

May 20, 2022

Via E-Mail

Ms. Vanessa Countryman
Secretary
U.S. Securities and Exchange Commission
100 F Street, NE
Washington, DC 20549-1090

Re: Petition for Rulemaking or Guidance: Communist China Business Disclosure

Pursuant to Rule 192(a) of the U.S. Securities and Exchange Commission's (the "Commission") Rules of Practice, I respectfully request that the Commission enact a rule or otherwise require issuers to disclose their business dealings in and with the People's Republic of China ("Communist China"). Such disclosure shall include, but not be limited to:

- Sales to Communist China (direct and indirect);
- Purchases from Communist China (direct and indirect);
- Ownership of assets in Communist China; and
- Stakes in entities registered in Communist China.

Issuers should conduct reasonable due diligence about their customers and suppliers to ensure that their disclosures include amounts of indirect sales and purchases to and from Communist China that can be reasonably ascertained through due diligence of respective supply chains.

Rationale

The Commission has already recognized that issuers may have disclosure obligations due to Russia's invasion of Ukraine. Per the Commission's "Sample Letter to Companies Regarding Disclosures Pertaining to Russia's Invasion of Ukraine and Related Supply Chain Issues," the Commission has recognized that: "Companies may have disclosure obligations under the federal securities laws related to the direct or indirect impact that Russia's invasion of Ukraine and the international response has had or may have on their business."¹

US business with Communist China is about 17 times greater than that with Russia. U.S. goods and services trade with Communist China totaled an estimated \$615.2 billion in 2020, per the Office of the US Trade Representative.² U.S. goods and services trade with Russia totaled an estimated \$34.9 billion in 2019.³ So the economic importance of Communist China to all US businesses is more than 17 times greater than that of Russia. If issuers have obligations to

¹ <https://www.sec.gov/corpfin/sample-letter-companies-pertaining-to-ukraine>

² <https://ustr.gov/countries-regions/china-mongolia-taiwan/peoples-republic-china>

³ <https://ustr.gov/countries-regions/europe-middle-east/russia-and-eurasia/russia>

disclose business dealings with Russia, then disclosures with respect to Communist China are even more warranted.

Communist China has vowed to seize Taiwan. Communist China views Taiwan as a renegade province and has vowed to eventually “unify” Taiwan with the mainland.”⁴

Taiwan is concerned that China will invade. Taiwan's Foreign Minister Joseph Wu said his country was preparing for China to launch an invasion because “We are very concerned that China is going to launch a war against Taiwan at some point.”⁵

The US Government believes Communist China will certainly invade Taiwan by 2027. The Chairman of the Joint Chiefs of Staff testified to the Senate Armed Service Committee on April 27, 2022 that: “[Communist China] has and continues to develop significant nuclear, space, cyber, land, air, and maritime military capabilities, and they are working every day to close the technology gap with the United States and our allies. In short, they remain intent on fundamentally revising the global international order in their favor by midcentury, they intend to be a military peer of the U.S. by 2035, and they intend to develop the military capabilities to seize Taiwan by 2027.”⁶

US-China relations could be entirely disrupted over Taiwan at any moment. There are ongoing and not infrequent incidents between warships of Communist China and the US Navy in the Taiwan Straits.⁷

The US is legally bound to assist Taiwan defend itself. The Taiwan Relations Act states, “the United States will make available to Taiwan such defense articles and defense services in such quantity as may be necessary to enable Taiwan to maintain sufficient self-defense capabilities.”⁸ President Biden has stated that the United States would defend Taiwan if Communist China ever attacked the island.⁹

Communist China has passed a law to take action against foreign businesses in case of war. In 2020, Communist China passed a law to take countermeasures against any country or region that poses a threat to China's national security and interests.”¹⁰

Communist China has taken action against foreign businesses when it believes a foreign government has offended it. Communist China stopped buying coal and other goods from

⁴ <https://www.cfr.org/backgrounder/china-taiwan-relations-tension-us-policy>

⁵ <https://www.cbsnews.com/news/taiwan-china-war-us-warning-record-number-chinese-military-flights/>

⁶ <https://www.armed-services.senate.gov/imo/media/doc/CJCS%20PB23%20Written%20Statement.pdf>

⁷ See, e.g., <https://www.newsweek.com/us-navy-destroyer-uss-sampson-taiwan-strait-china-1701291>

⁸ <https://www.congress.gov/96/statute/STATUTE-93/STATUTE-93-Pg14.pdf>

⁹ <https://www.cbsnews.com/news/china-taiwan-biden-united-states-defense/>

¹⁰ <https://asia.nikkei.com/Politics/International-relations/US-China-tensions/China-passes-export-control-law-with-potential-for-rare-earths-ban>

Australia in 2020 after the Australian government criticized Communist China with respect to COVID.¹¹

Commission staff has concluded that issuer dependence on China, whether direct or indirect, is an appropriate subject for shareholder disclosure. Shareholders may now file shareholder proposals under SEC Rule 14a-8.¹²

Conclusion

The US government expects Communist China to invade Taiwan at any time. Such an invasion will likely materially disrupt US business relations with Communist China. This disruption may result in material financial losses to issuers, whether issuers do business directly with or rely indirectly on Communist China. The nature and risk of this sort of disruption is material to shareholders. Issuers should be required to disclose their reliance on Communist China to shareholders.

Thank you for considering this petition. I have also attached a recent Wall Street Journal op-ed on this topic.¹³ Please let me know if you need further information.

Sincerely,



Steve Milloy

Attachment: Milloy S, "Companies Should Come Clean on Their Ties to China," Wall Street Journal (May 9, 2022).

¹¹ <https://www.cnbc.com/2021/10/26/china-energy-crisis-beijing-not-likely-to-lift-coal-ban-on-australia.html>

¹² <https://junkscience.com/wp-content/uploads/2022/03/Verizon-Milloy.pdf>

¹³ https://www.wsj.com/articles/companies-ties-to-china-disclose-invest-sec-securities-and-exchange-commission-taiwan-ukraine-russia-costs-lost-earnings-public-11652125591?mod=Searchresults_pos1&page=1#

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <https://www.djreprints.com>.

<https://www.wsj.com/articles/companies-ties-to-china-disclose-invest-sec-securities-and-exchange-commission-taiwan-ukraine-russia-costs-lost-earnings-public-11652125591>

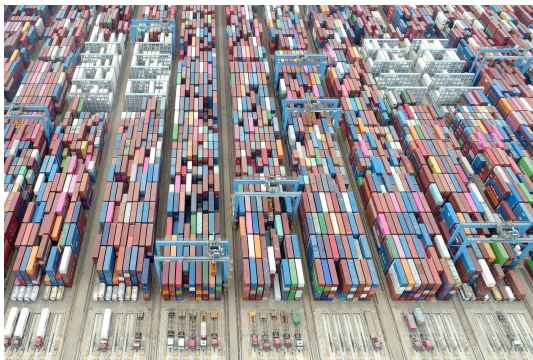
OPINION | COMMENTARY

Companies Should Come Clean on Their Ties to China

Investors have a right to know how an invasion of Taiwan would affect business.

By Steve Milloy

May 9, 2022 6:39 pm ET



Goods wait to be loaded and unloaded at Qingdao Port in China's Shandong Province, May 9.

PHOTO: CFOTO/ZUMA PRESS

The Securities and Exchange Commission is prodding publicly owned companies to disclose how Russia's invasion of Ukraine is affecting their operations. [BP](#), [Shell](#) and [Exxon Mobil](#) have booked charges of \$25.5 billion, \$8.4 billion and \$3.4 billion respectively, but the major oil companies aren't the only ones losing money. [General Electric](#) took a \$200 million charge, and [McDonald's](#) is losing \$50 million a month from closing its Russian operations. Netflix suspended service in Russia and lost 700,000 viewers, the first time in a decade its viewership has declined.

All this is peanuts compared with what might lie ahead should China attempt to invade Taiwan. Trade between the U.S. and China was worth \$615 billion in 2020, according to the Office of the U.S. Trade Representative. In contrast, U.S.-Russia trade was only worth about \$35 billion in 2019. But that disparity in trade volume is only the tip of the iceberg. The stuff we get from China—from antibiotics and smartphones to minerals and metals needed for green technology—is much more important than almost anything we get from Russia. The Biden administration wants to commit the U.S. to a green agenda, but 80% of

the rare-earth minerals needed for that technology are processed by China.

China is a well-known serial violator of human and civil rights whose leaders say they intend to displace the U.S. as the lone global superpower by 2049. The U.S. has a longstanding commitment to defend Taiwan, which China may attempt to seize by force. U.S.-China relations are tense over issues including China's military expansion, actions related to Covid, intellectual-property theft, tariffs and solar-panel dumping.

China has also publicly indicated that it would use its industrial capabilities, such as rare-earth mineral processing, for strategic purposes against adversaries. Beijing recently levied large tariffs on imported Australian goods in retaliation for Canberra's attempts to investigate the origin of the Covid-19 pandemic.

The good news is the SEC staff has recently given the green light to my shareholder proposal for a "Communist China Audit," which asks companies to disclose to shareholders the extent to which their business relies on China. This year, I filed this proposal with 3M and Verizon. The former has substantial business operations in China—more than 6% of 3M's workforce is based there. At the beginning of the pandemic, 3M had to secure Beijing's permission to export Chinese-made N95 masks to the U.S.

Verizon doesn't itself have significant operations in China, but it would materially affect its business if China stopped exporting smartphones and other technology to the U.S. As many as 70% of all smartphones shipped to the U.S. come from China. Verizon's leadership asked the SEC staff to exclude my proposal, but the request was denied.

Shareholders have the right to know the extent to which their investments depend on U.S.-China relations. The Russian invasion of Ukraine, along with the growing closeness between Moscow and Beijing, has increased the possibility of a dangerous U.S.-China confrontation. The 3M and Verizon shareholder proposals will be voted on May 10 and 12, respectively. But the time for all companies to prepare and to make adequate disclosures of material information regarding China is now.

Mr. Milloy is a senior legal fellow with the Energy and Environmental Legal Institute and a former SEC attorney and investment-fund manager.

Copyright © 2022 Dow Jones & Company, Inc. All Rights Reserved

This copy is for your personal, non-commercial use only. To order presentation-ready copies for distribution to your colleagues, clients or customers visit <https://www.djreprints.com>.