

AMENDMENT TO THE RULES COMMITTEE PRINT

118-36

OFFERED BY MR. SHERMAN OF CALIFORNIA

At the end of subtitle A of title XIII, add the following:

1 **SEC. 13___ . PROHIBITION ON INDEX FUNDS INVESTING IN**
2 **CHINESE COMPANIES.**

3 (a) **IN GENERAL.**—An index fund may not invest in
4 a Chinese company.

5 (b) **DIVESTMENT PERIOD SAFE HARBOR.**—With re-
6 spect to an index fund with an investment in a Chinese
7 company on the date of enactment of this Act, subsection
8 (a) shall not apply to such investment during the 180-
9 day period beginning on the date of enactment of this Act.

10 (c) **CIVIL PENALTY.**—

11 (1) **IN GENERAL.**—Any person who violates this
12 section shall be subject to a civil penalty in an
13 amount not to exceed the greater of—

14 (A) \$250,000; or

15 (B) an amount that is twice the amount of
16 the transaction that is the basis of the violation
17 with respect to which the penalty is imposed.

1 (2) AMOUNT OF A TRANSACTION DEFINED.—

2 For purposes of paragraph (1)(B), the term
3 “amount of a transaction” means—

4 (A) with respect to a purchase that violates
5 this section, the purchase price; and

6 (B) with respect to the holding of an in-
7 vestment that violates this section, the fair mar-
8 ket value of the investment at the time of the
9 violation.

10 (d) RULEMAKING.—The Securities and Exchange
11 Commission may issue such rules as may be necessary to
12 carry out this section.

13 (e) DEFINITIONS.—In this section:

14 (1) CHINESE COMPANY.—The term “Chinese
15 company” means a company—

16 (A) incorporated or otherwise organized in
17 China;

18 (B) that has a majority of its assets or em-
19 ployees located in China;

20 (C) owned by, controlled by, or subject to
21 the jurisdiction or direction of the government
22 of the People’s Republic of China;

23 (D) where a majority of the company’s
24 value depends on the revenues, profits, market
25 capitalization, assets, or the value of a security

1 (including options to purchase or sell) of a com-
2 pany described under subparagraph (A), (B), or
3 (C), as determined by the Securities and Ex-
4 change Commission; or

5 (E) where a company described under sub-
6 paragraph (A), (B), or (C) has control, as de-
7 fined under section 230.405 of title 17, Code of
8 Federal Regulations, of the company, as deter-
9 mined by the Securities and Exchange Commis-
10 sion.

11 (2) HEDGE FUND.—The term “hedge fund”
12 means an issuer that would be an investment com-
13 pany but for paragraph (1) or (7) of section 3(c) of
14 the Investment Company Act of 1940 (15 U.S.C.
15 80a–3(c)).

16 (3) INDEX FUND.—The term “index fund”
17 means an investment company or hedge fund that is
18 designed to track an index of securities or a portion
19 of such an index.

20 (4) INVESTMENT COMPANY.—The term “invest-
21 ment company” has the meaning given that term
22 under section 3 of the Investment Company Act of
23 1940 (15 U.S.C. 80a–3).

