

AMENDMENT TO RULES COMM. PRINT 117-54
OFFERED BY MR. MALINOWSKI OF NEW JERSEY

At the end of title LVIII, add the following:

1 **SEC. 58__ . STUDY AND REPORT ON FEASIBILITY OF SUS-**
2 **PENSION OF MERGERS, ACQUISITIONS, AND**
3 **TAKEOVERS OF CERTAIN FOREIGN SURVEIL-**
4 **LANCE COMPANIES.**

5 (a) IN GENERAL.—The Secretary of Commerce, in
6 consultation with the Secretary of the Treasury, the Sec-
7 retary of State, the Secretary of Defense, the Director of
8 National Intelligence, and the heads of other relevant
9 agencies, shall—

10 (1) study the feasibility of using existing au-
11 thorities to implement a suspension of any merger,
12 acquisition, or takeover that would result in control,
13 including full or partial ownership of some or all as-
14 sets, of a covered foreign entity described in sub-
15 section (c) by a United States person; and

16 (2) submit to the appropriate congressional
17 committees a report on the results of such study.

18 (b) MATTERS TO BE INCLUDED.—The study and re-
19 port required by subsection (a) shall include the following:

1 (1) An assessment of whether the President or
2 Executive branch agencies have the authority to im-
3 plement a suspension as described in subsection (a)
4 and what additional authorities would be required if
5 needed.

6 (2) An assessment of whether the President or
7 Executive branch agencies could lift a suspension
8 only if a determination is made that the merger, ac-
9 quisition, or takeover described in subsection (a)—

10 (A) does not pose a significant counter-
11 intelligence or national security risk to the
12 United States or United States treaty allies, in-
13 cluding an undue risk of subversion of the
14 United States intelligence community or United
15 States national security interests through the
16 design, integrity, manufacturing, production,
17 distribution, installation, operation, or mainte-
18 nance of targeted digital surveillance tech-
19 nologies;

20 (B) does not seek or intend to evade or cir-
21 cumvent United States export control laws, in-
22 cluding through a transaction, transfer, agree-
23 ment or arrangement intended or designed to
24 limit exposure to United States export controls;
25 or

1 (C) does not affect any existing contracts
2 between the United States Government and the
3 United States person.

4 (c) COVERED FOREIGN ENTITY DESCRIBED.—A cov-
5 ered foreign entity described in this subsection is an enti-
6 ty, including a subsidiary or affiliate of the entity, that—

7 (1) is organized under the laws of or having its
8 principal place of business in a foreign country;

9 (2) develops, sells, or otherwise controls propri-
10 etary technology, including non-sensitive tech-
11 nologies, related to targeted digital surveillance ca-
12 pabilities; and

13 (3) is included on the list maintained by the
14 Bureau of Industry and Security of the Department
15 of Commerce and set forth in Supplement No. 4 to
16 part 744 of title 15, Code of Federal Regulations.

17 (d) DEFINITIONS.—In this section:

18 (1) CONTROL.—The term “control” means the
19 power, direct or indirect, whether exercised or not
20 exercised, to determine, direct, or decide important
21 matters affecting an entity, subject to regulations
22 prescribed by the Secretary of Commerce.

23 (2) INTELLIGENCE COMMUNITY.—The term
24 “intelligence community” has the meaning given

1 that term in section 3(4) of the National Security
2 Act of 1947 (50 U.S.C. 3003(4)).

3 (3) TARGETED DIGITAL SURVEILLANCE.—The
4 term “targeted digital surveillance” means the use
5 of items or services that enable an individual or enti-
6 ty (with or without the knowing authorization of the
7 product’s owner) to detect, monitor, intercept, col-
8 lect, exploit, preserve, protect, transmit, retain, or
9 otherwise gain access to the communications, sen-
10 sitive or protected information, work product, brows-
11 ing data, research, identifying information, location
12 history, and online and offline activities of other in-
13 dividuals, organizations, or entities.

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

16 (A) a United States citizen or an alien law-
17 fully admitted for permanent residence to the
18 United States; or

19 (B) an entity organized under the laws of
20 the United States or of any jurisdiction of the
21 United States, including a foreign branch of
22 such an entity.

