

117TH CONGRESS
2D SESSION

H. R. 8001

To amend title 31, United States Code, to ensure the United States currency market does not support egregious human rights violations.

IN THE HOUSE OF REPRESENTATIVES

JUNE 9, 2022

Mr. BUCK (for himself, Mr. GOODEN of Texas, Mr. BANKS, Ms. HERRELL, Mr. HERN, Mr. LONG, Mr. STEUBE, Mr. WILSON of South Carolina, Mr. CAWTHORN, Mr. BURCHETT, and Mr. TORRES of New York) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committee on Foreign Affairs, 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 amend title 31, United States Code, to ensure the United States currency market does not support egregious human rights violations.

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 “Countering Atrocities
5 through Currency Accountability Act of 2022”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) The United States dollar composes nearly
2 two-thirds of the world's currency reserves, with
3 more than one trillion dollars being owned by the
4 Government of China as of October 2020.

5 (2) It is the policy of the United States to ad-
6 vance freedom and human rights globally, a policy
7 that is incompatible with egregious human rights
8 violations, and as such has a responsibility to ensure
9 that the United States currency market does not
10 complicitly support perpetrators of these abuses.

11 (3) In regions of the world where political, gov-
12 ernmental, or other realities preclude humanitarian
13 due diligence practices from ensuring the currency
14 market of the United States is not interwoven with
15 entities' egregious human rights violations, addi-
16 tional measures must be taken to separate the econ-
17 omy of the United States from these violations, as
18 well as to apply pressure on relevant actors to up-
19 hold their humanitarian responsibilities.

1 **SEC. 3. SPECIAL MEASURES FOR JURISDICTIONS, FINAN-**
2 **CIAL INSTITUTIONS, OR INTERNATIONAL**
3 **TRANSACTIONS OF PRIMARY HUMANITARIAN**
4 **CONCERN.**

5 (a) IN GENERAL.—Chapter 53 of title 31, United
6 States Code, is amended by inserting after section 5318A
7 the following:

8 **“§ 5318B. Special measures for jurisdictions, financial**
9 **institutions, or international transactions**
10 **of primary humanitarian concern**

11 “(a) INTERNATIONAL HUMANITARIAN REQUIRE-
12 MENTS.—

13 “(1) IN GENERAL.—The Secretary of the
14 Treasury shall require domestic financial institutions
15 and domestic financial agencies to take 1 or more of
16 the special measures described in subsection (b) if
17 the Secretary finds that reasonable grounds exist for
18 concluding that a jurisdiction outside of the United
19 States, 1 or more financial institutions operating
20 outside of the United States, 1 or more classes of
21 transactions within, or involving, a jurisdiction out-
22 side of the United States, or 1 or more types of ac-
23 counts is of primary humanitarian concern, in ac-
24 cordance with subsection (c).

25 “(2) FORM OF REQUIREMENT.—The special
26 measures described in—

1 “(A) subsection (b) shall be imposed in
2 such sequence or combination as the Secretary
3 shall determine; and

4 “(B) paragraphs (1) through (5) of sub-
5 section (b) shall be imposed by regulation,
6 order, or otherwise as permitted by law.

7 “(3) DURATION OF ORDERS; RULEMAKING.—
8 Any order by which a special measure described in
9 paragraphs (1) through (5) of subsection (b) is im-
10 posed—

11 “(A) shall be issued together with a notice
12 of proposed rulemaking relating to the imposi-
13 tion of such special measure; and

14 “(B) may not be terminated unless the
15 Secretary—

16 “(i) certifies to Congress that the ap-
17 plicable jurisdiction, financial institution,
18 class of transaction, or type of account is
19 no longer of primary humanitarian con-
20 cern; and

21 “(ii) not more than 30 days before the
22 date of such termination, notifies, in writ-
23 ing, the Committees on Financial Services
24 and Foreign Affairs of the House of Rep-
25 resentatives and the Committees on Bank-

1 ing, Housing, and Urban Affairs and For-
2 eign Relations of the Senate of such termi-
3 nation.

4 “(4) NATIONAL SECURITY WAIVER.—

5 “(A) IN GENERAL.—The Secretary shall
6 waive the application of any special measure re-
7 quired by the Secretary under paragraph (1)
8 with respect to a transaction related to the pro-
9 duction, manufacture, or commerce related to
10 rare earth minerals if the Secretary determines
11 such waiver is necessary on national security
12 grounds.

13 “(B) TIME LIMIT.—A waiver issued under
14 subparagraph (A) may not be for longer than
15 one year, but such a waiver may be renewed.

16 “(C) WRITTEN JUSTIFICATION.—If the
17 Secretary issues (or renews) a waiver under this
18 paragraph, the Secretary shall provide the Com-
19 mittees on Financial Services and Foreign Af-
20 fairs of the House of Representatives and the
21 Committees on Banking, Housing, and Urban
22 Affairs and Foreign Relations of the Senate
23 with a written justification for such waiver.
24 Such justification shall be submitted in unclas-
25 sified form, but may include a classified annex.

1 “(D) INFORMATION FOR THE PUBLIC.—If
2 the Secretary issues a waiver under this para-
3 graph, the Secretary, in consultation with the
4 Secretary of Commerce and the Secretary of
5 the Interior, shall provide the following infor-
6 mation to the public, including on the website
7 of the Department of the Treasury:

8 “(i) Opportunities for public-private
9 partnerships to increase domestic produc-
10 tion of rare earth elements and inter-
11 mediate and finished products containing
12 rare earth elements, including permanent
13 magnets.

14 “(ii) Information regarding the rela-
15 tionship between the reason the applicable
16 jurisdiction, financial institution, class of
17 transaction, or type of account was found
18 to be of primary humanitarian concern and
19 the production, manufacture, or commerce
20 related to rare earth minerals.

21 “(5) NO LIMITATION ON OTHER AUTHORITY.—
22 This section shall not be construed as superseding or
23 otherwise restricting any other authority granted to
24 the Secretary, or to any other agency, by this sub-
25 chapter or otherwise.

1 “(b) SPECIAL MEASURES.—The special measures re-
2 ferred to in subsection (a), with respect to a jurisdiction
3 outside of the United States, financial institution oper-
4 ating outside of the United States, class of transaction
5 within, or involving, a jurisdiction outside of the United
6 States, or 1 or more types of accounts are as follows:

7 “(1) RECORDKEEPING AND REPORTING OF
8 CERTAIN FINANCIAL TRANSACTIONS.—

9 “(A) IN GENERAL.—The Secretary of the
10 Treasury may require any domestic financial in-
11 stitution or domestic financial agency to main-
12 tain records, file reports, or both, concerning
13 the aggregate amount of transactions, or con-
14 cerning each transaction, with respect to a ju-
15 risdiction outside of the United States, 1 or
16 more financial institutions operating outside of
17 the United States, 1 or more classes of trans-
18 actions within, or involving, a jurisdiction out-
19 side of the United States, or 1 or more types
20 of accounts if the Secretary finds any such ju-
21 risdiction, institution, class of transactions, or
22 type of account to be of primary humanitarian
23 concern.

24 “(B) FORM OF RECORDS AND REPORTS.—
25 Such records and reports shall be made and re-

1 tained at such time, in such manner, and for
2 such period of time, as the Secretary shall de-
3 termine, and shall include such information as
4 the Secretary may determine, including—

5 “(i) the identity and address of the
6 participants in a transaction or relation-
7 ship, including the identity of the origi-
8 nator of any funds transfer;

9 “(ii) the legal capacity in which a par-
10 ticipant in any transaction is acting;

11 “(iii) the identity of the beneficial
12 owner of the funds involved in any trans-
13 action, in accordance with such procedures
14 as the Secretary determines to be reason-
15 able and practicable to obtain and retain
16 the information; and

17 “(iv) a description of any transaction.

18 “(2) INFORMATION RELATING TO BENEFICIAL
19 OWNERSHIP.—In addition to any other requirement
20 under any other provision of law, the Secretary shall
21 require any domestic financial institution or domes-
22 tic financial agency to take such steps as the Sec-
23 retary may determine to be reasonable and prac-
24 ticable to obtain and retain information concerning
25 the beneficial ownership of any account opened or

1 maintained in the United States by a foreign person,
2 or a representative of such a foreign person, that in-
3 volves a jurisdiction outside of the United States, 1
4 or more financial institutions operating outside of
5 the United States, 1 or more classes of transactions
6 within, or involving, a jurisdiction outside of the
7 United States, or 1 or more types of accounts if the
8 Secretary finds any such jurisdiction, institution, or
9 transaction or type of account to be of primary hu-
10 manitarian concern.

11 “(3) INFORMATION RELATING TO CERTAIN PAY-
12 ABLE-THROUGH ACCOUNTS.—If the Secretary finds
13 a jurisdiction outside of the United States, 1 or
14 more financial institutions operating outside of the
15 United States, or 1 or more classes of transactions
16 within, or involving, a jurisdiction outside of the
17 United States to be of primary humanitarian con-
18 cern, the Secretary shall require any domestic finan-
19 cial institution or domestic financial agency that
20 opens or maintains a payable-through account in the
21 United States for a foreign financial institution in-
22 volving any such jurisdiction or any such financial
23 institution operating outside of the United States, or
24 a payable through account through which any such

1 transaction may be conducted, as a condition of
2 opening or maintaining such account—

3 “(A) to identify each customer (and rep-
4 resentative of such customer) of such financial
5 institution who is permitted to use, or whose
6 transactions are routed through, such payable-
7 through account; and

8 “(B) to obtain, with respect to each such
9 customer (and each such representative), infor-
10 mation that is substantially comparable to that
11 which the depository institution obtains in the
12 ordinary course of business with respect to its
13 customers residing in the United States.

14 “(4) INFORMATION RELATING TO CERTAIN COR-
15 RESPONDENT ACCOUNTS.—If the Secretary finds a
16 jurisdiction outside of the United States, 1 or more
17 financial institutions operating outside of the United
18 States, or 1 or more classes of transactions within,
19 or involving, a jurisdiction outside of the United
20 States to be of primary humanitarian concern, the
21 Secretary shall require any domestic financial insti-
22 tution or domestic financial agency that opens or
23 maintains a correspondent account in the United
24 States for a foreign financial institution involving
25 any such jurisdiction or any such financial institu-

1 tion operating outside of the United States, or a cor-
2 respondent account through which any such trans-
3 action may be conducted, as a condition of opening
4 or maintaining such account—

5 “(A) to identify each customer (and rep-
6 representative of such customer) of any such finan-
7 cial institution who is permitted to use, or
8 whose transactions are routed through, such
9 correspondent account; and

10 “(B) to obtain, with respect to each such
11 customer (and each such representative), infor-
12 mation that is substantially comparable to that
13 which the depository institution obtains in the
14 ordinary course of business with respect to its
15 customers residing in the United States.

16 “(5) PROHIBITIONS OR CONDITIONS ON OPEN-
17 ING OR MAINTAINING CERTAIN CORRESPONDENT OR
18 PAYABLE-THROUGH ACCOUNTS.—If the Secretary
19 finds a jurisdiction outside of the United States, 1
20 or more financial institutions operating outside of
21 the United States, or 1 or more classes of trans-
22 actions within, or involving, a jurisdiction outside of
23 the United States to be of primary humanitarian
24 concern, the Secretary, in consultation with the Sec-
25 retary of State, the Attorney General, and the

1 Chairman of the Board of Governors of the Federal
2 Reserve System, shall prohibit, or impose conditions
3 upon, the opening or maintaining in the United
4 States of a correspondent account or payable-
5 through account by any domestic financial institu-
6 tion or domestic financial agency, if such cor-
7 respondent account or payable-through account in-
8 volves any such jurisdiction or institution, or if any
9 such transaction may be conducted through such
10 correspondent account or payable-through account.

11 “(c) CONSULTATIONS AND INFORMATION TO BE
12 CONSIDERED IN FINDING JURISDICTIONS, INSTITUTIONS,
13 TYPES OF ACCOUNTS, OR TRANSACTIONS TO BE OF PRI-
14 MARY HUMANITARIAN CONCERN.—

15 “(1) IN GENERAL.—In making a finding that
16 reasonable grounds exist for concluding that a juris-
17 diction outside of the United States, 1 or more fi-
18 nancial institutions operating outside of the United
19 States, 1 or more classes of transactions within, or
20 involving, a jurisdiction outside of the United States,
21 or 1 or more types of accounts is of primary human-
22 itarian concern so as to authorize the Secretary of
23 the Treasury to take 1 or more of the special meas-
24 ures described in subsection (b), the Secretary shall

1 consult with the Secretary of State, the Attorney
2 General, and the Secretary of Commerce.

3 “(2) ADDITIONAL CONSIDERATIONS.—In mak-
4 ing a finding described in paragraph (1), the Sec-
5 retary shall consider in addition such information as
6 the Secretary determines to be relevant, including
7 the following potentially relevant factors:

8 “(A) JURISDICTIONAL FACTORS.—In the
9 case of a particular jurisdiction—

10 “(i) covered human rights violations
11 have been or are being committed by an in-
12 dividual, group of individuals, corporation,
13 organization, government, or other state or
14 non-state actor, and that they have trans-
15 acted business in that jurisdiction;

16 “(ii) the extent to which covered
17 human rights violations in that jurisdiction
18 enable, support, or are connected to trans-
19 acted business therein;

20 “(iii) the substance and quality of ad-
21 ministration of the human rights laws of
22 that jurisdiction pertaining to covered
23 human rights violations;

24 “(iv) the jurisdiction is characterized
25 as committing covered human rights viola-

1 tions by credible international organiza-
2 tions or multilateral expert groups;

3 “(v) the jurisdiction is characterized
4 by a disregard for human rights; or

5 “(vi) whether the United States has
6 issued or maintained formal genocide or
7 crimes against humanity determinations
8 covering that jurisdiction within the pre-
9 vious 5 years.

10 “(B) INSTITUTIONAL FACTORS.—In the
11 case of a decision to apply 1 or more of the spe-
12 cial measures described in subsection (b) only
13 to a financial institution or institutions, or to a
14 transaction or class of transactions, or to a type
15 of account, or to all 3, within or involving a
16 particular jurisdiction—

17 “(i) such financial institutions, classes
18 of transactions, or types of accounts are
19 used to facilitate or promote covered
20 human rights violations in or through the
21 jurisdiction; and

22 “(ii) whether such action is sufficient
23 to ensure, with respect to transactions in-
24 volving the jurisdiction and institutions op-
25 erating in the jurisdiction, that the pur-

1 poses of this subchapter continue to be ful-
2 filled, and to guard against covered human
3 rights violations.

4 “(d) NOTIFICATION OF SPECIAL MEASURES IN-
5 VOKED BY THE SECRETARY.—Not later than 10 days
6 after the date of any action taken by the Secretary of the
7 Treasury under subsection (a)(1), the Secretary shall no-
8 tify, in writing, the Committee on Financial Services of
9 the House of Representatives, the Committee on Foreign
10 Affairs of the House of Representatives, the Committee
11 on Banking, Housing, and Urban Affairs of the Senate,
12 and the Committee on Foreign Relations of the Senate
13 of any such action.

14 “(e) DUE DILIGENCE FOR UNITED STATES PRIVATE
15 BANKING AND CORRESPONDENT BANK ACCOUNTS IN-
16 VOLVING FOREIGN PERSONS.—

17 “(1) IN GENERAL.—Each financial institution
18 that establishes, maintains, administers, or manages
19 a private banking account or a correspondent ac-
20 count in the United States for a non-United States
21 person, including a foreign individual visiting the
22 United States, or a representative of a non-United
23 States person shall establish appropriate, specific,
24 and, where necessary, enhanced, due diligence poli-
25 cies, procedures, and controls that are reasonably

1 designed to detect and report instances of covered
2 human rights violations through those accounts.

3 “(2) ADDITIONAL STANDARDS FOR CERTAIN
4 CORRESPONDENT ACCOUNTS.—

5 “(A) IN GENERAL.—Subparagraph (B)
6 shall apply if a correspondent account is re-
7 quested or maintained by, or on behalf of, a
8 foreign bank operating—

9 “(i) under an offshore banking li-
10 cense; or

11 “(ii) under a banking license issued
12 by a foreign country that has been des-
13 ignated—

14 “(I) as noncooperative with inter-
15 national human rights principles or
16 procedures by the United States or an
17 intergovernmental group or organiza-
18 tion of which the United States is a
19 member, with which designation the
20 United States representative to the
21 group or organization concurs; or

22 “(II) by the Secretary as war-
23 ranting special measures due to con-
24 cerns with covered human rights vio-
25 lations.

1 “(B) POLICIES, PROCEDURES, AND CON-
2 TROLS.—The enhanced due diligence policies,
3 procedures, and controls required under para-
4 graph (1) shall, at a minimum, ensure that the
5 financial institution in the United States takes
6 reasonable steps—

7 “(i) to ascertain for any such foreign
8 bank, the shares of which are not publicly
9 traded, the identity of each of the owners
10 of the foreign bank, and the nature and
11 extent of the ownership interest of each
12 such owner;

13 “(ii) to conduct enhanced scrutiny of
14 such account to ensure the account is not
15 associated with covered human rights vio-
16 lations and report any suspicious trans-
17 actions under section 5318(g); and

18 “(iii) to ascertain whether such for-
19 eign bank provides correspondent accounts
20 to other foreign banks and, if so, the iden-
21 tity of those foreign banks and related due
22 diligence information, as appropriate under
23 paragraph (1).

24 “(3) MINIMUM STANDARDS FOR PRIVATE BANK-
25 ING ACCOUNTS.—If a private banking account is re-

1 requested or maintained by, or on behalf of, a non-
2 United States person, then the due diligence policies,
3 procedures, and controls required under paragraph
4 (1) shall, at a minimum, ensure that the financial
5 institution takes reasonable steps—

6 “(A) to ascertain the identity of the nomi-
7 nal and beneficial owners of, and the source of
8 funds deposited into, such account as needed to
9 guard against supporting covered human rights
10 violations and report any suspicious trans-
11 actions under section 5318(g); and

12 “(B) to conduct enhanced scrutiny of any
13 such account that is requested or maintained
14 by, or on behalf of, a senior foreign political fig-
15 ure, or any immediate family member or close
16 associate of a senior foreign political figure,
17 that is reasonably designed to detect and report
18 transactions that may involve the proceeds of
19 covered human rights violations.

20 “(4) DEFINITIONS.—In this subsection:

21 “(A) OFFSHORE BANKING LICENSE.—The
22 term ‘offshore banking license’ means a license
23 to conduct banking activities which, as a condi-
24 tion of the license, prohibits the licensed entity
25 from conducting banking activities with the citi-

zens of, or with the local currency of, the country which issued the license.

“(B) PRIVATE BANKING ACCOUNT.—The term ‘private banking account’ means an account (or any combination of accounts) that—

“(i) requires a minimum aggregate deposit of funds or other assets of not less than \$500,000;

“(ii) is established on behalf of 1 or more individuals who have a direct or beneficial ownership interest in the account; and

“(iii) is assigned to, or is administered or managed by, in whole or in part, an officer, employee, or agent of a financial institution acting as a liaison between the financial institution and the direct or beneficial owner of the account.

“(f) DEFINITIONS.—In this section:

“(1) COVERED HUMAN RIGHTS VIOLATION.—

The term ‘covered human rights violation’ means—

“(A) an offense described under chapter 50A of title 18, United States Code; and

“(B) crimes against humanity.

1 “(2) XINJIANG.—The term ‘Xinjiang’ means
2 the Xinjiang Uyghur Autonomous Region, People’s
3 Republic of China.

4 “(3) OTHER DEFINITIONS.—The definitions
5 under section 5318A(e) shall apply to this section.”.

6 (b) CLERICAL AMENDMENT.—The table of contents
7 for chapter 53 of title 31, United States Code, is amended
8 by inserting after the item relating to section 5318A the
9 following:

 “5318B. Special measures for jurisdictions, financial institutions, or inter-
 national transactions of primary humanitarian concern.”.

10 **SEC. 4. ASSESSING XINJIANG AS A JURISDICTION OF PRI-**
11 **MARY HUMANITARIAN CONCERN.**

12 (a) DETERMINATION.—Not later than 180 days after
13 the date of enactment of this Act, the Secretary of the
14 Treasury, in consultation with the Secretary of State and
15 the Secretary of Commerce, shall determine whether rea-
16 sonable grounds exist to determine that Xinjiang Uyghur
17 Autonomous Region, People’s Republic of China, is a ju-
18 risdiction of primary humanitarian concern under section
19 5318B of title 31, United States Code.

20 (b) REPORT.—As soon as practicable after the deter-
21 mination required under subsection (a), the Secretary of
22 the Treasury shall issue a report to the Congress con-
23 taining the following:

1 (1) Whether the Secretary determines that rea-
2 sonable grounds exist to determine that Xinjiang is
3 a jurisdiction of primary humanitarian concern.

4 (2) If so, which special measures described
5 under subsection (b) of such section 5318B, if any,
6 the Secretary of the Treasury shall require domestic
7 financial institutions and domestic financial agencies
8 to take with respect to Xinjiang.

9 (3) If not, a detailed explanation of the Sec-
10 retary's reasoning in making such determination and
11 evidence supporting that determination.

12 (c) CLASSIFICATION.—The report submitted pursu-
13 ant to subsection (a) shall be submitted in unclassified
14 form, but may include a classified annex.

15 **SEC. 5. REPORT ON POLYSILICATE PRODUCTION AND**
16 **TRADE.**

17 Not later than 120 days after the date of enactment
18 of this Act, the Secretary of State shall issue a report to
19 the Congress containing a description of the following:

20 (1) Polysilicate production in Xinjiang.

21 (2) The use of forced labor in polysilicate pro-
22 duction and trade.

23 (3) The role of the Chinese Government and its
24 affiliated actors, including the Xinjiang Production

1 and Construction Corps, in polysilicate production
2 and trade.

3 (4) The impacts of Chinese polysilicate produc-
4 tion on international markets and ethical implica-
5 tions thereof.

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