

United States Senate
WASHINGTON, DC 20510-0908

COMMITTEES:
APPROPRIATIONS
FOREIGN RELATIONS
SELECT COMMITTEE ON INTELLIGENCE
SMALL BUSINESS AND ENTREPRENEURSHIP
SPECIAL COMMITTEE ON AGING

May 2, 2023

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

Dear Chair Gensler:

I write to express my deep concern with the recent investment decisions made by Ford Motor Co (“Ford”), PT Vale Indonesia, and Zhejiang Huayou Cobalt (“Huayou”), a People’s Republic of China (PRC)-based mineral processor with close ties to the Chinese regime. In particular, I am alarmed at Ford’s \$4.5 billion joint venture with Huayou in Indonesia to process nickel for use in electric vehicles. This directly advances the strategic interests of the PRC at the expense of the United States. As such, I request that the Securities and Exchange Commission (SEC) launch a formal investigation into Ford to determine if it fulfilled its fiduciary obligations to notify investors of the risks of doing business with a Chinese company, acting at the direction of the Chinese Communist Party (CCP).

Huayou’s presence in the joint venture carries considerable compliance and global risks. As you know, Huayou has been known to violate ethical business practices. To this end, it is implicated in gross human rights violations by utilizing human trafficking, slave labor, and child labor in its mines in the Democratic Republic of the Congo. Moreover, its status as a state-supported corporation and participation in the Belt and Road Initiative (BRI) indicate that it is both subject to the regime’s influence and responsible for advancing its geopolitical interests. Given that Huayou’s Senior Vice President, George Fang, described this joint venture as one of the BRI’s “flagship” projects, the global risk cannot be ignored. These close ties with the CCP and poor compliance records carry substantial risk that may not have been sufficiently disclosed to Ford’s investors.

Further, the PRC recently expanded its counter-espionage laws, giving itself broad and vague authority to seize foreign assets, and arrest foreign nationals in the name of national security. In reality, this legal framework will be increasingly abused by Chinese officials to intimidate foreign nationals and businesses, and to seize intellectual property and other assets. Just over a month ago, Chinese officials raided and closed the Beijing office of an American firm, arresting local staff.¹ More recently, Chinese authorities raided American consulting firm Bain & Company’s Shanghai office, intimidating employees and seizing computers and phones.² Given the PRC’s willingness to conduct repression operations beyond its borders, it cannot be

¹ <https://www.cnn.com/2023/04/27/china/china-counter-espionage-law-revision-intl-hnk/index.html>

² <https://www.cbsnews.com/news/china-bain-and-company-us-consultancy-staff-questioned-shanghai/>

discounted that any formal business agreement with any Chinese company by a non-Chinese company must also be highly scrutinized for financial risk.

As you are no doubt aware, Chinese law requires that the first obligation of any Chinese company is to the CCP, not to its investors. Despite Ford's Vice President for EVs, Lisa Drake, claiming that this joint venture gives the company "direct control" over its nickel supply, the *Financial Times* reports that Ford holds a 17 percent stake compared to PT Vale's 30 percent, and Huayou's majority 53 percent stake. Therefore, any joint venture in which a Chinese firm is the majority stakeholder is not prioritizing the needs of the investor. Ford's joint venture with Huayou and PT Vale is thus subject to considerable disruption by the political whims of the CCP. Because Ford willingly exposes itself to risk in pursuit of Beijing's geopolitical ambitions, I ask the SEC to launch an investigation to determine if it sufficiently fulfilled its fiduciary obligations in compliance with U.S. law.

Thank you for your attention in this important matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "M. R.", is positioned below the word "Sincerely,".

Marco Rubio
U.S. Senator