

116TH CONGRESS
2D SESSION

H. R. 7181

To amend the Sarbanes-Oxley Act of 2002 to require the Public Company Accounting Oversight Board to maintain a list of certain foreign issuers, to prohibit certain nationals of the People's Republic of China from receiving nonimmigrant visas, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 2020

Mr. NUNES (for himself, Mr. CONAWAY, Mr. CRAWFORD, Mr. TURNER, Mr. STEWART, Ms. STEFANIK, Mr. WENSTRUP, Mr. CALVERT, Mr. MARSHALL, Mr. GIBBS, Mr. GAETZ, Mr. WILSON of South Carolina, Mr. HOLDING, Mr. COLLINS of Georgia, Mr. DIAZ-BALART, Mr. GARCIA of California, Mr. COOK, Mr. KUSTOFF of Tennessee, Mr. MCCLINTOCK, Mr. BISHOP of North Carolina, Mr. SPANO, Mr. BROOKS of Alabama, and Mr. ROUZER) introduced the following bill; which was referred to the Committee on Financial Services, and in addition to the Committees on the Judiciary, and Education and Labor, 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 the Sarbanes-Oxley Act of 2002 to require the Public Company Accounting Oversight Board to maintain a list of certain foreign issuers, to prohibit certain nationals of the People's Republic of China from receiving nonimmigrant visas, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Holding China Ac-
3 countable Act”.

4 **SEC. 2. DISCLOSURES AND PROHIBITION AGAINST THE**
5 **LISTING OF CERTAIN FIRMS ON NATIONAL**
6 **SECURITIES EXCHANGES.**

7 (a) DISCLOSURE.—

8 (1) LIST OF CERTAIN FOREIGN ISSUERS AND
9 COVERED FOREIGN PUBLIC ACCOUNTING FIRMS.—

10 (A) IN GENERAL.—The Commission shall
11 maintain a publicly available list of—

12 (i) each foreign issuer, an audit report
13 of which—

14 (I) is prepared by a foreign pub-
15 lic accounting firm; and

16 (II) the Board is not able to in-
17 spect or investigate because of a posi-
18 tion taken by an authority that is out-
19 side of the United States;

20 (ii) each covered foreign public ac-
21 counting firm that has prepared an audit
22 report identified under clause (i); and

23 (iii) the jurisdiction in which each cov-
24 ered foreign public accounting firm identi-
25 fied under clause (ii) is organized or oper-
26 ating.

1 (B) ROLE OF THE BOARD.—Not less fre-
2 quently than annually, the Board shall provide
3 to the Commission the information that is re-
4 quired for the Commission to carry out sub-
5 paragraph (A).

6 (2) ANNUAL REPORT DISCLOSURE.—

7 (A) DISCLOSURE.—Each applicable foreign
8 issuer shall disclose in each covered form filed
9 by the applicable foreign issuer—

10 (i) that, during the period covered by
11 covered form, a covered foreign public ac-
12 counting firm has prepared an audit report
13 for the issuer;

14 (ii) the percentage of the shares of the
15 issuer owned by governmental entities in
16 the foreign jurisdiction in which the issuer
17 is incorporated or otherwise organized;

18 (iii) whether governmental entities in
19 a covered jurisdiction with respect to any
20 covered foreign public accounting firm that
21 has prepared an audit report for the issuer
22 during the period covered by the form have
23 a controlling financial interest with respect
24 to the issuer; and

1 (iv) the name of any official of the
2 Chinese Communist Party who is a mem-
3 ber of the board of directors of the issuer
4 or the operating entity with respect to the
5 issuer.

6 (B) UPDATE OF RULES.—Not later than
7 270 days after the date of enactment of this
8 Act, and after providing the opportunity for
9 public notice and comment, the Commission
10 shall make any amendments to the rules of the
11 Commission that are required as a result of the
12 requirements of this subsection.

13 (C) EFFECTIVE DATE.—This subsection
14 shall take effect on the date on which the Com-
15 mission completes the amendments required
16 under subparagraph (B).

17 (3) DISCLOSURE BY BROKERS AND DEALERS.—
18 Section 15(n) of the Securities Exchange Act of
19 1934 (15 U.S.C. 78o(n)) is amended—

20 (A) in paragraph (1), by striking “Com-
21 mission may issue” and all that follows through
22 the period at the end and inserting the fol-
23 lowing: “Commission—

24 “(A) shall issue rules that require a broker
25 and a dealer to disclose, with respect to any ad-

vice, analysis, or report of the broker or dealer to a retail investor regarding the securities of a foreign issuer, whether a covered foreign public accounting firm has prepared an audit report for the foreign issuer; and

“(B) in addition to the rules required under subparagraph (A), may issue rules designating documents or information that shall be provided by a broker or dealer to a retail investor before the purchase of an investment product or service by the retail investor.”; and

(B) by adding at the end the following:

“(4) DEFINITIONS.—In this subsection, the terms ‘audit report’, ‘covered foreign public accounting firm’, and ‘foreign issuer’ have the meanings given the terms in section 2 of the **EQUITABLE Act.**”.

(b) **PROHIBITION AGAINST THE LISTING OF CERTAIN FIRMS ON NATIONAL SECURITIES EXCHANGES.—**

(1) **IN GENERAL.**—Section 6(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78f(b)) is amended by adding at the end the following:

“(11)(A) The rules of the exchange prohibit the initial listing, after the date of enactment of this paragraph, of any security of an issuer for which a

1 covered foreign public accounting firm has prepared
2 an audit report.

3 “(B) Nothing in subparagraph (A) may be con-
4 strued to prevent an exchange from listing a security
5 on the exchange on or after the date of enactment
6 of this paragraph if that security was listed on the
7 exchange or a national securities exchange before
8 the date of enactment of this paragraph.

9 “(C) In this paragraph, the terms ‘audit report’
10 and ‘covered foreign public accounting firm’ have the
11 meanings given the terms in section 2 of the EQUI-
12 TABLE Act.

13 “(12)(A) The rules of the exchange prohibit the
14 listing of any security of a foreign issuer that, begin-
15 ning in 2025, has been identified under section
16 3(a)(1)(A) of the EQUITABLE Act in 3 consecutive
17 years.

18 “(B) Nothing in subparagraph (A) may be con-
19 strued to prevent an exchange from listing a security
20 of a foreign issuer described in that subparagraph
21 beginning on the date on which the issuer submits
22 to the Commission an audit report for the issuer
23 that is prepared by a registered public accounting
24 firm that the Public Company Accounting Oversight
25 Board has inspected, or is able to inspect, under sec-

tion 104 of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7214).

“(C) In this paragraph—

“(i) the terms ‘audit report’ and ‘registered public accounting firm’ have the meanings given the terms in section 2(a) of the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201(a)); and

“(ii) the terms ‘covered foreign public accounting firm’ and ‘foreign issuer’ have the meanings given the terms in section 2 of the EQUITABLE Act.”.

(2) RULES.—

(A) PROPOSALS.—Not later than 90 days after the date of enactment of this Act, each national securities exchange shall, in accordance with section 19(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78s(b)) and any rules prescribed by the Commission under that section, file with the Commission any proposed change to the rules of the exchange that is required as a result of the amendments made by this section.

(B) ADOPTION.—Not later than 1 year after the date of enactment of this Act, each

1 national securities exchange shall have each
2 proposed change described in paragraph (1) ap-
3 proved by the Commission.

4 (c) DEFINITIONS.—In this section—

5 (1) the term “applicable foreign issuer” means
6 a foreign issuer—

7 (A) that is required to file a covered form;
8 and

9 (B) for which, during the period covered
10 by the filing described in subparagraph (A), a
11 covered foreign public accounting firm has pre-
12 pared an audit report for the issuer;

13 (2) the term “audit report” has the meaning
14 given the term in section 2(a) of the Sarbanes-Oxley
15 Act of 2002 (15 U.S.C. 7201(a));

16 (3) the term “Board” means the Public Com-
17 pany Accounting Oversight Board;

18 (4) the term “Commission” means the Securi-
19 ties and Exchange Commission;

20 (5) the term “covered foreign public accounting
21 firm” means a foreign public accounting firm that
22 the Board is unable to inspect or investigate under
23 the Sarbanes-Oxley Act of 2002 (15 U.S.C. 7201 et
24 seq.) because of a position taken by an authority
25 outside of the United States;

1 (6) the term “covered form”—

2 (A) means—

3 (i) the form described in section
4 249.310 of title 17, Code of Federal Regu-
5 lations, or any successor regulation; and

6 (ii) the form described in section
7 249.220f of title 17, Code of Federal Reg-
8 ulations, or any successor regulation; and

9 (B) includes a form that—

10 (i) is the equivalent of, or substan-
11 tially similar to, the form described in
12 clause (i) or (ii) of subparagraph (A); and

13 (ii) a foreign issuer files with the
14 Commission under the Securities Exchange
15 Act of 1934 (15 U.S.C. 78a et seq.) or
16 rules issued under that Act;

17 (7) the term “covered jurisdiction” means the
18 foreign jurisdiction in which the position described
19 in paragraph (5) is taken with respect to a covered
20 foreign public accounting firm that prepares an
21 audit report for an applicable foreign issuer;

22 (8) the term “exchange” has the meaning given
23 the term in section 3(a) of the Securities Exchange
24 Act of 1934 (15 U.S.C. 78a(a));

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

4 (10) the term “foreign public accounting firm”
5 has the meaning given the term in section 106(g) of
6 the Sarbanes-Oxley Act of 2002 (15 U.S.C.
7 7216(g));

8 (11) the term “national securities exchange”
9 means an exchange that is registered with the Com-
10 mission under section 6 of the Securities Exchange
11 Act of 1934 (15 U.S.C. 78f); and

12 (12) the term “public accounting firm” has the
13 meaning given the term in section 2(a) of the Sar-
14 banes-Oxley Act of 2002 (15 U.S.C. 7201(a)).

15 **SEC. 3. RESTRICTION ON ISSUANCE OF NONIMMIGRANT**
16 **VISAS TO NATIONALS OF CHINA.**

17 (a) RESTRICTION.—The Secretary of State may not
18 issue a visa to, and the Secretary of Homeland Security
19 shall deny entry to the United States of, an alien under
20 section 101(a)(15) of the Immigration and Nationality Act
21 (8 U.S.C. 1101(a)(15)) if the alien is a national of the
22 People’s Republic of China seeking to enter the United
23 States for the purpose of—

24 (1) studying science, technology, engineering,
25 mathematics, or a related field;

1 (2) employment in science, technology, engi-
2 neering, mathematics, or a related field; or

3 (3) attending a business meeting, conference, or
4 academic or cultural exchange, that includes activi-
5 ties related to science, technology, engineering,
6 mathematics, or a related field.

7 (b) APPLICABILITY.—The restriction under sub-
8 section (a) shall not apply for any year in which the Presi-
9 dent certifies to Congress that—

10 (1) the People’s Republic of China has not pro-
11 vided state support of cyber espionage against a
12 United States company during the preceding year;
13 and

14 (2) no individual or entity present in the United
15 States has engaged in espionage against a United
16 States company on behalf of the People’s Republic
17 of China during the preceding year.

18 (c) DEFINITIONS.—In this section:

19 (1) CYBER ESPIONAGE.—The term “cyber espi-
20 onage” means unauthorized access to a communica-
21 tions network, a communications system, or a device
22 connected to such a network or system that—

23 (A) is carried out by a foreign government
24 or any individual or entity working on behalf of
25 a foreign government; and

1 (B) is for the purpose of—

2 (i) collecting information related to a
3 copyrighted or copyrightable work, pat-
4 ented or patentable invention, trademarked
5 good or service, or trade secret (as such
6 term is defined in section 1839 of title 18,
7 United States Code); or

8 (ii) disruption, destruction, or manip-
9 ulation of, or other change to, such net-
10 work, system, or device or any information
11 stored on or transmitted by such network,
12 system, or device.

13 (2) ESPIONAGE.—The term “espionage” means
14 unauthorized access to or collection of information
15 related to a copyrighted or copyrightable work, pat-
16 ented or patentable invention, trademarked good or
17 service, or trade secret (as such term is defined in
18 section 1839 of title 18, United States Code) by a
19 foreign government or any individual or entity work-
20 ing on behalf of a foreign government.

21 (3) UNITED STATES COMPANY.—The term
22 “United States company” means an organization or-
23 ganized under the laws of the United States or a
24 State or political subdivision thereof.

1 **SEC. 4. DISCLOSURES OF FOREIGN GIFTS.**

2 (a) SHORT TITLE.—This section may be cited as the
3 “Foreign Adversary Funding in Higher Education Act”.

4 (b) SPECIAL RULE.—Section 117(a) of the Higher
5 Education Act of 1965 (20 U.S.C. 1011f(a)) is amend-
6 ed—

7 (1) by striking “Whenever any” and by insert-
8 ing the following:

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 whenever any”; and

11 (2) by adding at the end the following:

12 “(2) SPECIAL RULE.—

13 “(A) IN GENERAL.—Notwithstanding para-
14 graph (1), whenever any institution is owned or
15 controlled by a foreign source listed in subpara-
16 graph (B) or receives a gift from or enters into
17 a contract with that foreign source, paragraph
18 (1) shall be applied by substituting ‘\$25,000’
19 for ‘\$250,000’.

20 “(B) FOREIGN SOURCE.—A foreign source
21 listed in this subparagraph is:

22 “(i) The People’s Republic of China.

23 “(ii) The Russian Federation.

24 “(iii) The Islamic Republic of Iran.

25 “(iv) The Democratic People’s Repub-
26 lic of Korea.”.

1 (c) ENFORCEMENT.—Section 117(f)(2) of the Higher
2 Education Act of 1965 (20 U.S.C. 1011f(f)(2)) is amend-
3 ed by inserting “an amount equal to the amount that the
4 institution failed to report under this section and” before
5 “the full costs”.

6 (d) WEB PORTAL.—Section 117 of the Higher Edu-
7 cation Act of 1965 (20 U.S.C. 1011f) is further amend-
8 ed—

9 (1) by redesignating subsections (g) and (h) as
10 subsections (h) and (i), respectively; and

11 (2) by inserting after subsection (f), the fol-
12 lowing:

13 “(g) WEB PORTAL.—Not later than 180 days after
14 the date of enactment of the ‘Foreign Adversary Funding
15 in Higher Education Act’, the Secretary shall establish a
16 publicly available web portal that—

17 “(1) enables electronic filing of disclosure re-
18 ports under this section; and

19 “(2) includes any reports filed before such date
20 of enactment.”.

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