



United States House of Representatives
One Hundred Eighteenth Congress
Committee on Financial Services
2126 Rayburn House Office Building
Washington, DC 20515

November 29, 2023

The Honorable Jack Reed
Chairman
Senate Armed Services Committee
228 Russell Senate Office Building
Washington D.C. 20510

The Honorable Mike Rogers
Chairman
House Armed Services Committee
2126 Rayburn House Office Building
Washington D.C. 20515

The Honorable Roger Wicker
Ranking Member
Senate Armed Services Committee
228 Russell Senate Office Building
Washington D.C. 20510

The Honorable Adam Smith
Ranking Member
House Armed Services Committee
2126 Rayburn House Office Building
Washington D.C. 20515

Dear Chairman Rogers, Ranking Member Smith, Chairman Reed, and Ranking Member Wicker:

We write today to express reservations with Section 1085 of the Senate-passed National Defense Authorization Act for Fiscal Year 2024 (NDAA).¹ This provision would create a new bureaucracy to regulate Americans' investments abroad, including in China. It was appropriately referred to the Committee on Financial Services. While we appreciate the intentions and objectives of Section 1085, the result of this provision would be to strengthen rather than weaken the objectives of Xi Jinping and the Chinese Communist Party (CCP).

To begin with, it is a misconception that U.S. investors are fueling China's economic growth. Under the Xi dictatorship, China has *attacked* Western investment as a threat to the CCP's hold.² As a result, foreign direct investment in China is negative for the first time on record, and U.S. venture capital in the country has reached a 10-year low.³ Far from craving foreign financing, China is the world's largest exporter of capital, which has powered the Belt and Road Initiative and made Beijing the largest official creditor in the world.⁴ Its foreign exchange reserves may now reach \$6 trillion, double what analysts previously thought.⁵

¹ Section 1085 of S. 2226.

² <https://foreignpolicy.com/2023/05/02/china-anti-espionage-law-foreign-investment-business-data/>

³ <https://rhg.com/research/big-strides-in-a-small-yard-the-new-us-outbound-investment-screening-regime/#:~:text=Our%20data%20on%20US%20venture,2018%2C%20which%20reached%20%2414.4%20billion>

⁴ <https://www.reuters.com/world/china/china-lent-134-trln-2000-2021-focus-shifts-belt-road-rescue-finance-report-2023-11-06/#:~:text=%22Beijing%20is%20navigating%20an%20unfamiliar,at%20William%20and%20Mary%20university.>

⁵ <https://www.bloomberg.com/news/articles/2023-06-30/china-has-3-trillion-of-hidden-currency-reserves-setser-says>

Sec. 1085 would have the unintended consequence of limiting Americans' control, influence, and intelligence gathering in Chinese technology companies. Think of it this way: the U.S. screens Chinese investments into Silicon Valley startups through the Committee on Foreign Investment in the United States (CFIUS). No one in the CCP is proposing an outbound investment regime that would block Chinese nationals from taking over America's technology innovators.⁶ The CCP is brutal, but it is not moronic. It is therefore unclear why the U.S. would want to prevent Americans from going abroad to pry open the world's most opaque major economy. We want Americans on the boards of Chinese companies spreading Western standards and complying with U.S. laws. Under Section 1085, those board seats would go to Chinese citizens.

The Financial Services Committee has passed a far more effective solution with unanimous support. H.R. 760, the *Chinese Military and Surveillance Companies Sanctions Act*, is all-inclusive. It would impose full blocking sanctions on any defense-sector entity in China, including Chinese Military and Industrial Complex (CMIC) companies such as Huawei, Hikvision, SMIC, and SenseTime.⁷ It also includes a comprehensive sanctions assessment for the Chinese entities listed pursuant to Section 1260H of the William M. (Mac) Thornberry NDAA for Fiscal Year 2021, a report administered by the Secretary of Defense, as well as companies on the Entity List and Military End User List.

Since China is in no way dependent on capital from U.S. investors, the only way to undermine its military companies is by cutting off revenues and technology, which is the advantage of a sanctions regime. Moreover, unlike unilateral investment measures, sanctions compliance and coordination with friends in the G7 and beyond amplify their impact. **Alternatively, if the goal of Section 1085 is simply to target know-how, then U.S. export controls already prohibit knowledge transfer abroad, often in cooperation with our allies.** Anyone who claims there is a "gap" in government authorities does not understand the authorities that exist, or they find sanctions and export controls too hawkish on China.

There is no better example of the effectiveness of sanctions than the Treasury Department's response to H.R. 760. The Treasury Department is concerned that the potential consequences for China from this bill could be "catastrophic."⁸ Instead, it is opting for an investment notification approach through E.O. 14105, not unlike Section 1085's requirement.

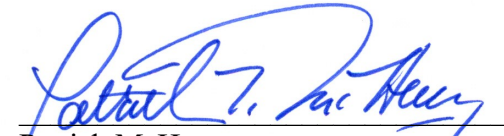
We stand ready to support strong and effective action that strengthens the U.S.'s competitive edge against China. Unfortunately, in our view, Section 1085 misses the mark. We encourage the conference committee to explore alternatives such as H.R. 760 so that we can finally impose meaningful blocking sanctions on China.

Sincerely,

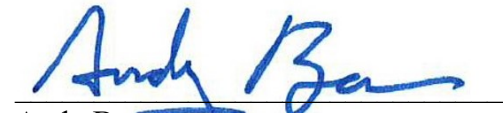
⁶ https://www.ey.com/en_cn/news/2023/08/ey-releases-the-overview-of-china-outbound-investment-of-h1-2023

⁷ <https://docs.house.gov/meetings/BA/BA00/20230920/116343/BILLS-118-HR760-B001282-Amdt-3.pdf>

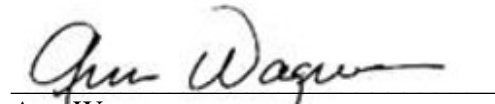
⁸ Treasury correspondence to Committee staff from September 2023.




Patrick McHenry
Chairman



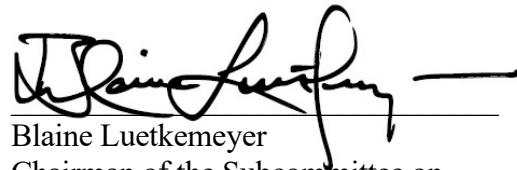
Andy Barr
Chairman of the Subcommittee on
Financial Institutions and Monetary
Policy



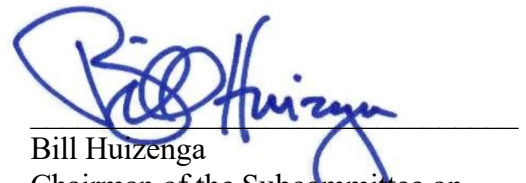
Ann Wagner
Chairman of the Subcommittee on
Capital Markets




French Hill
Chairman of the Subcommittee on
Digital Assets, Financial Technology
and Inclusion



Blaine Luetkemeyer
Chairman of the Subcommittee on
National Security, Illicit Finance, and
International Financial Institutions



Bill Huizenga
Chairman of the Subcommittee on
Oversight and Investigations



Warren Davidson
Chairman of the Subcommittee on
Housing and Insurance