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United States Senate
WASHINGTON, DC 20510-0908

August 10, 2023

The Honorable Gary Gensler
Chairman
U.S. Securities and Exchange Commission
100 F Street NE
Washington, D.C. 20549

Dear Chairman Gensler:

I write with regard to disturbing news that the People's Republic of China (PRC) is pressuring firms to conceal information about the risks of doing business in the PRC. If true, this effort is a direct challenge to American law and securities regulations. I trust that you will take the strongest possible measures to protect American investors and credibility by ensuring that Chinese firms are complying with our laws, and, if they fail to do so, barring them from U.S. capital markets.

On July 20, 2023, the Chinese Securities Regulatory Commission (CSRC) reportedly convened a secret meeting with ten Chinese law firms, including Fangda Partners, Han Kun Law Offices, and Zhong Lun Law Firm, to offer informal guidance about Chinese firms seeking initial public offerings (IPOs) overseas.[1] According to *Reuters*, the CSRC commanded law firms not to sign off on offshore IPO documents that disclose the risks of doing business in the PRC, such as the tyrannical rule of the Chinese Communist Party (CCP), its sweeping "national security" laws, the instability of the Chinese economy, and the arbitrariness of the Chinese judicial system.

The CSRC's latest directive expands on a March 2023 rule that requires Chinese companies to comply with the PRC's national-security laws in order to list overseas. That rule also prohibits companies from making statements in their prospectuses that "misrepresent or disparage laws and policies, business environment and judicial situation" in the PRC. Effectively, the rule forbids companies from speaking ill about the CCP and its oppressive regime. The CSRC threatened to block Chinese companies from listing overseas if they alert investors to these real and serious risks.

Beijing's directive to Chinese law firms is part of a broader campaign to crack down on the private sector and conceal information from Western investors. Late last year, the Cyberspace Administration of China ordered Wind Information Co., the PRC's equivalent of the Bloomberg Terminal, to restrict financial data about Chinese companies for offshore users.[2] In February, China's Ministry of Finance instructed state-owned enterprises to phase out Western auditing firms in favor of more pliable local firms.[3] In April, the CCP expanded its Counter-

[1] https://www.reuters.com/world/china/beijing-pushes-toning-down-china-risks-ipo-prospectuses-sources-2023-07-24/
[2] https://www.asiafinancial.com/wind-chinas-top-financial-data-provider-cuts-foreign-access
[3] https://www.bloomberg.com/news/articles/2023-02-22/china-urges-state-firms-to-drop-big-four-auditors-on-data-risk

Espionage Law to encompass not only "state secrets," but any "documents, data, materials or items related to national security and interests"—an expansion that imperils any company or employee working in sectors deemed sensitive by Beijing.[4] Chinese authorities also have shut down, fined, or raided a number of Western investment and consulting firms this year alone. Unfortunately, these provocations have not convinced Wall Street firms and multinational corporations to stop collaborating with the CCP. Late last month, KKR, Blackstone, and Carlyle reportedly met with Chinese securities regulators to ensure their access to the country.[5]

Beijing's efforts at coercion and concealment naturally raise the question of what it is trying to hide—or what it is preparing for in secret. What is clear is that the CCP is enlisting Chinese firms in a conspiracy to violate U.S. law and thwart U.S. securities regulators. My *Uyghur Forced Labor Prevention Act* (UFLPA), together with the *Holding Foreign Companies Accountable Act* (HFCAA), requires Chinese companies to disclose their ties to the CCP, the risks of doing business in the PRC, and their compliance with the UFLPA. The SEC has provided guidance elaborating on these disclosure requirements. Now, the CCP is instructing its firms to ignore those disclosure requirements and violate our laws. Such a challenge to U.S. authority and threat to U.S. investors demands a response. I offer the following questions to determine what the SEC believes that response should be.

1. Do you believe that Chinese companies that fail to disclose the risks of doing business in the PRC should be allowed to access American markets?
2. What steps will the SEC take to ensure that Chinese firms seeking to access American markets do not censor their prospectuses under pressure from the CCP?
3. Do you believe that any Chinese firm should be allowed to list on U.S. stock exchanges, given the obvious pressure from Beijing to conceal information and deceive American investors?
4. Should Western investors feel any confidence, when they invest in the PRC, that their capital is safe and they know what they are purchasing?
5. What steps is the SEC taking to require Wall Street firms and multinational corporations to disclose their collaboration with the CCP?
6. Do you believe that public pension funds, such as the Thrift Savings Plan, should be allowed to invest Americans' retirement savings or offer investments in PRC firms?
7. What information do you believe corporate disclosures must contain in order to ensure enforcement of the UFLPA?

Thank you for your consideration and for your prompt response to these important issues.

Sincerely,

Marco Rubio
U.S. Senator

[4] https://www.csri.global/research/xis-national-security-agenda-how-can-governments-and-businesses-de-risk
[5] https://www.reuters.com/breakingviews/chinas-crackdown-ipo-risk-factors-is-warning-2023-07-25/