

118TH CONGRESS
2D SESSION

S. 5237

To prohibit index funds from investing in Chinese companies, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25, 2024

Mr. RICKETTS introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To prohibit index funds from investing in Chinese companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “No China in Index
5 Funds Act”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) AMOUNT OF THE TRANSACTION.—The term
9 “amount of the transaction” means—

1 (A) with respect to a purchase that violates
2 this Act, the purchase price; and

3 (B) with respect to the holding of an in-
4 vestment that violates this Act, the fair market
5 value of the investment at the time of the viola-
6 tion.

7 (2) CHINESE COMPANY.—The term “Chinese
8 company” means a company—

9 (A) incorporated or otherwise organized in
10 the People’s Republic of China;

11 (B) that has a majority of its assets or em-
12 ployees located in the People’s Republic of
13 China;

14 (C) owned by, controlled by, or subject to
15 the jurisdiction or direction of the government
16 of the People’s Republic of China;

17 (D) where a majority of the value of the
18 company depends on the revenues, profits, mar-
19 ket capitalization, assets, or the value of a secu-
20 rity (including options to purchase or sell) of a
21 company described in subparagraph (A), (B), or
22 (C), as determined by the Securities and Ex-
23 change Commission; or

24 (E) where a company described under sub-
25 paragraph (A), (B), or (C) has control, as de-

1 fined in section 230.405 of title 17, Code of
 2 Federal Regulations, of the company, as deter-
 3 mined by the Securities and Exchange Commis-
 4 sion.

5 (3) HEDGE FUND.—The term “hedge fund”
 6 means an issuer that would be an investment com-
 7 pany but for paragraph (1) or (7) of section 3(c) of
 8 the Investment Company Act of 1940 (15 U.S.C.
 9 80a–3(c)).

10 (4) INDEX FUND.—The term “index fund”
 11 means an investment company or hedge fund that is
 12 designed to track an index of securities or a portion
 13 of such an index.

14 (5) INVESTMENT COMPANY.—The term “invest-
 15 ment company” has the meaning given the term in
 16 section 3 of the Investment Company Act of 1940
 17 (15 U.S.C. 80a–3).

18 **SEC. 3. PROHIBITION.**

19 (a) IN GENERAL.—An index fund may not invest in
 20 a Chinese company.

21 (b) DIVESTMENT PERIOD SAFE HARBOR.—With re-
 22 spect to an index fund with an investment in a Chinese
 23 company on the date of enactment of this Act, subsection
 24 (a) shall not apply to such investment during the 180-
 25 day period beginning on the date of enactment of this Act.

1 (c) CIVIL PENALTY.—Any person who violates this
2 section shall be subject to a civil penalty in an amount
3 not to exceed the greater of—

4 (1) \$250,000; or

5 (2) an amount that is twice the amount of the
6 transaction that is the basis of the violation with re-
7 spect to which the penalty is imposed.

8 (d) RULEMAKING.—The Securities and Exchange
9 Commission may issue such rules as may be necessary to
10 carry out this section.

○