



October 19, 2021

The Honorable Janet L. Yellen
Secretary of the Treasury
1500 Pennsylvania Ave. NW
Washington, DC 20220

Dear Secretary Yellen,

We are writing to bring to your and your Deputy's attention the very troubling fact that since June 3, 2021 — the date that President Biden issued Executive Order (EO) 14032 — not one Chinese company has been added to the OFAC Non-SDN Chinese Military-Industrial Complex Companies List (NS-CMIC List).

This is nothing short of astounding, as there have been many Chinese companies — a number of them already sanctioned by the U.S. via being placed on the Commerce Department's Entity List or other designations — which have committed, or enabled, egregious human rights and national security abuses and urgently warrant being added to the NS-CMIC List.

It should be obvious by now that American retail investors, numbering over 100 million, should not be — and generally do not wish to be — holding in their Exchange-Traded Funds (ETFs) and other passive investment products, the equities and debt of Chinese companies that can be proved to be associated with, or tied to, the genocide underway against the Uyghurs and other religious minorities in Xinjiang; internationally-recognized human rights violations throughout China; trafficking in slave labor; equipping concentration camps; manufacturing advanced Chinese weapons systems designed for use against American forces; militarizing illegally-claimed islands in the South China Sea; and several other malevolent activities which undermine America's national security and fundamental values.

Take the case of the five Chinese polysilicon companies that were added to the Entity List on June 24, 2021, for engaging in forced labor against Muslims in Xinjiang. Two of the five — Hoshine Silicon Industry (Shanshan) Co., Ltd. (SHA:603260) and Xinjiang Daqo New Energy Co., Ltd. (SHA:688203) — are traded on U.S. exchanges via passive investment products. In the case of the latter, its parent company, Daqo New Energy Corp. (NYSE:DQ), is listed directly on the New York Stock Exchange. A third, Xinjiang GCL New Energy Material Technology Co., Ltd., is a subsidiary of publicly traded GCL Energy Technology Co., Ltd.

These Chinese companies were placed on the Entity List for trafficking in slave labor, and hence are, in effect, denied access to American equipment, technology, components and services. How can it then be judged as acceptable by the Treasury Department to have these same companies

funded by unwitting American investors and imbued with the marketable prestige of being traded in the world's deepest and most voluminous capital markets?

Moreover, why is it that, according to EO 14032, Chinese surveillance technology "used to facilitate repression" is deemed a "national emergency," while Chinese corporate use of forced labor gets a free pass in our capital markets? This is even more troubling in the case of Chinese solar companies which are raising large-scale funds from unwitting American retail investors to be used to further savage our domestic renewable energy industry.

Indeed, of the 440 Chinese companies (including those Hong Kong-based) on the Entity List, only 4 also appear on the NS-CMIC List. That represents less than 1%. This is simply unconscionable. If the reasons for this scandalous disparity include such excuses as "forced labor" not being covered by EO 14032, then this Executive Order needs to be broadened forthwith to include it and other Chinese corporate human rights abusers.

Congress has made clear in overwhelming bipartisan fashion that it believes China must be held accountable for its genocide, egregious human rights abuses, and use of forced labor. Democrats and Republicans alike will surely be concerned and demand corrective action by the Treasury Department once these and other facts are placed before them — as they surely will be — not to mention retail American investors, including state public employee retirement systems. After all, it is *their money* that is being subject to epic fiduciary malfeasance.

Moreover, verifiable subsidiaries of companies already on the NS-CMIC List that serve as the parent companies' funding vehicles on U.S. exchanges should have been added to the NS-CMIC List months ago. The Administration has claimed that the NS-CMIC List is dynamic and designed to "live and breathe." If so, the Administration needs to change course and strengthen the List's vital signs that are rapidly fading.

With regard to capital markets sanctions, we urge you to implement the following measures:

- Place all companies listed on the DOD 1260H Chinese Military Companies Report list on the NS-CMIC List.
- Place all companies on the Department of Commerce's Entity List onto the NS-CMIC List, and vice versa.
- Add more companies to the NS-CMIC List pursuant to the surveillance technology and broader human rights requirements, including forced labor.
- Expand and clarify the language of the EO to include covering subsidiaries of parent companies which are raising funds for the parent company and/or participating in the odious activities that justified the parent company being sanctioned.

In addition to numerous new Chinese military and surveillance companies being placed on the NS-CMIC list, as well as the inclusion of Entity List companies, we urge that you also coordinate with the SEC immediately with the intention of: 1) instituting new disclosure requirements for the thousands of Chinese A-share companies (a significant number of which are U.S.-sanctioned), drawn directly from Chinese domestic exchanges and placed into American passive investment products (notably ETFs), that are held by scores of millions of unknowing

U.S. investors; 2) demanding similar disclosure requirements for the hundreds of Chinese companies traded on the Over-the-Counter market; and 3) eliminating altogether the unreformable, scandalously deceptive Variable Interest Entities served up to American investors by Chinese shell corporations domiciled in the Cayman Islands and perhaps elsewhere, with no real equity ownership rights or investor protections whatsoever.

Madame Secretary, the protection of American retail investors, our national security, and the fundamental values of our nation are all at stake here. We understand the pressures you and your team face from Wall Street. However, the Treasury Department cannot put the profits and well-being of Wall Street and the Chinese Communist Party above the interests of American economic and national security. Capital markets sanctions are arguably the most fearsome and effective non-military deterrent and penalty vis a vis the Chinese Communist Party ever devised by our country.

We can no longer watch in good conscience as this exceptionally powerful policy tool languishes under your stewardship. The hard-earned retirement and investment dollars of a large percentage of the American people are unwittingly underwriting genocide-enablers and other Chinese corporate human rights and national security abusers aiding the Chinese Communist Party's campaign of evil. This is an empirically provable fact happening on your watch. You must take action to put an end to this now.

Please let us know your thoughts and action plan concerning these urgent matters at your earliest convenience.

Sincerely,

Coalition for a Prosperous America
Fight for Freedom. Stand with Hong Kong.
Hong Kong Watch
Victims of Communism Memorial Foundation

Cc: The Honorable Antony Blinken, Secretary of State
The Honorable Lloyd Austin, Secretary of Defense
The Honorable Gina Raimondo, Secretary of Commerce
The Honorable Marty Walsh, Secretary of Labor
The Honorable Katherine Tai, U.S. Trade Representative
The Honorable Avril Haines, Director of National Intelligence
The Honorable Jake Sullivan, National Security Advisor
The Honorable Brian Deese, Director of the National Economic Council
The Honorable Jerome Powell, Chairman of the Federal Reserve
The Honorable Gary Gensler, Chairman of the Securities and Exchange Commission