

117TH CONGRESS
1ST SESSION

H. R. 5286

To establish a Chinese Corporate Human Rights Abusers List, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 17, 2021

Mr. PERRY introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Armed Services, and Financial Services, 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 establish a Chinese Corporate Human Rights Abusers List, 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; TABLE OF CONTENTS; PURPOSE.**

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

7 (b) TABLE OF CONTENTS.—The table of contents for
8 this Act is as follows:

Sec. 1. Short title; table of contents; purpose.

TITLE I—CHINESE CORPORATE HUMAN RIGHTS ABUSERS LIST

Sec. 101. Findings.

Sec. 102. Definitions; report on Chinese corporate human rights abusers with securities traded by United States persons.

Sec. 103. Chinese Corporate Human Rights Abusers List; sanctions.

TITLE II—SANCTIONS AGAINST COMMUNIST CHINESE MILITARY COMPANIES, CHINESE MILITARY COMPANIES, AND CHINESE MILITARY-INDUSTRIAL COMPLEX COMPANIES

Sec. 201. Definitions.

Sec. 202. Sanctions for communist Chinese military companies and Chinese military companies.

Sec. 203. Limitation on judicial review.

1 (c) PURPOSE.—The purpose of this Act is to codify
2 into law the provisions of Executive Order 14032 of June
3 3, 2021 (86 Fed. Reg. 30145; relating to Addressing the
4 Threat From Securities Investments That Finance Cer-
5 tain Companies of the People’s Republic of China), as in
6 effect on the date of the enactment of this Act.

7 **TITLE I—CHINESE CORPORATE**
8 **HUMAN RIGHTS ABUSERS LIST**

9 **SEC. 101. FINDINGS.**

10 Congress finds the following:

11 (1) In its 2020 report to Congress, the bipar-
12 tisan United States-China Economic and Security
13 Review Commission issued the following key find-
14 ings:

15 (A) As Beijing strategically opens its fi-
16 nancial sector to secure foreign capital and
17 global investment indices shift asset allocations
18 toward Chinese securities, United States inves-
19 tors’ exposure to the unique and significant

1 risks accumulated in China's capital markets
2 rises. These risks center around the opacity of
3 China's financial system and Beijing's inter-
4 ference in market activity to advance its polit-
5 ical objectives.

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

19 (C) Beijing continues to deny United
20 States audit regulators full visibility into the fi-
21 nancials of U.S.-listed Chinese companies in
22 line with United States accounting standards.
23 These evasions from effective regulation and
24 oversight, together with United States-listed
25 Chinese companies' complex ownership struc-

1 tures, deprive United States investors of both
2 full transparency and the opportunity for legal
3 redress in cases of accounting fraud, eroding
4 the integrity of United States capital markets.

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

14 (3) The efforts of the Government of the
15 United States to stymie China's utilization of United
16 States capital markets is an ongoing, multi-agency,
17 and decades-long effort. The colloquially titled Sec-
18 tion 1237 List of the Strom Thurmond National De-
19 fense Authorization Act for Fiscal Year 1999, as
20 well as the Section 1260H List of the William M.
21 (Mac) Thornberry National Defense Authorization
22 Act for Fiscal Year 2021, both highlight companies
23 who pose a serious threat to the national security of
24 the United States.

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

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

24 (6) On March 12, 2021, the United States Dis-
25 trict Court for the District of Columbia issued an

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

14 (7) Several Chinese military or military related
15 companies, as well as surveillance and technology
16 companies, including Hikvision, a major manufac-
17 turer of video surveillance equipment, materially
18 contribute to either the ongoing genocide in Xinjiang
19 or to other gross violations of internationally recog-
20 nized human rights across the People’s Republic of
21 China (PRC).

22 (8) On January 19, 2021, then-Secretary of
23 State Michael R. Pompeo determined that the Chi-
24 nese Communist Party (CCP) has committed geno-
25 cide against the predominantly Muslim Uyghurs and

1 other ethnic and religious minority groups in
2 Xinjiang.

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

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

20 (11) On April 21, 2021, the United States
21 House Committee on Foreign Affairs approved with-
22 out objection H.R. 1155, which affirmed that the
23 PRC, since 2017, has arbitrarily detained as many
24 as 1.8 million Uyghurs, Kazakhs, Kyrgyz, and mem-
25 bers of other Muslim minority groups in a system of

1 extrajudicial mass internment camps, in addition to
2 arbitrarily detaining many in formal prisons and de-
3 tention centers, and has subjected detainees to
4 forced labor, torture, political indoctrination, and
5 other severe human rights abuses.

6 (12) The State Department's January 2021
7 genocide designation further cited the forced steri-
8 lization of Uyghur and other minority women, with
9 the purpose of eliminating the minority population
10 in Xinjiang.

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

16 (14) In many detention facilities and labor
17 camps across the PRC, Falun Gong prisoners of
18 conscience have at times comprised the majority of
19 the population, and have been said to receive the
20 longest sentences and the worst treatment, including
21 torture.

22 (15) The persecution and killing of religious
23 and political prisoners for any purpose, including for
24 the purpose of selling their organs for transplant, is

1 an egregious and intolerable violation of the funda-
2 mental right to life.

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

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

18 (18) Protecting United States capital markets
19 against PRC-based companies that support the
20 PLA’s modernization efforts or else aid and abet
21 grotesque and barbaric violations of internationally
22 recognized human rights is a national security im-
23 perative.

24 (19) As argued by the Uyghur Human Rights
25 Project: “[It is] still legal for shareholders to make

1 profits from ownership of these complicit Chinese
2 companies, some of which are publicly traded, in-
3 cluding through ‘emerging markets’ indexes. It is
4 time for much more serious action: no U.S. persons
5 should be permitted to hold the stocks and bonds of
6 the Chinese companies that are under U.S. human
7 rights sanctions.”.

8 **SEC. 102. DEFINITIONS; REPORT ON CHINESE CORPORATE**
9 **HUMAN RIGHTS ABUSERS WITH SECURITIES**
10 **TRADED BY UNITED STATES PERSONS.**

11 (a) DEFINITIONS.—In this title:

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

13 (A) has the meaning given such term in
14 section 230.405 of title 17, Code of Federal
15 Regulations (as in effect on the date of the en-
16 actment of this Act);

17 (B) means a person that is closely associ-
18 ated with another person typically in a depend-
19 ent or subordinate position; or

20 (C) means a person that has a common
21 purpose or shared characteristics with another
22 person.

23 (2) APPROPRIATE COMMITTEES OF CON-
24 GRESS.—The term “appropriate committees of Con-
25 gress” means—

1 (A) the Committee on Foreign Relations,
2 the Select Committee on Intelligence, the Com-
3 mittee on Banking, Housing, and Urban Af-
4 fairs, and the Committee on Armed Services of
5 the Senate; and

6 (B) the Committee on Foreign Affairs, the
7 Permanent Select Committee on Intelligence,
8 the Committee on Financial Services, and the
9 Committee on Armed Services of the House of
10 Representatives.

11 (3) COVERED ENTITY.—The term “covered en-
12 tity”—

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

15 (B) includes any affiliate of such entity.

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

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

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

24 (7) PUBLICLY TRADED SECURITIES.—The term
25 “publicly traded securities” includes any security (as

1 defined in section 3(a) of the Securities Exchange
2 Act of 1934 (15 U.S.C. 78)), denominated in any
3 currency that trades on a securities exchange or
4 through the method of trading that is commonly re-
5 ferred to as “over-the-counter”, in any jurisdiction.

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

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

11 (A) any United States citizen, permanent
12 resident alien, or entity (including foreign
13 branches) organized under the laws of the
14 United States or any jurisdiction within the
15 United States; or

16 (B) any person in the United States.

17 (b) REPORT.—

18 (1) IN GENERAL.—Not later than 180 days
19 after the date of the enactment of this Act, and an-
20 nually thereafter for 5 years, the Secretary of State,
21 in consultation with the Director of National Intel-
22 ligence and the Secretary of the Treasury, shall sub-
23 mit to the appropriate committees of Congress a re-
24 port that describes the risks posed to the United
25 States by the presence in United States capital mar-

1 kets of entities incorporated in the PRC, or entities
2 owned, controlled, or are entitled to a share of the
3 profits of entities incorporated in the PRC.

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

6 (A) identify entities described in paragraph

7 (1)—

8 (i) whose shares are publicly traded
9 by United States persons;

10 (ii) based on the factors for consider-
11 ation described in paragraph (3), have
12 knowingly and materially contributed to—

13 (I) activities that both undermine
14 and pose an unusual and extraor-
15 dinary threat to the national security,
16 foreign policy, or economy of the
17 United States;

18 (II) serious abuses of internation-
19 ally recognized human rights; or

20 (III) a substantially increased fi-
21 nancial risk exposure for United
22 States-based investors;

23 (B) describe the activities of entities identi-
24 fied pursuant to subparagraph (A) and the im-

1 plications of such activities for the United
2 States;

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

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

13 (3) FACTORS FOR CONSIDERATION.—The fac-
14 tors for consideration described in this paragraph,
15 with respect to an entity, are whether or the extent
16 to which the entity—

17 (A) has materially contributed to the devel-
18 opment or manufacture, or sold or facilitated
19 procurement by the People’s Liberation Army
20 (PLA), of military equipment or component
21 parts of such equipment;

22 (B) has contributed to the construction
23 and militarization of features in the South
24 China Sea;

1 (C) has been sanctioned by the United
2 States or has been determined to have con-
3 ducted business with sanctioned entities;

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

6 (E) has engaged in corporate or economic
7 espionage;

8 (F) has contributed to the proliferation of
9 nuclear or missile technology in violation of
10 United Nations Security Council resolutions or
11 United States sanctions;

12 (G) has contributed to the repression of
13 distinct religious and ethnic groups, including
14 in the Uyghur or Tibet Autonomous Regions;

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

18 (I) has contributed to the development of
19 technologies that enable censorship directed or
20 directly supported by the PRC government;

21 (J) has failed to comply fully with—

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

1 (ii) a required audit by the Public
2 Company Accounting Oversight Board; or

3 (iii) a material risk disclosure require-
4 ment of the Securities and Exchange Com-
5 mission; or

6 (K) has contributed to other activities or
7 behavior determined to be relevant by the Presi-
8 dent.

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

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

17 (6) ENTITY LIST DEFINED.—

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

22 (B) EXPORT ADMINISTRATION REGULA-
23 TIONS DEFINED.—In subparagraph (A), the
24 term “Export Administration Regulations”
25 means the regulations set forth in subchapter C

1 of chapter VII of title 15, Code of Federal Reg-
2 ulations, or successor regulations.

3 **SEC. 103. CHINESE CORPORATE HUMAN RIGHTS ABUSERS**
4 **LIST; SANCTIONS.**

5 (a) CHINESE CORPORATE HUMAN RIGHTS ABUSERS
6 LIST.—

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

14 (A) is engaged in, complicit in, or other-
15 wise responsible for, directly or indirectly, gross
16 violations of internationally recognized human
17 rights or serious human rights abuses in the
18 PRC; or

19 (B) undermines or poses an unusual and
20 extraordinary threat to the national security,
21 foreign policy, or economy of the United States,
22 or otherwise presents an increased financial risk
23 exposure for United States-based investors.

24 (2) LIST.—Not later than 180 days after the
25 date of the enactment of this Act, and annually

1 thereafter until December 31, 2030, the Secretary of
2 State shall submit to appropriate committees of
3 Congress a list, to be known as the “Chinese Cor-
4 porate Human Rights Abusers List”, that—

5 (A) includes each covered entity identified
6 pursuant to paragraph (1); and

7 (B) includes, as applicable, an explanation
8 as to why a covered entity that was previously
9 identified pursuant to paragraph (1) is no
10 longer so identified.

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

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

19 (5) TRANSMISSION TO OTHER FEDERAL OFFI-
20 CIALS.—The Secretary of State shall, concurrently
21 with the submission of the list required by para-
22 graph (2), transmit a copy of such list to the Sec-
23 retary of the Treasury, and the Director of National
24 Intelligence. The Secretary of State shall also trans-
25 mit a copy of such list to the Director of the Office

1 of Foreign Assets Control of the Department of the
2 Treasury for immediate implementation of the sanc-
3 tions described in subsection (b) against those cov-
4 ered entities included on such list.

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

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

16 (b) SANCTIONS.—

17 (1) IN GENERAL.—The purchase or sale by a
18 United States person of any publicly traded securi-
19 ties, or any publicly traded securities that are deriv-
20 ative of such securities or are designed to provide in-
21 vestment exposure to such securities, of any covered
22 entity designated by the Secretary of State for place-
23 ment on the Chinese Corporate Human Rights
24 Abusers List is prohibited.

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

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

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

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

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

21 (B) 12:01 a.m. eastern daylight time on
22 the date that is 365 days after the date of the
23 determination in subsection (a) with respect to
24 any covered entity subsequently included on the
25 list required by subsection (a)(2).

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

7 (5) EVASION OF SANCTIONS.—

8 (A) IN GENERAL.—The following actions
9 are prohibited:

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

16 (ii) Any conspiracy formed to violate
17 any of the prohibitions set forth in this
18 Act.

19 (B) PENALTIES.—The authorization pro-
20 vided in paragraph (6) may be used to apply
21 penalties provided for in subsections (b) and (c)
22 of section 206 of the International Emergency
23 Economic Powers Act (50 U.S.C. 1705) with
24 respect to a person that knowingly violates, at-
25 tempts to violate, conspires to violate, or causes

1 a violation of regulations promulgated under
2 paragraph (6) to the same extent that such
3 penalties apply to a person that knowingly com-
4 mits an unlawful act described in section
5 206(a) of that Act.

6 (6) AUTHORIZATION.—

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

24 (B) RULES AND REGULATIONS.—Rules
25 and regulations issued pursuant to this Act

may, among other things, establish procedures to license transactions otherwise prohibited pursuant to this Act. But prior to issuing any license under this Act, the Secretary of the Treasury shall consult with the Secretary of State, the Secretary of Defense, and the Director of National Intelligence.

**TITLE II—SANCTIONS AGAINST
COMMUNIST CHINESE MILI-
TARY COMPANIES, CHINESE
MILITARY COMPANIES, AND
CHINESE MILITARY-INDUS-
TRIAL COMPLEX COMPANIES**

SEC. 201. DEFINITIONS.

In this title:

(1) AFFILIATE.—The term “affiliate”—

(A) has the meaning given such term in section 230.405 of title 17, Code of Federal Regulations (as in effect on the date of the enactment of this Act);

(B) means a person that is closely associated with another person typically in a dependent or subordinate position; or

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

4 (2) COMMUNIST CHINESE MILITARY COM-
5 PANY.—The term “Communist Chinese military
6 company”—

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

12 (B) includes any affiliate of such company.

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

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

21 (B) include any affiliate of such company
22 or contributor.

23 (4) SECTION 102 TERMS.—The terms “person”,
24 “publicly traded security”, and “United States per-

1 son” have the meanings given such terms, respec-
2 tively, in section 102.

3 (5) SECTION 1237 LIST.—The term “Section
4 1237 List” means the list required by section 1237
5 of the Strom Thurmond National Defense Author-
6 ization Act for Fiscal Year 1999.

7 (6) SECTION 1260H LIST.—The term “Section
8 1260H List” means the list required by section
9 1260H of the William M. (Mac) Thornberry Na-
10 tional Defense Authorization Act for Fiscal Year
11 2021.

12 **SEC. 202. SANCTIONS FOR COMMUNIST CHINESE MILITARY**
13 **COMPANIES AND CHINESE MILITARY COMPA-**
14 **NIES.**

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

18 (b) PROHIBITIONS.—

19 (1) IN GENERAL.—

20 (A) PURCHASE OR SALE OF CERTAIN SE-
21 CURITIES PROHIBITED.—The purchase or sale
22 by a United States person of any publicly trad-
23 ed securities, or any publicly traded securities
24 that are derivative of such securities or are de-
25 signed to provide investment exposure to such

1 securities, of any person described in subpara-
2 graph (B) is prohibited.

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

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

10 (ii) a Communist Chinese military
11 company listed on the Section 1237 List;

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

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

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

23 (A) Beginning at 12:01 a.m. eastern day-
24 light time on August 2, 2021, with respect to

1 a person designated or listed on a List de-
2 scribed in paragraph (1)(B) on such date.

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

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

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

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

20 (4) RULE OF APPLICATION.—This subsection
21 shall apply except to the extent provided by statutes,
22 or in regulations, orders, directives, or licenses that
23 may be issued pursuant to this Act, and notwith-
24 standing any contract entered into or any license or
25 permit granted before the date of this Act.

1 (5) EVASION OF PROHIBITIONS.—

2 (A) IN GENERAL.—The following actions
3 are prohibited:

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

10 (ii) Any conspiracy formed to violate
11 any of the prohibitions set forth in this
12 Act.

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

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

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

16 (e) AUTHORIZATION.—

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

1 agency Economic Powers Act, to carry out the pur-
2 poses of this section. The Secretary of the Treasury
3 may, consistent with applicable law, redelegate any
4 of these functions within the Department of the
5 Treasury. All departments and agencies shall take
6 all appropriate measures within their authority to
7 carry out the provisions of this section.

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

16 **SEC. 203. LIMITATION ON JUDICIAL REVIEW.**

17 (a) DECISION BY SECRETARY OF STATE.—The deci-
18 sion of the Secretary of State as to any question regarding
19 the inclusion of a covered entity on the list required by
20 section 103(a) shall be final and conclusive and may not
21 be reviewed by any other official or by any court, whether
22 by action in the nature of mandamus or otherwise.

23 (b) DECISION BY SECRETARY OF DEFENSE.—The
24 decision of the Secretary of Defense as to any question
25 regarding the inclusion of a Communist Chinese military

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

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

19 (d) RULES AND REGULATIONS PROMULGATED BY
20 THE SECRETARY OF THE TREASURY.—The rules and reg-
21 ulations promulgated by the Secretary of the Treasury
22 under sections 103(b)(6) and 202(e) shall be final and not
23 subject to any further agency review or to judicial review

1 by any court (including under chapter 7 of title 5, United
2 States Code).

