights abuses in the
22 PRC; or

23 (B) undermines or poses an unusual and
24 extraordinary threat to the national security,
25 foreign policy, or economy of the United States,

1 or otherwise presents an increased financial risk
2 exposure for United States-based investors.

3 (2) LIST.—Not later than 180 days after the
4 date of the enactment of this Act, and annually
5 thereafter until December 31, 2030, the Secretary of
6 State shall submit to appropriate committees of
7 Congress a list, to be known as the “Chinese Cor-
8 porate Human Rights Abusers List”, that—

9 (A) includes each covered entity identified
10 pursuant to paragraph (1); and

11 (B) includes, as applicable, an explanation
12 as to why a covered entity that was previously
13 identified pursuant to paragraph (1) is no
14 longer so identified.

15 (3) FORM.—The list required by paragraph (2)
16 shall be submitted in unclassified form, but may in-
17 clude a classified annex.

18 (4) PUBLICATION.—The unclassified portion of
19 the list required by paragraph (2) shall be made ac-
20 cessible to the public online through publication on
21 a relevant United States Government website and in
22 the Federal Register.

23 (5) TRANSMISSION TO OTHER FEDERAL OFFI-
24 CIALS.—The Secretary of State shall, concurrently
25 with the submission of the list required by para-

1 graph (2), transmit a copy of such list to the Sec-
2 retary of the Treasury, and the Director of National
3 Intelligence. The Secretary of State shall also trans-
4 mit a copy of such list to the Director of the Office
5 of Foreign Assets Control of the Department of the
6 Treasury for immediate implementation of the sanc-
7 tions described in subsection (b) against those cov-
8 ered entities included on such list.

9 (6) REVISIONS TO LIST.—The Secretary of
10 State shall make additions or deletions to the most
11 recent list required by paragraph (2) on an ongoing
12 basis based on the latest information available.

13 (7) CONSULTATION.—The Secretary may con-
14 sult with the head of any appropriate Federal de-
15 partment or agency in making the determinations
16 described in paragraph (1) and shall transmit a copy
17 of the list required by paragraph (2) to the head of
18 any such Federal department or agency for purposes
19 of such consultation.

20 (b) SANCTIONS.—

21 (1) IN GENERAL.—The purchase or sale by a
22 United States person of any publicly-traded securi-
23 ties, or any publicly-traded securities that are deriv-
24 ative of such securities or are designed to provide in-
25 vestment exposure to such securities, of any covered

1 entity designated by the Secretary of State for place-
2 ment on the Chinese Corporate Human Rights
3 Abusers List is prohibited.

4 (2) EFFECTIVE DATE.—The prohibitions in
5 paragraph (1) shall take effect:

6 (A) Beginning at 12:01 a.m. eastern day-
7 light time on August 2, 2021, with respect to
8 any covered entity included on the list required
9 by subsection (a)(2) on such date.

10 (B) Beginning at 12:01 a.m. eastern day-
11 light time on the date that is 60 days after the
12 date of the determination in subsection (a) with
13 respect to any covered entity subsequently in-
14 cluded on the list required by subsection (a)(2).

15 (3) DIVESTMENT.—The purchase or sale of
16 publicly-traded securities described in paragraph (1)
17 made solely to effect the divestment, in whole or in
18 part, of such securities by a United States person is
19 permitted prior to:

20 (A) 12:01 a.m. eastern daylight time on
21 June 3, 2022, with respect to any covered enti-
22 ty included on the list required by subsection
23 (a)(2) on such date.

24 (B) 12:01 a.m. eastern daylight time on
25 the date that is 365 days after the date of the

1 determination in subsection (a) with respect to
2 any covered entity subsequently included on the
3 list required by subsection (a)(2).

4 (4) RULE OF APPLICATION.—This subsection
5 shall apply except to the extent provided by statutes,
6 or in regulations, orders, directives, or licenses that
7 may be issued pursuant to this title, and notwith-
8 standing any contract entered into or any license or
9 permit granted before the date of this Act.

10 (5) EVASION OF SANCTIONS.—

11 (A) IN GENERAL.—The following actions
12 are prohibited:

13 (i) Any transactions by a United
14 States person or within the United States
15 that evades or avoids, has the purpose of
16 evading or avoiding, causes a violation of,
17 or attempts to violate the prohibitions set
18 forth in this title.

19 (ii) Any conspiracy formed to violate
20 any of the prohibitions set forth in this
21 title.

22 (B) PENALTIES.—The authorization pro-
23 vided in paragraph (6) may be used to apply
24 penalties provided for in subsections (b) and (c)
25 of section 206 of the International Emergency

1 Economic Powers Act (50 U.S.C. 1705) with
2 respect to a person that knowingly violates, at-
3 tempts to violate, conspires to violate, or causes
4 a violation of regulations promulgated under
5 paragraph (6) to the same extent that such
6 penalties apply to a person that knowingly com-
7 mits an unlawful act described in section
8 206(a) of that Act.

9 (6) AUTHORIZATION.—

10 (A) IN GENERAL.—The Secretary of the
11 Treasury, after consultation with the Secretary
12 of State, the Secretary of Defense, the Director
13 of National Intelligence, and the heads of other
14 executive departments and agencies as deemed
15 appropriate by the Secretary of the Treasury, is
16 hereby authorized to take such actions, includ-
17 ing the promulgation of rules and regulations,
18 and to employ all powers granted to the Presi-
19 dent by the International Emergency Economic
20 Powers Act, to carry out the purposes of this
21 title. The Secretary of the Treasury may, con-
22 sistent with applicable law, redelegate any of
23 these functions within the Department of the
24 Treasury. All departments and agencies shall

1 take all appropriate measures within their au-
2 thority to carry out the provisions of this title.

3 (B) RULES AND REGULATIONS.—Rules
4 and regulations issued pursuant to this title
5 may, among other things, establish procedures
6 to license transactions otherwise prohibited pur-
7 suant to this title. But prior to issuing any li-
8 cense under this title, the Secretary of the
9 Treasury shall consult with the Secretary of
10 State, the Secretary of Defense, and the Direc-
11 tor of National Intelligence.

12 **Subtitle B—Sanctions Against**
13 **Communist Chinese Military**
14 **Companies, Chinese Military**
15 **Companies, and Chinese Mili-**
16 **tary-industrial Complex Compa-**
17 **nies**

18 **SEC. 5421. DEFINITIONS.**

19 In this subtitle:

20 (1) AFFILIATE.—The term “affiliate”—

21 (A) has the meaning given such term in
22 section 230.405 of title 17, Code of Federal
23 Regulations (as in effect on the date of the en-
24 actment of this Act));

1 (B) means a person that is closely associ-
2 ated with another person typically in a depend-
3 ent or subordinate position; or

4 (C) means a person that has a common
5 purpose or shared characteristics with another
6 person.

7 (2) COMMUNIST CHINESE MILITARY COM-
8 PANY.—The term “Communist Chinese military
9 company”—

10 (A) has the meaning given such term in
11 section 1237 of the Strom Thurmond National
12 Defense Authorization Act for Fiscal Year 1999
13 (Public Law 105–261; 50 U.S.C. 1701 note);
14 and

15 (B) includes any affiliate of such company.

16 (3) CHINESE MILITARY COMPANY; MILITARY-
17 CIVIL FUSION CONTRIBUTOR.—The terms “Chinese
18 military company” and “military-civil fusion contrib-
19 utor”—

20 (A) have the meanings given such terms in
21 section 1260H of the William M. (Mac) Thorn-
22 berry National Defense Authorization Act for
23 Fiscal Year 2021 (Public Law 116–283); and

24 (B) include any affiliate of such company
25 or contributor.

1 (4) SECTION 5412 TERMS.—The terms “per-
2 son”, “publicly-traded security”, and “United States
3 person” have the meanings given such terms, respec-
4 tively, in section 5412.

5 (5) SECTION 1237 LIST.—The term “Section
6 1237 List” means the list required by section 1237
7 of the Strom Thurmond National Defense Author-
8 ization Act for Fiscal Year 1999.

9 (6) SECTION 1260H LIST.—The term “Section
10 1260H List” means the list required by section
11 1260H of the William M. (Mac) Thornberry Na-
12 tional Defense Authorization Act for Fiscal Year
13 2021.

14 **SEC. 5422. SANCTIONS FOR COMMUNIST CHINESE MILI-**
15 **TARY COMPANIES AND CHINESE MILITARY**
16 **COMPANIES.**

17 (a) AUTHORIZATION.—The Secretary of Defense is
18 authorized to include a covered entity on the Section 1237
19 List or the Section 1260H List.

20 (b) PROHIBITIONS.—

21 (1) IN GENERAL.—

22 (A) PURCHASE OR SALE OF CERTAIN SE-
23 CURITIES PROHIBITED.—The purchase or sale
24 by a United States person of any publicly-trad-
25 ed securities, or any publicly-traded securities

1 that are derivative of such securities or are de-
2 signed to provide investment exposure to such
3 securities, of any person described in subpara-
4 graph (B) is prohibited.

5 (B) PERSONS DESCRIBED.—A person de-
6 scribed in this subparagraph is—

7 (i) a company designated by the Of-
8 fice of Foreign Assets Control on the Non-
9 SDN Chinese Military-Industrial Complex
10 Companies List, including any affiliate of
11 such company;

12 (ii) a Communist Chinese military
13 company listed on the Section 1237 List;

14 (iii) any person that was designated
15 as a Communist Chinese military company
16 on June 2, 2021, in accordance with sec-
17 tion 1237(b) of the Strom Thurmond Na-
18 tional Defense Authorization Act for Fiscal
19 Year 1999 (50 U.S.C. 1701 note); or

20 (iv) a Chinese military company or a
21 military-civil fusion contributor listed on
22 the Section 1260H List.

23 (2) EFFECTIVE DATE.—The prohibitions in
24 paragraph (1) shall take effect:

1 (A) Beginning at 12:01 a.m. eastern day-
2 light time on August 2, 2021, with respect to
3 a person designated or listed on a List de-
4 scribed in paragraph (1)(B) on such date.

5 (B) With respect to a person not described
6 in subparagraph (A), beginning at 12:01 a.m.
7 eastern daylight time on the date that is 60
8 days after a person is designated or listed on a
9 List described in paragraph (1)(B).

10 (3) DIVESTMENT.—The purchase or sale of
11 publicly-traded securities described in subsection
12 (b)(1) made solely to effect the divestment, in whole
13 or in part, of such securities by a United States per-
14 son is permitted prior to:

15 (A) 12:01 a.m. eastern daylight time on
16 June 3, 2022, with respect to any person de-
17 scribed in paragraph (2)(A).

18 (B) 12:01 a.m. eastern daylight time on
19 the date that is 365 days after the date a per-
20 son a person is designated or listed on a List
21 described in paragraph (1)(B).

22 (4) RULE OF APPLICATION.—This subsection
23 shall apply except to the extent provided by statutes,
24 or in regulations, orders, directives, or licenses that
25 may be issued pursuant to this title, and notwith-

1 standing any contract entered into or any license or
2 permit granted before the date of this Act.

3 (5) EVASION OF PROHIBITIONS.—

4 (A) IN GENERAL.—The following actions
5 are prohibited:

6 (i) Any transactions by a United
7 States person or within the United States
8 that evades or avoids, has the purpose of
9 evading or avoiding, causes a violation of,
10 or attempts to violate the prohibitions set
11 forth in this title.

12 (ii) Any conspiracy formed to violate
13 any of the prohibitions set forth in this
14 title.

15 (B) PENALTIES.—The authorization pro-
16 vided in subsection (e) may be used to apply
17 penalties provided for in subsections (b) and (c)
18 of section 206 of the International Emergency
19 Economic Powers Act (50 U.S.C. 1705) with
20 respect to a person that knowingly violates, at-
21 tempts to violate, conspires to violate, or causes
22 a violation of regulations promulgated under
23 subsection (e) to the same extent that such pen-
24 alties apply to a person that knowingly commits

1 an unlawful act described in section 206(a) of
2 that Act.

3 (c) REVISIONS TO LISTS.—The Secretary of Defense
4 is authorized to make additions or deletions to the Section
5 1237 List and the Section 1260H List on an ongoing
6 basis based on the latest information available.

7 (d) TRANSMISSION TO OTHER FEDERAL OFFI-
8 CIALS.—The Secretary of Defense shall, concurrently with
9 the publication of the Section 1237 List and the Section
10 1260H List, transmit a copy of such lists to the Secretary
11 of State, the Secretary of the Treasury, and the Director
12 of National Intelligence. The Secretary of Defense shall
13 also transmit a copy of lists to the Director of the Office
14 of Foreign Assets Control of the Department of the Treas-
15 ury for immediate implementation of the prohibitions de-
16 scribed in subsection (b) against those covered entities in-
17 cluded on such lists.

18 (e) AUTHORIZATION.—

19 (1) IN GENERAL.—The Secretary of the Treas-
20 ury, after consultation with the Secretary of State,
21 the Secretary of Defense, the Director of National
22 Intelligence, and the heads of other executive depart-
23 ments and agencies as deemed appropriate by the
24 Secretary of the Treasury, is hereby authorized to
25 take such actions, including the promulgation of

1 rules and regulations, and to employ all powers
2 granted to the President by the International Emer-
3 gency Economic Powers Act, to carry out the pur-
4 poses of this section. The Secretary of the Treasury
5 may, consistent with applicable law, redelegate any
6 of these functions within the Department of the
7 Treasury. All departments and agencies shall take
8 all appropriate measures within their authority to
9 carry out the provisions of this section.

10 (2) RULES AND REGULATIONS.—Rules and reg-
11 ulations issued pursuant to this section may, among
12 other things, establish procedures to license trans-
13 actions otherwise prohibited pursuant to this section.
14 But prior to issuing any license under this section,
15 the Secretary of the Treasury shall consult with the
16 Secretary of State, the Secretary of Defense, and
17 the Director of National Intelligence.

18 **SEC. 5423. LIMITATION ON JUDICIAL REVIEW.**

19 (a) DECISION BY SECRETARY OF STATE.—The deci-
20 sion of the Secretary of State as to any question regarding
21 the inclusion of a covered entity on the list required by
22 section 5413(a) shall be final and conclusive and may not
23 be reviewed by any other official or by any court, whether
24 by action in the nature of mandamus or otherwise.

1 (b) DECISION BY SECRETARY OF DEFENSE.—The
2 decision of the Secretary of Defense as to any question
3 regarding the inclusion of a Communist Chinese military
4 company, a Chinese military company, or a military-civil
5 fusion contributor on either the lists described in section
6 1237 of the Strom Thurmond National Defense Author-
7 ization Act for Fiscal Year 1999 (Public Law 105–261;
8 50 U.S.C. 1701 note) or in section 1260H of the William
9 M. (Mac) Thornberry National Defense Authorization Act
10 for Fiscal Year 2021 (Public Law 116–283) may not be
11 reviewed by any official or by any court, whether by action
12 in the nature of mandamus or otherwise.

13 (c) DECISION BY SECRETARY OF THE TREASURY.—
14 The decision of the Secretary of Treasury, after consulta-
15 tion with the Secretary of State and the Secretary of De-
16 fense, as to any question regarding the inclusion of an en-
17 tity on the Office of Foreign Assets Control’s Non-SDN
18 Chinese Military-Industrial Complex Companies List shall
19 be final and conclusive and may not be reviewed by any
20 other official or by any court, whether by action in the
21 nature of mandamus or otherwise.

22 (d) RULES AND REGULATIONS PROMULGATED BY
23 THE SECRETARY OF THE TREASURY.—The rules and reg-
24 ulations promulgated by the Secretary of the Treasury
25 under sections 5413(b)(6) and 5422(e) shall be final and

- 1 not subject to any further agency review or to judicial re-
- 2 view by any court (including under chapter 7 of title 5,
- 3 United States Code).

