

116TH CONGRESS
1ST SESSION

H. R. 3759

To prohibit United States persons from dealing in certain information and communications technology or services from foreign adversaries and to require the approval of Congress to terminate certain export controls in effect with respect to Huawei Technologies Co. Ltd., and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JULY 15, 2019

Mr. GALLAGHER (for himself, Mr. PANETTA, Ms. CHENEY, and Mr. GALLEG0) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Rules, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To prohibit United States persons from dealing in certain information and communications technology or services from foreign adversaries and to require the approval of Congress to terminate certain export controls in effect with respect to Huawei Technologies Co. Ltd., and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Defending America’s
3 5G Future Act”.

4 **SEC. 2. DEFINITIONS.**

5 In this Act:

6 (1) EXPORT ADMINISTRATION REGULATIONS.—

7 The term “Export Administration Regulations”
8 means subchapter C of chapter VII of title 15, Code
9 of Federal Regulations.

10 (2) FOREIGN ADVERSARY.—The term “foreign
11 adversary” means any foreign government or foreign
12 person engaged in a long-term pattern or serious in-
13 stances of conduct significantly adverse to the na-
14 tional security or foreign policy interests of the
15 United States or security and safety of United
16 States persons.

17 (3) FOREIGN PERSON.—The term “foreign per-
18 son” means any person that is not a United States
19 person.

20 (4) INFORMATION AND COMMUNICATIONS
21 TECHNOLOGY OR SERVICES.—The term “informa-
22 tion and communications technology or services”
23 means any hardware, software, or other product or
24 service primarily intended to fulfill or enable the
25 function of information or data processing, storage,

1 retrieval, or communication by electronic means, in-
2 cluding transmission, storage, and display.

3 (5) UNITED STATES PERSON.—The term
4 “United States person” means—

5 (A) any United States citizen or alien law-
6 fully admitted for permanent residence in the
7 United States;

8 (B) any entity organized under the laws of
9 the United States or any jurisdiction within the
10 United States, including a foreign branch of
11 such an entity; or

12 (C) any person in the United States.

13 **SEC. 3. PROHIBITION ON DEALING IN INFORMATION AND**
14 **COMMUNICATIONS TECHNOLOGY OR SERV-**
15 **ICES FROM FOREIGN ADVERSARIES.**

16 (a) IN GENERAL.—No United States person may en-
17 gage in a transaction for the acquisition, importation,
18 transfer, installation, dealing in, or use of any information
19 and communications technology or service by a United
20 States person, or with respect to any property subject to
21 the jurisdiction of the United States, if—

22 (1) the transaction involves any property in
23 which any foreign country or foreign person has any
24 interest (including through an interest in a contract
25 for the provision of the technology or service);

1 (2) notwithstanding any contract entered into
2 or any license or permit issued before the date of the
3 enactment of this Act, the transaction is initiated or
4 pending on or after such date of enactment; and

5 (3) the Secretary of Commerce, in consultation
6 with the officials specified in subsection (b), deter-
7 mines that—

8 (A) the transaction involves information
9 and communications technology or services de-
10 signed, developed, manufactured, or supplied,
11 by persons owned by, controlled by, or subject
12 to the jurisdiction or direction of a foreign ad-
13 versary; and

14 (B) the transaction—

15 (i) poses an undue risk of sabotage to
16 or subversion of the design, integrity, man-
17 ufacturing, production, distribution, instal-
18 lation, operation, or maintenance of infor-
19 mation and communications technology or
20 services in the United States;

21 (ii) poses an undue risk of cata-
22 strophic effects on the security or resil-
23 iency of United States critical infrastruc-
24 ture or the digital economy of the United
25 States; or

1 (iii) otherwise poses an unacceptable
2 risk to the national security or foreign pol-
3 icy interests of the United States or the se-
4 curity and safety of United States persons.

5 (b) OFFICIALS SPECIFIED.—The officials specified in
6 this subsection are the following:

- 7 (1) The Secretary of the Treasury.
8 (2) The Secretary of State.
9 (3) The Secretary of Defense.
10 (4) The Attorney General.
11 (5) The Secretary of Homeland Security.
12 (6) The United States Trade Representative.
13 (7) The Director of National Intelligence.
14 (8) The Administrator of General Services.
15 (9) The Chairman of the Federal Communica-
16 tions Commission.
17 (10) The heads of such other Federal agencies
18 as the Secretary of Commerce considers appropriate.

19 (c) MITIGATION MEASURES.—The Secretary of Com-
20 merce, in consultation with the officials specified in sub-
21 section (b), as appropriate, may establish or negotiate
22 measures to mitigate concerns that are the basis for a de-
23 termination under subsection (a)(3). Such measures may
24 serve as a precondition to the approval of a transaction

1 or of a class of transactions that would otherwise be pro-
2 hibited by subsection (a).

3 (d) REGULATIONS.—

4 (1) IN GENERAL.—Not later than 150 days
5 after the date of the enactment of this Act, the Sec-
6 retary of Commerce, in consultation with the offi-
7 cials specified in subsection (b), shall prescribe regu-
8 lations to carry out this section.

9 (2) INCLUSIONS.—The regulations prescribed
10 under paragraph (1) may include regulations with
11 respect to—

12 (A) determining that countries or persons
13 are foreign adversaries for purposes of sub-
14 section (a)(3)(A);

15 (B) identifying persons owned by, con-
16 trolled by, or subject to the jurisdiction or di-
17 rection of foreign adversaries for purposes of
18 subsection (a)(3)(A);

19 (C) identifying technologies or countries
20 with respect to which transactions involving in-
21 formation and communications technology or
22 services warrant particular scrutiny under sub-
23 section (a);

1 (D) establishing procedures to license
2 transactions otherwise prohibited by subsection
3 (a);

4 (E) establishing criteria, consistent with
5 section 1 of this order, by which particular
6 technologies or participants in the market for
7 information and communications technology or
8 services may be recognized as categorically in-
9 cluded in or as categorically excluded from the
10 prohibition under subsection (a); and

11 (F) identifying a mechanism and relevant
12 factors for the negotiation of mitigation meas-
13 ures under subsection (c).

14 (e) IMPLEMENTATION; PENALTIES.—

15 (1) IMPLEMENTATION.—The Secretary of Com-
16 merce may exercise the authorities provided to the
17 President under sections 203 and 205 of the Inter-
18 national Emergency Economic Powers Act (50
19 U.S.C. 1702 and 1704) to the extent necessary to
20 carry out this section.

21 (2) PENALTIES.—A person that violates, at-
22 tempts to violate, conspires to violate, or causes a
23 violation of subsection (a) or any regulation, license,
24 or order issued to carry out that subsection shall be
25 subject to the penalties set forth in subsections (b)

1 and (c) of section 206 of the International Emer-
 2 gency Economic Powers Act (50 U.S.C. 1705) to the
 3 same extent as a person that commits an unlawful
 4 act described in subsection (a) of that section.

5 **SEC. 4. CONTINUATION IN EFFECT OF EXPORT CONTROLS**
 6 **WITH RESPECT TO HUAWEI TECHNOLOGIES**
 7 **CO. LTD.**

8 (a) IN GENERAL.—The Secretary of Commerce may
 9 not remove Huawei Technologies Co. Ltd., and its subsidi-
 10 aries and affiliates, from the entity list maintained by the
 11 Bureau of Industry and Security and set forth in Supple-
 12 ment No. 4 to part 744 of the Export Administration Reg-
 13 ulations, unless—

14 (1) the Secretary submits to Congress a request
 15 for approval of such removal; and

16 (2) there is enacted into law a joint resolution
 17 of approval under subsection (b).

18 (b) JOINT RESOLUTIONS OF APPROVAL.—

19 (1) JOINT RESOLUTION OF APPROVAL DE-
 20 FINED.—In this subsection, the term “joint resolu-
 21 tion of approval” means a joint resolution of either
 22 House of Congress the sole matter after the resolv-
 23 ing clause of which is as follows: “That Congress ap-
 24 proves the removal of Huawei Technologies Co. Ltd.,
 25 and its subsidiaries and affiliates, from the entity

1 list maintained by the Bureau of Industry and Secu-
2 rity and set forth in Supplement No. 4 to part 744
3 of the Export Administration Regulations, pursuant
4 to the request of the Secretary of Commerce for
5 such removal submitted to Congress on _____.”,
6 with the blank space being filled with the appro-
7 priate date.

8 (2) INTRODUCTION; COMMITTEE REFERRAL.—A
9 joint resolution of approval—

10 (A) in the House of Representatives—

11 (i) may be introduced by the Speaker
12 or the minority leader; and

13 (ii) shall be referred to the Committee
14 on Financial Services; and

15 (B) in the Senate—

16 (i) may be introduced by the majority
17 leader or the minority leader; and

18 (ii) shall be referred to the Committee
19 on Banking, Housing, and Urban Affairs.

20 (3) COMMITTEE DISCHARGE AND FLOOR CON-
21 sideration.—The provisions of paragraphs (4), (5)
22 (other than subparagraph (A) of paragraph (5)),
23 and (6) of section 216(c) of the Countering Amer-
24 ica’s Adversaries Through Sanctions Act (22 U.S.C.
25 9511(c)) apply to a joint resolution of approval

1 under this subsection to the same extent as such
 2 provisions apply to joint resolution of approval under
 3 such section 216(c).

4 (4) RULES OF HOUSE OF REPRESENTATIVES
 5 AND SENATE.—This subsection is enacted by Con-
 6 gress—

7 (A) as an exercise of the rulemaking power
 8 of the Senate and the House of Representa-
 9 tives, respectively, and as such is deemed a part
 10 of the rules of each House, respectively, and su-
 11 persedes other rules only to the extent that it
 12 is inconsistent with such rules; and

13 (B) with full recognition of the constitu-
 14 tional right of either House to change the rules
 15 (so far as relating to the procedure of that
 16 House) at any time, in the same manner, and
 17 to the same extent as in the case of any other
 18 rule of that House.

19 **SEC. 5. CONGRESSIONAL DISAPPROVAL OF EXPORT LI-**
 20 **CENSES ISSUED TO HUAWEI TECHNOLOGIES**
 21 **CO. LTD., OR ITS SUBSIDIARIES OR AFFILI-**
 22 **ATES.**

23 (a) REPORT REQUIRED.—Not later than 15 days
 24 after issuing a license to or with respect to Huawei Tech-
 25 nologies Co. Ltd., or any of its subsidiaries or affiliates,

1 pursuant to the Export Administration Regulations, the
2 Secretary of Commerce shall submit to Congress a report
3 on the license and the reasons for issuing the license.

4 (b) CONGRESSIONAL DISAPPROVAL.—A license de-
5 scribed in subsection (a) shall have no force or effect on
6 or after the date of the enactment of a joint resolution
7 of disapproval under subsection (c).

8 (c) JOINT RESOLUTIONS OF DISAPPROVAL.—

9 (1) JOINT RESOLUTION OF DISAPPROVAL DE-
10 FINED.—In this subsection, the term “joint resolu-
11 tion of disapproval” means a joint resolution of ei-
12 ther House of Congress the sole matter after the re-
13 solving clause of which is as follows: “That Congress
14 does not approve the license issued to or with re-
15 spect to Huawei Technologies Co. Ltd., or one of its
16 subsidiaries or affiliates, under the Export Adminis-
17 tration Regulations, relating to _____, notice of
18 which was submitted to Congress on _____.”, with
19 the first blank space being filled with a brief descrip-
20 tion of the items covered by the license and the sec-
21 ond blank space being filled with the appropriate
22 date.

23 (2) INTRODUCTION; COMMITTEE REFERRAL.—A
24 joint resolution of disapproval—

25 (A) in the House of Representatives—

1 (i) may be introduced by the Speaker
2 or the minority leader during the 30-day
3 period beginning on the date on which the
4 report is submitted under subsection (a);
5 and

6 (ii) shall be referred to the Committee
7 on Financial Services; and

8 (B) in the Senate—

9 (i) may be introduced by the majority
10 leader or the minority leader during the
11 30-day period beginning on the date on
12 which the report is submitted under sub-
13 section (a); and

14 (ii) shall be referred to the Committee
15 on Banking, Housing, and Urban Affairs.

16 (3) COMMITTEE DISCHARGE AND FLOOR CON-
17 sideration.—The provisions of paragraphs (4), (5)
18 (other than subparagraph (A) of paragraph (5)),
19 and (6) of section 216(c) of the Countering Amer-
20 ica’s Adversaries Through Sanctions Act (22 U.S.C.
21 9511(c)) apply to a joint resolution of disapproval
22 under this subsection to the same extent as such
23 provisions apply to joint resolution of disapproval
24 under such section 216(c).

1 (4) RULES OF HOUSE OF REPRESENTATIVES
2 AND SENATE.—This subsection is enacted by Con-
3 gress—

4 (A) as an exercise of the rulemaking power
5 of the Senate and the House of Representa-
6 tives, respectively, and as such is deemed a part
7 of the rules of each House, respectively, and su-
8 persedes other rules only to the extent that it
9 is inconsistent with such rules; and

10 (B) with full recognition of the constitu-
11 tional right of either House to change the rules
12 (so far as relating to the procedure of that
13 House) at any time, in the same manner, and
14 to the same extent as in the case of any other
15 rule of that House.

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