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New U.S. Legislation Targets China's Financial Diplomacy, Belt & Road Initiative, and World Bank Borrowing

In the prior four years, much of the discussion around U.S.-China trade and economic relations has focused on trade matters, particularly tariffs and export controls—with good reason. With the passage of the National Defense Authorization Act for Fiscal Year 2021 (“**NDAA**”),¹ we are reminded that the United States views as an issue of “great power competition” China’s financial and infrastructure diplomacy, particularly China’s lending to developing nations and its Belt and Road Initiative (*BRI*) (see [MassPoint PLLC’s graphic depicting U.S.-China issues from the U.S. perspective](#), including the *BRI* and “debt trap” financing).

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With the NDAA, Congress provided a reminder of the United States’ concerns as to China’s cross-border lending and the *BRI*. The massive annual defense spending legislation (which, as usual, covers much more than defense spending), includes two provisions directly on point. Section 9722, “Ensuring Chinese Debt Transparency,” requires the United States to leverage its participation in International Financial Institutions (“*IFIs*”; e.g., the World Bank)² to use its “voice and vote . . . to seek greater transparency with respect to the terms and conditions of financing provided” by China “to any member state of the respective institution that is a recipient of financing from the institution.” § 9722(a). The NDAA additionally requires the Chairman of the National Advisory Council on International Monetary and Financial Policies to annually report on progress made in advancing the policy of debt transparency and Chinese financing activities, through the government and Chinese sovereign-owned or controlled entities.

Section 9723(c) of the NDAA, “Accountability for World Bank Loans to China,” requires the Secretary of the Treasury, in consultation with the Secretary of State, to submit by July 1, 2021 to designated Congressional committees—House Financial Services and Senate Foreign Relations—an assessment of the level and nature of indebtedness to China or Chinese state-owned or controlled enterprises of countries that are members of *IFIs* and that “receiv[e] assistance through the” *BRI*. In addition, the Treasury Secretary’s report must include an analysis of “debt management assistance” by the World

Bank, IMF, and the Treasury’s Office of Technical Assistance provided to BRI borrower countries, as well as an assessment of the “effectiveness of” U.S. bilateral and multilateral efforts at IFIs to “promote debt transparency.”

Finally, Section 9723(a) requires the United States’ lead representative to the World Bank to pursue the “expeditious graduation” of China from World Bank “assistance,” consistent with World Bank lending criteria. This provision is not surprising, but is worth noting because it legislates an often and loudly repeated view of the Trump Administration, that China should no longer be treated as a developing country for multilateral lending purposes.

The foregoing measures, although somewhat light in touch and likely consequence, are notable as they illustrate again what has been evident for years. The United States official position on China—on trade and economic matters, among others—reflects a bipartisan consensus across the two political branches of government and among policy influencers. These measures are likely to be followed-up and should be viewed as piece of a legal and policy tapestry that includes trade, technology, finance, and diplomacy measures that will continue to emerge and be implemented in the foreseeable future.

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Notes

¹ William M. (Mac) Thornberry National Defense Authorization Act for Fiscal Year 2021, Pub. L. No. 116-283, 134 Stat. 3388 (Jan. 1, 2021).

² Under the operative statute, “International financial institutions means the International Monetary Fund, International Bank for Reconstruction and Development, European Bank for Reconstruction and Development, International Development Association, International Finance Corporation, Multilateral Investment Guarantee Agency, African Development Bank, African Development Fund, Asian Development Bank, Inter-American Development Bank, Bank for Economic Cooperation and Development in the Middle East and North Africa, and Inter-American Investment Corporation.” 22 U.S. Code § 262r(c)(2).