

By: Anchía

H.B. No. 2823

A BILL TO BE ENTITLED

AN ACT

relating to state contracts with and investments in certain companies doing business in the Russian Federation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 2270.0001(9), Government Code, is amended to read as follows:

(9) "Scrutinized company" means:

(A) a company that:

(i) engages in scrutinized business operations described by Section 2270.0052; or

(ii) has been complicit in the Darfur genocide during any preceding 20-month period;

(B) a company that engages in scrutinized business operations described by Section 2270.0102; ~~and~~

(C) a company that engages in scrutinized business operations described by Section 2270.0152; and

(D) a company that engages in scrutinized business operations described by Section 2270.0162.

SECTION 2. Section 2270.0002, Government Code, is amended to read as follows:

Sec. 2270.0002. EXCEPTION. Notwithstanding any other law, a company that the United States government affirmatively declares to be excluded from its federal sanctions regime relating to Sudan, its federal sanctions regime relating to Iran, ~~or~~ any federal

sanctions regime relating to a designated foreign terrorist organization, or its federal sanctions regime relating to the Russian Federation is not subject to divestment or investment prohibition under this chapter.

SECTION 3. Chapter 2270, Government Code, is amended by adding Subchapter D-1 to read as follows:

SUBCHAPTER D-1. GENERAL PROVISIONS RELATING TO INVESTMENTS IN
RUSSIAN FEDERATION

Sec. 2270.0161. DEFINITIONS. In this subchapter:

(1) "Business operations" means engaging in commerce in any form in the Russian Federation, including by acquiring, developing, maintaining, owning, selling, possessing, leasing, or operating equipment, facilities, personnel, products, services, personal property, real property, or any other apparatus of business or commerce.

(2) "Military equipment" means weapons, arms, military supplies, and equipment that readily may be used for military purposes, including radar systems and military-grade transport vehicles.

Sec. 2270.0162. SCRUTINIZED BUSINESS OPERATIONS IN RUSSIAN FEDERATION. A company engages in scrutinized business operations in the Russian Federation if:

(1) the company has business operations that involve contracts with or providing supplies or services to the government of the Russian Federation, a company in which the government of the Russian Federation has any direct or indirect equity share, a consortium or project commissioned by the government of the Russian

1 Federation, or a company involved in a consortium or project
2 commissioned by the government of the Russian Federation; or
3 (2) the company supplies military equipment to the
4 Russian Federation.

5 SECTION 4. Sections 2270.0201(a) and (b), Government Code,
6 are amended to read as follows:

7 (a) The comptroller shall prepare and maintain a list of all
8 scrutinized companies. The list must be categorized according to:

9 (1) companies that are scrutinized companies under
10 Section 2270.0001(9)(A);

11 (2) companies that are scrutinized companies under
12 Section 2270.0001(9)(B); ~~and~~

13 (3) companies that are scrutinized companies under
14 Section 2270.0001(9)(C); and

15 (4) companies that are scrutinized companies under
16 Section 2270.0001(9)(D).

17 (b) In maintaining the list of scrutinized companies under
18 Subsection (a), the comptroller may review and rely, as appropriate
19 in the comptroller's judgment, on publicly available information
20 regarding companies with business operations in Sudan, in Iran,
21 ~~or~~ with designated foreign terrorist organizations, or in the
22 Russian Federation, as applicable, including information provided
23 by the state, nonprofit organizations, research firms,
24 international organizations, and governmental entities.

25 SECTION 5. Section 2270.0203, Government Code, is amended
26 to read as follows:

27 Sec. 2270.0203. NOTICE TO LISTED COMPANY ENGAGED IN

1 INACTIVE BUSINESS OPERATIONS. For each listed company identified
2 under Section 2270.0202 that is engaged in only inactive
3 scrutinized business operations, the investing entity shall send a
4 written notice informing the company of this chapter and
5 encouraging the company to continue to refrain from initiating
6 active business operations in Sudan, in Iran, ~~[and]~~ with designated
7 foreign terrorist organizations, and in the Russian Federation
8 until it is able to avoid being considered a listed company. The
9 investing entity shall continue the correspondence as the entity
10 considers necessary, but is not required to initiate correspondence
11 more often than semiannually.

12 SECTION 6. Section 2270.0204(b), Government Code, is
13 amended to read as follows:

14 (b) The notice shall offer the company the opportunity to
15 clarify its Sudan-related, Iran-related, ~~[or]~~ designated foreign
16 terrorist organization-related, or Russian Federation-related
17 activities, as applicable, and shall encourage the company, not
18 later than the 90th day after the date the company receives notice
19 under this section, to either cease all scrutinized business
20 operations as described by Sections 2270.0052, 2270.0102, ~~[and]~~
21 2270.0152, and 2270.0162, or convert such operations to inactive
22 business operations in order to avoid qualifying for divestment by
23 investing entities.

24 SECTION 7. Subtitle F, Title 10, Government Code, is
25 amended by adding Chapter 2278 to read as follows:

26 CHAPTER 2278. PROHIBITION ON CONTRACTS WITH CERTAIN COMPANIES

27 ENGAGING IN SCRUTINIZED BUSINESS OPERATIONS IN RUSSIAN FEDERATION

1 Sec. 2278.001. DEFINITIONS. In this chapter:

2 (1) "Company" has the meaning assigned by Section
3 2270.0001, Government Code, except that the term does not include a
4 sole proprietorship.

5 (2) "Governmental entity" has the meaning assigned by
6 Section 2251.001.

7 Sec. 2278.002. PROVISION REQUIRED IN CONTRACT. (a) This
8 section applies only to a contract that:

9 (1) is between a governmental entity and a company
10 with 10 or more full-time employees; and

11 (2) has a value of \$100,000 or more that is to be paid
12 wholly or partly from public funds of the governmental entity.

13 (b) Except as provided by Subsection (c), a governmental
14 entity may not enter into a contract with a company for goods or
15 services unless the contract contains a written verification from
16 the company that it:

17 (1) does not engage in scrutinized business operations
18 described by Section 2270.0162; and

19 (2) will not engage in scrutinized business operations
20 described by Section 2270.0162 during the term of the contract.

21 (c) Subsection (b) does not apply to a governmental entity
22 that determines the requirements of Subsection (b) are inconsistent
23 with the governmental entity's constitutional or statutory duties
24 related to the issuance, incurrence, or management of debt
25 obligations or the deposit, custody, management, borrowing, or
26 investment of funds.

27 SECTION 8. Not later than the 180th day after the effective

1 date of this Act, the comptroller of public accounts shall include
2 the companies described by Section 2270.0201(a)(4), Government
3 Code, as added by this Act, on the list under Section 2270.0201(a),
4 Government Code.

5 SECTION 9. Chapter 2278, Government Code, as added by this
6 Act, applies only to a contract entered into on or after the
7 effective date of this Act. A contract entered into before that
8 date is governed by the law in effect on the date the contract was
9 entered into, and the former law is continued in effect for that
10 purpose.

11 SECTION 10. This Act takes effect immediately if it
12 receives a vote of two-thirds of all the members elected to each
13 house, as provided by Section 39, Article III, Texas Constitution.
14 If this Act does not receive the vote necessary for immediate
15 effect, this Act takes effect September 1, 2023.