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INTRODUCTION

Chairman Gallagher, Ranking Member Krishnamoorthi and members of the Select Committee,

I appreciate the opportunity to testify before your committee. I appear in my individual capacity. My views are my own, informed by my experience. From 2017 to 2020, I was Chairman of the Securities and Exchange Commission, a member of the Financial Stability Oversight Council (FSOC) and the Financial Stability Board (FSB).

Prior to government service, I practiced corporate law, domestically and internationally, advising many private, public and state-owned companies on the function and regulation of U.S. and non-U.S. capital markets. Currently, I am a Senior Policy Advisor to Sullivan & Cromwell LLP; I have fiduciary and non-fiduciary roles at various public and private companies and non-profit organizations; and I am an adjunct professor at the University of Pennsylvania (the Wharton School of Business and the Carey Law School) and Stanford Law School.

I want to thank Speaker McCarthy and Leader Jeffries for forming this bipartisan committee and the committee members for your efforts, together with the Executive branch, to develop and communicate a more consistent policy toward our relationship with China.

Investment flows and business ties more generally cross thousands of financial firms and tens of thousands of businesses. Those private sector actors are looking for, and will respond to, China-related policies that are pragmatic, coherent and consistent over time. In turn, those private sector responses will drive the advancement of policy objectives.

This positive cycle requires continuous bi-partisan commitment and public sector-private sector dialogue. My aim today is to contribute to those efforts.

U.S. CAPITAL MARKETS – CORE POLICY CHOICES

The U.S. capital markets are the lifeblood of our economy and the global economy. The United States has 4.4% of world population, yet our markets provide roughly half the world's equity and credit. The dollar is the world's reserve currency; U.S. treasury securities are the benchmark store of value; and our diverse and nimble public and private capital markets facilitate (1) trillions in short term transactions – essential to the functioning of our consumer-oriented, credit-based economy – and (2) trillions in long term capital investment – necessary for innovation and growth.

Pension funds, endowments and over 50 million American households benefit directly from our unique leadership position in banking and capital markets. And all Americans benefit from, and depend on, the continued economic growth our financial markets provide. It is an enormous competitive advantage. Our economic strength also is essential to national security and our ability to conduct foreign policy effectively. Every other country would like more of what we have.

We have achieved this leading position in financial markets through a combination of policy choices. First, and most importantly, a strong belief in market function. We believe that investors, armed with good information and confidence in government, will allocate capital to its highest and best social use. This belief is reflected in our disciplined commitment to (1) transparency, (2) accountability – the enforcement of laws that embody fairness and efficiency, and (3) financial stability, including prudential regulation of key financial intermediaries and markets.

Second, we have embraced both innovation and globalization. In addition to capital markets, we lead the world in tech, aerospace, and healthcare, largely as a result of our outsized willingness to commit capital to innovation.

Our capital markets, and our economy more generally, have become deeply intertwined with European and Asian markets. Our largest company, Apple, sources a majority of its production from China and derives almost a fifth of its sales from China.

As markets have become more globally intertwined, in their approach to financial regulation, most countries have embraced, at least to a meaningful extent, the U.S. commitment to transparency and accountability. And, through the G7, the G20 and the Financial Stability Board, with the scars of the global financial crisis still front of mind, as well as the understanding that growth is not a choice, it is essential, most countries also have committed, individually and collectively, to financial stability.

These common commitments have reduced the country- and market-specific risks of globalization and economic interdependence.

U.S.-CHINA ECONOMIC INTERDEPENDENCE; NEW RISKS TO INVESTORS AND FINANCIAL STABILITY

Starting in the 1990s and for the better part of two decades, we believed that China would recognize that it was in its best interest to join in this approach. This belief, combined with massive trade benefits, made us comfortable with (and perhaps complacent with) an unprecedented level of investment in, and interdependence with, China. Twenty five years later, the belief that regulatory and policy norms in China would gravitate toward transparency, accountability and stability remains substantially aspirational.[1]

When you combine (1) this level of economic interdependence, (2) the departure from international norms in financial regulation, and (3) the substantial political and security tensions between the U.S. and China, the risks to investors and financial stability are significant. And, importantly, these risks are of a different character than we have encountered previously.

We have experience dealing with national and regional business cycles, but we do not have experience dealing with an abrupt shift in economic or trade policy, through capital controls, sanctions, tariffs or other methods, with a world leading economy. Experts believe such a shift in our relationship with China is a risk that should be considered. And, while actual results would depend on policy responses from governments and investment choices of private actors, there is a general consensus that such an abrupt shift would have significant adverse effects on U.S. companies, our markets, and global markets more generally.

How these risks emerged over the past 20 years provides context. But, the questions of the moment are: (1) how do we better understand the magnitude and scope of those risks; and (2) what do we do to reduce them? My view is we will get better answers to those questions – and we will drive risk reduction – by embracing our core policy choices – transparency, accountability and financial stability.

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[1] During my tenure at the SEC, we focused on making investors and other market participants aware of the risks of investing in China and other emerging markets. See, for example, SEC.gov | Emerging Markets Roundtable (with links to various statements and materials) and SEC.gov | Disclosure Considerations for China-Based Issuers.

INITIATIVES FOR CONSIDERATION

In this regard, I ask you to consider the following initiatives:

Better Understand the Exposure of Large U.S. Public Companies to China

I am not generally a proponent of mandatory, issue-specific disclosure for public companies. I believe our principles-based approach, rooted in what would be material to a prudent investor when they make an investment decision, produces the best results for investors and markets.

That said, we should consider, as a limited-term pilot program, requiring large U.S. public companies with significant exposure to China to disclose (1) the extent of their exposure and (2) the expected effects on their operations, business and prospects, if the U.S. and China were to substantially and adversely alter their economic ties. The program could describe one or more abrupt decoupling scenarios that Company's would consider, which could be updated as circumstances warrant.

I believe the thresholds for disclosure, at least initially, should be set to capture only very large companies with substantial operations in China. For example, disclosure could be required for issuers (1) with greater than $50 or $100 billion in market capitalization and (2) that have (a) China-based cost or revenues in excess of $10 billion annually or (b) China-based relationships the cessation of which would have a material adverse effect on the business, operations or prospects of the company.

My expectation is most large companies with this level of exposure to China have considered and are monitoring these risks.[2] I encourage dialogue with these companies, investors and other market participants (as well as trade and national security experts) prior to finalizing any pilot program requirements. The pilot program could be expanded (e.g., to non-U.S. companies, including Chinese companies listed in the U.S.) as necessary and appropriate.

Any disclosure requirement of this type should have the benefit of an extensive "safe harbor" for forward looking statements. This is not about litigation; and we should avoid the inevitable boilerplate that follows when litigation risk is present. The goal here is to allow investors and policy makers to understand and evaluate how large companies view, and are preparing for, China-related risks, an inherently uncertain and ever-changing exercise.

Better Understand the Exposure to China and Consequences of an Abrupt Shift in Economic Ties

Consistent with the House efforts reflected in the "China Threat Mitigation Act", consider requiring the FSOC, utilizing the resources of its member organizations as well as the Department of Commerce and the Office of the U.S. Trade Representative, to provide an annual report to Congress that includes (1) an assessment of the financial exposure of the United States to China and vice versa (with key aggregate data across markets) and (2) a discussion of the risks to the U.S. financial system and the U.S. economy more generally if the U.S. and China were to substantially and adversely alter their economic ties.

Similar "abrupt decoupling" scenarios to the pilot program for large issuers could be specified.

I suggest the FSOC because time is of the essence, and of the currently in place organizations, it is relatively well-positioned positioned for the task. That said, I agree with former Deputy Treasury

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[2] I roughly estimate that these thresholds would require disclosure from a maximum of 150 companies.

Secretary, Justin Muzinich, and others who have called for the White House (National Security Council), Treasury and Commerce to establish a dedicated office tasked with assessing economic leverage and vulnerability, globally.[3]

NOT A BI-LATERAL ISSUE; NOT CHINA-ONLY

I note that this committee's focus is on China-related matters and my comments have centered there.

Please recognize (1) economic ties are multi-lateral – assessing these risks properly, as well as any risk reduction efforts, will go well beyond direct U.S. – China relationships; and (2) these initiatives would be appropriate and valuable in the case of other jurisdictions where the U.S. has substantial economic ties and the risk of an abrupt change in relations is meaningful.

CONTINUATION OF OTHER ONGOING EFFORTS; COORDINATION

I offer these suggestions as complementary to ongoing efforts, including: the Holding Foreign Companies Accountable (HFCA) legislation; the recent Executive Order regarding private investment in China; and the efforts of this committee around U.S. investments in China more generally, particularly index construction and U.S.-investor financing of firms engaged in matters adverse to our national security.

With regard to the HFCA, I do ask that this committee, using its oversight powers, to encourage the Public Company Accounting Oversight Board (PCAOB) and the Securities and Exchange Commission to provide more frequent and more detailed assessments of both (1) the ability of the PCAOB to inspect auditing firms in China and (2) the performance and results of those inspections.

OBJECTIVES; CONCLUSION

We face new and significant challenges with respect to our relationship with China, with the real risk of economic impact to U.S. companies and our citizens more generally. I believe these economic risks can and should be mitigated. Two keys to these mitigation efforts are (1) a better and more comprehensive understanding of these risks – for policy makers and the public – and (2) a coherent and consistent national strategy for risk mitigation. With such a greater, common understanding of risk and strategy, companies, investors and governments will move more quickly and their collective efforts will substantially reduce investor risk and systemic financial risk.

I believe, as a result of the work done to date by this committee and others, we are already seeing substantial risk mitigation efforts at the Company level, including through a more global diversification of operations and investment.

Thank you for your continued bipartisan commitment to transparency, accountability, financial stability and national security.

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[3] See, for example: American National Security Has an Economic Blindspot | Foreign Affairs