

118TH CONGRESS
2D SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. RICKETTS introduced the following bill; which was read twice and referred to the Committee on _____

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.