



AMERICANS FOR LIMITED GOVERNMENT

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Oct. 28, 2020

Secretary Eugene Scalia
U.S. Department of Labor
200 Constitution Avenue, NW, C-2318
Washington, DC 20210

Dear Secretary Scalia:

We applaud your Oct. 27 statement¹ recognizing Uyghur Muslims and other religious and ethnic minorities who have been forced into state-sponsored labor and re-education camps by the Chinese Communist Party in Xinjiang and elsewhere across China. The 2020 report published by the U.S. Department of Labor's Bureau of International Labor Affairs² lists China 17 times as 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, fish, footwear, garments, gloves, hair products, nails, textiles, thread/yarn, tomato products, toys are all listed as being made with child or slave labor in China.

The Department of Defense (DoD) 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".³ 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.^{4 5}

A full accounting of these atrocities is long overdue, and 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.⁶ In addition, DoD has listed 31 companies listed on U.S. stock exchanges that are either owned or controlled by the Chinese Communist Party and military.⁷

Senator Kelly Loeffler (R-Ga.) also wrote to you on Oct. 19 saying, "Based upon the on-going threat investments in these companies pose to American retirement security, I ask you to consider

¹ <https://www.dol.gov/newsroom/releases/osec/osec20201027>

² https://www.dol.gov/agencies/ilab/reports/child-labor/list-of-goods?tid=5531&field_exp_good_target_id=All&field_exp_exploitation_type_target_id_1=All&items_per_page=All

³ <https://www.theguardian.com/world/2019/may/04/us-accuses-china-of-using-concentration-camps-uyghur-muslim-minority>

⁴ <https://www.nbcnews.com/news/world/china-forcefully-harvests-organs-detainees-tribunal-concludes-n1018646>

⁵ https://chinatribunal.com/wp-content/uploads/2019/07/ChinaTribunal_SummaryJudgment_17June2019.pdf

⁶ <https://ticdata.treasury.gov/Publish/slt1f.txt>

⁷ <https://www.defense.gov/Newsroom/Releases/Release/Article/2328894/dod-releases-list-of-additional-companies-in-accordance-with-section-1237-of-fy/>

expanding existing regulations on fiduciary duties under the Employee Retirement Income Security Act (ERISA) to include prohibition on investment in certain types of Chinese investment vehicles by private retirement plans subject to ERISA.”⁸

Senator Loeffler is right. Beyond being immoral, investments in Chinese assets are financially risky due to the lack of transparency and Communist Chinese control over their assets. Under ERISA, we believe that the Labor Department has a fiduciary responsibility to end all private retirement investments in dangerous Chinese investments by amending the current pending “Financial Factors in Selecting Plan Investments” regulation⁹ to disqualify all companies that do not adhere to the transparency requirements of Dodd-Frank and Sarbanes-Oxley. Using the same concerns about both the immorality and lack of transparency for the investments, we also urge the divestment of the Pension Benefit Guaranty Corporation from China.

We applaud you for supporting the bold step of excluding risky Chinese assets from the federal employees 401(K) Thrift Savings Plan because, in your words, they “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.”¹⁰

Similarly, in the 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... 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.”¹¹

Obviously, if these assets are too risky for inclusion in the federal TSP and the NRRI Trust, then they are too risky to be included in private 401(K) investments under ERISA. It is the Labor Department’s job to protect private sector retirement specific investments or pensions from choices that are unsuitable. Thank you for your consideration of this issue. Given the facts, I am confident that you will agree that risky, non-transparent Chinese assets have no place in America’s retirement portfolios.

Sincerely,



Richard Manning
President
Americans for Limited Government

⁸ <https://www.loeffler.senate.gov/sites/default/files/2020-10/Loeffler%20letter%20to%20Secy%20Scalia%20101920.pdf>

⁹ <https://www.federalregister.gov/documents/2020/06/30/2020-13705/financial-factors-in-selecting-plan-investments>

¹⁰ <https://presentdangerchina.org/wp-content/uploads/2020/05/Sec.-Scalia-Letter-to-FRTIB-51120.pdf>

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