

## Understanding the Hong Kong Autonomy Act in Practice

### Background

This week both the US Senate and the US House of Representatives passed the Hong Kong Autonomy Act. The Act requires the US State Department to annually report to Congress individuals, institutions, and financial institutions that have violated Hong Kong's autonomy under the Sino-British Joint Declaration and the Hong Kong Basic Law, and requires the President to impose sanctions on those named.

Under the Hong Kong Autonomy Act, individuals, institutions, and banks that erode Hong Kong's autonomy through the National Security Law will face targeted financial sanctions.

Senators Van Hollen and Toomey initiated the legislation in the Senate, and it was initiated by Rep. Sherman and Yoho in the US House of Representatives.

### How will it work in practice?

#### Step 1: Compiling a Sanctions List of Individuals and Institutions

90 days after the Hong Kong Autonomy Act becomes law, the US Secretary of State in consultation with the Secretary of the Treasury must determine a list of individuals or institutions to be sanctioned for violating Hong Kong's autonomy. This list must then be submitted to the appropriate congressional committees.

#### Step 2: Compiling a Sanctions List of Financial Institutions

Following this submission, within 30 to 60 days the US Secretary of State must submit a list of financial institutions which have assisted the individuals or institutions on the sanctions list.

#### Step 3: Review of the Sanctions List by the President and Intelligence Agencies

US intelligence agencies and the President will then review the sanctions list and will have the opportunity to remove individuals, institutions, or financial institutions from the list if they deem that their actions:

- A. *'Does not have a significant and lasting negative effect that contravenes the obligations of China under the Joint Declaration and the Basic Law;*
- B. *is not likely to be repeated in the future;*
- C. *and has been reversed or otherwise mitigated through positive countermeasures.'*

An individual, institutions, or financial institution may be excluded from this report for various reasons, such as to protect an intelligence source.

#### Step 4: Notification of Any Removals

The President must notify Congress of any individuals, institutions, or financial institutions removed from the list.

#### Step 5: Enacting Sanctions

No later than a year after the individual, institutions, or financial institutions is named in the sanctions report, the President must introduce sanctions.

**For individuals or institutions, the sanctions include:**

- Prohibition from asset trading in the US, this includes a ban '*on acquiring, holding, withholding, using, transferring, withdrawing, transporting, or exporting any property that is subject to the jurisdiction of the United States*'.
- Cancellation and denial of visa entry into the United States.

**For financial institutions, the President shall introduce no less than five of the sanctions described, including:**

- A ban on US financial institutions offering loans or providing credits to named financial institutions on the sanctions list.
- Prohibition on allowing sanctioned financial institutions to be a primary dealer of US debt instruments.
- Prohibition on sanctioned financial institutions operating as a repository for US government funds.
- A ban on participating in foreign exchange transactions in US jurisdictions.
- A ban on any financial transactions of credit or payments between sanctioned financial institutions and other financial institutions in US jurisdictions.
- A ban on sanctioned financial institutions trading property in US jurisdictions.
- Restriction and prohibition on exports, reexports, and the transfer of technology and software between sanctioned financial institutions and other financial institutions in US jurisdictions.
- A ban on sanctioned financial institutions investing in equity or purchasing debt in the United States.
- A ban on shareholders, corporate officers, or principles of sanctioned financial institutions entering the United States
- Imposing individual sanctions on the principle executive officers of sanctioned financial institutions.

**Step 6: Terminating or Waiving Sanctions**

The President can terminate or waive sanctions on the individual, institutions, or financial institutions, if it is in the interest of national security. The President must document to the appropriate congressional committees their reasons for waiving or terminating sanctions.

**Step 7: Overriding the President's Waiver**

Congress can override the President's waiver by passing a joint-resolution of disapproval in both houses.

**For further information:**

<https://www.congress.gov/bill/116th-congress/house-bill/7440?r=4>