

## THE WHITE HOUSE

WASHINGTON

July 7, 2020

Erhard R. Chorlé  
Chairman  
U.S. Railroad Retirement Board  
William O. Lipinski Federal Building  
844 North Rush Street  
Chicago, IL 60611-1275

Dear Chairman Chorlé:

We write to you in the interest of protecting American investors, as it has come to our attention that the Railroad Retirement Board (RRB) is permitting hundreds of millions of dollars of railroad workers' retirement assets to be invested in companies from the People's Republic of China (PRC).<sup>i</sup> The RRB's retirement dollars are being managed through the National Railroad Retirement Investment Trust (NRRI Trust), which has decided to invest in companies from the PRC that present a national security risk to our country.

The NRRI Trust's investment in the PRC exposes the retirement funds of railroad workers to significant and unnecessary economic risk. Such investment also channels American worker funds into PRC companies that raise significant national security and humanitarian concerns. Many of these PRC companies operate in violation of U.S. sanction laws and assist the PRC's efforts to build its military<sup>ii</sup> and oppress religious minorities. The list of companies that receive NRRI Trust investment funds includes military contractors that provide military aircraft, missiles, and telecommunications support to the People's Liberation Army, companies like Hikvision that manufacture surveillance equipment that China uses to oppress religious minorities,<sup>iv</sup> and at least one company, ZTE, engaged in a multi-year conspiracy to supply, build, and operate telecommunications networks in Iran using U.S.-origin equipment in violation of the U.S. trade embargo, and committed hundreds of U.S. sanctions violations involving the shipment of telecommunications equipment to North Korea.<sup>v</sup>

Another key reason why the NRRI Trust's investments in PRC companies expose American railroad retirees to substantial economic risk is because the Chinese Government currently prevents companies with Chinese operations listed on U.S. exchanges from complying with applicable U.S. securities law, leaving investors without the benefit of important protections.<sup>vi</sup> According to the Securities and Exchange Commission (SEC) and the Public Company Accounting Oversight Board (PCAOB), Chinese authorities have impeded the PCAOB's ability to oversee PCAOB-registered audit firms in mainland China and Hong Kong who serve mainland Chinese companies. This has prevented the PCAOB from conducting inspections of those firms' audits of Chinese companies in violation of U.S. law. PRC law prevents the PCAOB from directly conducting its oversight function inside Chinese territory. This adds to the significant legal and practical obstacles to the SEC and PCAOB obtaining information needed for investigations or

enforcement actions.

Further, the NRRI Trust is investing in the PRC during a time of mounting uncertainty concerning the PRC's relations with the rest of the world. Such concerns include the possibility of future sanctions or boycotts that may arise from a wide range of issues, including the culpable actions of the Chinese Government with respect to the global spread of the COVID-19 pandemic, the suppression of Hong Kong's democracy, the purchase of Iranian oil in contravention of U.S. sanctions, gross human rights violations in the Xinjiang region, the militarization of the South China Sea, and threats to freedom of navigation.

The financial impacts of all these risks are significant and raise serious fiduciary issues. Scandals involving Chinese companies in recent years have cost investors billions of dollars.<sup>vii</sup> The NRRI Trust has available alternatives that avoid the risks of Chinese equities.

In light of these economic, national security, and humanitarian concerns, we ask that you and your board carefully consider whether the NRRI Trust is currently acting as an appropriate fiduciary for those hardworking Americans and retirees the RRB serves. If you also believe that investment in the PRC using American retiree dollars to fund China's military industrial complex and human rights violations is inappropriate, or that such investment may violate the prudent person rule under the Employee Retirement Income Security Act, we ask that the RRB immediately inform the NRRI Trust of its concerns and further demand that the NRRI Trust take swift action to protect RRB members.

We would appreciate a response regarding the RRB's intentions by July 15, 2020.

Respectfully,



Robert C. O'Brien  
Assistant to the President for National Security Affairs



Lawrence Kudlow  
Director, National Economic Council

<sup>i</sup> [https://www.rrb.gov/sites/default/files/2020-04/FY2019\\_Report\\_with\\_Auditors\\_Report.pdf](https://www.rrb.gov/sites/default/files/2020-04/FY2019_Report_with_Auditors_Report.pdf)

<sup>ii</sup> <https://web.archive.org/web/20121120094356/http://www.flightglobal.com/news/articles/airshow-china-avic-proposes-stealth-fighter-for-export-378944/>

<sup>iv</sup> <https://www.federalregister.gov/documents/2019/10/09/2019-22210/addition-of-certain-entities-to-the-entity-list>

<sup>v</sup> <https://www.commerce.gov/news/press-releases/2018/06/secretary-ross-announces-14-billion-zte-settlement-zte-board-management>

<sup>vi</sup> <https://pcaobus.org/International/Pages/China-Related-Access-Challenges.aspx>

<sup>vii</sup> See, for example: <https://fortune.com/2020/05/20/luckin-coffee-stock-lk-shares-valuation-china-nasdaq-delisting/>