



(Original Signature of Member)

118TH CONGRESS
2D SESSION

H. R. _____

To amend the securities laws to require certain disclosures and reports with respect to the exposure of issuers to China and the threat of sudden loss of market access between the United States and China, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

Mr. LUETKEMEYER introduced the following bill; which was referred to the Committee on _____

A BILL

To amend the securities laws to require certain disclosures and reports with respect to the exposure of issuers to China and the threat of sudden loss of market access between the United States and China, and for other purposes.

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

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “PRC Risk Trans-
5 parency Act”.

1 **SEC. 2. CHINA EXPOSURE DISCLOSURES.**

2 (a) COVERED ISSUER DISCLOSURES.—Section 13 of
3 the Securities Exchange Act of 1934 (15 U.S.C. 78m) is
4 amended by adding at the end the following:

5 “(t) CHINA EXPOSURE DISCLOSURES.—

6 “(1) IN GENERAL.—Each covered issuer re-
7 quired to file an annual report under subsection (a)
8 shall disclose in that report the following informa-
9 tion, to the extent the information would be material
10 to investors, with respect to the period 1 year prior
11 to the disclosure under this subsection:

12 “(A) CHINA EXPOSURE.—

13 “(i) The percentage of the total rev-
14 enue and profits of the issuer that are de-
15 rived from each of—

16 “(I) the People’s Republic of
17 China (‘China’);

18 “(II) Hong Kong; and

19 “(III) the Xinjiang Uyghur Au-
20 tonomous Region.

21 “(ii) The percentage and the total
22 value of the capital investment of the
23 issuer that is located in each of—

24 “(I) China;

25 “(II) Hong Kong; and

1 “(III) the Xinjiang Uyghur Au-
2 tonomous Region.

3 “(iii) The percentage and the total
4 value of the supply chain of the issuer that
5 is sourced from each of—

6 “(I) China;

7 “(II) Hong Kong; and

8 “(III) the Xinjiang Uyghur Au-
9 tonomous Region.

10 “(iv) Details on any joint venture with
11 a covered entity, including—

12 “(I) the covered entity in the
13 joint venture;

14 “(II) the percentage of total rev-
15 enue and of total profits of the issuer
16 that are derived from the joint ven-
17 ture; and

18 “(III) the percentage and the
19 total value of the capital investment
20 associated with the joint venture.

21 “(B) THREAT OF SUDDEN LOSS OF MAR-
22 KET ACCESS.—

23 “(i) The anticipated impact of the sce-
24 nario described in paragraph (2) on the
25 business operations, supply chain, revenues

1 and profits, and future earnings of the
2 issuer, to the extent it would be material
3 to investors.

4 “(ii) Whether the issuer has a plan in
5 place to deal with the scenario described in
6 paragraph (2).

7 “(iii) The outlines of the plan de-
8 scribed in clause (ii) and any actions the
9 issuer is taking to prepare for the scenario
10 described in paragraph (2).

11 “(C) RELATIONSHIPS WITH CERTAIN ENTI-
12 TIES.—A list of business relationships with any
13 of the following entities, their affiliates, and
14 their subsidiaries:

15 “(i) Any entity on the Non-SDN Chi-
16 nese Military-Industrial Complex Compa-
17 nies List (NS-CMIC List) maintained by
18 the Office of Foreign Assets Control of the
19 Department of the Treasury under Execu-
20 tive Order 14032 (86 Fed. Reg. 30145; re-
21 lating to addressing the threat from securi-
22 ties investments that finance certain com-
23 panies of the People’s Republic of China),
24 or any successor order.

1 “(ii) Any Chinese military company
2 identified by the Secretary of Defense pur-
3 suant to section 1260H of the William M.
4 (Mac) Thornberry National Defense Au-
5 thorization Act for Fiscal Year 2021 (Pub-
6 lic Law 116–283; 10 U.S.C. 113 note).

7 “(iii) Any entity included on any of
8 the following lists maintained by the De-
9 partment of Commerce in the following lo-
10 cations of the Export Administration Reg-
11 ulations set forth in subchapter C of chap-
12 ter VII of title 15, Code of Federal Regu-
13 lations:

14 “(I) The Entity List set forth in
15 Supplement No. 4 to part 744 of the
16 Export Administration Regulations or
17 any successor regulations.

18 “(II) The Denied Persons List as
19 described in section 764.3(a)(2) of the
20 Export Administration Regulations or
21 any successor regulations.

22 “(III) The Military End User
23 List set forth in Supplement No. 7 to
24 part 744 of the Export Administra-

1 tion Regulations or any successor reg-
2 ulations.

3 “(iv) Any entity on which sanctions
4 have been imposed by the Office of Foreign
5 Assets Control of the Department of the
6 Treasury in connection with human rights
7 abuses.

8 “(v) Any entity that produces equip-
9 ment that is prohibited under the Report
10 and Order, Order, and Further Notice of
11 Proposed Rulemaking of the Federal Com-
12 munications Commission in the matter of
13 Protecting Against National Security
14 Threats to the Communications Supply
15 Chain through the Equipment Authoriza-
16 tion Program (ET No. 21-232) and Pro-
17 tecting Against National Security Threats
18 to the Communications Supply Chain
19 through the Competitive Bidding Program
20 (EA Docket No. 21-233; FCC 22-84;
21 adopted November 11, 2022).

22 “(vi) An entity on the Uyghur Forced
23 Labor Prevention Act Entity List of the
24 Forced Labor Enforcement Task Force.

1 “(D) TIES TO THE GOVERNMENT OF THE
2 PEOPLE’S REPUBLIC OF CHINA.—A list of the
3 following:

4 “(i) Employees with a management
5 role in the issuer that are members of the
6 Chinese Communist Party, including each
7 employee’s role within the issuer.

8 “(ii) Any business relationships with
9 an agency or instrumentality of the govern-
10 ment of the People’s Republic of China, in-
11 cluding the provision of goods, services, or
12 technology to the People’s Liberation
13 Army, the Ministry of State Security, or
14 other security or intelligence services in the
15 People’s Republic of China.

16 “(iii) Any investment received from
17 the government of the People’s Republic of
18 China or an agency or instrumentality
19 thereof.

20 “(iv) Any requests from any Chinese
21 Communist Party official or agency or in-
22 strumentality of the government of the
23 People’s Republic of China (including re-
24 quests made under the People’s Republic
25 of China Intelligence Law of 2017 or the

1 Counter-Espionage Law) that conflict with
2 the issuer's obligations under this Act, the
3 Securities Act of 1933, or the Sarbanes-
4 Oxley Act of 2002.

5 “(2) SCENARIO.—

6 “(A) IN GENERAL.—The scenario de-
7 scribed in this paragraph is a scenario where,
8 owing to an act of Chinese military aggres-
9 sion—

10 “(i) the President imposes sanctions
11 on China, Chinese entities, and those who
12 transact with China or Chinese entities of
13 a similar type and magnitude as the sanc-
14 tions imposed on the Russian Federation,
15 Russian entities, and those who transact
16 with the Russian Federation or Russian
17 entities in response to the Russian Federa-
18 tion's February 2022 invasion of Ukraine;

19 “(ii) the Secretary of Commerce im-
20 plements export controls with respect to
21 China of a similar type as the Secretary
22 implemented with respect to the Russian
23 Federation following the Russian Federa-
24 tion's February 2022 invasion of Ukraine;

1 “(iii) trade between the United States
2 and China declines by 80 percent and com-
3 pletely ceases in goods with military end-
4 use or dual-use applications;

5 “(iv) the Chinese government imposes
6 similar sanctions, export controls, and
7 trade restrictions on the United States and
8 United States companies as the Russian
9 Federation government did following the
10 Russian Federation’s February 2022 inva-
11 sion of Ukraine; and

12 “(v) the Chinese government seizes all
13 China-based assets of American companies
14 that could be re-purposed for military pro-
15 duction.

16 “(B) REVISIONS.—On January 1, 2028,
17 and every 3 years thereafter, the Financial Sta-
18 bility Oversight Council may revise the scenario
19 described under subparagraph (A) by pub-
20 lishing a new scenario that, after consultations
21 with other executive branch officials, seems
22 most likely to occur as a result of Chinese mili-
23 tary aggression.

24 “(3) BOARD OF DIRECTORS CERTIFICATION.—
25 The board of directors of a covered issuer required

1 to make a disclosure under paragraph (1) shall cer-
2 tify that the board has reviewed and affirmed the
3 disclosure.

4 “(4) RULEMAKING.—

5 “(A) IN GENERAL.—Not later than the
6 end of the 60-day period beginning on the date
7 of enactment of this subsection, the Commis-
8 sion shall issue rules to carry out the amend-
9 ments made by this section.

10 “(B) PROPRIETARY INFORMATION AND
11 TRADE SECRETS.—In issuing the rules required
12 under subparagraph (A), the Commission shall,
13 in consultation with the Attorney General and
14 the National Security Council, ensure that
15 issuers may make the disclosure of information
16 required under such rules without disclosing
17 proprietary information or trade secrets.

18 “(C) SAFE HARBOR.—In issuing the rules
19 required under subparagraph (A), the Commis-
20 sion shall establish rules under which a covered
21 issuer shall not be held liable for statements
22 that were compiled with reasonable due dili-
23 gence and to the best of the covered issuer’s
24 knowledge.

1 “(5) DEFINITIONS.—In this subsection, the fol-
2 lowing definitions apply:

3 “(A) CHINA.—The term ‘China’ means the
4 People’s Republic of China, including all Special
5 Administrative Regions.

6 “(B) CONTROL.—The term ‘control’ has
7 the meaning given in section 800.208 of title
8 31, Code of Federal Regulations (as in effect on
9 the date of enactment of this subsection).

10 “(C) COVERED ENTITY.—The term ‘cov-
11 ered entity’ means an entity—

12 “(i) that is incorporated in, has a
13 principal place of business in, or is orga-
14 nized under the laws of the People’s Re-
15 public of China;

16 “(ii) the equity securities of which are
17 primarily traded in the ordinary course of
18 business on one or more exchanges in the
19 People’s Republic of China;

20 “(iii) that is the Chinese Communist
21 Party, or the state or the government of
22 the People’s Republic of China, as well as
23 any political subdivision, agency, or instru-
24 mentality thereof; or

1 “(iv) that is subject to the direction or
2 control of any entity described in clause
3 (i), (ii), or (iii).

4 “(D) COVERED ISSUER.—The term ‘cov-
5 ered issuer’ means—

6 “(i) an issuer—

7 “(I) with respect to which—

8 “(aa) at least 5 percent of
9 the revenue of the issuer is de-
10 rived from the Chinese market;

11 “(bb) at least 5 percent of
12 the capital investment of the
13 issuer, by value, is located in
14 China; or

15 “(cc) at least 5 percent of
16 the supply chain of the issuer, by
17 value, is sourced from China; and

18 “(II) that has a market capital-
19 ization of \$1,000,000,000 or more at
20 any point in the previous 365 days;
21 and

22 “(ii) an issuer with respect to which—

23 “(I) at least 25 percent of the
24 revenue of the issuer is derived from
25 the Chinese market;

1 “(II) at least 25 percent of the
2 capital investment of the issuer, by
3 value, is located in China; or

4 “(III) at least 25 percent of the
5 supply chain of the issuer, by value, is
6 sourced from China.”.

7 (b) INVESTMENT ADVISER DISCLOSURES.—Section
8 204 of the Investment Advisers Act of 1940 (15 U.S.C.
9 80b-4) is amended by adding at the end the following:

10 “(g) REPORT ON THE LOSS OF MARKET ACCESS TO
11 CHINA TO PRIVATE FUNDS ADVISED BY A COVERED IN-
12 VESTMENT ADVISER.—

13 “(1) IN GENERAL.—The Commission shall, by
14 rule, require each covered investment adviser, for
15 each private fund advised by the covered investment
16 advisor, to disclose to the private fund and the Com-
17 mission, every quarter, a plain English report that
18 outlines the anticipated effects, to the extent it
19 would be material to investors, of a scenario of the
20 type described in section 13(t)(2) of the Securities
21 and Exchange Act of 1934 on the returns of such
22 fund.

23 “(2) SAFE HARBOR.—A covered investment ad-
24 viser that makes a disclosure under paragraph (1),
25 if such disclosure is made to the best of the knowl-

1 edge of the covered investment adviser after reason-
2 able investigation and due diligence and consistent
3 with the fiduciary duty of the covered investment ad-
4 viser, shall not be held liable for such disclosure.

5 “(3) BOARD OF DIRECTORS CERTIFICATION.—
6 The board of directors of a covered investment ad-
7 viser required to make a disclosure under paragraph
8 (1) shall certify that the board has reviewed and af-
9 firmed the disclosure.

10 “(4) COVERED INVESTMENT ADVISER DE-
11 FINED.—In this subsection, the term ‘covered invest-
12 ment adviser’ means an investment adviser with as-
13 sets under management of \$500,000,000 or more at
14 any point in the previous 365 days.

15 “(h) REPORT ON EXPOSURE TO COVERED FOREIGN
16 ENTITIES.—

17 “(1) IN GENERAL.—The Commission shall, by
18 rule, require each covered investment adviser to dis-
19 close to the Commission, every quarter—

20 “(A) for each investment company advised
21 by the covered investment advisor—

22 “(i) the total exposure of the invest-
23 ment company to covered foreign entities;

1 “(ii) a list of each security issued by
2 a covered foreign entity and held by the in-
3 vestment company; and

4 “(iii) the value of each holding;

5 “(B) the total exposure of all investment
6 companies advised by the covered investment
7 adviser to covered foreign entities;

8 “(C) a list of each security issued by a cov-
9 ered foreign entity and held by an investment
10 company advised by the covered investment ad-
11 viser; and

12 “(D) the value of each holding identified
13 under subparagraph (C).

14 “(2) DEFINITIONS.—In this subsection:

15 “(A) COVERED FOREIGN ENTITY.—The
16 term ‘covered foreign entity’ means a covered
17 entity, as defined under section 13(t)(5) of the
18 Securities and Exchange Act of 1934.

19 “(B) COVERED INVESTMENT ADVISER.—
20 The term ‘covered investment adviser’ has the
21 meaning given the term under subsection
22 (g)(4).”.

23 (c) INVESTMENT COMPANY DISCLOSURES.—Section
24 30 of the Investment Company Act of 1940 (15 U.S.C.
25 80a–29) is amended by adding at the end the following:

1 “(1) REPORT ON EXPOSURE TO COVERED FOREIGN
2 ENTITIES AND VARIABLE INTEREST ENTITIES.—

3 “(1) IN GENERAL.—The Commission shall, by
4 rule, require each registered investment company to
5 disclose to the Commission, every quarter—

6 “(A) the total exposure of the investment
7 company to covered foreign entities, including;

8 “(i) a list of each security issued by a
9 covered foreign entity and held by the in-
10 vestment company; and

11 “(ii) the value of each holding; and

12 “(B) the total exposure of the investment
13 company to variable interest entities, includ-
14 ing—

15 “(i) a list of each security issued by a
16 variable interest entity held by the invest-
17 ment company; and

18 “(ii) the value of each holding.

19 “(2) COVERED FOREIGN ENTITY DEFINED.—In
20 this subsection, the term ‘covered foreign entity’
21 means a covered entity, as defined under section
22 13(t)(5) of the Securities and Exchange Act of
23 1934.”.

24 (d) VARIABLE INTEREST ENTITY EXPOSURE.—Sec-
25 tion 204(b)(3)(C) of the Investment Advisers Act of 1940

1 (15 U.S.C. 80b-4(b)(3)(C)) is amended by inserting be-
2 fore the semicolon the following: “, including total expo-
3 sure to variable interest entities, a list of each security
4 issued by a variable interest entity held in the fund, and
5 the value of those securities”.

6 (e) NO EXPANSION OF LIABILITY.—No provision
7 under the amendments made by this section requiring the
8 disclosure of information shall give rise to a claim under
9 the Securities Act of 1933 or the Securities Exchange Act
10 of 1934 unless the disclosure is both—

- 11 (1) false or misleading; and
12 (2) material to an investment decision such that
13 there is a substantial likelihood that a reasonable in-
14 vestor would consider the information important in
15 assessing the risk-adjusted financial returns from
16 the investment decision.

