Passively Funding Crimes Against Humanity:

How Your Savings May Be Financing Internment Camps and Forced Labor in China

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HONG KONG WATCH

Foreword

Foreword by Dennis Kwok
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The financial markets play an important role in the global fight against human trafficking and modern slavery. When I was a lawmaker in Hong Kong, we drafted and tabled the Hong Kong Modern Slavery Bill which was modelled on the UK Modern Slavery Act. The aim of the Bill was to extend the legal principles and mechanisms in the UK Modern Slavery Act to the Asia Pacific region. The Bill also contains detailed changes to anti-money laundering rules allowing authorities to trace and freeze illicit funds generated by the modern slave trade. It was important to table the Bill for several reasons, chief among them the fact that over 60% of the global victims of modern slavery are in the Asia Pacific region. Many of the commercial entities responsible for these hideous crimes are operating through Hong Kong.

These entities manage or buy from supply chains that are based in China and other Southeast Asian countries. Some of them are listed on the Hong Kong Stock Exchange. Working with civil society, we successfully pushed the Hong Kong Stock Exchange to change its mandatory disclosure requirements. The exchange rules now require listed companies to investigate and disclose forced or unfair labor practices in their supply chains as part of their ESG obligations. This was a major breakthrough for the region and the international financial markets, but that was only the beginning. The Liechtenstein Initiative for a Financial Sector Commission on Modern Slavery and Human Trafficking was launched in September 2018. The aim of the Commission was to consider how to put the financial sector at the heart of global efforts to address modern slavery and human trafficking through a year-long global consultative process. The Commission released the Blueprint for Mobilizing Finance Against Slavery and Trafficking, along with its associated Toolkit, at the UN General Assembly in September 2019. The Blueprint gave rise to Finance Against Slavery and Trafficking (FAST). Today, FAST advises on the implementation of the Blueprint across the financial sector and undertakes research, training, special initiatives and campaigns to promote uptake of its recommendations. It was my pleasure to work with the Commission to share our experiences from Hong Kong.

International companies need guidance on how to tackle these issues beyond a mere box-ticking exercise. Boards and investors require information on which suppliers are operating supply chains complicit in modern slavery, which firms are buying materials from them, and what the end products are. As international companies begin to take ESG more seriously, the “S” component must not be overlooked. Proper weight must be given to human rights violations in the ESG metrics and regulatory frameworks. Financial regulators in New York, London, and the European Union need to hold firms responsible for their ESG pledge and statements. This would force companies and investors to undertake a more comprehensive due diligence process with a focus on human rights violations. Investors and state pension funds play a powerful role. They must not allow their funds and assets to tacitly support human rights abuses in China and other parts of the world.

This report by Hong Kong Watch with assistance from Sheffield Hallam University's Helena Kennedy Centre for International Justice finds that many firms on the MSCI Index actively use Uyghur forced labor or source from suppliers that do. Many state pension funds in the West are in turn invested in these companies. Many of these commercial entities are not listed in the Uyghur Forced Labor Prevention Act recently introduced by the United States. The entities list also do not provide for an investment ban, allowing many Western pension funds to indirectly support forced labor practices in the Uyghur Region. This not only defeats the purpose of the UFLPA, it undermines international efforts to combat modern slavery.

As we were gathering momentum to push for the passage of the Hong Kong Modern Slavery Bill, I was disqualified by Beijing and am no longer allowed to sit in the Hong Kong Legislative Council as a lawmaker. Under the 'new' Hong Kong with the national security law, it is now impossible to have an open and frank discussion about modern slavery and human rights violations. No lawmakers in Hong Kong would now take up the cause. The international effort in using the powers of finance to combat modern slavery must continue. This responsibility falls on financial capitals in the West to spearhead regulations that would force companies, investors and shareholders to change their investment and procurement behavior. This process must begin with objective knowledge and information. This report by Hong Kong Watch does exactly that. I congratulate them on their effort.

Executive Summary

As significant evidence has revealed in the last several years, the state-sponsored transfer of Uyghur laborers within the Xinjiang Uyghur Autonomous Region (XUAR or Uyghur Region) of China and between the XUAR and other regions, is characterized by coercion, and laborers do not have the freedom to reject these offers. They have no say in where they are transferred, what industries they work in, or their living or working conditions. They and their families may be punished for refusing these transfers. Therefore, although the companies do not directly manage the transfers, the laborers they use have been transferred in this manner and the companies are hence benefiting from forced labor. Furthermore, the People's Republic of China (PRC) government has created a massive system of extra-judicial internment and high-tech surveillance that limits movements and behaviors of minoritized citizens in the Uyghur Region.

This report exposes the depth of exposure of leading fund managers from around the world to human rights abuses in China tied to the Uyghur region.

The approach taken in this report is simple. We have analyzed the component stocks of three major global indexes produced by Morgan Stanley Capital International (MSCI) - MSCI Emerging Markets Index (MSCI, 2022a), the MSCI China Index (MSCI, 2022b) and the MSCI All-Country World Index (ex-US)(MSCI, 2022c) – to identify any exposure the indexes have to companies with documented engagement with state-sponsored labor transfers in the Uyghur region or to the repressive surveillance and internment apparatus inflicted upon the Uyghurs in China.

We found that:

- Of the 12 companies we have identified on the MSCI China Index, 6 have obtained Uyghur laborers through state-sponsored labor transfers, and 6 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.
- Of the 13 companies we have identified on the MSCI Emerging Markets Index, 7 companies have obtained Uyghur laborers through the state-sponsored labor transfer programs that have been identified as forced labor by experts, and 6 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.
- Of the 4 companies we have identified on the MSCI All-Country World Index ex-US, 2 have obtained Uyghur laborers through state-sponsored labor transfers, and 2 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.

Companies Listed on Selected MSCI Indexes that Have Engaged in Labor Transfers or Building Repressive Infrastructure in the Uyghur Region

	Forced Labor	Construction of Repressive Infrastructure
MSCI China	6	6
MSCI EM	7	6
MSCI ACWI ex-US	2	2

We then investigated which major investors currently invest passively in those indexes.

The table below contains a partial list of funds identified to be holding the equities above, this covers some of the largest private pension fund managers and important local public pension funds in the UK, Canada, and USA. Given MSCI's popularity as a global benchmark for emerging markets, this list does not include all funds that are invested in these indexes; other funds may be equally exposed.

Major Fund Exposure to Labor Transfers and Camps/Surveillance

Fund Name	Forced Labor	Construction of Repressive Infrastructure
Major Asset Managers		
BlackRock - iShares MSCI China ETF (MCHI)	6	6
HSBC MSCI China UCITS ETF	6	6
Legal and General E Fund MSCI China UCITS ETF	6	6
UBS ETF MSCI China A ETF	6	6
Invesco MSCI China All Shares ETF	6	6
Deutsche Bank - Xtrackers MSCI China ETF	6	6
BlackRock - iShares MSCI Emerging Markets (EEM)	7	6
Vanguard - Emerging Markets Stock Index Fund	7	6
Schroder Global Emerging Markets Index	7	6
Fidelity Emerging Markets Index	7	6
Macquarie Emerging Markets Fund	7	6
Russell Investments Emerging Markets Equity Fund	7	6
Baillie Gifford Emerging Markets Growth Fund	7	6
HSBC MSCI Emerging Markets ETF	7	6
Deutsche Bank - Xtrackers MSCI Emerging Markets ETF	7	6
Invesco MSCI Emerging Markets ETF	7	6
UBS MSCI Emerging Markets ETF	7	6
Legal and General Emerging Markets Equity Index Fund	7	6

Fund Name	Forced Labor	Construction of Repressive Infrastructure
US State Pension Funds		
CalSTRS	7	6
Washington State	7	6
New Jersey Division of Investment	7	6
Minnesota State Board of Investment	7	6
Pennsylvania State	7	6
CalPERS	2	2
New York State Common Retirement Fund	2	2
Florida State Board of Administration	2	2
New York State Teachers	2	2
Nevada Public Employees Retirement System	2	2
Oklahoma PERS	2	2
Canadian Pension Funds		
Canada Pension Plan Investment Board	7	6
Royal Bank of Canada	7	6
The Civil Service Superannuation Board	6	6
Public Sector Pension Investment Board (Canada)	7	6

Recommendations

Recommendations to the United States:

Analysis of the Uyghur Forced Labor Prevention Act (UFLPA)

In recent months, the US Government has begun enforcing the Uyghur Forced Labor Prevention Act. This is a major step forward, but it is lacking in two ways.

- Only three of the companies listed here are covered on the Uyghur Forced Labor Prevention Act Entity Lists. This is a noticeable blind spot, given the publicly available data that can be accessed about every firm listed. The US Government should expand the lists to ensure that companies known to be complicit in forced labor are excluded from importing goods under the UFLPA.
- The UFLPA does not require an investment ban. This means that while people cannot import goods mined or manufactured in the Uyghur region, investors can still invest in these firms. One basic step the US Government should take is to harmonize its various entity lists with its investment ban list under Executive Order 14032. This Executive Order has been an effective way of ensuring that firms do not passively invest in companies known to be involved in gross human rights violations, and it should be better optimized.

Recommendations to the United States: Regarding the Thrift Savings Pension (TSP) plan

The launch of the TSP investment window in June 2022 allows current and former federal workers to invest their 401(k) pensions in over 5,000 mutual funds from 300 mutual fund providers (Federal Retirement Thrift Investment Board, 2022). This will expose many of those pensions to emerging markets funds and China specific funds, which will include a number of the companies listed in this report with known links to state-sponsored forced labor. In response to this development, policymakers in the USA should:

- Call for the pausing of the roll-out of the TSP investment window until proper due diligence is undertaken regarding mutual fund providers' exposure to companies with known links to forced labor in the XUAR.
- Demand publication of the full list of mutual funds and mutual fund providers alongside the criteria used for their selection as part of the TSP investment window.

Recommendations to the European Union

In 2022, the European Commission proposed to prohibit products made with forced labor on the EU market. Although it is not explicitly related to the Uyghur Region, it could be very effective in banning the import of goods made in this region and can be a precedent for an investment ban. In response to this development, policymakers in the EU should:

- In addition to banning the import of goods made from forced labor, extend the proposal to include banning investments in companies complicit in directly engaging state-imposed forced labor
- Draw up a list of banned entities that are known to be involved in state-imposed forced labor in the Uyghur region, applying this to public procurement, investment, and imports.
- Pass national legislation that bans the import of goods known to be made with forced labor and investments in companies engaged in forced labor, covering, in particular, state-imposed forced labor as that practiced in the Uyghur region.

Recommendations to other Governments

- Draw up a list of banned entities that are known to be involved in state-imposed forced labor in the Uyghur region, applying this to public procurement, pension and government investment, and imports.
- Pass legislation that bans the import of goods known to be made with forced labor and investments in companies engaged in forced labor, covering, in particular, state-sponsored forced labor as that practiced in the Uyghur region.

Recommendations to businesses: take the 'S' in ESG seriously

The majority of investment firms are signed up to ESG principles in line with the UN Principles for Responsible Investment of 2022.

- Investment firms, standard setters and governments must give proper weight to human rights violations in their ESG metrics and regulatory frameworks. Human rights risks must be at the heart of all ESG metrics and risk analyses.
- ESG ratings agencies should increase the weighting given to state imposed forced labor, making it a required consideration, when determining the ESG credentials of firms.
- Firms complicit in genocide, crimes against humanity, or modern-day slavery should be blacklisted from global indexes restricting public pension fund and private investment.
- Companies and investors must undertake a process of human rights due diligence as it relates to all their business and investment activities and relationships. Companies must undertake and publicly disclose full supply chain tracing to raw materials to ensure they are not engaging with companies that could possibly be tied to repression in the Uyghur Region.

Introduction

- The Significance of Indexes for Investors

Hong Kong Watch's 2022 report, *Passively Funding Oppression*, has broken down the extensive holdings of US State Pension Funds, institutional investors and endowment funds in firms with ties either to Chinese government activities in Xinjiang or the Chinese military (Hong Kong Watch, 2022).

Stock portfolios are generally managed in one of two ways. They can be actively managed when a fund manager selects the stock based upon their best judgment,or they can be passively managed. "Passive management" describes fund management that precisely mirrors a market index.

While in the past, in the golden era of firms like Fidelity, actively managed funds were in the ascendancy, the last fifteen years has seen the emergence of passive investing as a dominant vehicle of fund management. The growth has been exponential; from a more or less standing start in the early 2000s, Bloomberg estimates that passive management now comprises 43 per cent ($10 trillion) of US-based mutual fund and exchange-traded funds (ETFs), compared with 32 per cent ($4.1 trillion) in 2015 (Penguin, undated; LSE, 2022).

What explains this transformation? Actively managed funds analyze the market, and their managers are well paid for their labor. But the vast majority are not able to consistently beat the index that they benchmark against. Given the lower administration fees associated with passive investment, many managers have sought to adopt it as their optimal approach – matching the benchmark instead of competing with it (Mahoney and Robertson, 2021). Three asset managers have particularly profited from this transformation in investment approach: BlackRock, Vanguard and State Street are the major providers of Exchange Traded Funds and now hold over $15 trillion in assets under management (Institutional Investor, 2020). The overwhelming profitability of 'The Big Three' has led to others emulating their approach. For instance, CalPERS and CalSTRS, the two largest American state pension funds, adopt an in-house passive investment strategy.

There are two major index providers which investors tend to track if they are looking to build a portfolio of global equities: Morgan Stanley Capital International (MSCI) and FTSE Russell (FTSE).

Index investments in China-based companies has been growing recently. The US-China Economic and Security Review Commission (USCC) 2021 annual report notes (USCC, 2021):

'The Chinese government's strategic financial opening since 2017 has more tightly integrated Chinese securities with global financial markets. This is most visible in the growing inclusion of Chinese securities in an array of global investment indexes, against which an estimated $7.8 trillion in assets under management are currently benchmarked.'

The driving force behind these trends is a combination of the Chinese government's strategic financial opening and proactive advocacy by Wall Street for greater China index inclusion. The upshot is that, as of 29 July 2022, the MSCI Emerging Markets Index (MSCI, 2022a) and FTSE Russell Emerging Index (FTSE Russell, 2022) feature 32.04 percent and 34.81 percent asset allocation toward Chinese equities, respectively – more than any other country's equities. The MSCI All-Country World Index, which many of the major funds use as a benchmark, has also seen an increase in its China exposure. Another important trend is the inclusion of Chinese A-shares, listed domestically in China, in these stock indexes.

Hong Kong Watch's 2022 report underlined the fact that this level of reliance on indexes like the MSCI Emerging Markets Index ensured that many leading asset managers were enormously exposed to Alibaba and Tencent when Xi Jinping started his crackdown on technology and therefore lost significant amounts of money. This exposure also makes investments vulnerable to allegations of complicity in human rights abuses that have been extensively documented in the Uyghur region.

This report focuses specifically on the holdings in three MSCI indexes: their China specific index (MSCI China), their Emerging Markets index (MSCI Emerging Markets) which is arguably the world's most influential Emerging Markets index, and their All Country World Index which is tracked by many of the world's leading pension providers and asset managers.

Forced Labor and Human Rights Abuses in the Xinjiang Uyghur Autonomous Region

Since at least 2014, the Chinese government has embarked on a campaign of extraordinary repression in its westernmost region – the Xinjiang Uyghur Autonomous Region (Uyghur region or XUAR). By now, many people have learned about the plight of the Uyghur people and other Turkic and Muslim ethnic groups in the region. Researchers have identified over 380 internment camps across the region, and eye-witness testimonies have revealed that people in the region suffer from torture, sterilization, sexual assault, constant surveillance, and even slavery (Australian Strategic Policy Institute, 2020; Amnesty, 2021). Outside the camps, people live under constant, ubiquitous surveillance. Cameras are on every corner, but they are also placed inside factories, places of business, mosques, and even family homes (Byler, 2021). Uyghur people are also surveilled through government programs that place Han people in their homes to monitor and record the families' behaviors, sometimes for a week or even month-long stretches (Xinjiang Documentation Project, n.d.). People have described life in the Uyghur Region as an "open-air prison" (RFA, 2021).

State-sponsored forced labor is endemic to the Xinjiang Uyghur Autonomous Region. It permeates nearly every industry, from components of solar panels to every sector and stage of agricultural production and processing. The PRC has created a massive system of state-sponsored forced labor through conscripted work, prison and internment labor, and coercive labor transfers. Significant evidence reveals that labor and labor transfers occur within an environment of unprecedented coercion, undergirded by the constant threat of re-education and internment. Many indigenous workers are unable to refuse or voluntarily exit these jobs, and thus the programs are tantamount to forcible transfer of populations, forced labor, human trafficking, and enslavement (Center for Strategic and International Studies, 2019, 2020; Australian Strategic Policy Institute, 2020; Zenz, 2019, 2021; Rajagopalan and Killing, 2020; Byler 2021; Murphy, Tobin, and Elimä, 2022).

The PRC compels all indigenous citizens in the Uyghur Region to work, purportedly to alleviate poverty and address perceived racism. It has instituted an expansive system of unprecedented state control that mandates work assignments, as well as compulsory ideological, vocational, and Chinese language training for millions of people. Workers transferred to work in farms or factories are not free to come and go. They are often housed in segregated and locked dorms or are escorted to and from work by an agent of the state. Many of the factories employing supposedly free XUAR citizens are surrounded by razor wire fences, iron gates, and security cameras, and are monitored by police or additional security. Laborers are typically assigned ideological study after work hours and are often not allowed to come and go from the factory premises, unlike their Han colleagues. They are not allowed to practice their religion freely. The transferred employees reportedly receive "militarized discipline" and are punished (sometimes with internment) for airing any grievances. Transferred laborers have their identification documents withheld and are often not paid or paid far under promised wages. The government's coercive strategies to compel work include threats of being sent to internment camps for refusing government-sponsored labor transfers, repeated (sometimes daily) visits by agents of the state to pressure people to be transferred for labor, coercive land transfers that leave farmers landless and unemployed, false promises that family members will receive reduced sentences if a person accepts a labor transfer, and misrepresentation of the labor as otherwise-required ideological training or poverty alleviation (Atlantic Council/ Sheffield Hallam University, 2022; Sheffield Hallam University, 2021b; Sheffield Hallam University, 2022).

For many more indigenous citizens in the Uyghur Region, forced labor programs are delivered through a massive system of extra-judicial internment camps in contravention of numerous international human rights protocols, as well as through mandatory prison labor for those who are sentenced (often in sham or mass trials, and often for practicing Islam). Companies have set up factories inside the walls of or adjacent to internment camps and prisons that house thousands of people who can be compelled to work. The government subsidizes corporate relocation into these camps and prisons (Sheffield Hallam University, 2022).

The evidence points to clear indicators of human trafficking and compulsory labor as defined by international conventions regarding labor rights. Indeed, these programs deny citizens the human right to free choice of employment afforded by Article 23 of the United Nations Declaration of Human Rights (UN, 1948). These labor transfer strategies clearly suggest the indicators of forced labor identified by the International Labor Organization, including (at a minimum): abuse of vulnerability, deception, restriction of movement, isolation, intimidation and threats, retention of identity documents, withholding of wages, and debt bondage (ILO, 2012). Furthermore, as one Chinese academic report put it, the labor transfer regime, "not only reduces the Uyghur population density in the Uyghur region but is also an important method to influence, integrate, and assimilate Uyghur minorities," suggesting the possibility of genocidal intent (China Institute on Wealth and Economics, 2019).

MSCI Indexed Companies with Known Uyghur Region Exposure

The companies listed below have all been identified in academic research or media reports to have directly engaged in the repressive labor transfer or surveillance/internment programs inflicted upon the Uyghur people by the PRC government. Companies show their loyalty to the PRC and the Chinese Communist Party (CCP) by committing to "Aid Xinjiang" through accepting coerced transferred laborers or moving to the Uyghur Region, where they are given substantial incentives to manufacture goods made in part by the victims of these government programs (CSIS, 2019).

Some of these companies have already been sanctioned by the U.S. government for labor and rights abuses in the Uyghur Region. The list below is not comprehensive; it only includes those MSCI-index-listed companies that have been publicly identified as directly engaged in obtaining laborers through state-sponsored labor transfers, sourcing from companies that do, or contributing to the construction of internment camps or state surveillance systems that have been used to oppress Uyghurs and other minoritized citizens of the Uyghur Region. Many other indexed companies could be participating in the PRC's forced labor schemes. All Chinese companies, whether located in the XUAR or elsewhere in China, should be investigated thoroughly to identify any links they may have to these programs. This information is based entirely on public records and corporate declarations. The companies listed below may have changed their labor recruitment strategies or sourcing, but they have not announced those changes publicly and therefore should be assumed to continue to engage in labor transfers (or sourcing from companies that do) until they publicly declare otherwise and provide supporting evidence.

A much longer list of multinational companies have been sourcing from companies that take part in the repressive labor transfer or surveillance programs inflicted upon the Uyghur people by the PRC government. These companies have been exposed since 2018 and their total number is now estimated to be over 900 (Jewish World Watch, undated). These companies have been predominantly in the fast fashion and technology industries, including H&M, Gap, Apple, and many more (Xu et al, 2020; Murphy et al 2021, Business Insider, 2020). This report does not include these companies as they have already been exposed by numerous reports already. Instead, it only focuses on the MSCI indexed companies that have been identified to be directly complicit in these labor and rights abuses.

MSCI Indexed Companies with Known Uyghur Region Exposure

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
Companies that Have Obtained Uyghur Laborers Through State Sponsored Labor Transfers that Used Uyghurs				
Avary Holding Co. (淮安鼎控股股份有限公司)	Electronics	State-sponsored labor transfers moved workers from the XUAR to Huaian, Jiangsu to work for Avary Holding Co. in early 2019. In Huaian, they produced printed circuit boards for consumer and automotive electronics. In the second half of 2019, official documents show Avary participated in a "job fair" to facilitate further labor transfers.	Australian Strategic Policy Institute (2020), Business Insider (2021), National Review (2021)	MSCI China ETF MSCI EM
(Xinjiang Western) Hoshine Silicon Industry Co. Ltd., also known as Hesheng Silicon Industry Co. Ltd (新疆西部合盛硅业有限公司)	Energy	Hoshine Silicon Industry Co. Ltd. is the top Chinese producer of metallurgical-grade silicon, a material used in the manufacture of polysilicon and other applications. Hoshine actively recruits Uyghur factory workers through state-sponsored labor programs and conducts ideological training for the workers. U.S. Customs and Border Protection banned Hoshine's silica-based products in 2021.	Washington Post (2021), Global Trade Magazine (2022), Solar Power Portal (2022), U.S. Customs and Border Protection (2021), Sheffield Hallam University (2021)	MSCI China ETF MSCI EM

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
Foxconn Technology (富士康)	Electronics	Taiwan-based Foxconn Technology is the world's largest contract electronics manufacturer. Hundreds of Uyghur workers have been transferred to Foxconn factories. Workers at its Zhengzhou factory have reportedly been required to work at least 100 hours of overtime every month. Foxconn participates in the "Xinjiang Aid" scheme, and Uyghur workers are under constant surveillance, subject to patriotic re-education, and expected to express gratitude to the Communist Party.	Australian Strategic Policy Institute (2020), Venture Beat (2020), Business Insider (2020), Kotaku (2021), The Information (2021), The Federalist (2022)	MSCI China ETF MSCI EM
Lens Technology (蓝思科技股份有限公司)	Electronics/ Glass	Lens Technology is a major electronics manufacturer in China. Lens Technology's factory in Hunan province received thousands of Uyghur laborers from the XUAR as part of a labor transfer and "anti-poverty" program.	The Verge (2020), Tech Transparency Project (2022), Washington Post (2020)	MSCI China ETF MSCI EM MSCI ACWI ex US ETF

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
O-Film Technology Co. Ltd (欧菲光科技股份有限公司)	Electronics	Hundreds of Uyghurs were transferred through state-sponsored programs from the XUAR to O-Film's factory in Nanchang in 2017. Thousands more Uyghurs have since been transferred to the factory, where they are subjected to ideological training. In 2020, the U.S. Department of Commerce added O-Film to its Entity List. O-Film has shuttered the factory that was using the Uyghur laborers and was since taken off the Entity List.	Reuters (2020), Australian Strategic Policy Institute (2020), Associated Press (2020), ZD Net (2020), U.S. Department of Commerce (2020)	MSCI EM
TBEA Xinjiang New Energy Co., Ltd./ TBEA Xinjiang Sunoasis Co., Ltd. (特变电工新疆新能源股份有限公司)	Energy	TBEA is a Chinese energy conglomerate that produces solar-grade polysilicon in the Uyghur Region. A Xinjiang government website documented a polysilicon factory owned by TBEA subsidiary Xinte Energy Co. engaging hundreds of state-sponsored transferred laborers in the XUAR in 2018. TBEA's own documents listed labor transfers in 2019, while announcing support for the patriotic re-education of transferred workers.	Bloomberg (2021), Sheffield Hallam University (2021), Horizon Advisory (2022)	MSCI China ETF MSCI EM

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
Xinjiang Goldwind Science & Technology Co., Ltd. (新疆金风科技股份有限公司)	Energy	Xinjiang Goldwind Science & Technology Co., Ltd. is China's largest wind turbine manufacturer. Goldwind discussed labor transfers from southern Xinjiang to a facility hundreds of miles away; it is unclear if the transfers occurred, but it is likely. The company's CEO has been an active participant and supporter of the "Becoming Family" program, whereby Han cadres occupy the homes of Muslims in the region and surveil them for the state.*	Buzzfeed News (2021), China File (2019), Bloomberg NEF (2019), Tech Transparency Project (2021)	MSCI China ETF MSCI EM MSCI ACWI ex US ETF

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
Companies that Have Helped Construct the Repressive Infrastructure				
BGI Genomics Ltd. (深圳华大基因股份有限公司)	Genomics	The U.S. Department of Commerce added two BGI Genomics subsidiaries - Xinjiang Silk Road BGI and Beijing Liuhe BGI - to its Entity List in 2020 due to their involvement in "mass atrocities targeting ethnic minorities in the Xinjiang region" for collecting minority biometric data non-consensually. BGI is suspected of sharing Americans' genetic data with Beijing.**	Business Insider (2021), National Review (2021), Axios (2020), U.S. Department of Commerce (2020)	MSCI China ETF MSCI EM
China Railway Group (中国中铁股份有限公司)	Construction/ Heavy Machinery	China Railway's Fourth Engineering Group is responsible for building the Xinjiang Production and Construction Corps' Tumshuq prison, which houses Uyghurs convicted of crimes related to practicing Islam.	Xinjiang Victims Database (undated)	MSCI China ETF MSCI EM MSCI ACWI ex US ETF

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
CITIC Guoan Construction Group (中信國安集團公司)	Construction	CITIC Guoan Construction and CITIC Guoan Group are subsidiaries of the Chinese state-owned construction conglomerate CITIC Group. CITIC Guoan Construction builds both privately-owned and state-owned buildings in the Uyghur region. CITIC partnered with Frontier Services Group (formerly Blackwater) to build a training base in the XUAR for the controversial security, military, and logistics provider.	Reuters (2019)	MSCI China ETF MSCI EM
iFlytek Co. Ltd. (科大讯飞股份有限公司)	Surveillance	iFlytek Co. Ltd. is a speech-recognition firm involved in the surveillance of Uyghurs and others in the Uyghur region. It is one of eight surveillance and technology companies the US Department of Commerce added to its Entity List in 2019.	Reuters (2019), New York Times (2019), The Globe and Mail (2021), U.S. Department of Commerce (2019)	MSCI China ETF MSCI EM Multiple U.S. State Pension Funds

Company	Industry	Relationship to Crimes Against Humanity in the Uyghur Region	Sources	Index/Fund (as of 30 August 2022)
Zhejiang Dahua Technology Co., Ltd. (浙江大华技术股份有限公司)	Surveillance	Zhejiang Dahua is a large surveillance and technology company based in Shenzhen, China. Dahua signed a sizable surveillance contract in Xinjiang as part of a "safe cities program." In 2019, Dahua claimed the contract had been "paused." A 2021 report showed Dahua promoting its facial recognition technology's ability to sort individuals by race, and its subsequent ability to identify Uyghurs. The U.S. Department of Commerce added Dahua to its Entity List in 2019.	AFP (2018), Los Angeles Times (2021), International Consortium of Investigative Journalists (2020), Tech Crunch (2021), U.S. Department of Commerce (2020)	MSCI China ETF MSCI EM
ZTE (中興通訊股份有限公司)	Surveillance	ZTE is an enormous Chinese telecom company. The Chinese Government contracts with ZTE to perform extensive surveillance on Uyghurs and other minoritized citizens in the XUAR. According to reporting, ZTE "monitor[s] the political opposition, activists and journalists," across the region.	Engadget (2018), ZD Net (2020), MIT Technology Review (2021)	MSCI China ETF MSCI EM MSCI ACWI ex US ETF

List of Companies Sorted by Index Inclusion
The companies listed are all either involved in constructing the Uyghur camps, actively use Uyghur forced labor obtained through state sponsored transfer, or source from suppliers that use Uyghur forced labor obtained through state sponsored transfer.

In this category, accounting for the fact that some companies are included on multiple i ndexes, there are:

- 12 companies on the MSCI China Index.
- 13 companies on the MSCI Emerging Markets Index.
- 4 companies on the MSCI All Country World Index ex-US.

We found that:

- Of the 12 companies we have identified on the MSCI China Index, 6 have obtained Uyghur laborers through state-sponsored labor transfers, and 6 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.
- Of the 13 companies we have identified on the MSCI Emerging Markets Index, 7 companies have obtained Uyghur laborers through the state-sponsored labor transfer programs that have been identified as forced labor by experts, and 6 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.
- Of the 4 companies we have identified on the MSCI All-Country World Index ex-US, 2 have obtained Uyghur laborers through state-sponsored labor transfers, and 2 have been involved in constructing internment camps or the repression apparatus in the Uyghur region.

	Forced Labor	Construction of Repressive Infrastructure
MSCI China	6	6
MSCI EM	7	6
MSCI ACWI ex-US	2	2

MSCI China	MSCI EM	MSCI ACWI ex-US
Avary Holding Co. (淮安鹏鼎控股股份有限公司)	Avary Holding Co. (淮安鹏鼎控股股份有限公司)	Lens Technology (蓝思科技股份有限公司)
Foxconn Technology (富士康)	Foxconn Technology (富士康)	Xinjiang Goldwind Science & Technology Co., Ltd. (新疆金风科技股份有限公司)
Lens Technology (蓝思科技股份有限公司)	Lens Technology (蓝思科技股份有限公司)	China Railway aka China Railway Construction Heavy Industry Co. (中国铁建重工集团股份有限公司)
TBEA Xinjiang New Energy Co., Ltd./TBEA Xinjiang Sunoasis Co., Ltd. (特变电工新疆新能源股份有限公司)	TBEA Xinjiang New Energy Co., Ltd./TBEA Xinjiang Sunoasis Co., Ltd. (特变电工新疆新能源股份有限公司)	ZTE (中興通訊股份有限公司)
Xinjiang Goldwind Science & Technology Co., Ltd. (新疆金风科技股份有限公司)	Xinjiang Goldwind Science & Technology Co., Ltd. (新疆金风科技股份有限公司)	
(Xinjiang Western) Hoshine Silicon Industry Co. Ltd., also known as Hesheng Silicon Industry Co. Ltd (新疆西部合盛硅业有限公司)	(Xinjiang Western) Hoshine Silicon Industry Co. Ltd., also known as Hesheng Silicon Industry Co. Ltd (新疆西部合盛硅业有限公司)	
BGI Genomics Ltd. A (深圳华大基因股份有限公司)	BGI Genomics Ltd. A (深圳华大基因股份有限公司)	
China Railway aka China Railway Construction Heavy Industry Co. (中国铁建重工集团股份有限公司)	China Railway aka China Railway Construction Heavy Industry Co. (中国铁建重工集团股份有限公司)	
CITIC Guoan Construction /Group (中信國安集團公司)	CITIC Guoan Construction /Group (中信國安集團公司)	
iFlytek Co. Ltd. (科大讯飞股份有限公司)	iFlytek Co. Ltd. (科大讯飞股份有限公司)	
Zhejiang Dahua Technology Co., Ltd. (浙江大华技术股份有限公司)	Zhejiang Dahua Technology Co., Ltd. (浙江大华技术股份有限公司)	
ZTE (中興通訊股份有限公司)	ZTE (中興通訊股份有限公司)	
	O-Film Technology Co. Ltd (欧菲光科技股份有限公司)	

The Exposure of Passive Investors to Companies Complicit in the Uyghur Region

The world's leading asset management companies provide opportunities and products for investors to actively track. The table below includes a range of the products that are provided by the top asset managers in the world. Many of the world's most significant asset managers are passively invested in the index funds that include exposure to companies complicit in rights violations in the Uyghur Region. The table also includes a partial list of US pension funds affected by these investments. In our previous report (Passively Supporting Oppression), we analyzed the exposure of 20 US state pension funds (Hong Kong Watch, 2022) and have included information on those funds here. We have also provide commentary later on in the report about the exposure of pension providers from the U.K., Canada and New Zealand.

This list is not all inclusive. Other asset managers and pension funds should assess their portfolios for exposure.

MSCI Emerging Markets	MSCI China	MSCI ACWI ex-US
Major Assets Managers		
BlackRock - iShares MSCI Emerging Markets (EEM)	BlackRock - iShares MSCI China ETF (MCHI)	BlackRock - iShares MSCI ACWI ex US ETF (ACWX)
Vanguard - Emerging Markets Stock Index Fund	HSBC MSCI China UCITS ETF	SPDR MSCI ACWI ex-US ETF
HSBC MSCI Emerging Markets ETF	Legal and General E Fund MSCI China UCITS ETF	Legal and General MSCI ACWI ex-US
Deutsche Bank - Xtrackers MSCI Emerging Markets ETF	UBS ETF MSCI China A ETF	
Invesco MSCI Emerging Markets ETF	Invesco MSCI China All Shares ETF	
UBS MSCI Emerging Markets ETF	Deutsche Bank - Xtrackers MSCI China ETF	
Legal and General Emerging Markets Equity Index Fund		

MSCI Emerging Markets	MSCI China	MSCI ACWI ex-US
US State Pension Funds		
CalSTRS		CalPERS
Washington State		New York State Common Retirement Fund
New Jersey Division of Investment		Florida State Board of Administration
Minnesota State Board of Investment		New York State Teachers
Pennsylvania State		Washington State
		Minnesota State Board of Investment
		New Jersey Division of Investment
		Nevada Public Employees Retirement System
		Oklahoma PERS

MSCI as the Gold Standard

MSCI's prevalence as one of the main global market index trackers means that the exposure of pension funds to Chinese companies linked to forced labor in the Uyghur Region through its Emerging Markets and China index funds is a global issue.

Through passive MSCI indices, pension funds are exposing themselves indirectly to those Chinese equities previously listed in this report where there is substantial evidence of their complicity in forced labor.

This passive investment model not only undermines their commitment to upholding Environmental, Social, Governance criteria when it comes to their investments, it makes pension funds indirectly complicit through funding companies who are undertaking and profiting from gross human rights violations taking place in the Uyghur Region.

Take the case of the New Zealand Superannuation Fund, which operates as the country's sovereign wealth fund. Looking at its most recent public equities disclosure (NZ Super Fund, 2021b), the New Zealand Superannuation Fund had NZ$137m invested directly in MSCI Emerging Markets ETF.

The New Zealand Superannuation Fund's annual report for 2021 (NZ Super Fund, 2021a) also outlines that it has commissioned Northern Trust and State Street Global Advisors to manage its passive investment regarding emerging markets. Looking at the emerging markets funds offered by both Northern Trust (Business Insider, 2022) and State Street Global Advisors (State Street Global Advisors, 2022), both of the firms track MSCI Emerging Markets Index as their benchmark.

In Canada, we have previously looked at leading federal and provincial pension funds exposure to Chinese stocks and bonds linked to gross human rights violations in Xinjiang. We note that several pension funds have passive exposure to MSCI Emerging Markets and MSCI China with potential exposure to some of the companies named in this report.

This includes the Canadian Pension Plan Investment Board (CPPIB), which as of 31 March 2022 had C$6,480m exposed to MSCI China and C$7,743m exposed to MSCI Emerging Markets Index (CPPIB, 2022). Since the publication of the first edition of this report, CPPIB has argued that this exposure is through "synthetic derivatives", (Canada Investment Review, 2022) however it is hard to justify betting Canadian pensioners money on Index Funds whose fortunes are tied to the profits of companies with links to Uyghur forced labor. The Alberta Investment Management Corporation has stated publicly that it is in a similar boat to CPPIB in using synthetic products to track MSCI Emerging Markets and MSCI China (Canada Investment Review, 2022).

Both the Civil Service Superannuation Board of Manitoba (CSSB, 2020) and the Canada Pension Plan Investment Board appear to also have passive investment models tracking MSCI Emerging Markets or MSCI China (CPP, 2022). In the case of the Civil Service Superannuation Board the most recent publicly available data is limited to December 31 2020. While the Public Sector Pension Investment Board notes in its annual report that it has passive exposure to Emerging Markets and MSCI.

In our previous report, we noted the collaboration between the Royal Bank of Canada and BlackRock in offering emerging markets and China ETFs. As noted earlier in this report, BlackRock's ETFs passively invest in all of the MSCI indexes we have identified, this means that the Royal Bank of Canada will be exposed to the companies in question.

In the United Kingdom, we found that several local authority pension funds were exposed to the MSCI Emerging Markets Index, this exposure has largely come via BlackRock and Legal and General who both have emerging markets funds that passively track MSCI (Responsible Investor, 2022).***

We have reported previously (Hong Kong Watch, 2021) that one of the UK Parliamentary Pension Providers was tracking BlackRock's Emerging Markets Fund which is passively invested in MSCI Emerging Markets Fund.

Another important case study which deserves further attention is the fact that Legal and General is the manager of the pension funds of the Church Administrator's Pension Fund (CAPF) Defined Contribution Scheme (Church Administrator's Pension Fund, 2022), the UK Civil Service and Parliamentary staffers. We previously have shown that Legal and General management of the Parliamentary staffer pension scheme left employees exposed to problematic Chinese equities. The same is true of Legal and General's mainstream clients unless they explicitly ask to opt out of emerging markets. In the case of the CAPF Defined Contribution Scheme, if one was retiring in 2050, nearly 50 percent of one's holdings will be found in overseas equities including emerging markets (Legal and General, 2022). As this report underlines, Legal and General's Emerging Markets fund is exposed to seven companies which use forced labor and six which have been involved in the construction of the repressive architecture in the Uyghur Region, and so the likelihood of complicity in human rights abuses for these major public bodies is considerable (LGIM Fund Centre, 2022).

Article 9 Funds exposed to the companies listed in this report

This is the second edition of this report. After we published the first draft, Responsible Investor took the findings and analyzed the exposure of "Article 9" funds to the companies listed in this report (Responsible Investor, 2022). Article 9 funds are funds which comply with the strictest level of sustainability reporting under the new EU Sustainable Finance Disclosure Regulation, and would therefore be genuinely considered best in class and ethical.

Their analysis showed that the firms outlined in this report appear not only in the indexes analyzed in this report (the MSCI China Index, the MSCI Emerging Markets Index, and the MSCI All-Country World Index ex-US), but also a series of Climate Transition and Paris-aligned benchmarks from MSCI and others.

26 Article 9 funds were identified to hold at least 12 of the human rights abusing companies listed in this report.

Thrift Savings Pension Plan (USA)

The Thrift Savings Pension (TSP) plan is a 401(k) programme that manages the pensions of around 6.6 million current and former federal workers in the US Government. In May 2022, it had $734 billion of investment under management (Washington Post, 2022a).

Historically, workers under the TSP were limited to investing in five index funds, carefully selected by the Federal Retirement Thrift Investment Board. These included (Clark, 2022):

- Government Securities Investment Fund based on US Treasury Bonds;
  Fixed-Income Investment Fund, which tracks a specific index fund that holds U.S. government bonds;

- Common-Stock Index Investment Fund, which tracks the S&P 500;
  Small-Cap Stock Index Investment Fund, which tracks a specific Dow Jones index comprised of small- and mid-cap companies;

- Life-cycle funds, which is a mixture of each of the five other funds, balanced to an appropriate level of risk.

BlackRock manages four out of five of the funds as part of a contract with the Federal Retirement Thrift Investment Board, with State Street involved in the management of the other funds.

In June 2022, TSP launched an investment window, which for the first time would allow current and former federal workers to invest their 401(k) pensions in over 5,000 mutual funds from 300 mutual fund providers. This will allow federal workers to invest in stocks and bonds in emerging markets.

This change has long been trailed (Pensions & Investments, 2022), with the TSP given the authority to create the investment window in 2009 and formally voting on its adoption back in 2015.

TSP has predicted (FEDweek, 2022) that only between two to three percent of federal workers will use this new mutual fund to invest their pensions. However, 2.3 million of the 4.1 million current and former federal workers in the TSP have balances above that threshold to access the mutual window fund, including 350,000 of the nearly 2.5 million current and former military personnel with accounts (Washington Post, 2022).

Previous concern surrounding the management of TSP by BlackRock and State Street has been raised by both parties in Congress, particularly regarding voting rights (WSJ, 2021) and how they uphold Environmental, Social, and Governance criteria (Wagner, 2021).

Others have noted that BlackRock and State Street's substantial investments in China and closeness to the Chinese Government which has offered both preferential access to its markets, make it likely that the expansion of the TSP scheme will lead to increased investment into China (The Hill, 2022).

Considering our research shows that similar government mandated public sector pension schemes in New Zealand, and Canada, where investment restrictions have been lifted, are heavily invested in emerging market index funds (namely MSCI China and MSCI Emerging Markets) which are exposed to forced labor in the Uyghur Region, there is a legitimate possibility that the change in TSP restrictions will see a similar pattern emerge in the USA.

Lawmakers and government officials must urgently consider how it could be morally defensible for federal employees' pensions to be passively invested in companies complicit in gross human rights violations in the Uyghur Region.

Conclusion

This report has shown that major institutional investors are funding companies known to be involved and benefiting from the crisis in the Uyghur region. From state pension funds in the United States to regional funds in the United Kingdom to the national pension plan in Canada, investors around the world are exposed.

This is unacceptable. We must act. This report lays out a set of recommendations to Governments. The US should rationalize its entity lists and investment ban lists. Other governments should adopt a similar approach. Meanwhile it is vital that firms take action and actually live up to the ethical commitments that they have made under ESG frameworks and through signing international human rights compacts like the UN Guiding Principles on Guiding Principles on Business and Human Rights.

Recommendations

Recommendations to the United States: Analysis of the Uyghur Forced Labor Prevention Act (UFLPA)

In recent months, the US Government has introduced the Uyghur Forced Labor Prevention Act. This is a major step forward, but it is lacking in two ways.

- Only three of the companies listed here are covered on the Uyghur Forced Labor Prevention Act Entity Lists. This is a noticeable blind spot, given the publicly available data that can be accessed about every firm listed. The US Government should expand the lists to ensure that companies known to be complicit in forced labor are excluded from importing goods under the UFLPA.

- The UFLPA does not require an investment ban. This means that while people cannot import goods mined or manufactured in the Uyghur region, investors can still invest in these firms. One basic step the US Government should take is to harmonize its various entity lists with its investment ban list under Executive Order 14032. This Executive Order has been an effective way of ensuring that firms do not passively invest in companies known to be involved in gross human rights violations, and it should be better optimized.

Recommendations to the United States: Regarding the Thrift Savings Pension (TSP) plan

The launch of the TSP investment window in June 2022 allows current and former federal workers to invest their 401(k) pensions in over 5,000 mutual funds from 300 mutual fund providers (Federal Retirement Thrift Investment Board, 2022). This will expose many of those pensions to emerging markets funds and China specific funds, which will include a number of the companies listed in this report with known links to state-sponsored forced labor. In response to this development, policymakers in the USA should:

- Call for the pausing of the roll-out of the TSP investment window until proper due diligence is undertaken regarding mutual fund providers' exposure to companies with known links to forced labor in the XUAR.
- Demand publication of the full list of mutual funds and mutual fund providers alongside the criteria used for their selection as part of the TSP investment window.

Recommendations to the European Union

In recent weeks, the European Commission proposed to prohibit products made with forced labor on the EU market. Although it is not explicitly related to the Uyghur Region, it could be very effective in banning the import of goods made in this region and can be a precedent for an investment ban. In response to this development, policymakers in the EU should:

- In addition to banning the import of goods made from forced labor, extend the proposal to include banning investments in companies complicit in directly engaging state-imposed forced labor
- Draw up a list of banned entities that are known to be involved in state-imposed forced labor in the Uyghur region, applying this to public procurement, investment, and imports.
- Pass national legislation that bans the import of goods known to be made with forced labor and investments in companies engaged in forced labor, covering, in particular, state-imposed forced labor as that practiced in the Uyghur region.

Recommendations to other Governments

- Draw up a list of banned entities that are known to be involved in state-imposed forced labor in the Uyghur region, applying this to public procurement, pension and government investment, and imports.
- Pass legislation that bans the import of goods known to be made with forced labor and investments in companies engaged in forced labor, covering, in particular, state-sponsored forced labor as that practiced in the Uyghur region.

Recommendations to businesses: take the 'S' in ESG seriously

The majority of investment firms are signed up to ESG principles in line with the UN Principles for Responsible Investment of 2022.

- Investment firms, standard setters and governments must give proper weight to human rights violations in their ESG metrics and regulatory frameworks. Human rights risks must be at the heart of all ESG metrics and risk analyses.
- ESG ratings agencies should increase the weighting given to state imposed forced labor, making it a required consideration, when determining the ESG credentials of firms.
- Firms complicit in genocide, crimes against humanity, or modern-day slavery should be blacklisted from global indexes restricting public pension fund and private investment.
- Companies and investors must undertake a process of human rights due diligence as it relates to all their business and investment activities and relationships. Companies must undertake and publicly disclose full supply chain tracing to raw materials to ensure they are not engaging with companies that could possibly be tied to repression in the Uyghur Region.

Notes

*In a letter, the Chairman of Goldwind stated that the company prohibits the use of child and forced labor within its own manufacturing and requires its suppliers to comply with applicable laws. Goldwind, Commitment to Human Rights, 8 February 2021, https://www.goldwind.com/en/assets/81b35d0272d3cfbc2b9bf6d359b9d093.pdf

**In July of 2020, BGI Genomics issued a statement indicating their surprise in being named to the U.S. Entity list and asserting that the company "does not engage in unethical practices or provide gene technology for the surveillance of Uighurs." The company claimed that the Xinjiang Silk Road BGI subsidiary had not in fact conducted any business. BGI Group. 'BGI Group statement regarding subsidiaries being included on the US Bureau of Industry and Security (BIS) "Chinese entity list'." Press Release. July 22, 2020, https://en.genomics.cn/en-news-5964.html

***The following UK local government pension funds passively track the MSCI Emerging Markets Index: Strathclyde Local Authority Pension Scheme, Falkirk Local Authority Pension Scheme, and the Greater Manchester Pension Fund via Legal and General Emerging Markets Fund.

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