AMENDMENT TO THE RULES COMMITTEE PRINT

116–57

OFFERED BY MR. SHERMAN OF CALIFORNIA

In subtitle E of title XVII, add at the end the following:

SEC. ___. DISCLOSURE REQUIREMENT.

(a) In General.—Section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214) is amended by adding at the end the following:

“(i) Disclosure Regarding Foreign Jurisdictions That Prevent Inspections.—

“(1) Definitions.—In this subsection—

“(A) the term ‘covered issuer’ means an issuer that is required to file reports under section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m, 78o(d)); and

“(B) the term ‘non-inspection year’ means, with respect to a covered issuer, a year—

“(i) during which the Commission identifies the covered issuer under paragraph (2)(A) with respect to every report described in subparagraph (A) filed by the covered issuer during that year; and
“(ii) that begins after the date of enactment of this subsection.

“(2) DISCLOSURE TO COMMISSION.—The Commission shall—

“(A) identify each covered issuer that, with respect to the preparation of the audit report on the financial statement of the covered issuer that is included in a report described in paragraph (1)(A) filed by the covered issuer, retains a registered public accounting firm that has a branch, office, or affiliate that—

“(i) is located in a foreign jurisdiction;

“(ii) performs more than one-third of the audit services for the audit report of the covered issuer; and

“(iii) the Board is unable to inspect or investigate completely because of a position taken by an authority in the foreign jurisdiction described in clause (i), as determined by the Board; and

“(B) require each covered issuer identified under subparagraph (A) to, in accordance with rules issued by the Commission, submit to the Commission documentation to determine wheth-
er the covered issuer is owned or controlled by
a governmental entity in the foreign jurisdiction
described in subparagraph (A)(i).

“(3) Trading prohibition after 3 years of
non-inspections.—

“(A) In general.—If the Commission de-
termines that a covered issuer has 3 consecutive
non-inspection years, the Commission shall pro-
hibit the securities of the covered issuer from
being traded—

“(i) on a national securities exchange;

or

“(ii) through any other method that is
within the jurisdiction of the Commission
to regulate, including through the method
of trading that is commonly referred to as
the ‘over-the-counter’ trading of securities.

“(B) Removal of initial prohibition.—If, after the Commission imposes a pro-
hibition on a covered issuer under subpara-
graph (A), the covered issuer certifies to the
Commission that the covered issuer has re-
tained a registered public accounting firm that
the Board has inspected under this section to
of the Commission, the Commission shall end that prohibition.

“(C) Recurrence of Non-inspection Years.—If, after the Commission ends a prohibition under subparagraph (B) or (D) with respect to a covered issuer, the Commission determines that the covered issuer has a non-inspection year, the Commission shall prohibit the securities of the covered issuer from being traded—

“(i) on a national securities exchange;

or

“(ii) through any other method that is within the jurisdiction of the Commission to regulate, including through the method of trading that is commonly referred to as the ‘over-the-counter’ trading of securities.

“(D) Removal of Subsequent Prohibition.—If, after the end of the 5-year period beginning on the date on which the Commission imposes a prohibition on a covered issuer under subparagraph (C), the covered issuer certifies to the Commission that the covered issuer will retain a registered public accounting firm that
the Board is able to inspect and investigate, the
Commission shall end that prohibition.”.

(b) ADDITIONAL DISCLOSURE.—

(1) DEFINITIONS.—In this section—

(A) the term “audit report” has the mean-
ing given the term in section 2(a) of the Sar-

(B) the term “Commission” means the Se-
curities and Exchange Commission;

(C) the term “covered form”—

(i) means—

(I) the form described in section
249.310 of title 17, Code of Federal
Regulations, or any successor regu-
lation; and

(II) the form described in section
249.220f of title 17, Code of Federal
Regulations, or any successor regu-
lation; and

(ii) includes a form that—

(I) is the equivalent of, or sub-
stantially similar to, the form de-
scribed in subclause (I) or (II) of
clause (i); and
(II) a foreign issuer files with the Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) or rules issued under that Act;

(D) the terms “covered issuer” and “non-inspection year” have the meanings given the terms in subsection (i)(1) of section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214), as added by subsection (a) of this section; and

(E) the term “foreign issuer” has the meaning given the term in section 240.3b–4 of title 17, Code of Federal Regulations, or any successor regulation.

(2) REQUIREMENT.—Each covered issuer that is a foreign issuer and for which, during a non-inspection year with respect to the covered issuer, a registered public accounting firm described in subsection (i)(2)(A) of section 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214), as added by subsection (a) of this section, has prepared an audit report shall disclose in each covered form filed by that issuer that covers such a non-inspection year—

(A) that, during the period covered by the covered form, such a registered public account-
ing firm has prepared an audit report for the
issuer;

    (B) the percentage of the shares of the
issuer owned by governmental entities in the
foreign jurisdiction in which the issuer is incor-
porated or otherwise organized;

    (C) whether governmental entities in the
applicable foreign jurisdiction with respect to
that registered public accounting firm have a
controlling financial interest with respect to the
issuer;

    (D) the name of each official of the Chi-
inese Communist Party who is a member of the
board of directors of—

        (i) the issuer; or

        (ii) the operating entity with respect
to the issuer; and

    (E) whether the articles of incorporation of
the issuer (or equivalent organizing document)
contains any charter of the Chinese Communist
Party, including the text of any such charter.

(c) RULEMAKING.—Not later than 90 days after the
date of enactment of this Act, the Commission shall issue
rules to implement this section, and the amendments made
by this section, consistent with the Commission’s mandate,
including—

(1) the protection of investors; and

(2) maintaining fair, orderly, and efficient mar-
kets.