

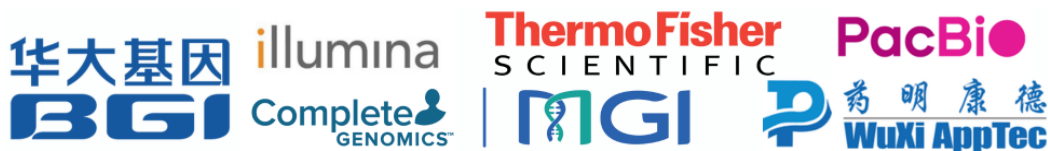
CAPITOL STREET

March 7, 2024

Anti-China Legislation Passes Senate Cmte as EO is Signed & CEOs Testify Today

BIO is Called “Foreign Agent”

Relevant Companies



»» Our Take & Next Up

Today the House Select Committee on Strategic Competition Between US and China (Chair Gallagher, R-WI) is holding a hearing ([here](#)) on the anti-contracting bills singling out WuXi, BGI and others. The Chairman is also likely to rip into BIO (See foreign agent accusation in bullet below), the lead biotech lobbying association that counts WuXi as a member. Ginkgo CEO Jason Kelly will testify this morning, among others. We believe that the EO signed by Biden is adequate to address the issue, but the House & Senate want to also include their bills (which are quite similar) to the Defense Authorization (Dec 2024), which could happen despite election year / lame duck politics.

»» Key Points

Yesterday, the Senate Committee on Homeland Security & Governmental Affairs (Chair Peters, D-MI) voted (11-1) [here](#) on S. 3558, which prohibits contracting with certain biotechnology providers (BGI, WuXi). A fast-track ban would be applied to the BGI Group (BGI), MGI, Complete Genomics, WuXi AppTec, as well as their subsidiaries and affiliates, given the serious known national security risks. The motion passed by 11 Yays to 1 Nay; Senator Rand Paul (R-KY) voted against the bill. Ranking Member Paul “worries that as the anger builds with China, that the idea of disengaging has an overlay of provincial interest, by banning certain companies we are advantaging others” ([here](#)). He sees it as an anti-competition move, that other bills attempt to achieve the same goal, perhaps with a different country (Russia) e.g., legislation was introduced to ban Russian fishing and Russian liquified natural gas.

As a reminder this bill prohibits federal contracting with certain biotechnology providers connected to foreign adversaries ([here](#)). The bill would ban U.S. taxpayer dollars and federal contracts, grants, and loans from going to biotechnology companies owned or controlled by a foreign adversary’s government, such as the Chinese Communist Party, whose business practices threaten U.S. national security. Further, the legislation restrains executive agencies from the following:

- Obtaining any biotechnology equipment or services provided by a company of concern
- Enter or renew a contract that uses the services or equipment provided by a company of concern

We believe that the end game is for ***Prohibiting Foreign Access to American Genetic Information Act of 2024 (S. 3558)*** or a tweaked version would be attached to [the National Defense Authorization Act for Fiscal Year 2024](#), which sets forth policies for programs of the Department of Defense, Department of Energy, Department of State, Central Intelligence Agency and others. This bill has passed the Senate Committee on Homeland Security. Today, the House Committee on Strategic Competition Between the US and the CCP is starting at 9:00 AM. There will be three witnesses:

- CEO of Ginkgo Bioworks Holdings Inc., Jason Kelly
- EVP of in-Q-Tel, Tara O’Toole
- SVP & CTO of Mitre Corp., Charles Clancy

President Biden signed an Executive Order last week (see our memo [here](#)). The EO restricts activities of Chinese genomic companies. As we have said, differences between the legislation from both the House and Senate and the EO are minimal; the EO does not explicitly list certain companies of interest like BGI and WuXi Apptec (named in legislation). Both H.R. 7085, sponsored by Rep. Gallagher (R-WI) ([here](#)) and S. 3558, sponsored by Sen. Gary Peters (D-MI) ([here](#)) are similar pieces of legislation. The legislation prohibits contracting with certain biotechnology companies in China because of the threat to national security.

BIO, the main Biotechnology lobbying organization, is accused of being a “foreign agent.” This past week, BIO appointed a new President & CEO John Crowley (press release [here](#)); Crowley is a longtime biotech executive (Amicus) and an advocate for rare diseases. Sen. Gallagher (R-WI), Chairman of the House Select Committee on the CCP is urging the DOJ to review the Biotechnology Innovation Organization (BIO). Gallagher believes that the organization is lobbying on behalf of WuXi Apptec ([here](#)). Further, the Chairman states that “BIO’s advocacy on behalf of WuXi Apptec – intended to protect the company’s access and commercial ties in the United States despite the risk to U.S. national security – is aligned with the interests of the CCP and the PRC government” ([here](#)).

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