INVESTING IN OUR RIVALS: EXAMINING U.S. CAPITAL FLOWS TO FOREIGN RIVALS AND ADVERSARIES AROUND THE WORLD

Before the House Committee on Financial Services, Subcommittee on Investor Protection, Entrepreneurship, and Capital Markets on November 15, 2022

WRITTEN TESTIMONY

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The Coalition for a Prosperous America (CPA) thanks the Investor Protection, Entrepreneurship, and Capital Markets Subcommittee for holding this hearing to explore the risks posed to American investors by nations that are adversarial and hostile to U.S. interests— most notably Russia and the People's Republic of China (PRC). CPA is a bipartisan, nonprofit organization representing exclusively domestic manufacturers, producers, and workers across many sectors of the U.S. economy. Especially alarming to us and our members are the risks posed to U.S. investors by CCP-linked Chinese companies' that are actively exploiting our free and open capital markets.

Introduction

The topic of this hearing is very timely. However, for American investors, there is no greater exposure to any rival than the People's Republic of China (PRC) led by the Chinese Communist Party (CCP).

In 2020, U.S. holdings of Chinese securities neared $1.2 trillion. This is about five times the holdings than that of any other country. The exposure of U.S. investments in Chinese securities has never been greater, and it will continue to grow. y testimony today will primarily focus on the problem of U.S. investor exposure to Chinese securities, the risks this poses to U.S. economic and national security and potential solutions that should be considered.

A Shares and Passive Investments not Covered by HFCAA

Congress, the media, and independent regulators like the Securities and Exchange Commission (SEC) have recently focused on the risks posed to U.S. investors from Chinese companies directly listed on U.S. stock exchanges. While CPA welcomes this focus and encourages further action, it does not address the bulk of "bad actor" Chinese companies that are still present in American passive investment products. Their presence is in the form of over 4,200 A-share and H-share companies found throughout a multitude of financial vehicles, such as Exchange Traded Funds (ETFs) and index mutual funds, that have received little or no regulatory scrutiny or fiduciary due diligence. Tens of millions of Americans are unwittingly exposed to these A-shares in their investment portfolios and retirement investment accounts.

U.S. investors are inadvertently subsidizing Chinese companies involved in activities that are contrary to the national security, economic security, and foreign policy interests of the United

States. We are also subsidizing the economic growth of the United States' top global adversary. A-shares are securities listed on mainland Chinese exchanges and only accessible to American and foreign investors via inclusion in indexes and associated index funds. Similarly, H-shares are Hong-Kong listed shares. These companies are oftentimes non-compliant with U.S. securities laws and financial reporting norms and, in some cases, have been sanctioned by the U.S. Government for egregious human rights and national security abuses.

The financial industry will not lead. Congress must do so. To ensure against further American investment flowing to Chinese companies that pose investor protection, national security, and human rights concerns, Congress should take the following actions:

- Pass legislation that requires index providers and asset managers to address the risks posed by A-share and H-share companies.
- Expand the Holding Foreign Companies Accountable Act (HFCAA) to cover Chinese companies traded in the United States via passive investment products, despite not being directly listed on U.S. exchanges, to ensure that ETF products traded on U.S. exchanges are PCAOB compliant, consistent with the investor protection imperatives of the Act.
- Compel the SEC to require further disclosures and issue new rules for index providers as it pertains to oversight of quality control and minimizing conflicts of interest.
- Compel the SEC and other U.S. Government agencies to provide and require more information to be made known to investors and fiduciaries in regard to the geographic location of companies, their industries or sectors, their linkages to foreign governments or foreign actors, the presence of companies on U.S. sanctions lists, or other national security, human rights, or governmental and political risk factors.
- Require index providers to reevaluate their index inclusion criteria, which currently expose U.S. investors to material and reputational China-specific risks. nd further require them to justify continued inclusion of any such risky China-specific investments.
- Harmonize U.S. sanctions policy against Chinese companies in order to close current gaps that exist between different sanctions lists. This will clarify for and assist index managers and investors in compliance and due diligence.
- Establish a new capital markets list to include Chinese corporate human rights abusers.
- Consider a national policy to prohibit investors from investing - either here or abroad - in companies which have Chinese Communist Party (CCP) cells in their management.

A-Shares in U.S. Index Funds: Just How Massive is U.S. Exposure?

In May 2018, after three years of deliberation and negotiations with Chinese regulatory authorities (and considerable arm-twisting from Beijing), major index provider MSCI released a list of large-cap China A-shares to be included in the MSCI China Index, Emerging Markets (EM) Index, and All Country World Index (ACWI) beginning in June. The MSCI EM Index previously only included shares of Chinese companies listed in Hong Kong or the United States. As of June 2018, MSCI had over $1.8 trillion in assets benchmarked globally to its Emerging Markets Index suite, 30.99% of which was comprised of China-based securities.

By November 2019, MSCI had increased and expanded its index exposure to mainland Chinese companies significantly by including mid-cap China A-shares and quadrupling the inclusion ratio of China A-shares in the MSCI EM Index from 5% to 20%. The total index weighting of China A-shares jumped from 0.7% to 3.3%, drawing in an estimated $80 billion in foreign inflows to the Chinese market.37 As of August 2020, the overall weight of China A-shares in the MSCI EM Index had risen to 5.1%, where it currently remains.

FTSE Russell followed in MSCI's footsteps and was the second major index provider to include China A-shares in its indices. In June 2019, FTSE added 1,097 China A-shares into its FTSE Global Equity Index Series (GEIS, which covers the FTSE Emerging and All-World Indices) in the first stage of inclusion (20%), drawing an expected $10 billion from U.S. passive investors. As of June 2020, China A-shares represented approximately 6% of the FTSE Emerging Index. Over 4,200 China A-shares are available to U.S. investors at this point through their inclusion in indices.

Undisclosed Risks to Investors

Index providers neglect to consider the full range of China-specific material risks to investors when determining index constituents and weighting. These include considerations of reputational risks relating to national security, export controls and sanctions regimes, human rights violations, political factors, or even full consideration of traditional environmental, social, and governance (ESG) factors.

Retail and institutional investors are exposed to a wide range of publicly traded Chinese companies involved in developing weapons systems, new technologies, and building infrastructure in support of China's military modernization goals; and companies involved in facilitating the ongoing genocide of Uyghurs and other Turkic Muslims in Xinjiang, the systematic intimidation and coercive assimilation of Tibetans, and the mass surveillance and government interference in people's lives in Hong Kong. Beyond these, additional risk factors to consider include U.S. sanctions designations and any other blacklists that may signify a material reputational and financial risk to investors.

As of at least June of this year, a look at five of the larger index mutual funds offered by industry leaders—Fidelity Emerging Markets Index Fund (FPADX), State Street Emerging Markets Equity Index Fund (SSKEX), BlackRock iShares MSCI Total International Index Fund (BDOKX), Vanguard Emerging Markets Stock Index Fund (VEMAX), DFA Emerging Markets Core Equity I (DFCEX), which just so happen to be included in the new Mutual Fund Window available to TSP beneficiaries—includes at least 14 underlying companies directly linked to China's military-industrial complex and listed on either the Department of Defense's Section 1260H list or the Treasury Department's NS-CMIC List or both, in just these five funds. This is in addition to a number of companies on BIS's Entity List and others with documented links to the oppressive Chinese surveillance state and connected to Uyghur forced labor.

Federal Government Thrift Savings Plan Investing in our Adversaries

The U.S. Government is facilitating the investment of billions of taxpayer dollars in Chinese Communist Party (CCP) controlled companies via the federal workers' retirement system, the

Thrift Savings Plan (TSP). The Thrift Savings Plan is the largest defined contribution pension system in the world, with more than $730,000,000 in assets. In June 2022, the TSP's administrators on the Federal Retirement Thrift Investment Board (FRTIB) enabled TSP participants to invest up to 25% of their savings (a minimum of $10,000) in more than 5,000 mutual funds via a new platform called the "Mutual Fund Window." The TSP's Mutual Fund Window initiative was launched in June and has already received more than $47 million in investments. No due diligence or screening has been performed to ensure the mutual funds included in the new TSP platform exclude U.S.-sanctioned or other Chinese corporate "bad actors."

Participants are unable to determine what mutual funds are included in the Window until after they have transferred a minimum of $10,000. The Coalition's research has demonstrated that the Window's largest emerging markets funds include problematic CCP-controlled companies in their investment portfolios.

CPA's research also found that five of the largest international funds in the 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.

The FRTIB claims it has neither the time, expertise, nor the resources to research the mutual funds offered to current and retired federal employees, military personnel, and veterans in order to ensure CCP controlled bad actors are excluded from their portfolios. The FRTIB also claims they are not obligated to restrict investment in problematic Chinese companies. For example, the FRTIB has not fulfilled its 2020 public pledges to remove Chinese companies from the TSP's International or "I" Fund.

Of further concern, in May 2020, the Department of State notified Congress that the passage of the Beijing-drafted National Security Law obviated the distinction between Hong Kong and the People's Republic of China, and that Hong Kong could no longer be considered autonomous. Despite this determination, the FRTIB, has refused to remove 35 Hong Kong based Chinese companies from the International Fund of the TSP.

Through the research conducted by CPA and its allies, we found a number of Chinese Communist Party-owned companies in the funds to include the Aviation Industry Corporation of China (AVIC), China General Nuclear Power Group (CGN), and COSCO Shipping. The funds also included companies under scrutiny for forced labor practices, as well as those involved in China's growing surveillance technology state.

By some estimates, American investors have provided as much as $3 trillion in investment capital to Chinese companies. This is due to a 2013 bilateral MOU between U.S. and Chinese securities regulators, U.S.-listed Chinese companies' enjoy preferential access to U.S. capital

markets because they are not required to meet the same requirements as U.S. public companies. U.S. capital markets have funded China's unprecedented military build-up; its One Belt One Road Initiative; gross violations of human rights, including genocide and crimes against humanity against the Uyghurs; predatory and market distorting trade practices; and the wholesale theft of American technology and intellectual property.

The U.S. government has sanctioned hundreds of Chinese companies for their role in enhancing the threats to our national security posed by the PLA and egregious human rights violations, but they still enjoy unfettered access to U.S. capital markets and are held by hundreds of widely available mutual funds, public pension funds, and university endowments. In 2019, BlackRock – as the lead asset manager of the investment portfolio of the Thrift Savings Plan – advised the FRTIB to increase the TSP International Fund's exposure to CCP-controlled firms. BlackRock continues to be one of the most vocal investment managers encouraging expanded investment in China, and in 2021 became the first U.S. investment management firm to provide investment products directly to Chinese retail investors.

Let's be very clear, no U.S.-listed Chinese-domiciled companies held by either the core TSP funds or the Mutual Fund Window are in compliance with federal securities laws and regulations, such as legally mandated audit requirements designed to protect American investors. Due to the negligence of the TSP's managers, American servicemen and women, and other government employees may be unwittingly funding their country's leading adversary – including companies involved in the Peoples Liberation Army's modernization or the CCP's genocide of the Uyghur people.

We can all agree that CCP-controlled companies should not be financed through the retirement savings of U.S. government employees. The FRTIB should not be allowed to abdicate its due diligence and fiduciary responsibilities to our military and federal workforce. At a minimum, the FTRIB should take steps to ensure that the TSP Mutual Fund Window publicly discloses: 1) which TSP regular or mutual funds hold Chinese-domiciled companies, including those based in Hong Kong; 2) whether any such company has been sanctioned or otherwise listed by an agency of the United States government; and 3) whether any such companies are non-compliant with U.S. securities laws and regulations, including PCAOB audit requirements.

Harmonizing Government Sanctions — How to Guide Investors Away from Bad Actor Chinese Companies

Capital markets sanctions are a relatively under-utlized yet highly effective tool to be brought to bear to force divestment from certain key sectors and bad actor companies in the best interests of investors, human rights, market transparency and accountability, and national security. These sanctions work when properly implemented and are an under-utilized tool of the U.S. Government that this Committee must work to establish and enforce legislatively. Especially for those interested in not going to an actual kinetic / physical war with China, cutting off China's resources - our capital flowing to them - now and decreasing our dependence on their exports

decreases China's resources and wealth to then be able to ratchet up its pressure on Taiwan and to play in other key geopolitical sandboxes around the world.

Polling conducted by CPA shows an overwhelming majority of Americans are concerned with investment in risky Chinese companies and support stricter investment requirements. A poll conducted by Morning Consult shows Sixty-two percent of voters are concerned Americans can invest in Chinese and Russian companies that have been sanctioned by the U.S. government or have not complied with U.S. laws.

To accomplish this mission of decreasing and divesting U.S. capital from China, a series of executive orders have been promulgated by both Republican and Democratic presidents to try to selectively enforce capital investment bans on critical Chinese companies in critical industries and linked to the CCP military and military-civil fusion operations. The first two EO's, enacted by President Trump — EO 13959 (now amended by EO 14032) and EO 13974 (now rescinded) — focused on linked U.S. Department of Defense identified companies that are part of the DOD's required Chinese Military Company List (as required by the annual NDAA) to forced listing and a capital markets ban by Treasury's Office of Foreign Assets Control (OFAC). If a company were on the DOD list, then it was automatically required to be slated for a prohibition on the buying and selling of its securities within a certain window of time. Then under the Biden administration, these policies were updated with a new EO, 14032. This EO was important to the concept of the capital markets sanction as a tool because it expanded beyond just the scope of the DOD and now includes what are known as surveillance technologies companies in addition to the traditional military and military-industrial complex linked companies. The EO did rescind the concept of forced divestment by cnacling out EO 13974 but also created a new list within OFAC, as opposed to the DOD only list. Now OFAC - if acting urgently and judiciously can add a broader swath of companies across more categories to its Non-SDN Chinese Military Industrial Complex Companies List (NS-CMIC List0.

Regrettably, Treasury is incredibly reluctant to engage in the process of making additions to its list despite commitments from the White House to update the list on a rolling basis and that it is a top priority for the President. Treasury has a role to play and this Committee has a job to do to hold Treasury responsible for follow-through on sanctions updates at a regularized clip and in alignment with broader U.S. policy aims and priorities. Rather than adding companies to this list and updating the EO's annex, Treasury issued some paltry guidance at the one-year mark of the Biden EO and basically undercut the Whie House's own intentions by releasing a contradicting and intentionally vague FAQ sheet, which reads in part, in regard to the concept of "divestment":

> "U.S. persons are not required to divest their holdings of CMIC securities during the relevant 365-day divestment period and may continue to hold such securities after the divestment period. E.O. 13959, as amended, permits purchases or sales made solely to effect the divestment of CMIC securities, but only during the 365-day divestment period. Accordingly, any such purchase or sale is prohibited after the 365-day divestment period, absent OFAC authorization."

Further, in addition to this terribly confusing FAQ, Treasury fails to add new sanctioned entities, not yet releasing one new tranche of sanctioned entities since the initial EO - though a few companies were added when a rule in the federal register clarified the intermingling of the Trump Era EO list, the DOD list, and the new, updated Biden era EO , which allowed for less than ten addition companies to be further added to the NS-CMIC list annex.

As of October of this year, the Commerce Department's well-known Bureau of Industry and Security (BIS) Entity List contained 1,167 listed entities, while the NS-CMIC list contained only 68. While we understand that these lists are not the same, not interchangeable, and require different legal standards and thresholds for listing, common sense and U.S. policy would indicate these lists should be in greater actual alignment. Embarrassingly. Only 16 companies are on both lists. This means that only 1.4% of those companies being denied normal business practices and that are subject to specific license requirements for the export, reexport and/or transfer (in-country) of specified items are also being denied access to U.S. capital. As stated on the Commerce Department's BIS website, "Since its initial publication, grounds for inclusion on the Entity List have expanded to activities sanctioned by the State Department and activities contrary to U.S. national security and/or foreign policy interests." It would stand to reason, therefore, that these same concerns regarding sanctioned activities dn activities contrary to U.S. national security and / or foreign policy would also apply to outbound flowing capital - which facilitates the means of production of the very goods we are concerned about. Also, when a company is added to the NS-CMIC List, subsidiary or parent companies must also be considered and included at some reasonable threshold.

There is much room left to establish and utilize the capital markets sanction as a key force for economic statecraft and for cleaning up U.S. capital markets. As we see full implementation of the Accelerating Holding Foreign Companies Accountable Act (HFCAA), we also know that more capital is already flowing to mainland China based companies as companies delist or will be forcibly delisted from U.S. exchanges for non-compliance with U.S. securities laws as established by Sarbanes-Oxley and the PCAOB. In order to protect U.S. investors from non-compliant Chinese companies, placing the most egregious offenders on the U.S. NS-CMIC list for a ban on the buying and selling of their securities is crucial. Bipartisan, legislative work is required to make sure that capital markets sanctions policies are crafted, promulgated, and implemented correctly.

One key area for inclusion is the concept of sanctions harmonization. Better than a mere notion of sanctions reciprocity, sanctions harmonization links up current lists run by various U.S. Government Departments and Agencies in an interlocking process such that being sanctioned or listed by one enables the other to undertake consideration for legal sanctions action as well, and ultimately will ideally lead to increased listings by OFAC and more rigorous review. The current U.S. Government arrangement sees little transparency on why some Chinese companies are chosen to be on one list but not another. Across the U.S. Government, there are dozens of reports, lists, advisories, or sanctions tranches issued on a recurring basis. Some of these include: the U.S. Commerce Department's Bureau of Industry and Security (BIS) Entity

List; the Military End User List, the Unverified List, the Department of Defense's 1260H or CMC List (formerly 1237 CCMC List), the new Uyghur Forced Labor Prevention Act Entity List maintained by Department of Homeland Security, the OFAC NS-CMIC List, and more.

There is a strong need to put in place a process by which agencies responsible for enforcing and implementing sanctions better communicate with each other and Congress on ensuring every company that is listed by any agency goes through a review by all agencies for inclusion on each individual sanctions list. To that end we support draft legislation Congress is currently working on to address this very issue. The goal is to require the agencies that maintain malign entity lists (Departments of Treasury, Commerce, Defense, and Homeland Security) to better coordinate, review listing decisions of other agencies, and make a determination on listing such entities on their respective lists. The bill requires the agencies reviewing an entity that was listed by another agency to provide a legal justification to Congress (affirmative or negative) and notify the public. Further, Global Magnitsky Act sanctions must be included in this policy arena, requiring some necessary updates to separate out human rights accusations from those of corruption, enabling further actions and sanctioning to take place by Treasury. Additionally, the State Department must be included at the table as the U.S. government's preeminent authority on human rights. State Department warnings such as the one issued on December 8, 2020 on bad actors present in U.S. capital markets or the Hong Kong or Xinjiang Business Advisories must be issued and updated on a recurring basis and linked to sanctions from Treasury, notably expansion and inclusion on the NS-CMIC List.

While both houses of Congress unanimously passed legislation to require a report annually to be produced by Treasury —in consultation with DOD, State, and the intelligence community — on the presence of malign Chinese companies in U.S. capital markets, the measure failed to be included in the final China bill voted on this summer. If this Committee and Congress are serious about tackling China's exploitation of U.S.capital markets, Congress must have the necessary information. This can be done in consultation between Treasury, SEC, State Department, and others to ensure Congress has better information with which to make the right policy decisions to protect our capital markets, investors, and nation from China's exploitation.

As an illustration of the challenge facing the U.S, the federal government has recently implemented the CHIPS Act and export controls designed to prevent China building advanced semiconductors with military capabilities. Yet financial industry data shows that last year, investors invested $8.8 billion in Chinese semiconductor startups, more than six times greater than the $1.3 billion invested in comparable U.S. startups. Much of that $8.8 billion dollars came from U.S.-based public and private investment funds. Why are we trying to prevent Chinese access to advanced semiconductors with one hand, yet funding it with the other?

Another telling anecdote is that of CSSC Holdings Ltd. As of June 2022, household names in investing – BlackRock and Vanguard for example – are providing Exchange Traded Funds (ETFs) and other investment products to consumers that track indices containing Chinese companies building and modernizing the Chinese Communist Party's military. CSSC Holdings Ltd. was listed as a constituent of the MSCI Emerging Markets, MSCI ACWI, FTSE Emerging,

and FTSE All-World indices. These indices are tracked by trillions of dollars of assets under management globally through associated ETFs. Most Americans do not know or can analyze the indices tracked by their ETFs, nor to know fully what is in their ETF or other investment products, and simply cannot do their own analysis – or remove – bad actor Chinese companies from their investment accounts.

On June 17, 2022, The People's Liberation Army Navy (PLAN) successfully launched its third aircraft carrier from Shanghai's Jiangnan Shipyard. The new carrier enables PLAN to launch a wider variety of aircraft and is reportedly equipped with technology furthering PLAN blue water naval capabilities. Jiangnan Shipyard, where the Fujian was built, is a commercial and naval shipbuilding facility.

Jiangnan was wholly acquired in 2019 as a subsidiary of China State Shipbuilding Corporation Holdings Limited (CSSC Holdings Ltd.). CSSC Holdings Ltd. is the publicly-traded arm of China State Shipbuilding Corporation Ltd., a Chinese state-owned enterprise carrying out shipbuilding and repairs for cargo customers and PLAN military vessels, and is included in some of the world's most prominent investment indices. Foreign capital flowing into Jiangnan Shipyard directly via its commercial business or indirectly via CSSC Holding Ltd securities, may both directly and indirectly support PLAN modernization.

Development of the PLAN's fourth aircraft carrier is reportedly underway at Jiangnan shipyard, with the carrier's launch expected between 2025 and 2027.

CSSC was designated as a Non-SDN Chinese Military Industrial Complex Company (NS-CMIC) on June 3, 2021. This listing, under Executive Order 13959 (as amended by President Biden in Executive Order 14032), prohibits U.S. persons from purchasing or selling any securities of companies deemed to be supporting China's military-industrial base. This prohibition does not apply to subsidiaries, like CSSC Holding Ltd. or Jiangnan Shipyard, that are not also explicitly designated by the Treasury Department's Office of Foreign Assets Control (OFAC). Correspondingly, CSSC was designated by the Department of Defense as a Chinese Military Company operating directly or indirectly in the United States by the Biden Administration in June 2021, in accordance with the FY21 NDAA's section 1260H.

As of June 2022, CSSC Holdings Ltd. was listed as a constituent of the MSCI Emerging Markets, MSCI ACWI, FTSE Emerging, and FTSE All-World indices. These indices are tracked by trillions of dollars of assets under management globally, for example, through the associated Exchange-traded funds (ETFs). The primary ETF providers include Blackrock's iShares products and Vanguard's UCITS products, respectively.

In addition to issuing yuan-bonds, as of 2015, the CSSC corporate family has raised nearly $2.6 billion through euro and dollar-denominated debt placement via markets such as the U.S. Over-the-Counter market, Frankfurt, and Bank Sarasin (Switzerland) markets and JP Morgan bond-focused ETFs, among other debt markets. Nearly all of which were underwritten by Western banks, most commonly Barclays and Société Générale. Four of CSSC's euro- and dollar-bonds have yet to mature:

Transparency and disclosures must be required of index providers and fund managers. Sanctioned and known bad actor Chinese companies must be prohibited from investment exposure by Americans through application of capital markets sanctions. In light of recent CCP-led aggression against Taiwan, the U.S. must stop funding the People's Liberation Army and Navy, and enabling the military modernization of the Pentagon's named strategic rival. It is foolish for America to be simultaneously financing our own military modernization *and* that of the CCP. America must get serious about using tools of economic statecraft to avert an arms race with the Chinese – or worse, a kinetic exchange. Stop sending U.S. capital to the CCP and its companies.

Conclusion

The U.S. government should take the necessary steps to ensure passive investment and government pensions are safe and secure from adversarial, authoritarian regimes like China. They should do so because it is in the best interest of the U.S. from both a national security and economic sovereignty perspective. I'll leave the committee with some of the latest returns on being invested in China.

- "The MSCI China is down 26% year-to-date, similar to the Nasdaq, and underperforming the MSCI Emerging Markets Index." Source.
- Overseas investors became the net sellers of mainland shares
- The offshore real estate credit market collapsed
- Emerging market fund equity allocations to China reached the lowest number in three years
- Goldman Sachs predicted no earnings growth for MSCI China Index constituents in 2022.
- "An American Chamber of Commerce (AmCham) in China survey in May found that 51% of respondents have already delayed or decreased investments" Source. (mostly due to Covid though)
- BlackRock Investment Institute added U.S.-China competition to its list of top 10 geopolitical risks for 2022.

To be a good fiduciary entails appropriately managing and minimizing risk in the stewardship of client money. But the financial industry will not fix these problems which are existential national and economic security risks to America. he risks are increasing and returns are less certain than ever before, Congress must pass laws that the financial industry must comply with in the national interest. To say that one must be in China to be a good fiduciary completely undercuts the base premise of fiduciary duty and supports the ascendance of authoritarianism and non-market economies.