AMENDMENT TO RULES COMM. PRINT 117–13
OFFERED BY MR. GALLAGHER OF WISCONSIN

After title LIII of division E, insert the following:

TITLE LIV—DEFENDING
AMERICA’S 5G FUTURE ACT

SEC. 5401. SHORT TITLE.
This title may be cited as the “Defending America’s 5G Future Act”.

SEC. 5402. DEFINITIONS.
In this title:


(2) FOREIGN ADVERSARY.—The term “foreign adversary” means any foreign government or foreign person engaged in a long-term pattern or serious instances of conduct significantly adverse to the national security or foreign policy interests of the United States or security and safety of United States persons.
(3) FOREIGN PERSON.—The term “foreign person” means any person that is not a United States person.

(4) INFORMATION AND COMMUNICATIONS TECHNOLOGY OR SERVICES.—The term “information and communications technology or services” means any hardware, software, or other product or service primarily intended to fulfill or enable the function of information or data processing, storage, retrieval, or communication by electronic means, including transmission, storage, and display.

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

(A) any United States citizen or alien lawfully admitted for permanent residence in the United States;

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

(C) any person in the United States.
SEC. 5403. PROHIBITION ON DEALING IN INFORMATION AND COMMUNICATIONS TECHNOLOGY OR SERVICES FROM FOREIGN ADVERSARIES.

(a) In General.—No United States person may engage in a transaction for the acquisition, importation, transfer, installation, dealing in, or use of any information and communications technology or service by a United States person, or with respect to any property subject to the jurisdiction of the United States, if—

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

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

(3) the Secretary of Commerce, in consultation with the officials specified in subsection (b), determines that—

(A) the transaction involves information and communications technology or services designed, developed, manufactured, or supplied by persons owned by, controlled by, or subject to the jurisdiction or direction of a foreign adversary, or influenced by a foreign adversary; and
(B) the transaction—

(i) poses an undue risk of sabotage to or subversion of the design, integrity, manufacturing, production, distribution, installation, operation, or maintenance of information and communications technology or services in the United States;

(ii) poses an undue risk of catastrophic effects on the security or resiliency of United States critical infrastructure or the digital economy of the United States;

(iii) poses an undue risk to the collection of data with respect to United States persons, including personally identifiable information and medical or health information;

(iv) poses an undue risk to the collection of sector or industry information that may be used for non-market industrial policy or national security purposes; or

(v) otherwise poses an unacceptable risk to the national security or foreign policy interests of the United States or the security and safety of United States persons.
(b) OFFICIALS SPECIFIED.—The officials specified in this subsection are the following:

(1) The Secretary of the Treasury.

(2) The Secretary of State.

(3) The Secretary of Defense.

(4) The Attorney General.


(6) The United States Trade Representative.

(7) The Director of National Intelligence.

(8) The Administrator of General Services.

(9) The Chairman of the Federal Communications Commission.

(10) The heads of such other Federal agencies as the Secretary of Commerce considers appropriate.

(c) MITIGATION MEASURES.—The Secretary of Commerce, in consultation with the officials specified in subsection (b), as appropriate, may establish or negotiate measures to mitigate concerns that are the basis for a determination under subsection (a)(3). Such measures may serve as a precondition to the approval of a transaction or of a class of transactions that would otherwise be prohibited by subsection (a).

(d) REGULATIONS.—

(1) IN GENERAL.—Not later than 150 days after the date of the enactment of this Act, the Sec-
retary of Commerce, in consultation with the officials specified in subsection (b), shall prescribe regulations to carry out this section.

(2) Inclusions.—The regulations prescribed under paragraph (1) may include regulations with respect to—

(A) determining that foreign governments or foreign persons are foreign adversaries for purposes of subsection (a)(3)(A);

(B) establishing procedures under which persons described in subsection (a)(3)(A) may prove that they are not otherwise directed or influenced by foreign adversaries for purposes of subsection (a)(3)(A);

(C) identifying technologies or countries with respect to which transactions involving information and communications technology or services warrant particular scrutiny under subsection (a);

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

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

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

(e) IMPLEMENTATION; PENALTIES.—

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

(2) PENALTIES.—A person that violates, at-
tempts to violate, conspires to violate, or causes a 
violation of subsection (a) or any regulation, license, 
or order issued to carry out that subsection shall be 
subject to the penalties set forth in subsections (b) 
and (c) of section 206 of the International Emer-
gency Economic Powers Act (50 U.S.C. 1705) to the 
same extent as a person that commits an unlawful 
act described in subsection (a) of that section.
SEC. 5404. CONTINUATION IN EFFECT OF EXPORT CONTROLS WITH RESPECT TO HUAWEI TECHNOLOGIES CO. LTD.

(a) IN GENERAL.—The Secretary of Commerce may not remove Huawei Technologies Co. Ltd., or its current or former subsidiaries and affiliates, from the entity list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, unless—

(1) the Secretary submits to Congress a request for approval of such removal, which includes—

(A) a detailed justification for such removal; and

(B) with respect to the decision of the End-User Review Committee to seek such removal—

(i) an identification of the Committee member or members who sought such removal;

(ii) whether the Committee’s decision was unanimous and if not which Committee member or members dissented and why; and

(iii) whether the decision was referred to the Advisory Committee on Export Pol-
icy or the Export Administration Review Board; and

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

(b) JOINT RESOLUTIONS OF APPROVAL.—

(1) JOINT RESOLUTION OF APPROVAL DEFINED.—In this subsection, the term “joint resolution of approval” means a joint resolution of either House of Congress the sole matter after the resolving clause of which is as follows: “That Congress approves the removal of ______, from the entity list maintained by the Bureau of Industry and Security and set forth in Supplement No. 4 to part 744 of the Export Administration Regulations, pursuant to the request of the Secretary of Commerce for such removal submitted to Congress on ______.”, with the first blank space being filled with the appropriate name and the second blank space being filled with the appropriate date.

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

(A) in the House of Representatives—

(i) may be introduced by the Speaker or the minority leader; and
(ii) shall be referred to the Committee on Foreign Affairs; and

(B) in the Senate—

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

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

(3) COMMITTEE DISCHARGE AND FLOOR CONSIDERATION.—The provisions of paragraphs (4), (5) (other than subparagraph (A) of paragraph (5)), and (6) of section 216(e) of the Countering America’s Adversaries Through Sanctions Act (22 U.S.C. 9511(e)) apply to a joint resolution of approval under this subsection to the same extent as such provisions apply to joint resolution of approval under such section 216(e).

(4) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and
(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 5405. CONGRESSIONAL DISAPPROVAL OF EXPORT LICENSES ISSUED TO HUAWEI TECHNOLOGIES CO. LTD., OR ITS SUBSIDIARIES OR AFFILIATES.

(a) IN GENERAL.—Not later than 15 days after approving, disapproving, or deferring a license to or with respect to Huawei Technologies Co. Ltd., or its current or former subsidiaries or affiliates, pursuant to the Export Administration Regulations, the Secretary of Commerce shall submit to Congress a report that contains—

(1) the name of the applicant seeking the license, including the name of the parent company and subsidiaries or affiliates directly involved, if applicable, and the date of submission of the application;

(2) a brief description of the items covered by the license, including export control classification number, if applicable;
(3) the name of the end-user of the items, the end-user’s location, and an estimate of the value of the items; and

(4) the determination to approve, disapprove, or defer the license, including—

(A) an identification of other agencies that were consulted;

(B) information of the Commodity Classification Automated Tracking System determination;

(C) whether a determination was made that a license was not required or a licensing exception was available; and

(D) the level at which the determination was made, including whether the determination was made by the Operating Committee for Export Policy or a higher body and the reasons therefor.

(b) CONGRESSIONAL DISAPPROVAL.—A license described in subsection (a) that has been approved by the Secretary of Commerce shall have no force or effect on or after the date of the enactment of a joint resolution of disapproval under subsection (c).

(c) JOINT RESOLUTIONS OF DISAPPROVAL.—
(1) Joint Resolution of Disapproval Defined.—In this subsection, the term “joint resolution of disapproval” means a joint resolution of either House of Congress the sole matter after the resolving clause of which is as follows: “That Congress does not approve the license issued to or with respect to _____ under the Export Administration Regulations, relating to _____, notice of which was submitted to Congress on _____.”, with the first blank space being filled with the appropriate name, the second blank space being filled with a brief description of the items covered by the license, the third blank space being filled with the appropriate date.

(2) Introduction; Committee Referral.—A joint resolution of disapproval—

(A) in the House of Representatives—

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

(ii) shall be referred to the Committee on Foreign Affairs; and

(B) in the Senate—
(i) may be introduced by the majority leader or the minority leader during the 30-day period beginning on the date on which the report is submitted under subsection (a); and

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

(3) Committee discharge and floor consideration.—The provisions of paragraphs (4), (5) (other than subparagraph (A) of paragraph (5)), and (6) of section 216(c) of the Countering America’s Adversaries Through Sanctions Act (22 U.S.C. 9511(c)) apply to a joint resolution of disapproval under this subsection to the same extent as such provisions apply to joint resolution of disapproval under such section 216(c).

(4) Rules of House of Representatives and Senate.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and
(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 5406. CONTINUATION IN EFFECT OF FOREIGN-PRODUCED DIRECT PRODUCT RULE WITH RESPECT TO HUAWEI TECHNOLOGIES CO. LTD.

(a) In General.—The Secretary of Commerce may not rescind or otherwise modify the application of section 736.2(b)(3) of the Export Administration Regulations (as in effect on the day before the date of the enactment of this Act) with respect to Huawei Technologies Co. Ltd., or its current or former subsidiaries and affiliates, unless—

(1) the Secretary submits to Congress a request for approval of such rescission or modification, which includes—

(A) a detailed justification for such rescission or modification; and

(B) with respect to the decision of the End-User Review Committee to seek such rescission or modification—
(i) an identification of the Committee member or members who sought such rescission or modification;

(ii) whether the Committee’s decision was unanimous and if not which Committee member or members dissented and why; and

(iii) whether the decision was referred to the Advisory Committee on Export Policy or the Export Administration Review Board; and

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

(b) JOINT RESOLUTIONS OF APPROVAL.—

(1) JOINT RESOLUTION OF APPROVAL DEFINED.—In this subsection, the term “joint resolution of approval” means a joint resolution of either House of Congress the sole matter after the resolving clause of which is as follows: “That Congress approves the rescission or modification of section 736.2(b)(3) of the Export Administration Regulations with respect to _______ pursuant to the request of the Secretary of Commerce for such rescission or modification submitted to Congress on _______,” with the first blank space being filled in with the app-
propriate name and the second blank space being
filled with the appropriate date.

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

(A) in the House of Representatives—

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

(ii) shall be referred to the Committee
on Foreign Affairs; and

(B) in the Senate—

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

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

(3) COMMITTEE DISCHARGE AND FLOOR CON-
SIDERATION.—The provisions of paragraphs (4), (5)
(other than subparagraph (A) of paragraph (5)),
and (6) of section 216(e) of the Countering Amer-
ica’s Adversaries Through Sanctions Act (22 U.S.C.
9511(e)) apply to a joint resolution of approval
under this subsection to the same extent as such
provisions apply to joint resolution of approval under
such section 216(e).
(4) **RULES OF HOUSE OF REPRESENTATIVES**

AND SENATE.—This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such is deemed a part of the rules of each House, respectively, and supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.