MYTHS VS. FACTS

★ **STOPPING FEDERAL RETIREMENT SAVINGS FROM FUNDING CCP** ★

BACKGROUND

The U.S. government requires every single federal employee, including members of the U.S. Armed Forces, to invest in the federal retirement system known as the Thrift Savings Plan (TSP), the largest retirement fund in the world with more than $720 billion in assets.

According to **data** published by CPA, and that was reported on by The **Wall Street Journal** and **Newsweek**, the TSP has serious exposure to companies owned or controlled by the Chinese Communist Party (CCP). As such, "[m]illions of federal employees can invest in Chinese companies sanctioned by the U.S. government via its flagship retirement plan, even though these companies have been branded a danger to national security or are accused of profiting from forced labor or other human rights abuses."

Shockingly, the Federal Retirement Thrift Investment Board (FRTIB), which is in charge of managing the TSP, **admitted publicly** that it has not conducted any due diligence to evaluate whether the TSP and the products it offers in its Mutual Fund Window include Chinese-owned entities that pose national security risks or fund Chinese companies engaged in human rights violations.

To remedy this serious national security issue, a bipartisan group of Senators and Representatives have **introduced** the Taxpayers and Savers Protection (TSP) Act, bicameral legislation that would ban the FRTIB from steering federal employee retirement funds in the TSP to China. ***Unfortunately, the FRTIB is opposing this bipartisan, bicameral legislation, propagating a host of wrong, mythical claims.***

The following Myths vs Facts rebuts the false claims made by the FRTIB regarding their opposition to the TSP Act (S. 1650).

MYTH S. 1650 undermines the FRTIB's ability to properly manage the TSP.

FACT: S 1650 does not undermine FRTIB's management because Congress created the FRTIB and the TSP, has the authority to establish its guidelines, and has the full power to direct how the TSP is administered without Wall-Street-only blinders that hamper the FRTIB. That includes passing legislation to ensure that the FRTIB is not enabling federal employees to unwittingly invest their retirement savings in companies located in countries deemed a threat to the United States or in companies that the U.S. government has identified as being national security risks, and involved in the CCP's genocide, use of forced labor, and modernization of the People's Liberation Army.

MYTH S. 1650 discriminates against more than 6.8 million federal employees that are invested in the TSP.

FACT: The FRTIB abdicated its fiduciary responsibilities to participants by not ensuring the funds offered to current and retired government employees, active duty military, and veterans are free of heightened risks posed by geopolitical and regulatory non-compliance concerns by including entities under the control of the Chinese Communist Party (CCP). In addition, the FRTIB has failed to live up to prior express commitments to eliminate Chinese entities from TSP funds, presenting a grave danger to U.S. national security.

A review of the 10 largest international and emerging markets funds offered through the TSP's Mutual Fund Window found dozens of Chinese companies that have been placed on the U.S. Department of Commerce's BIS Entity List. These companies have been sanctioned due to their complicity in China's pervasive surveillance state, technology theft, or use of forced labor. Companies that appeared repeatedly in these funds include iFlytek, Fiberhome Telecommunication Technologies, Wuhan Guide Infrared Co., and Hoshine Silicon Industry Company.

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MYTH **S. 1650 would eliminate the FRTIB's ability to offer an international fund.**

FACT: S. 1650 prohibits investment in a "country of concern" as defined by the Director of National Intelligence in the Annual Threat Assessment. In 2023, this includes the People's Republic of China (PRC). There are a number of ETFs that offer exposure to international markets and that exclude China, including the iShares MSCI Emerging Markets ex China ETF, the Columbia EM Core ex-China ETF, the Freedom 100 Emerging Market ETF (FRDM), and the KraneShares MSCI Emerging Markets ex China Index ETF (KEMX).

MYTH **S. 1650 would eliminate the TSP's Mutual Fund Window.**

FACT: S. 1650 would not eliminate the Mutual Fund Window. Rather the bill would ensure that, at the directive of Congress, the TSP's Mutual Fund Window does not enable federal employees, including members of the U.S. Armed Forces, to unwittingly invest in Chinese companies. Nothing in the bill prohibits investment in any of the other funds on offer in the Mutual Fund Window that do not contain these harmful securities of companies in countries of concern.

CPA's **research** found that five of the largest international funds in the Mutual Fund Window had an average weight of 22 percent toward Chinese companies, and all five funds held companies listed on the **U.S. Department of Treasury's list of Chinese Military-Industrial Companies**, the **Department of Commerce Entity List**, **the Commerce Department's Unverified list**, or the **Department of Defense Chinese Military Companies list**. Companies are placed on these lists because they threaten U.S. national interests, have been involved in serious technology theft, and/or are implicated in the genocide of the Uyghur people.

More than $129 billion is invested in 5 of the top international and emerging market mutual funds that are now available to TSP investors. CPA research indicates that within these funds are at least 30 Chinese companies that are sanctioned by the U.S. Government on national security and/or human rights grounds and are non- compliant with U.S. federal securities laws. There are 22 China-only funds included in the new Mutual Fund Window. These entities are found throughout the 5,000 funds that our armed forces, veterans, federal government employees, and retirees may now invest in through the TSP.

None of the Chinese companies presently held by the TSP I-Fund or included in the Mutual Fund Window are compliant with U.S. federal securities laws. The FRTIB refuses to perform due diligence on, or disclose to TSP participants, the material risks associated with the inclusion of these Chinese entities in the I-Fund and the Mutual Fund Window. The FRTIB's management of the TSP runs counter to the spirit, and arguably the letter, of President Biden's Executive Order 14032 (amending EO 13959), which deemed Chinese military and surveillance technology companies in U.S. investment portfolios a "national emergency."

MYTH **S. 1650 moves TSP participants into a constant state of flux as U.S. foreign policy waxes and wanes and the definition of what is or is not harmful to national security is up for debate.**

FACT: Excluding companies in four countries deemed a threat to the interests of the United States is not a "constant state of flux" especially as compared to the constantly changing investment portfolios offered by private fund managers, and the constant change of companies within major indices. S. 1650 specifically relies on the definition of "country or security of concern" as identified by the Director of National Intelligence in the Annual Threat Assessment. On this annual, once a year (at most) basis, there might need to be adjustments made.

THE CHINA PROJECT

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MYTH **S. 1650 ignores the current structure for consideration of investment in foreign countries, including the role of the Office of Foreign Asset Control (OFAC) at the U.S. Treasury Department.**

FACT: Nothing in this bill binds or prohibits OFAC from doing its job and the U.S. Treasury from taking action to protect U.S. investors from harmful practices or fraudulent entities, nor would it impede future legislation to this effect. Congress can and does establish different sanctions and restrictions in various contexts for different behaviors including the Commerce Department's export licensing system, the UFLPA Forced Labor list, and the Global Magnitsky Act sanctions. The U.S. State Department and other government / interagency officials have issued a series of business advisories in regard to Xinjiang and Hong Kong, among others.

Congress is well within its constitutional authority to direct the FRTIB to manage the TSP in a manner that is consistent with protecting U.S. interests. The potential that active-duty U.S. military and veterans could inadvertently invest in companies the U.S. government has determined are part of the Chinese military industrial complex not only undermines U.S. national security, but also underscores the irresponsibility of the FRTIB and its members' refusal to abide by past written commitments. All of the funds researched by CPA included at least five companies on the U.S. Department of Defense's Chinese Military Companies (CMC) list.

MYTH **S. 1650 is not necessary as Treasury's OFAC could issue rules governing the TSP, as well as private sector investment, to restrict or ban all U.S. investment in China.**

FACT: While CPA supports OFAC taking strong action to prevent all U.S. capital market investment in Chinese companies, this does not preclude Congress from taking action now to ensure that federal employees, including members of the U.S. Armed Forces, are not unwittingly investing in Chinese companies that the U.S. government has identified as being national security risks and involved in the CCP's genocide, use of forced labor, and modernization of the People's Liberation Army.

MYTH **The FRTIB should expose federal employees invested in the TSP to Chinese companies that the U.S. government has identified as posing a risk to U.S national security because other large retirement plans and fund providers invest in emerging markets, including China.**

FACT: Congress is well within its authority to lead the way in ensuring that the federal government's employee retirement plan—the largest retirement fund in the world with more than $720 billion in assets—is not funding companies that the U.S. government has identified as being risks to U.S. economic and national security. Data also indicate that EX-China investments are doing as well or better than investments with China exposure.