



AMERICANS FOR LIMITED GOVERNMENT

10332 MAIN STREET, BOX 326 · FAIRFAX, VA 22030 · PHONE: 703.383.0880 · FAX: 703.383.5288 · WWW.GETLIBERTY.ORG

September 30, 2020

President Donald Trump
The White House
1600 Pennsylvania Avenue NW
Washington, DC 20500

Dear President Trump:

No President in our lifetimes has been tougher on China than you have been. Your administration has courageously and steadfastly taken on China's many trade abuses, threats to national security and human rights abuses. Your Art of the Deal got China to agree to a phase one trade agreement even though it left tariffs of 25 percent on \$250 billion of goods and another 7.5 percent on the remaining \$300 billion of goods. ¹ You and your administration have made it clear to Beijing that its continued actions that threaten Hong Kong and Taiwan will not go unchecked. And the Defense Department has listed 31 companies listed on U.S. stock exchanges that are either owned or controlled by the Chinese Communist Party and military. ²

Recently, and in addition, the Trump administration through the Thrift Savings Plan Board has made the all-important decision to exclude risky Chinese state-owned, non-transparent assets from the federal employees' 401(K) Thrift Savings Plan. On May 13, the Federal Retirement Thrift Investment Board delayed implementation of switching the I Fund benchmark to the Morgan Stanley Capital International All Country World Ex-U.S. Investable Market Index, which would have included China. ³

Significantly, U.S. Labor Secretary Eugene Scalia stated that stopping the inclusion of Chinese assets in the Thrift Savings Plan was necessary because it, "would place millions of federal employees, retirees, and service-members in the untenable position of choosing between forgoing any investment in international equities or placing billions of dollars in retirement savings in risky companies that pose a threat to U.S. national security." ⁴

Secretary Scalia's statement matters because the Labor Department also has a legal responsibility to ensure that private retirement investments are suitable, and under the same rationale used to urge federal retirement accounts be protected from unsafe Chinese investment, the Department should immediately end all private retirement investments in Chinese assets. The Secretary can do this simply by amending the current pending "Financial Factors in Selecting Plan Investments" regulation ⁵ to disqualify all companies that do not adhere to the transparency requirements of Dodd-Frank and Sarbanes-Oxley.

¹ <http://dailytorch.com/2020/01/art-of-the-deal-trump-secures-historic-trade-deal-with-china-leaves-tariffs-up-just-in-case-proving-trade-critics-wrong-yet-again/>

² <https://www.defense.gov/Newsroom/Releases/Release/Article/2328894/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>

³ <https://www.frtib.gov/MeetingMinutes/2020/2020May13.pdf>

⁴ <https://presentdangerchina.org/wp-content/uploads/2020/05/Sec.-Scalia-Letter-to-FRTIB-51120.pdf>

⁵ <https://www.federalregister.gov/documents/2020/06/30/2020-13705/financial-factors-in-selecting-plan-investments>

The obvious question is if Chinese assets are too risky for inclusion in the federal TSP, why would they be allowed to be included in private 401(K) investments where the same argument directly applies? The answer is that they are not, and under ERISA it is the Labor Department's job to protect private sector retirement specific investments or pensions from choices that are unsuitably risky.

In the attached July 7 letter from National Security Advisor Robert O'Brien and Larry Kudlow, Director of the National Economic Council to the head of the U.S. Railroad Retirement Board, they state, "The NRRI's Trust's investment in the PRC exposes the retirement funds of railroad workers to significant and unnecessary economic risk."⁶

Once again the question is why should private pension investments be allowed to be put into this risk when other public retirement funds are being urged to protect their retirees by ending these investments?

O'Brien and Kudlow continue by citing the exact transparency risk which directly puts Chinese assets in conflict with both the letter and intent of ERISA, "Another key reason why the NRI Trust's investments in PRC companies expose American railroad retirees to substantial economic risk is because the Chinese government prevents companies with Chinese operations listed on U.S. exchanges from complying with applicable U.S. securities laws, leaving investors without the benefit of important protections."

In addition, the U.S. Department of Labor's Bureau of International Labor Affairs annually issues a report on countries⁷ which use child and slave labor in the manufacture of goods. China is listed not once, not twice but twelve times in the latest report for using children and slaves to make goods, many of which find their place on the shelves of U.S. retailers like Walmart. Artificial flowers, bricks, Christmas decorations, coal, cotton, electronics, fireworks, footwear, garments, nails, textiles and toys are all listed as being made with child or slave labor in China. The very Christmas ornaments we put on our trees, the toys, clothing under that tree including the latest Colin Kaepernick shoe, and the phone or other Chinese made electronics are likely the product of the blood and toil of children and slaves.

The Department of Defense has also condemned the vast concentration camp system in China said to be housing up to 3 million Uighur Muslims in Xinjiang province alone. Assistant Secretary of Defense for Asian and Pacific Security Affairs Randall Schriver told a Pentagon briefing, "The [Chinese] are using the security forces for mass imprisonment of Chinese Muslims in concentration camps," justifying the use of the term because "given what we understand to be the magnitude of the detention, at least a million but likely closer to three million citizens out of a population of about 10 million".⁸

Finally, there is the ongoing genocide for organs of political prisoners including Falun Gong, the Uighurs and others, according to the Independent Tribunal Into Forced Organ Harvesting from Prisoners of Conscience in China.^{9 10}

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https://d3n8a8pro7vhmx.cloudfront.net/prosperousamerica/pages/5876/attachments/original/1594241915/NSC_letter_to_RRB.pdf?1594241915

⁷ <https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods>

⁸ <https://www.theguardian.com/world/2019/may/04/us-accuses-china-of-using-concentration-camps-uighur-muslim-minority>

⁹ <https://www.nbcnews.com/news/world/china-forcefully-harvests-organs-detainees-tribunal-concludes-n1018646>

¹⁰ https://chinatribunal.com/wp-content/uploads/2019/07/ChinaTribunal_-_SummaryJudgment_17June2019.pdf

Currently, U.S. investors have \$381 billion invested in Chinese and Hong Kong stock exchanges and bonds, an estimated \$251 billion of which is held by mutual and pension funds.¹¹ While moral determinations are not part of ERISA, American pensions and 401(k) investors are unquestionably underwriting the grotesque abuse of helpless and oppressed Chinese religious minorities and political dissidents, and capitalizing slavery. Americans would be appalled to learn that they were effectively providing the capital for the enslavement of their fellow man, and you can stop it.

While China's tyrannical regime would certainly make a case for sanctions historically under any other circumstances to prevent all U.S. investment into Chinese companies — including China's refusal to come clean about the true origins of COVID-19. In the very least, blocking non-transparent, risky assets whose reliance on slavery rightfully offends our national sensibilities is obligated under the Labor Department's statutory responsibility under ERISA — and it is the right thing to do.

Thank you for your consideration of this issue, and for finally being the first President ever to take on the China threat. Nobody has a stronger record on this issue, and given your previous statements and those which are currently coming from your own National Security Advisor and National Economic Council, I am confident that you will come to the determination that Chinese assets and other risky non-transparent assets have no place in America's retirement portfolios. The stand you take will not only protect national security and our nation's economic prosperity — it will advance the cause of human liberty.

Sincerely,

A handwritten signature in black ink that reads "Richard Manning". The signature is written in a cursive, slightly slanted style.

Richard Manning
President
Americans for Limited Government

¹¹ <https://ticdata.treasury.gov/Publish/slt1f.txt>