BACKGROUNDER

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Regulation of International Investment: Focus on China

David R. Burton

KEY TAKEAWAYS

International investment and international trade enhance the well-being of both parties to the transaction. There are mutual gains from international investment.

Politicizing private investment decisions would harm the U.S. economy.

Legal limits on investments are warranted if investments involve technology with military applications, would facilitate espionage, or endanger national security.

This *Backgrounder* examines the economics of international investment, the relationship of international investment with international trade, the generally superior efficacy of private capital markets to political control of investment, bilateral investment treaties, the general rules governing foreign companies issuing or listing securities in the United States and what factors warrant legal limits on inbound or outbound investment. It examines the scope of U.S. investment in China and Chinese investment in the United States. It examines current issues related to Public Company Accounting Oversight Board (PCAOB) inspections of Chinese and other foreign accounting firms, proposed restrictions on international index funds and federal employee investments in international securities, and the use of international institutions to foster greater disclosure related to Chinese investment in third countries.

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International Investment

International investment,[1] like international trade, enhances the well-being of both parties to the transaction.[2] There are mutual gains from international investment, just as there are mutual gains from trade. International investment makes capital markets more efficient, promotes innovation and competition, improves productivity, and diversifies risk. In limited circumstances, national security or other considerations may warrant legal constraints on inbound or outbound investments. This is particularly true if investments (1) involve technology with military applications or (2) would facilitate either cyber-attacks or espionage (including industrial espionage) by an adversary or endanger national security by, for example, jeopardizing critical supply chains. Investments in or by countries that are geopolitical rivals like China or Russia or hostile to the United States raise special concerns.

Generally, however, government should not impede foreign investors from investing in the United States or U.S. investors from investing abroad. One should be deeply skeptical of claims by political actors that they can make better investment decisions than private actors risking their own money. Political actors, like others, often act in their own self-interest and not in the public interest.[3] Moreover, no central authority has access to sufficient, timely information to outperform many millions of private actors risking their own money and responding to the information embedded in market prices.[4] U.S. policy has been supportive of transnational investment for virtually its entire history. The U.S. has been the beneficiary of inbound investment by foreigners since the early republic.[5]

The Capital Account and the Current Account

Any country that runs a capital account surplus must have an equal current account deficit.[6] The converse is also true. Any country that runs a current account deficit must run a capital surplus. The United States has had, during various periods in its history, large and sustained capital account surpluses (and the corresponding current account deficit) as foreign capital flowed into the country.[7] In the 30-year period from 1790 to 1819, the United States had a merchandise trade surplus in only two years.[8] In the 41-year period from 1820 to 1860, the United States had a merchandise trade surplus in only 11 years.[9] In the 15-year period from 1861 to 1875, the United States had a merchandise trade surplus in only two years.[10] These were generally years of sustained prosperity and growth.

Similarly, the United States has had a merchandise trade deficit since 1971.[11] Some of these years were generally prosperous with strong economic growth (1983–1989, 1994–2000), and others were not (1974–1975, 1980–1982, 1990–1991, 2008–2009).[12] But policies other than those governing trade and international capital flows were primarily responsible. Targeting the current account deficit or the merchandise trade deficit[13] as a policy variable is a mistake.

As of the third quarter of 2019, foreign persons have invested $39.2 trillion in the United States, while U.S. persons have invested $28.3 trillion abroad.[14]

U.S. Investment in China and Chinese Investment in the U.S.

According to the Bureau of Economic Analysis (BEA), as of the close of 2018, China accounted for $39 billion of direct foreign investment in the United States, less than 1 percent of the total of $4.3 trillion.[15] Others place Chinese direct investment in the United States at the considerably higher levels of $180 billion[16] or $140 billion.[17] It is not clear why these estimates differ, but even using the higher estimates, Chinese investors account for only about 4 percent of foreign direct investment. Conversely, as of the close of 2018, the BEA places U.S. direct investment in China at $117 billion.[18] As of November 2019, China held $1.1 trillion of U.S. Treasury securities.[19] As of October 2019, Chinese investors held $1.5 trillion of long-term U.S. securities of all types (7.6 percent of $20.1 trillion in foreign holdings of long-term U.S. securities).[20] As of October 2019, Chinese investors held $190 billion of U.S. corporate stock (or 2.2 percent of the U.S. corporate stock held by foreigners).[21] About 19 percent of U.S. corporate equities are owned by foreigners.[22]

Why Markets Work Better Than Politics

There are six primary (and interrelated) reasons for the superior efficacy of markets over politics as the regulator of economic life:[23]

1. Competition increases choice and promotes efficiency,

2. Markets provide better incentives,

3. The price mechanism better allocates scarce resources to meet consumer wants than bureaucracy or politics,

4. Markets and private enterprises better develop and use information,

5. Markets and private enterprises provide greater and more rapid innovation and discovery, and

6. Markets employ distributed planning rather than central planning.

Free markets are much better at providing low-cost, high-quality goods and services that people want than a government-controlled economy. To the extent that government interferes with market processes and substitutes political control for unimpeded markets, economic performance will decline.

Politicizing Investing

Free capital markets allocate investment resources to where market participants believe they will earn the highest rate of return. Apolitical capital markets result in a more effective use of scarce resources, higher productivity, more innovation, and a higher standard of living for all Americans. Politicizing investment decisions results in squandered resources, reduced productivity, less innovation, and a lower standard of living for the American people. Yet there is a major push by progressives, and some conservatives, to politicize investment decisions.

Progressives seek to politicize investment under the banner of environmental, social, and corporate governance (ESG) criteria; corporate social responsibility (CSR) requirements; socially responsible investment (SRI) requirements; sustainability requirements; diversity requirements; or stakeholder theory. Frequent rhetorical obfuscation notwithstanding, the goal of proponents of ESG, CSR, SRI, sustainability requirements, diversity requirements, or stakeholder theory is not to increase corporate profits but to instead alter corporate behavior by legislative, regulatory, or other means in furtherance of social or political objectives in a way that reduces shareholder returns.

The purpose of businesses is to deploy investors' capital and employees' labor in the service of consumer needs and wants with the aim of making a profit. But ESG, CSR, and stakeholder theory proponents are trying to alter the very purpose of businesses. Their aim is to pursue a plethora of social objectives rather than earning profits or meeting consumer wants. This would reduce social welfare. It would make American businesses less competitive and cost workers their jobs. It would make the American economy less efficient and productive, raising prices to consumers. It would make businesses become poor stewards of scarce resources. It would make management less accountable, since the metric of "success" will become extremely amorphous. It would reduce the returns to investors and have an adverse impact on the pension plans and defined contribution retirement accounts of well over a hundred million Americans.

Warranted Limitations on Outbound or Inbound Investment

Most people in the world live under authoritarian governments that inadequately respect human rights.[24] A *per se* legal limitation on investment in or by, or trade with, these countries would have an adverse impact on the U.S. economy, U.S. investors, and U.S. consumers. It would also harm the economy of the other country and make it less likely that democratic institutions will develop. Limiting trade and investment relationships entirely to democratic countries with good human rights records would sever American economic relations with most of Africa, much of Asia, and large parts of Central and South America. The United States should not impose legal limits on investment in or by, or trade with, a country only because its government is not democratic.

Legal limits on investments are warranted if investments involve technology with military applications,[25] would facilitate espionage, or endanger national security by, for example, jeopardizing critical supply chains. Investments in or by countries that are geopolitical rivals, such as China or Russia, or are hostile to the United States raise special concerns because these countries may use investments to undermine U.S. national security, and they may be inclined to do so. Restrictions are warranted. But policymakers need to remain cognizant that these restrictions have economic costs and that, particularly at the margins, the costs need to be weighed against the benefits.

Although reforms are appropriate, the U.S. government already has a series of strong national security restrictions on technology transfer and both outbound and inbound investment.[26] The Bureau of Industry and Security in the Department of Commerce, the Department of Defense, the Federal Bureau of Investigation, the Treasury Department, and other agencies formulate and enforce these restrictions. Similarly, law enforcement is engaged in enforcing laws against industrial, academic, and traditional espionage.[27] The United States and other governments have addressed the security dangers, notably facilitating espionage, of having the Chinese company Huawei build out 5G cell networks or other electronic systems.[28] There is increasing awareness that having a large share of critical goods (such as pharmaceuticals) produced in a country that is a geopolitical rival (such as China) poses unacceptable national security risks.[29] In many cases (e.g., rare earth minerals), this means removing unwarranted legal impediments to domestic operations.[30] Supply chain concerns are substantially diminished if the country in question is an allied country. Policymakers should also guard against those who seek illegitimate protectionist aims in the name of national security. Virtually every lobby in America that is subject to foreign competition will argue that national security objectives would be furthered by restricting that competition. There is a need for Congress to more systematically address the supply chain risk.

Bilateral Investment Treaties

Unless a determination is made that a country is hostile (and therefore inbound or outbound investment is undesirable for foreign policy or national security reasons) or otherwise unlikely to honor treaty obligations, a bilateral investment treaty with that country is desirable. Generally, bilateral investment treaties (1) require that investors be treated as favorably as the host party treats its own investors, (2) establish limits on the expropriation of investments and provide for payment of compensation when expropriation takes place, (3) allow funds to be transferred into and out of a host country without delay at a market rate of exchange, (4) restrict requirements such as local content targets or export quotas as a condition for the investment, (5) allow investors to choose their own management, and (6) give the right to international arbitration for dispute resolution in lieu of the local courts.[31] The model U.S. treaty has these provisions.[32] As of 2018, there were 2,932 bilateral investment treaties in force globally.[33] The U.S. has 42 bilateral investment treaties in force.[34] Although negotiations were undertaken during the Obama Administration, the United States does not have a bilateral investment treaty with China.[35]

Foreign Securities Issuers in the United States

U.S. securities markets are the largest and most liquid capital markets in the world, accounting for nearly two-fifths of global equity values.[36] The U.S. stock market dwarfs the securities markets of most countries. Therefore, access to U.S. capital markets is attractive to foreign issuers.

U.S. securities laws apply only to securities transactions in the United States.[37] The Securities Act of 1933[38] makes it generally illegal to sell securities in the United States unless the offering is registered with the Securities and Exchange Commission (SEC).[39] The Securities Act, however, exempts various securities and transactions from these requirements.[40] The most important exemption is the exemption for private offerings. Foreign issuers may make either public or private offerings.[41] Making a registered offering in the U.S. (often called "going public") is a very expensive proposition.[42] In addition, the costs of complying with continuing disclosure and other obligations of being a registered, public company are quite high. Regulatory and litigation risks are also much higher for public companies.

The Securities Exchange Act of 1934 established the SEC and sets forth the general rules governing securities exchanges and broker-dealers.[43] The New York Stock Exchange (NYSE) has 514 foreign listings and 1,729 U.S. listings.[44] It is often not possible as a practical matter for smaller public companies to be cost-effectively listed on national securities exchanges[45] such as the NYSE or NASDAQ. Instead, they are more often traded on the over-the-counter (OTC) market.[46] Over half of stocks traded on OTC Markets are those of foreign issuers.[47] Of the 11,674 stocks listed, 5,253 (45 percent) are from the United States; 2,423 issuers are Canadian; 756 are Chinese; and 197 are from Hong Kong.[48]

Regulation S-K[49] is the key regulation governing non-financial statement disclosures of public companies (those registered with the SEC). Regulation S-X[50] generally governs public company financial statements in registration statements or periodic reports. These two rules, including the various rules and accounting policies that they incorporate by reference, impose the vast majority of the costs incurred by public companies.[51]

Public Company Accounting Oversight Board (PCAOB)

The PCAOB is a not-for-profit organization exempt from taxation pursuant to Section 501(c)(3) of the Internal Revenue Code.[52] Under the law, it is explicitly not "an agency or establishment of the United States Government."[53] Under Title I of the Sarbanes–Oxley Act of 2002, Congress has delegated regulatory authority to the PCAOB.[54] The PCAOB regulates the auditing of any issuer of a registered security, broker or dealer.[55] This entails mandatory PCAOB registration by any accounting firm conducting such audits,[56] compliance with PCAOB rules and standards,[57] and submission to PCAOB inspections and audits.[58] Compliance with PCAOB rules is costly. These costs do not increase linearly with size, so compliance costs effectively bar small and medium-size accounting firms from auditing even small public companies. Moreover, the cost of accounting firm compliance with PCAOB rules must be recovered by the accounting firms through higher accounting fees charged to issuers and broker-dealers for audits. This is one reason why the number of public companies in the United States has declined substantially.[59] The total number of listed companies in 2016 was approximately 4,300, compared to about 8,100 in 1996.[60] This is also why there are calls by Senator Tom Cotton (R–AR) and Representative French Hill (R–AR), among others, to exempt non-custodial broker-dealers from PCAOB audit requirements.[61]

The PCAOB requires foreign accounting firms involved in auditing foreign investment firms that list their securities in the United States to register with the PCAOB, to comply with its rules and standards, and to submit to inspections. The PCAOB has had difficulty conducting inspections of PCAOB-registered audit firms in Belgium, China, France, and Hong Kong.[62] As of December 31, 2019, 143 Chinese and 45 Hong Kong public companies were affected.[63] Together, these firms had a market capitalization of about $1.9 trillion.[64] Seventeen PCAOB-registered accounting firms audited these companies.[65] In addition, approximately nine Belgian and 20 French public companies are affected by inspection difficulties.[66]

The PCAOB and the SEC have noted that it is difficult to enforce U.S. accounting rules and securities law requirements in emerging markets generally (including China).[67] They note that U.S.-listed international index funds or country funds that invest in foreign securities and provide U.S. investors with access to foreign capital markets raise all sorts of accounting and disclosure issues. Foreign issuers that have no securities listed in the United States are typically unwilling to comply with U.S. regulations simply because a U.S.-listed fund bought their shares. U.S. regulators should either relax their attempts to extraterritorially apply U.S. accounting rules and disclosure requirements or deny American investors access to funds investing in foreign capital markets.

On June 5, 2019, Senator Marco Rubio (R–FL) introduced the Ensuring Quality Information and Transparency for Abroad-Based Listings on our Exchanges (EQUITABLE) Act.[68] On May 20, 2020, the Senate passed, by unanimous consent, the Holding Foreign Companies Accountable Act, sponsored by Senator John Kennedy (R–LA).[69] This bill would require the SEC to maintain a list of issuers whose auditors have not been inspected by the PCAOB, and it would prohibit the trading of these securities either on exchanges or OTC markets after three years unless they are removed from the list. It would also mandate additional disclosure by Chinese issuers regarding the percentage of issuer shares held by the Chinese government, the name of any Chinese Communist Party official on the Board of Directors, and other matters.

The bill would have an adverse impact on Chinese issuers, because it would deny them access to U.S. capital markets unless the Chinese government[70] and Chinese accounting firms relent to PCAOB inspections. It would also make it extremely difficult for U.S. shareholders of these companies that bought those shares on U.S. markets to sell their shares, since the issuers' shares may not be traded. They may incur a near total loss.[71] There is a certain irony inherent in legislation passed in the name of investor protection that is likely to result in a near total loss for investors. Congress may want to consider giving an explicit cause of action against issuers that listed their securities in U.S. markets but failed to comply with U.S. laws (even if compliance is prohibited by Chinese law).

The core principle underlying the bill is sound. Foreign issuers that list their securities in the United States should comply with the same rules with which U.S. issuers must comply. But Congress also needs to reevaluate the cost and complexity that PCAOB and SEC accounting and audit and governance requirements impose on all public companies. They are too high and are making the public capital markets inaccessible to all but the largest companies.[72]

On June 4, 2020, President Trump issued a presidential memorandum that requires the President's Working Group on Financial Markets to providing recommendations within 60 days for actions by the SEC, other agencies, and the PCAOB.

The TSP, Index Funds, and China

The Thrift Savings Plan (TSP) is a defined contribution retirement savings and investment plan for federal employees and members of the uniformed services. It is similar to a private-sector 401(k) plan. It was authorized by Congress in the Federal Employees' Retirement System Act of 1986.[73] It is managed by the Federal Retirement Thrift Investment Board (FRTIB), a federal agency.[74] The members of FRTIB are statutorily required to "discharge their responsibilities solely in the interest of participants and beneficiaries."[75] As of April 2020, TSP assets totaled approximately $600 billion, and retirement savings accounts were being maintained for almost 6 million participants.[76]

TSP participants can invest their employee and employer contributions in the following core funds:

- Government Securities Investment Fund (G Fund),

- Fixed Income Index Investment Fund (F Fund),
- Common Stock Index Investment Fund (C Fund),
- Small Cap Stock Index Investment Fund (S Fund), and
- International Stock Index Investment Fund (I Fund).

In addition to these indexed core funds, participants may also invest in five Lifecycle Funds (L Funds). The L Funds are custom target-date funds invested exclusively in the G, F, C, S, and I Funds.[77]

In November 2017, the FRTIB decided to change the basis for the I Fund investments from the MSCI Europe, Australasia and Far East (EAFE) Index to the MSCI All Country World ex US Investable Market Index. MSCI is a publicly traded company that, among other things, provides a wide variety of financial indexes that in many cases serve as either the basis for other firms' securities offerings (usually funds that emulate a given index) or as benchmarks that the performance of mutual funds or exchange traded funds are measured against.[78]

The MSCI EAFE Index is an equity index that includes large and mid-capitalization companies across 21 developed country markets, excluding the United States and Canada. It has 915 constituents and covers approximately 85 percent of the free-float-adjusted market capitalization in each country. The country weights for the index are currently Japan 26.42 percent, the United Kingdom 14.48 percent, France 10.62 percent, Switzerland 10.29 percent, Germany 8.8 percent, and other 29.4 percent.[79] The MSCI ACWI ex USA Investable Market Index (IMI) captures large, mid- and small capitalization companies across 22 developed country markets (excluding the United States) and 26 emerging market countries. It has 6,573 constituents and covers approximately 99 percent of the global equity investment opportunities outside the United States. The country weights for the index are currently Japan 18.26 percent, United Kingdom 9.8 percent, China 9.6 percent, Canada 6.58 percent, Switzerland 6.44 percent, and other 49.32 percent.[80]

By law, the FRTIB is required to "select an index which is a commonly recognized index comprised of stock the aggregate market value of which is a reasonably complete representation of the international equity markets excluding the United States equity markets."[81] It is also required to act solely in the interest of participants and not permitted to pursue social or political objectives.[82] The FRTIB, in making the change, wanted to provide

TSP participants exposure to the Canadian market, exposure to emerging markets, and more diversified investments.[83] It also believed that the IMI better met the statutory charge since it gives exposure to 99 percent of non-U.S. equity markets.

This decision proved to be controversial. For example, on May 22, 2019, Representative Jim Banks (R–IN) introduced the Blocking Investment In Our Adversaries Act, which would prohibit the TSP international index from including "any stock of an entity based in a peer or near-peer competitor, including China or Russia."[84] On August 26, 2019, Senators Rubio and Jeanne Shaheen (D–NH) sent a letter to the FRTIB opposing the change on the grounds that U.S. federal workers should not be investing any of their money in communist China because of national security, human rights, and inadequate financial disclosure concerns.[85] On May 11, 2020, Director of the National Economic Council Lawrence Kudlow and National Security Advisor Robert O'Brien wrote to Labor Secretary Eugene Scalia opposing the move on national security and humanitarian grounds and because of Chinese non-compliance with PCAOB inspection requirements.[86]

On May 13, 2020, the FRTIB announced,

> Due to a meaningfully different economic environment related in large part to the impact of the global COVID-19 pandemic, as well as the nomination of three new FRTIB Board Members, pending further study, the FRTIB Board is delaying the implementation of the I Fund Benchmark change to the MSCI ACWI ex-U.S. Investible Market index from the MSCI EAFE index.[87]

Politicizing retirement investing to achieve political, foreign policy, humanitarian, or social objectives is a mistake. The investments should be made, as the statute requires, to achieve the maximum return for participants. Moreover, this will not be the end of the matter. Progressive administrations will undoubtedly seek to invest the money domestically in indexes that duly account for ESG, corporate social responsibility, or social justice criteria. The Boycott, Divestment, Sanctions (BDS) movement popular in progressive circles will undoubtedly attempt to exclude Israel[88] or other unpopular countries from the TSP funds as they have in many university or church endowments and retirement plans. And once this principle is established for federal employees, there will be no principled reason why federal intervention in private retirement funds will not be forthcoming. Politicians who feel they have the right to direct federal workers' retirement accounts will most likely feel just as justified in directing private workers' retirement funds. Politicizing investment decisions, however, hurts not only investors but also the economy generally by allocating investment less efficiently to the detriment of productivity and workers' wages.

Ensuring Chinese Debt Transparency Act of 2020

The Ensuring Chinese Debt Transparency Act of 2020[89] passed the House of Representatives on March 2, 2020, by a vote of 356–0.[90] The bill instructs the U.S. executive directors at the International Monetary Fund, the International Bank for Reconstruction and Development, the European Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Multilateral Investment Guarantee Agency, the African Development Bank, the African Development Fund, the Asian Development Bank, the Inter-American Development Bank, the Bank for Economic Cooperation and Development in the Middle East and North Africa, and the Inter-American Investment Corporation to "use the voice and vote of the United States at the respective institutions to seek to secure greater transparency with respect to the terms and conditions of financing provided by the government of the People's Republic of China to any member state of the respective institution that is a recipient of financing from the institution." It also requires follow-up reports to Congress. This reflects concern by the U.S. government that China is making unsustainable loans or investments with the aim of "taking possession of sovereign assets as collateral"[91] or otherwise using non-commercial or irresponsible financing practices to achieve political objectives.

Conclusion

International investment, like international trade, enhances the well-being of both parties to the transaction. International investment makes capital markets more efficient, promotes innovation and competition, improves productivity, and diversifies risk. In limited circumstances, national security or other considerations may warrant legal constraints on inbound or outbound investments.

Generally, however, government should not impede foreign investors from investing in the United States or U.S. investors from investing abroad. One should be deeply skeptical of claims by political actors that they can make better investment decisions than private actors risking their own money. Politicizing investment decisions results in squandered resources, reduced productivity, less innovation, and a lower standard of living for the American people. Yet there is a major push by progressives—and some conservatives—to politicize investment decisions. Political actors, like others, often act in their own self-interest and not in the public interest. Moreover, no central authority has access to sufficient, timely information to outperform many millions of private actors risking their own money and responding to the information embedded in market prices. U.S. policy has been supportive of transnational investment for virtually its entire history. The U.S. has been the beneficiary of inbound investment by foreigners since the early republic.

Most people in the world live under authoritarian governments that inadequately respect human rights. A *per se* legal limitation on investment in or by, or trade with, these countries would have an adverse impact on the U.S. economy, U.S. investors, and U.S. consumers. It would also harm the economy of the other country and make it less likely that democratic institutions will develop. Limiting trade and investment relationships entirely to democratic countries with good human rights records would sever American economic relations with most of Africa, much of Asia, and large parts of Central and South America. The United States should not impose legal limits on investment in or by, or trade with, a country only because its government is not democratic.

Legal limits on investments are warranted if investments involve technology with military applications, would facilitate espionage, or endanger national security by, for example, jeopardizing critical supply chains. Investments in or by countries that are geopolitical rivals, such as China or Russia, or are hostile to the United States raise special concerns, because these countries may use investments in the United States or in their countries to undermine U.S. national security and may be inclined to do so. Restrictions are warranted. But policymakers should remain cognizant that these restrictions have economic costs. Policymakers should also guard against those who seek illegitimate protectionist aims in the name of national security.

The PCAOB requires foreign accounting firms involved in auditing foreign firms that list their securities in the United States to register with the PCAOB, to comply with its rules and standards, and to submit to inspections. The Senate-passed Holding Foreign Companies Accountable Act would have an adverse impact on non-compliant issuers because it would deny them access to U.S. capital markets unless the Chinese government and Chinese accounting firms relent to PCAOB inspections. It would also make it extremely difficult for U.S. shareholders of these companies that bought those shares on U.S. markets to sell their shares, since the issuers' shares may not be traded. They may incur a near total loss. The core principle underlying the bill is sound. Foreign issuers that list their securities in the United States should comply with the same rules with which U.S. issuers must comply. But Congress should also reevaluate the cost and complexity that PCAOB and SEC accounting, audit, and governance requirements impose on all public companies. They are too high and are making the public capital markets inaccessible to all but the largest companies.

Politicizing retirement investing to achieve political, foreign policy, humanitarian, or social objectives is a mistake. The investments should be made, as the statute requires, to achieve the maximum return for participants. Moreover, this will not be the end of the matter. Progressive administrations will undoubtedly seek to invest the money domestically in indexes that duly account for ESG, CSR, or social justice criteria. The BDS movement will undoubtedly attempt to exclude Israel or other unpopular countries from the TSP funds as they have in many university or church endowments and retirement plans. And once this principle is established for federal employees, there will be no principled reason why federal intervention in private retirement funds will not be forthcoming. Politicians who feel they have the right to direct federal workers' retirement accounts will most likely feel just as justified in directing private workers' retirement funds.

David R. Burton is Senior Fellow in Economic Policy in the Thomas A. Roe Institute for Economic Policy, of the Institute for Economic Freedom, at The Heritage Foundation.

Endnotes

1. This is also referred to as transnational investment or cross-border investment. Foreign direct investment is a term used for a subset of international investment and is typically reserved for a substantial (10 percent or more) or sometimes controlling long-term investment in an enterprise in a foreign country.
2. Each party to a voluntary transaction regards it *ex ante* as beneficial to themselves. Otherwise, they would not enter into the transaction. Obviously, not all investments work out as planned. It is, however, implausible to believe that legislators and regulators would do a better job than market participants risking their own capital in determining which investments will be successful. For a general review of the economic literature, see Roberto Echandi, Jana Krajcovicova, and Christine Zhenwei Qiang, "The Impact of Investment Policy in a Changing Global Economy: A Review of the Literature," World Bank *Research Working Paper* No. 7437, October 2015, http://documents.worldbank.org/curated/en/664491467994693599/pdf/WPS7437.pdf. Regarding trade, see Bryan Riley and Anthony B. Kim, "Freedom to Trade: A Guide for Policymakers," Heritage Foundation *Backgrounder* No. 3064, October 20, 2015, http://thf-reports.s3.amazonaws.com/2015/BG3064.pdf; Tori Smith and Gabriella Beaumont-Smith, "11 Common Questions About U.S. Trade with China," Heritage Foundation *Special Report* No. 212, April 30, 2019, https://www.heritage.org/trade/report/11-common-questions-about-us-trade-china; Pierre Lemieux, *What's Wrong with Protectionism* (Lanham, MD: Rowman and Littlefield, 2018); and Adam Smith, *An Inquiry into the Nature and Causes of the Wealth of Nations* (1776), https://www.econlib.org/library/Smith/smWN.html (accessed July 23, 2020).
3. Eamonn Butler, *Public Choice: A Primer* (London: Institute of Economic Affairs, 2012), https://iea.org.uk/wp-content/uploads/2016/07/IEA%20Public%20Choice%20web%20complete%2029.1.12.pdf (accessed July 23, 2020), and William F. Shughart II, "Public Choice," in David R. Henderson, ed., *Concise Encyclopedia of Economics* (Carmel, IN: Liberty Fund, 2007) http://www.econlib.org/library/Enc/PublicChoice.html (accessed July 23, 2020). See also James M. Buchanan, *The Collected Works of James M. Buchanan*, *The Logical Foundations of Constitutional Liberty*, Vol. 1 (Carmel, IN: Liberty Fund, 1999), p. 46. From a lecture originally given at the Institute for Advanced Studies in Vienna, Austria, in 1979: "My primary title for this lecture, 'Politics without Romance,' was chosen for its descriptive accuracy. Public choice theory has been the avenue through which a romantic and illusory set of notions about the workings of governments and the behavior of persons who govern has been replaced by a set of notions that embody more skepticism about what governments can do and what governors will do, notions that are surely more consistent with the political reality that we may all observe about us. I have often said that public choice offers a 'theory of governmental failure' that is fully comparable to the 'theory of market failure' that emerged from the theoretical welfare economics of the 1930s and 1940s."
4. Friedrich A. Hayek, "The Use of Knowledge in Society," *American Economic Review*, Vol. 35, No. 4 (September 1945), pp. 519–530, https://www.econlib.org/library/Essays/hykKnw.html (accessed July 23, 2020); F. A. Hayek, *The Fatal Conceit: The Errors of Socialism* (Chicago: University of Chicago Press, 1988); George Gilder, "Capitalism Is an Information and Learning System," November 15, 2018, https://www.heritage.org/markets-and-finance/event/capitalisminformation-and-learning-system (accessed July 23, 2020); and David R. Burton, "Building an Opportunity Economy: The State of Small Business and Entrepreneurship," testimony before the Committee on Small Business, U.S. House of Representatives, March 4, 2015, https://www.heritage.org/testimony/building-opportunity-economy-the-state-small-business-and-entrepreneurship.
5. See for example; Mira Wilkins, "Foreign Investment in the U. S. Economy Before 1914," *Annals of the American Academy of Political and Social Science*, Vol. 516 (July 1991), pp. 9–21, and Lance E. Davis and Robert J. Cull, *International Capital Markets and American Economic Growth, 1820-1914* (Cambridge: Cambridge University Press, 1994).
6. Federal Reserve Bank of New York, "Balance of Payments," https://www.newyorkfed.org/aboutthefed/fedpoint/fed40.html (accessed July 23, 2020).
7. Douglass C. North, "The United States Balance of Payments,1790–1860," in The Conference on Research in Income and Wealth, *Trends in the American Economy in the Nineteenth Century* (Princeton, NJ: Princeton University Press: 1960), pp. 573–628 (especially Tables B-1 and B-5), https://www.nber.org/chapters/c2491.pdf (accessed July 23, 2020); Matthew Simon, "The United States Balance of Payments, 1861–1900," in *Trends in the American Economy in the Nineteenth Century*, pp. 629–715 (especially Table 27), https://www.nber.org/chapters/c2492.pdf (accessed July 23, 2020); Robert E. Lipsey, "U.S. Foreign Trade and the Balance of Payments, 1800–1913," National Bureau of Economic Research *Working Paper* No. 4710, April 1994 (especially Tables 5 and 6), https://www.nber.org/papers/w4710 (accessed July 23, 2020); and *Historical Statistics of the United States 1789–1945: A Supplement to the Statistical Abstract of the United States* (Washington, DC: U.S. Bureau of the Census, 1949), Chapter M: Balance of Payments and Foreign Trade, https://www2.census.gov/library/publications/1949/compendia/hist_stats_1789-1945/hist_stats_1789-1945-chM.pdf?# (accessed July 23, 2020).
8. North, "The United States Balance of Payments,1790–1860"; and Simon, "The United States Balance of Payments, 1861–1900."
9. Ibid.
10. Ibid.
11. U.S. Bureau of Economic Analysis (BEA), "U.S. Trade in Goods and Services, 1960–Present," https://www.bea.gov/system/files/2020-01/trad-time-series-1119.xlsx (accessed July 23, 2020).
12. BEA, "National Income and Product Accounts," Table 1.1.1: Percent Change from Preceding Period in Real Gross Domestic Product.
13. The merchandise trade surplus or deficit is the largest component of the current account. Others include trade in services (now about half of the trade in goods) and investment income payments and receipts. For details, see BEA, International Data, International Transactions, International Services, and International Investment Position Tables, Table 1.1: U.S. International Transactions.
14. BEA, International Data, International Transactions, International Services, and International Investment Position Tables, Table 1.1: U.S. Net International Investment Position at the End of the Period, Bureau of Economic Analysis, December 27, 2019, https://apps.bea.gov/iTable/iTable.cfm?ReqID=62&step=1# (accessed July 23, 2020).

15. BEA, "Foreign Direct Investment in the United States: Selected Items by Detailed Country, 2008–2018," https://apps.bea.gov/international/xls/fdius-current/fdius-detailed-country-2008-2018.xlsx (accessed July 23, 2020).
16. American Enterprise Institute, "Chinese Investments in the United States," https://www.aei.org/china-tracker-home/ (accessed July 23, 2020).
17. Andres B. Schwarzenberg, "U.S.-China Investment Ties: Overview and Issues for Congress," Congressional Research Service *Report for Congress*, August 28, 2019, Table 1: China's FDI in the U.S. (2000 Q1–2018 Q2), https://crsreports.congress.gov/product/pdf/IF/IF11283 (accessed July 23, 2020).
18. "U.S. Direct Investment Abroad: Selected Items by Country of Foreign Affiliate, 2015-2018," BEA, https://www.bea.gov/system/files/2019-07/fdici0719_0.xlsx (accessed July 23, 2020).
19. U.S. Department of the Treasury/Federal Reserve Board, "Major Foreign Holders of Treasury Securities," January 16, 2020, https://ticdata.treasury.gov/Publish/mfh.txt (accessed July 23, 2020). This is approximately one-sixth of foreign holdings of U.S. Treasury securities. Chinese holdings have held fairly steady for the past year.
20. U.S. Department of Treasury, "U.S. Long-Term Securities Held by Foreign Residents in October 2019," https://ticdata.treasury.gov/Publish/slt1d.txt (accessed July 23, 2020).
21. Ibid.
22. Federal Reserve System, Financial Accounts of the United States, Flow of Funds, Balance Sheets, and Integrated Macroeconomic Accounts Third Quarter 2019, Table B.1: Derivation of U.S. Net Wealth, https://www.federalreserve.gov/releases/z1/20191212/z1.pdf (accessed July 23, 2020). In 2018, foreign holdings of U.S. corporate equities were $6,517.1 billion, and the market value of domestic corporations was $34,974.5 billion.
23. For good introductions to these ideas, see Robert P. Murphy et al., *Economic Principles for Prosperity* (Vancouver, BC: Fraser Institute, 2014), https://www.fraserinstitute.org/sites/default/files/economic-principles-for-prosperity.pdf (accessed July 23, 2020); Eamonn Butler, *The Best Book on the Market* (Mankato, MN: Capstone, 2008); Thomas Sowell, *Basic Economics*, 5th ed. (New York: Basic Books, 2014); Henry Hazlitt, *Economics in One Lesson*, 50th anniversary ed. (New York: Laissez Faire Books, 1996); and David R. Burton, "Comparing Free Enterprise and Socialism," Heritage Foundation *Special Report* No. 213, April 30, 2019, https://www.heritage.org/sites/default/files/2019-05/SR213.pdf (accessed July 23, 2020).
24. See, for example, Freedom House, "Global Freedom Scores," https://freedomhouse.org/countries/freedom-world/scores (accessed July 23, 2020); Terry Miller, Anthony B. Kim, and James M. Roberts, eds., *2020 Index of Economic Freedom* (Washington, DC: The Heritage Foundation and The Wall Street Journal, 2020), https://www.heritage.org/index/ranking (accessed July 23, 2020); and Ian Vasquez and Tanja Porcnik, *Human Freedom Index 2018* (Washington, DC: Cato Institute, 2018), https://www.cato.org/sites/cato.org/files/human-freedom-index-files/human-freedom-index-2018-revised.pdf (accessed July 23, 2020).
25. Samantha F. Ravich and Annie Fixler, "The Economic Dimension of Great-Power Competition and the Role of Cyber as a Key Strategic Weapon," in Dakota L. Wood, ed., *2020 Index of U.S. Military Strength* (Washington, DC: The Heritage Foundation, 2019), http://thf-graphics.s3.amazonaws.com/2019/2020%20Index%20of%20Military%20Strength/Section%20PDFs/2020_IndexOfUSMilitaryStrength_ESSAYS_RAVICH-FIXLER.pdf.
26. Riley Walters, "Committee on Foreign Investment in Need of Serious Reform," Heritage Foundation *Commentary*, May 16, 2018, https://www.heritage.org/markets-and-finance/commentary/committee-foreign-investment-need-serious-reform; Ian F. Fergusson and Paul K. Kerr, "The U.S. Export Control System and the Export Control Reform Initiative," Congressional Research Service *Report for Congress*, April 5, 2019, https://crsreports.congress.gov/product/pdf/R/R41916 (accessed July 23, 2020); U.S. Department of the Treasury, "Committee on Foreign Investment in the United States," https://home.treasury.gov/policy-issues/international/the-committee-on-foreign-investment-in-the-united-states-cfius (accessed July 23, 2020); and U.S. Department of Commerce, "Bureau of Industry and Security," https://www.commerce.gov/bureaus-and-offices/bis (accessed July 23, 2020).
27. U.S.-China Economic and Security Review Commission, "Crackdown on Academic and Espionage Cases" and "Technology Transfer and Economic Espionage Persist Unabated," in *2019 Report to Congress of the U.S.-China Economic and Security Review Commission*, November 2019, pp. 105–107 and 188–190, https://www.uscc.gov/sites/default/files/2019-11/2019%20Annual%20Report%20to%20Congress.pdf (accessed July 23, 2020); Federal Bureau of Investigation, "Combating Economic Espionage," November 1, 2018, https://www.fbi.gov/news/stories/combating-economic-espionage-110118 (accessed July 23, 2020); Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, U.S. Senate, "Threats to the U.S. Research Enterprise: China's Talent Recruitment Plans," November 18, 2019, https://www.hsgac.senate.gov/imo/media/doc/2019-11-18%20PSI%20Staff%20Report%20-%20China's%20Talent%20Recruitment%20Plans.pdf (accessed July 23, 2020); Corinne Ramey and Kate O'Keeffe, "China's Huawei Charged with Racketeering, Stealing Trade Secrets," *Wall Street Journal*, February 13, 2020; and Chuin-Wei Yap et al., "Huawei's Yearslong Rise Is Littered with Accusations of Theft and Dubious Ethics," *Wall Street Journal*, May 25, 2019.
28. Op-ed, "Huawei and the U.S.-China Tech War," *Wall Street Journal*, June 9, 2020; Steven P. Bucci, "The Threat Isn't Coming, It's Here: Security Dangers Imminent If China Controls 5G," Heritage Foundation *Commentary*, April 24, 2019, https://www.heritage.org/asia/commentary/the-threat-isnt-coming-its-here-security-dangers-imminent-if-china-controls-5g (accessed July 23, 2020); and Katrina Trinko, "Huawei's Role in the 'Chinese Espionage Enterprise,'" *Daily Signal*, February 19, 2020, https://www.dailysignal.com/2020/02/19/huaweis-role-in-the-chinese-espionage-enterprise/.
29. Humeyra Pamuk and Andrea Shalal, "Trump Administration Pushing to Rip Global Supply Chains from China: Officials," Reuters, May 4, 2020, https://www.reuters.com/article/us-health-coronavirus-usa-china/trump-administration-pushing-to-rip-global-supply-chains-from-china-officials-idUSKBN22G0BZ (accessed July 23, 2020).
30. Dean Cheng, Nicolas D. Loris, and Klon Kitchen, "China Is a Paper Tiger on Rare Earth Minerals," Heritage Foundation *Issue Brief* No. 4968, June 13, 2019, https://www.heritage.org/sites/default/files/2019-07/IB4968.pdf (accessed July 23, 2020).

31. Office of the U.S. Trade Representative, "Bilateral Investment Treaties," https://ustr.gov/trade-agreements/bilateral-investment-treaties (accessed July 23, 2020); Karl P. Sauvant and Lisa E. Sachs, eds., *The Effect of Treaties on Foreign Direct Investment: Bilateral Investment Treaties, Double Taxation Treaties, and Investment Flows* (Oxford: Oxford University Press, 2009); and Joachim Pohl, "Societal Benefits and Costs of International Investment Agreements: A Critical Review of Aspects and Available Empirical Evidence," Organization for Economic Co-operation and Development, January 19, 2018, https://www.oecd-ilibrary.org/finance-and-investment/societal-benefits-and-costs-of-international-investment-agreements_e5f85c3d-en (accessed July 23, 2020).
32. Office of the U.S. Trade Representative, "2012 U.S. Model Bilateral Investment Treaty," https://ustr.gov/sites/default/files/BIT%20text%20for%20ACIEP%20Meeting.pdf (accessed July 23, 2020).
33. United Nations Conference on Trade and Development, "Investment Report 2019," p. 17, https://unctad.org/en/PublicationsLibrary/wir2019_overview_en.pdf (accessed July 23, 2020).
34. U.S. Department of Commerce, Office of Trade Agreements Negotiation and Compliance, "Bilateral Investment Treaties," https://tcc.export.gov/Trade_Agreements/Bilateral_Investment_Treaties/index.asp (accessed July 23, 2020), and U.S. Department of State, "Bilateral Investment Treaties," April 29, 2019, https://www.state.gov/investment-affairs/bilateral-investment-treaties-and-related-agreements/united-states-bilateral-investment-treaties/ (accessed July 23, 2020).
35. Schwarzenberg, "U.S.-China Investment Ties." ("In 2008, the U.S. and China launched negotiations for a BIT [bilateral investment treaty], an agreement that typically contains provisions to provide reciprocal investment protections and encourage bilateral commercial ties. In 2013, China agreed to negotiate a 'high standard' BIT with the U.S., which would include opening new sectors to FDI [foreign direct investment] and generally not discriminating against U.S. firms invested in China. The two sides were unable to reach an agreement by the end of the Obama Administration, and the Trump Administration has not resumed the talks. Many analysts contend that a BIT could significantly boost bilateral FDI and trade flows.")
36. See, for example, Visual Capitalist, "All of the World's Stock Exchanges by Size," February 17, 2016, https://www.visualcapitalist.com/all-of-the-worlds-stock-exchanges-by-size/ (accessed July 23, 2020).
37. *Morrison v. National Australia Bank*, 561 U.S. 247 (2010), and *RJR Nabisco, Inc. v. European Community*, 136 S. Ct. 2090 (2015). It does not, however, take much of a connection with the United States to trigger the application of U.S. law.
38. Securities Act of 1933, Public Law No. 73–22, 48 Stat. 74, 15 U.S. Code § 77a et seq.
39. See Section 5 of the Securities Act of 1933.
40. Regulation D and Regulation S are of notable importance for foreign issuers.
41. Securities and Exchange Commission, "Accessing the U.S. Capital Markets—A Brief Overview for Foreign Private Issuers," https://www.sec.gov/divisions/corpfin/internatl/foreign-private-issuers-overview.shtml#IIIB (accessed July 23, 2020).
42. The SEC has estimated that "the average cost of achieving initial regulatory compliance for an initial public offering is $2.5 million, followed by an ongoing compliance cost, once public, of $1.5 million per year." Proposed Rules, "Crowdfunding," *Federal Register*, Vol. 78, No. 214 (November 5, 2013), p. 66509 (col. 2), http://www.gpo.gov/fdsys/pkg/FR-2013-11-05/pdf/2013-25355.pdf (accessed July 23, 2020).
43. Securities Exchange Act of 1934, Public Law No. 73–291, 48 Stat. 881. 15 U.S. Code § 78a et seq.
44. NYSE, "International Listings," https://www.nyse.com/listings/international-listings (accessed July 23, 2020).
45. For a list of exchanges, see SEC, see "Fast Answers: National Securities Exchanges," http://www.sec.gov/divisions/marketreg/mrexchanges.shtml (accessed July 23, 2020). There are currently 24 national securities exchanges.
46. OTC Markets, https://www.otcmarkets.com/ (accessed July 23, 2020). OTC Markets is an alternative trading system (ATS) not an exchange. Currently, most over-the-counter stock transactions occur on the OTC Markets ATS.
47. OTC Markets, "Stock Screener," screen by country, https://www.otcmarkets.com/research/stock-screener (accessed July 23, 2020).
48. Ibid.
49. 17 C.F.R. Part 229.
50. 17 C.F.R. Part 210.
51. For a more detailed discussion, see David R. Burton, "Securities Disclosure Reform," Heritage Foundation *Backgrounder* No. 3178, February 13, 2017, https://www.heritage.org/sites/default/files/2017-02/BG3178.pdf; and David R. Burton, "Improving Entrepreneurs' Access to Capital: Vital for Economic Growth," Heritage Foundation *Backgrounder* No. 3182, February 14, 2017, https://www.heritage.org/sites/default/files/2017-02/BG3182.pdf.
52. Bylaws and Rules of the Public Company Accounting Oversight Board, as of January 29, 2019, https://pcaobus.org/Rules/Documents/PCAOB-Rules.pdf (accessed July 23, 2020). See also Internal Revenue Service (IRS), "Tax-Exempt Organization Search," https://apps.irs.gov/app/eos/ (accessed July 23, 2020). The EIN of the PCAOB is 74-3073065.
53. 15 U.S. Code § 7211(b). For reasons that are exceedingly unclear and a gross violation of the principles of transparency, the PCAOB does not file Form 990s with the IRS. See IRS, "Tax-Exempt Organization Search." See also Guidestar, "Public Company Accounting Oversight Board," https://www.guidestar.org/profile/74-3073065 (accessed July 23, 2020). ("This organization is not required to file an annual return with the IRS because it is an arm of a state or local government.") Other similar organizations, such as the Financial Industry Regulatory Authority, do file Form 990s. Guidestar, "Financial Industry Regulatory Authority, Inc.," https://www.guidestar.org/profile/53-0088710 (accessed July 23, 2020).

54. Sarbanes–Oxley Act of 2002, Public Law No. 107–204, July 30, 2002 https://pcaobus.org/About/History/Documents/PDFs/Sarbanes_Oxley_Act_of_2002.pdf (accessed July 23, 2020), and 15 U.S. Code § 7211 et seq.
55. 15 U.S. Code § 7211(c).
56. 15 U.S. Code § 7212(a).
57. 15 U.S. Code § 7213.
58. 15 U.S. Code § 7214.
59. Dave Michaels, "SEC's Clayton Calls on Agency to Ease Disclosure Burdens on Public Companies," *Wall Street Journal*, July 12, 2017, and David R. Burton, "Reducing the Burden on Small Public Companies Would Promote Innovation, Job Creation, and Economic Growth," Heritage Foundation *Backgrounder* No. 2924, June 20, 2014, http://thf_media.s3.amazonaws.com/2014/pdf/BG2924.pdf.
60. Remarks of SEC Chairman Jay Clayton at the Economic Club of New York, July 12, 2017, footnote 7, https://www.sec.gov/news/speech/remarks-economic-club-new-york#_ftn7 (accessed July 23, 2020).
61. David Burton, "The Benefits of the Small Business Audit Correction Act," *Daily Signal*, June 29, 2018, https://www.dailysignal.com/2018/06/29/the-benefits-of-the-small-business-audit-correction-act/. See also S. 2724, 116th Cong., and H.R. 6021, 115th Cong.
62. PCAOB, "Public Companies That Are Audit Clients of PCAOB-Registered Firms from Non-U.S. Jurisdictions Where the PCAOB Is Denied Access to Conduct Inspections," April 1, 2020, https://pcaobus.org/International/Inspections/Pages/IssuerClientsWithoutAccess.aspx (accessed July 23, 2020).
63. PCAOB, "Data About Our China-Related Access Challenges," https://pcaobus.org/International/Pages/data-about-our-china-related-access-challenges.aspx (accessed July 23, 2020).
64. Ibid.
65. Ibid.
66. PCAOB, "Public Companies That Are Audit Clients."
67. SEC Chairman Jay Clayton et al., "Emerging Market Investments Entail Significant Disclosure, Financial Reporting and Other Risks; Remedies Are Limited," April 21, 2020, https://www.sec.gov/news/public-statement/emerging-market-investments-disclosure-reporting (accessed July 23, 2020).
68. S. 1731, 116th Cong., 1st Sess., https://www.congress.gov/116/bills/s1731/BILLS-116s1731is.pdf (accessed July 23, 2020).
69. S. 945, 116th Cong., 2nd Sess., https://www.congress.gov/bill/116th-congress/senate-bill/945/text (accessed July 23, 2020).
70. It is, apparently, now unlawful for a Chinese accounting firm to comply with PCAOB inspection requirements. See the White House, "Memorandum on Protecting United States Investors from Significant Risks from Chinese Companies," June 4, 2020, https://www.whitehouse.gov/presidential-actions/memorandum-protecting-united-states-investors-significant-risks-chinese-companies/ (accessed July 23, 2020).
71. Some larger and probably foreign shareholders may find a lawful way to privately sell the shares abroad. But under the terms of the bill, no U.S. broker-dealer could be involved in the transaction. Some such shareholders will presumably purchase many shares from ordinary shareholders at a steep discount as the end of the three-year period approaches.
72. Burton, "Reducing the Burden on Small Public Companies," and Burton, "Improving Entrepreneurs' Access to Capital."
73. Thrift Savings Fund, Financial Statements, December 31, 2018, and December 31, 2017, https://www.frtib.gov/ReadingRoom/FinStmts/TSP-FS-Dec2018.pdf (accessed July 23, 2020).
74. Federal Retirement Thrift Investment Board, https://www.frtib.gov (accessed July 23, 2020).
75. 5 U.S. Code § 8472(h).
76. News release, "Federal Retirement Thrift Investment Board Defers Action on I Fund Transition," FRTIB, May 13, 2020, https://www.rubio.senate.gov/public/_cache/files/3be5290d-3bc6-4772-88e6-ae509ab084b0/F9CF5DFE8FB0204E97A1764FDFF976EB.defer-i-fund-implementation-may-2020.pdf (accessed July 23, 2020).
77. FRTIB, *Annual Report of the Thrift Savings Plan*, June 30, 2019, https://www.frtib.gov/ReadingRoom/Congress/TSP-Annual-Report_2018.pdf (accessed July 23, 2020).
78. Yahoo Finance, "MSCI, Inc.," https://finance.yahoo.com/quote/MSCI/profile?p=MSCI; MSCI, https://www.msci.com/ (accessed July 23, 2020).
79. MSCI EAFE Index, https://www.msci.com/documents/10199/822e3d18-16fb-4d23-9295-11bc9e07b8ba (accessed July 23, 2020).
80. MSCI ACWI ex USA IMI Index, https://www.msci.com/documents/10199/f24204d8-3fba-46b7-95e7-5b7dcc44536c (accessed July 23, 2020).
81. 5 U.S. Code § 8438(b)(4)(A).
82. 5 U.S. Code § 8472(h).
83. FRTIB, Fund Benchmark Study, Thrift Savings Plan, October 2019, pp. 3–4, https://www.frtib.gov/ReadingRoom/InvBMarks/2019_Oct_Benchmark_Evaluation_Report.pdf (accessed July 23, 2020).
84. H.R. 2903, 116th Cong., 1st Sess., https://www.congress.gov/bill/116th-congress/house-bill/2903/text?r=2&s=1 (accessed July 23, 2020).

85. Letter of Sens. Rubio and Shaheen to FRTIB, https://www.rubio.senate.gov/public/_cache/files/87600faa-153e-43db-aae1-9b42e03df612/DBC911B002D667ECFF793F7B9A94AE75.20190826-final-rubio-shaheen-letter-to-frtib-on-tsp-china.pdf (accessed July 23, 2020).
86. Letter of Director Kudlow and National Security Advisor Robert O'Brien to Labor Secretary Eugene Scalia, https://www.scribd.com/document/461056316/2020-05-11-White-House-Letter-Re-I-Fund-Change (accessed July 23, 2020).
87. News release, "Federal Retirement Thrift Investment Board Defers Action on I Fund Transition," FRTIB.
88. Palestinian BDS National Committee, https://bdsmovement.net/ (accessed July 23, 2020).
89. H.R. 5932, 116th Cong., 2nd Sess., https://www.congress.gov/bill/116th-congress/house-bill/5932/text (accessed July 23, 2020).
90. Final Vote Results for Roll Call 80, http://clerk.house.gov/evs/2020/roll080.xml (accessed July 23, 2020).
91. U.S. Department of Defense, *Indo-Pacific Strategy Report*, June 1, 2019, p. 9, https://media.defense.gov/2019/Jul/01/2002152311/-1/-1/1/DEPARTMENT-OF-DEFENSE-INDO-PACIFIC-STRATEGY-REPORT-2019.PDF (accessed July 23, 2020): "The United States does not oppose China's investment activities as long as they respect sovereignty and the rule of law, use responsible financing practices, and operate in a transparent and economically sustainable manner. The United States, however, has serious concerns with China's potential to convert unsustainable debt burdens of recipient countries or sub-national groups into strategic and military access, including by taking possession of sovereign assets as collateral."