AMENDMENT TO THE RULES COMMITTEE PRINT

115–70

OFFERED BY MR. GALLAGHER OF WISCONSIN

Add at the end the following:

DIVISION E—FOREIGN INVESTMENT RISK REVIEW MODERNIZATION ACT

SEC. 1. SHORT TITLE; TABLE OF CONTENTS; DEEMING.

(a) Short Title.—This Act may be cited as the “Foreign Investment Risk Review Modernization Act of 2018”.

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Sense of Congress.
Sec. 3. Definitions.
Sec. 4. Inclusion of partnership and side agreements in notice.
Sec. 5. Declarations for certain covered transactions.
Sec. 6. Stipulations regarding transactions.
Sec. 7. Authority for unilateral initiation of reviews.
Sec. 8. Timing for reviews and investigations.
Sec. 9. Monitoring of non-notified and non-declared transactions.
Sec. 10. Submission of certifications to Congress.
Sec. 11. Analysis by Director of National Intelligence.
Sec. 12. Information sharing.
Sec. 13. Action by the President.
Sec. 15. Hiring authority.
Sec. 16. Actions by the Committee to address national security risks.
Sec. 17. Modification of annual report.
Sec. 18. Certification of notices and information.
Sec. 19. Implementation plans.
Sec. 20. Assessment of need for additional resources for Committee.
Sec. 21. Funding.
Sec. 22. Centralization of certain Committee functions.
Sec. 23. Conforming amendments.
Sec. 24. Requirements to identify and control the export of emerging and foundational technologies.
Sec. 25. Export control enforcement authority.
Sec. 27. Limitation on cancellation of designation of Secretary of the Air Force as Department of Defense Executive Agent for a certain Defense Production Act program.
Sec. 28. Review of and report on certain defense technologies critical to the United States maintaining superior military capabilities.
Sec. 29. Effective date.
Sec. 30. Severability.

(e) DEEMING OF REFERENCES.—All references in this division to “this Act” shall be deemed a reference to “this division”.

SEC. 2. SENSE OF CONGRESS.

(a) IN GENERAL.—It is the sense of Congress that—

(1) foreign investment provides substantial economic benefits to the United States, including the promotion of economic growth, productivity, competitiveness, and job creation, and the majority of foreign investment transactions pose little or no risk to the national security of the United States, especially when those investments are truly passive in nature;

(2) maintaining the commitment of the United States to open and fair investment policy also encourages other countries to reciprocate and helps open new foreign markets for United States businesses and their products;
(3) it should continue to be the policy of the United States to enthusiastically welcome and support foreign investment, consistent with the protection of national security;

(4) at the same time, the national security landscape has shifted in recent years, and so have the nature of the investments that pose the greatest potential risk to national security, which warrants a modernization of the processes and authorities of the Committee on Foreign Investment in the United States;

(5) the Committee on Foreign Investment in the United States plays a critical role in protecting the national security of the United States, and, therefore, it is essential that the member agencies of the Committee are adequately resourced and able to hire appropriately qualified individuals in a timely manner, and that those individuals’ security clearances are processed as a high priority;

(6) the President should conduct a more robust international outreach effort to urge and help allies and partners of the United States to establish processes that parallel the Committee on Foreign Investment in the United States to screen foreign invest-
ments for national security risks and to facilitate co-
ordination; and

(7) the President should lead a collaborative ef-
fort with allies and partners of the United States to
strengthen the multilateral export control regime to
more effectively address the unprecedented indus-
trial policies of certain countries of special concern,
including aggressive efforts to acquire United States
technology, and the blending of civil and military
programs.

(b) Sense of Congress on Consideration of
Covered Transactions.—It is the sense of Congress
that, when considering national security risks, the Com-
mittee on Foreign Investment in the United States may
consider—

(1) whether a transaction involves a country of
special concern that has a demonstrated or declared
strategic goal of acquiring a type of critical tech-
nology or critical infrastructure that would affect
United States technological and industrial leadership
in areas related to national security;

(2) the potential national security-related ef-
ficts of the cumulative market share of or a pattern
of recent transactions in any one type of infrastruc-
ture, energy asset, critical material, or critical technology by foreign persons;

(3) whether any foreign person that would acquire an interest in a United States business or its assets as a result of a transaction has a history of complying with United States laws and regulations;

(4) the extent to which a transaction is likely to expose, either directly or indirectly, personally identifiable information, genetic information, or other sensitive data of United States citizens to access by a foreign government or foreign person that may exploit that information in a manner that threatens national security; and

(5) whether a transaction is likely to have the effect of exacerbating or creating new cybersecurity vulnerabilities in the United States or is likely to result in a foreign government gaining a significant new capability to engage in malicious cyber-enabled activities against the United States, including such activities designed to affect the outcome of any election for Federal office.

SEC. 3. DEFINITIONS.

Section 721(a) of the Defense Production Act of 1950 (50 U.S.C. 4565(a)) is amended to read as follows:

“(a) DEFINITIONS.—In this section:
“(1) **Access.**—The term ‘access’ means the ability and opportunity to obtain information, subject to regulations prescribed by the Committee.

“(2) **Committee; Chairperson.**—The terms ‘Committee’ and ‘chairperson’ mean the Committee on Foreign Investment in the United States and the chairperson thereof, respectively.

“(3) **Control.**—The term ‘control’ means the power to determine, direct, or decide important matters affecting an entity, subject to regulations prescribed by the Committee.

“(4) **Country of Special Concern.**—

“(A) **In General.**—The term ‘country of special concern’ means a country that poses a significant threat to the national security interests of the United States.

“(B) **Rule of Construction.**—This paragraph shall not be construed to require the Committee to maintain a list of countries of special concern.

“(5) **Covered Transaction.**—

“(A) **In General.**—Except as otherwise provided, the term ‘covered transaction’ means—
“(i) any transaction described in subparagraph (B)(i); and

“(ii) any transaction described in clauses (ii) through (v) of subparagraph (B) that is proposed, pending, or completed on or after the effective date specified in section 29(b)(1)(A) of the Foreign Investment Risk Review Modernization Act of 2018.

“(B) TRANSACTIONS DESCRIBED.—A transaction described in this subparagraph is any of the following:

“(i) Any merger, acquisition, or take-over that is proposed or pending after August 23, 1988, by or with any foreign person that could result in foreign control of any United States business.

“(ii) Subject to subparagraph (C), the purchase or lease by a foreign person of, or a concession offered to a foreign person with respect to, private or public real estate that—

“(I) is located in the United States;
“(II)(aa) is, is located at, or will function as part of, a land, air, or sea port; or

“(bb) is in close proximity to a United States military installation or another facility or property of the United States Government that is sensitive for reasons relating to national security; and

“(III) meets such other criteria as the Committee prescribes by regulation.

“(iii) Any other investment (other than a passive investment) by a foreign person in any United States critical technology company or United States critical infrastructure company that is unaffiliated with the foreign person, subject to regulations prescribed under subparagraph (C).

“(iv) Any change in the rights that a foreign person has with respect to a United States business in which the foreign person has an investment, if that change could result in—
“(I) foreign control of the United States business; or

“(II) an investment described in clause (iii).

“(v) Any other transaction, transfer, agreement, or arrangement the structure of which is designed or intended to evade or circumvent the application of this section, subject to regulations prescribed by the Committee.

“(C) FURTHER DEFINITION THROUGH REGULATIONS.—

“(i) EXCEPTION FOR CERTAIN REAL ESTATE TRANSACTIONS.—A real estate purchase or lease described in subparagraph (B)(ii) does not include a lease or purchase of—

“(I) a single ‘housing unit’, as defined by the Census Bureau; or

“(II) real estate in ‘urbanized areas’, as defined by the Census Bureau in the most recent census, except as otherwise prescribed by the Committee in regulations in consultation with the Secretary of Defense.
“(ii) CERTAIN OTHER INVESTMENT.—

The Committee shall prescribe regulations further defining covered transactions described in subparagraph (B)(iii) by reference to the technology, sector, subsector, transaction type, or other characteristics of such transactions.

“(iii) EXEMPTION FOR TRANSACTIONS FROM IDENTIFIED COUNTRIES.—

“(I) IN GENERAL.—The Committee may, by regulation, define circumstances and procedures under which a transaction otherwise described in clause (ii) or (iii) of subparagraph (B) is excluded from the definition of ‘covered transaction’ if each foreign person that is a party to the transaction, and each foreign person that owns or controls a party to the transaction, is from (as determined by the Committee pursuant to regulations prescribed by the Committee), a country or part of a country identified by the Committee for
purposes of this clause based on criteria such as—

“(aa) whether, in the sole judgment of the Committee, the process of the country for reviewing the national security effects of foreign investment and associated international cooperation effectively safeguards national security interests the country shares with the United States;

“(bb) whether the country is a member country of the North Atlantic Treaty Organization or is designated as a major non-NATO ally pursuant to section 517 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321k); and

“(cc) any other criteria that the Committee determines to be appropriate.

“(II) RECURRING ASSESSMENT OF IDENTIFIED COUNTRIES.—The Committee shall reconsider on a reg-
ular basis the identification of countries and parts of countries under subclause (I).

“(iv) **Exception for Air Carriers.**—For purposes of subparagraph (B)(iii), the term ‘other investment’ does not include an investment involving an air carrier, as defined in section 40102(a)(2) of title 49, United States Code, that holds a certificate issued under section 41102 of that title.

“(v) **Transfers of Certain Assets Pursuant to Bankruptcy Proceedings or Other Defaults.**—The Committee shall prescribe regulations to clarify that the term ‘covered transaction’ includes any transaction described in subparagraph (B) that arises pursuant to a bankruptcy proceeding or other form of default on debt.

“(D) **Passive Investment Defined.**—

“(i) **In General.**—For purposes of subparagraph (B)(iii), the term ‘passive investment’ means an investment, direct or indirect, by a foreign person in a United States critical infrastructure company or
United States critical technology company that meets the following criteria:

“(I) The investment is not described in subparagraph (B)(i).

“(II) The investment does not afford the foreign person—

“(aa) access to any material nonpublic technical information in the possession of the United States critical infrastructure company or United States critical technology company;

“(bb) membership or observer rights on the board of directors or equivalent governing body of the United States critical infrastructure company or United States critical technology company or the right to nominate an individual to a position on the board of directors or equivalent governing body; or

“(cc) any involvement, other than through voting of shares, in substantive decisionmaking relat-
ing to the management, governance, or operation of the United States critical infrastructure company or United States critical technology company.

“(III) The foreign person does not have a material parallel strategic partnership or other material financial relationship, as described in regulations prescribed by the Committee, with the United States critical infrastructure company or United States critical technology company.

“(IV) Such other criteria as the Committee may prescribe by regulation.

“(ii) MATERIAL NONPUBLIC TECHNICAL INFORMATION DEFINED.—For purposes of clause (i)(II)(aa), the term ‘material nonpublic technical information’ has the meaning given that term in regulations prescribed by the Committee, except that the term does not include financial information regarding the performance of a United States critical infrastructure com-
pany or United States critical technology company.

“(iii) Effect of Level of Ownership Interest.—

“(I) In General.—A determination of whether an investment is a passive investment under clause (i) shall be made without regard to how low the level of ownership interest a foreign person would hold or acquire in a United States critical infrastructure company or United States critical technology company would be as a result of the investment.

“(II) Regulations.—

“(aa) In General.—The Committee may prescribe regulations specifying that any investment (other than an investment described in item (bb)) greater than a certain level or amount shall not be considered a passive investment under clause (i).

“(bb) Investment Described.—An investment de-
scribed in this item is an investment—

“(AA) by a foreign person in a United States critical infrastructure company or United States critical technology company through an investment fund;

“(BB) that does not result in the foreign person’s control of the United States critical technology or United States critical infrastructure company; and

“(CC) that otherwise meets the requirements of clauses (i) and (iv).

“(iv) Specific clarification for investment funds.—

“(I) Treatment of certain investments as passive investments.—Notwithstanding clause (i)(II)(bb) and subject to regulations prescribed by the Committee, an indirect investment by a foreign person in
a United States critical infrastructure company or United States critical technology company through an investment fund that affords the foreign person (or a designee of the foreign person) membership as a limited partner on an advisory board or a committee of the fund shall be considered a passive investment if—

“(aa) the fund is managed exclusively by a general partner, a managing member, or an equivalent;

“(bb) the general partner, managing member, or equivalent is not a foreign person;

“(cc) the advisory board or committee does not have the ability to approve, disapprove, or otherwise control—

“(AA) investment decisions of the fund; or

“(BB) decisions made by the general partner, managing member, or equivalent
related to entities in which the fund is invested;

“(dd) the foreign person does not otherwise have the ability to control the fund, including the authority—

“(AA) to approve, disapprove, or otherwise control investment decisions of the fund;

“(BB) to approve, disapprove, or otherwise control decisions made by the general partner, managing member, or equivalent related to entities in which the fund is invested; or

“(CC) to unilaterally dismiss, prevent the dismissal of, select, or determine the compensation of the general partner, managing member, or equivalent; and
“(ee) the investment otherwise meets the requirements of this subparagraph.

“(II) Treatment of Certain Waivers.—

“(aa) In General.—For the purposes of items (ee) and (dd) of subclause (I) and except as provided in item (bb), a waiver of a potential conflict of interest, a waiver of an allocation limitation, or a similar activity, applicable to a transaction pursuant to the terms of an agreement governing an investment fund shall not be considered to constitute control of investment decisions of the fund or decisions relating to entities in which the fund is invested.

“(bb) Exception.—The Committee may prescribe regulations providing for exceptions to item (aa) for extraordinary circumstances.
“(v) REGULATIONS.—The Committee shall prescribe regulations providing guidance on the types of transactions that the Committee considers to be passive investment.

“(E) UNITED STATES CRITICAL INFRASTRUCTURE COMPANY DEFINED.—For purposes of subparagraph (B), the term ‘United States critical infrastructure company’ means a United States business that is, owns, operates, or primarily provides services to, an entity or entities that operate within a critical infrastructure sector or subsector, as defined by regulations prescribed by the Committee.

“(F) UNITED STATES CRITICAL TECHNOLOGY COMPANY DEFINED.—For purposes of subparagraph (B), the term ‘United States critical technology company’ means a United States business that produces, designs, tests, manufactures, or develops one or more critical technologies, or a subset of such technologies, as defined by regulations prescribed by the Committee.

“(6) CRITICAL INFRASTRUCTURE.—The term ‘critical infrastructure’ means, subject to regulations
prescribed by the Committee, systems and assets, whether physical or virtual, so vital to the United States that the incapacity or destruction of such systems or assets would have a debilitating impact on national security.

“(7) CRITICAL MATERIALS.—The term ‘critical materials’ means physical materials essential to national security, subject to regulations prescribed by the Committee.

“(8) CRITICAL TECHNOLOGIES.—

“(A) IN GENERAL.—The term ‘critical technologies’ means technology, components, or technology items that are essential or could be essential to national security, identified for purposes of this section pursuant to regulations prescribed by the Committee.

“(B) INCLUSION OF CERTAIN ITEMS.—The term ‘critical technologies’ includes the following:

“(ii) Items included on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations under subchapter C of chapter VII of title 15, Code of Federal Regulations, and controlled—

“(I) pursuant to multilateral regimes, including for reasons relating to national security, chemical and biological weapons proliferation, nuclear nonproliferation, or missile technology; or

“(II) for reasons relating to regional stability or surreptitious listening.

“(iii) Specially designed and prepared nuclear equipment, parts and components, materials, software, and technology covered by part 810 of title 10, Code of Federal Regulations (relating to assistance to foreign atomic energy activities).

“(iv) Nuclear facilities, equipment, and material covered by part 110 of title 10, Code of Federal Regulations (relating
to export and import of nuclear equipment
and material).

“(v) Select agents and toxins covered
by part 331 of title 7, Code of Federal
Regulations, part 121 of title 9 of such
Code, or part 73 of title 42 of such Code.

“(vi) Emerging and foundational tech-
nologies identified pursuant to section
24(a) of the Foreign Investment Risk Re-
view Modernization Act of 2018.

“(9) FOREIGN GOVERNMENT-CONTROLLED
TRANSACTION.—The term ‘foreign government-con-
trolled transaction’ means any covered transaction
that could result in the control of any United States
business by a foreign government or an entity con-
trolled by or acting on behalf of a foreign govern-
ment.

“(10) FOREIGN PERSON.—

“(A) IN GENERAL.—The term ‘foreign per-
son’ means—

“(i) any foreign national, foreign gov-
ernment, or foreign entity; or

“(ii) any entity over which control is
exercised or exercisable by a foreign na-
tional, foreign government, or foreign entity.

“(B) FOREIGN ENTITY DEFINED.—

“(i) In general.—For purposes of subparagraph (A) and except as provided in clause (ii), the term ‘foreign entity’ means any branch, partnership, group or subgroup, association, estate, trust, corporation or division of a corporation, or organization organized under the laws of a foreign country if—

“(I) the principal place of business of the entity is outside the United States; or

“(II) the equity securities of the entity are primarily traded on one or more foreign exchanges.

“(ii) Exception.—For purposes of subparagraph (A), the term ‘foreign entity’ does not include an entity that demonstrates to the Committee that a majority of the equity interest in the entity is ultimately owned by United States nationals.

“(11) INTELLIGENCE COMMUNITY.—The term ‘intelligence community’ has the meaning given that
term in section 3(4) of the National Security Act of
1947 (50 U.S.C. 3003(4)).

“(12) INVESTMENT.—The term ‘investment’
means the acquisition of equity interest, including
contingent equity interest, as further defined in reg-
ulations prescribed by the Committee.

“(13) LEAD AGENCY.—The term ‘lead agency’
means the agency or agencies designated as the lead
agency or agencies pursuant to subsection (k)(5).

“(14) NATIONAL SECURITY.—The term ‘na-
tional security’ shall be construed so as to include
those issues relating to ‘homeland security’, includ-
ing its application to critical infrastructure.

“(15) PARTY.—The term ‘party’ has the mean-
ing given that term in regulations prescribed by the
Committee.

“(16) UNITED STATES.—The term ‘United
States’ means the several States, the District of Co-
lumbia, and any territory or possession of the
United States.

“(17) UNITED STATES BUSINESS.—The term
‘United States business’ means a person engaged in
interstate commerce in the United States.”.
SEC. 4. INCLUSION OF PARTNERSHIP AND SIDE AGREEMENTS IN NOTICE.

Section 721(b)(1)(C) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)(C)) is amended by adding at the end the following:

“(iv) INCLUSION OF PARTNERSHIP AND SIDE AGREEMENTS.—A written notice submitted under clause (i) by a party to a covered transaction shall include a copy of any partnership agreements, integration agreements, or other side agreements relating to the transaction, including any such agreements relating to the transfer of intellectual property, as specified in regulations prescribed by the Committee.”.

SEC. 5. DECLARATIONS FOR CERTAIN COVERED TRANSACTIONS.

Section 721(b)(1)(C) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)(C)), as amended by section 4, is further amended by adding at the end the following:

“(v) DECLARATIONS FOR CERTAIN COVERED TRANSACTIONS.—

“(I) IN GENERAL.—A party to any covered transaction may submit to the Committee a declaration with basic information regarding the trans-
action instead of a written notice under clause (i).

“(II) REGULATIONS.—The Committee shall prescribe regulations establishing requirements for declarations submitted under this clause. In prescribing such regulations, the Committee shall ensure that such declarations are submitted as abbreviated notifications that would not generally exceed 5 pages in length.

“(III) COMMITTEE RESPONSE TO DECLARATION.—

“(aa) IN GENERAL.—Upon receiving a declaration under this clause with respect to a covered transaction, the Committee may, at the discretion of the Committee—

“(AA) request that the parties to the transaction file a written notice under clause (i);

“(BB) inform the parties to the transaction that
the Committee is not able to complete action under this section with respect to the transaction on the basis of the declaration and that the parties may file a written notice under clause (i) to seek written notification from the Committee that the Committee has completed all action under this section with respect to the transaction;

“(CC) initiate a unilateral review of the transaction under subparagraph (D); or

“(DD) notify the parties in writing that the Committee has completed all action under this section with respect to the transaction.

“(bb) TIMING.—The Committee shall take action under item (aa) not later than 30 days
after receiving a declaration under this clause.

“(cc) **Rule of Construction.**—Nothing in this subclause (other than item (aa)(CC)) shall be construed to affect the authority of the President or the Committee to take any action authorized by this section with respect to a covered transaction.

“(IV) **Mandatory Declarations.**—

“(aa) **Regulations.**—The Committee shall prescribe regulations specifying the types of covered transactions for which the Committee requires a declaration under this subclause.

“(bb) **Certain Covered Transactions with Foreign Government Interests.**—

“(AA) **In general.**—

Except as provided in subitem (BB), the parties to a covered transaction shall
submit a declaration described in subclause (I) with respect to the transaction if the transaction involves an investment that results in the acquisition, directly or indirectly, of a substantial interest in a United States business by a foreign person in which a foreign government has, directly or indirectly, a substantial interest.

“(BB) Exception.—

The submission of a declaration described in subclause (I) shall not be required with respect to a transaction described in subitem (AA) if each foreign person that is a party to the transaction is organized under the laws of, or otherwise subject to the jurisdiction of, a country identified by the Committee.
under subsection (a)(5)(C)(iii).

“(CC) S UBSTANTIAL INTEREST DEFINED.—In this item, the term ‘substantial interest’ has the meaning given that term in regulations which the Committee shall prescribe. An interest that is a passive investment (as defined in subsection (a)(5)(D)) or that is less than a 10 percent voting interest shall not be considered a substantial interest.

“(cc) OTHER DECLARATIONS REQUIRED BY COMMITTEE.—The Committee shall require the submission of a declaration described in subclause (I) with respect to any covered transaction identified under regulations prescribed by the Committee for purposes of this item, at the discretion of the
Committee and based on appropriate factors, such as—

“(AA) the technology, industry, economic sector, or economic subsector in which the United States business that is a party to the transaction trades or of which it is a part;

“(BB) the difficulty of remedying the harm to national security that may result from completion of the transaction; and

“(CC) the difficulty of obtaining information on the type of covered transaction through other means.

“(dd) SUBMISSION OF WRITTEN NOTICE AS AN ALTERNATIVE.—Parties to a covered transaction for which a declaration is required under this subclause may instead elect to sub-
mit a written notice under clause (i).

“(ee) Timing of Submission.—

“(AA) In General.—A declaration required to be submitted with respect to a covered transaction by this subclause shall be submitted not later than 45 days before the completion of the transaction.

“(BB) Written Notice.—If, pursuant to item (dd), the parties to a covered transaction elect to submit a written notice under clause (i) instead of a declaration under this subclause, the written notice shall be filed not later than 90 days before the completion of the transaction.

“(ff) Penalties.—The Committee may impose a penalty
pursuant to subsection (h)(3) with respect to a party that fails to comply with this subclause.”.

SEC. 6. STIPULATIONS REGARDING TRANSACTIONS.

Section 721(b)(1)(C) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)(C)), as amended by section 5, is further amended by adding at the end the following:

“(vi) STIPULATIONS REGARDING TRANSACTIONS.—

“(I) IN GENERAL.—In a written notice submitted under clause (i) or a declaration submitted under clause (v) with respect to a transaction, a party to the transaction may—

“(aa) stipulate that the transaction is a covered transaction; and

“(bb) if the party stipulates that the transaction is a covered transaction under item (aa), stipulate that the transaction is a foreign government-controlled transaction.

“(II) BASIS FOR STIPULATION.—

A written notice submitted under
clause (i) or a declaration submitted under clause (v) that includes a stipulation under subclause (I) shall include a description of the basis for the stipulation.”.

SEC. 7. AUTHORITY FOR UNILATERAL INITIATION OF REVIEWS.

Section 721(b)(1) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)) is amended—

(1) by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively;

(2) in subparagraph (D)—

(A) in clause (i), by inserting “(other than a covered transaction described in subparagraph (E))” after “any covered transaction”;

(B) by striking clause (ii) and inserting the following:

“(ii) any covered transaction described in subparagraph (E), if any party to the transaction submitted false or misleading material information to the Committee in connection with the Committee’s consideration of the transaction or omitted material information, including material docu-
ments, from information submitted to the Committee; or”; and

(C) in clause (iii)—

(i) in the matter preceding subclause (I), by striking “any covered transaction that has previously been reviewed or investigated under this section,” and inserting “any covered transaction described in subparagraph (E),”;

(ii) in subclause (I), by striking “intentionally”;

(iii) in subclause (II), by striking “an intentional” and inserting “a”; and

(iv) in subclause (III), by inserting “adequate and appropriate” before “remedies or enforcement tools”; and

(3) by inserting after subparagraph (D) the following:

“(E) COVERED TRANSACTIONS DESCRIBED.—A covered transaction is described in this subparagraph if—

“(i) the Committee has informed the parties to the transaction in writing that the Committee has completed all action
under this section with respect to the transaction; or

“(ii) the President has announced a decision not to exercise the President’s authority under subsection (d) with respect to the transaction.”.

SEC. 8. TIMING FOR REVIEWS AND INVESTIGATIONS.

Section 721(b) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)), as amended by section 7, is further amended—

(1) in paragraph (1)(F), by striking “30” and inserting “45”;

(2) in paragraph (2), by striking subparagraph (C) and inserting the following:

“(C) TIMING.—

“(i) IN GENERAL.—Except as provided in clause (ii), any investigation under subparagraph (A) shall be completed before the end of the 45-day period beginning on the date on which the investigation commenced.

“(ii) EXTENSION FOR EXTRAORDINARY CIRCUMSTANCES.—

“(I) IN GENERAL.—In extraordinary circumstances (as defined by
the Committee in regulations), the chairperson may, at the request of the head of the lead agency, extend an investigation under subparagraph (A) for one 30-day period.

“(II) NONDELEGATION.—The authority of the chairperson and the head of the lead agency referred to in subclause (I) may not be delegated to any person other than the Deputy Secretary of the Treasury or the deputy head (or equivalent thereof) of the lead agency, as the case may be.

“(III) NOTIFICATION TO PARTIES.—If the Committee extends the deadline under subclause (I) with respect to a covered transaction, the Committee shall notify the parties to the transaction of the extension.”; and

(3) by adding at the end the following:

“(8) TOLLING OF DEADLINES DURING LAPSE IN APPROPRIATIONS.—Any deadline or time limitation under this subsection shall be tolled during a lapse in appropriations.”.
SEC. 9. MONITORING OF NON-NOTIFIED AND NON-DECLARED TRANSACTIONS.

Section 721(b)(1) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(1)), as amended by section 7, is further amended by adding at the end the following:

“(H) MONITORING OF NON-NOTIFIED AND NON-DECLARED TRANSACTIONS.—The Committee shall establish a mechanism to identify covered transactions for which—

“(i) a notice under clause (i) of subparagraph (C) or a declaration under clause (v) of that subparagraph is not submitted to the Committee; and

“(ii) information is reasonably available.”.

SEC. 10. SUBMISSION OF CERTIFICATIONS TO CONGRESS.

Section 721(b)(3)(C) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(3)(C)) is amended—

(1) in clause (iii)—

(A) in subclause (II), by inserting “and the Select Committee on Intelligence” after “Urban Affairs”; and

(B) in subclause (IV), by inserting “and the Permanent Select Committee on Intelligence” after “Financial Services”;
(2) in clause (iv), by striking subclause (II) and inserting the following:

“(II) Delegation of certifications.—

“(aa) In general.—Subject to item (bb), the chairperson, in consultation with the Committee, may determine the level of official to whom the signature requirement under subclause (I) for the chairperson and the head of the lead agency may be delegated. The level of official to whom the signature requirement may be delegated may differ based on any factor relating to a transaction that the chairperson, in consultation with the Committee, deems appropriate, including the type or value of the transaction.

“(bb) Limitation on delegation with respect to certain transactions.—The signature requirement under sub-
clause (I) may be delegated not below the level of the Assistant Secretary of the Treasury or an equivalent official of the lead agency in the case of a covered transaction—

“(AA) assessed by the Director of National Intelligence under paragraph (4) as more likely than not to threaten the national security of the United States;

“(BB) with respect to which the Committee conducts an investigation under paragraph (2); or

“(CC) with respect to which a request is made by an official at the Deputy Assistant Secretary or Assistant Secretary level of an agency or department represented on the Committee, or an equivalent thereof, that the transaction be re-
viewed by the Assistant Secretary of the Treasury and an equivalent official of the lead agency.

“(cc) LIMITATION ON DELEGATION WITH RESPECT TO OTHER TRANSACTIONS.—In the case of any covered transaction not described in item (bb), the signature requirement under subclause (I) may be delegated not below the level of a Deputy Assistant Secretary of the Treasury or an equivalent official of the lead agency.”; and

(3) by adding at the following:

“(v) AUTHORITY TO CONSOLIDATE DOCUMENTS.—Instead of transmitting a separate certified notice or certified report under subparagraph (A) or (B) with respect to each covered transaction, the Committee may, on a monthly basis, transmit such notices and reports in a consolidated document to the Members of Congress specified in clause (iii).”.
SEC. 11. ANALYSIS BY DIRECTOR OF NATIONAL INTELLIGENCE.

Section 721(b)(4) of the Defense Production Act of 1950 (50 U.S.C. 4565(b)(4)) is amended—

(1) by striking subparagraph (A) and inserting the following:

“(A) ANALYSIS REQUIRED.—

“(i) IN GENERAL.—Except as provided in subparagraph (B), the Director of National Intelligence shall expeditiously carry out a thorough analysis of any threat to the national security of the United States posed by any covered transaction, which shall include the identification of any recognized gaps in the collection of intelligence relevant to the analysis.

“(ii) VIEWS OF INTELLIGENCE COMMUNITY.—The Director shall seek and incorporate into the analysis required by clause (i) the views of all affected or appropriate agencies of the intelligence community with respect to the transaction.

“(iii) UPDATES.—At the request of the lead agency, the Director shall update the analysis conducted under clause (i) with respect to a covered transaction with
respect to which an agreement was entered into under subsection (l)(3)(A).

“(iv) **INDEPENDENCE AND OBJECTIVITY.**—The Committee shall ensure that its processes under this section preserve the ability of the Director to conduct analysis under clause (i) that is independent, objective, and consistent with all applicable directives, policies, and analytic tradecraft standards of the intelligence community.”;

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (C), (D), and (E), respectively;

(3) by inserting after subparagraph (A) the following:

“(B) **BASIC THREAT INFORMATION.**—

“(i) **IN GENERAL.**—The Director of National Intelligence may provide the Committee with basic information regarding any threat to the national security of the United States posed by a covered transaction described in clause (ii) instead of conducting the analysis required by subparagraph (A).
“(ii) COVERED TRANSACTION DESCRIBED.—A covered transaction is described in this clause if—

“(I) the transaction is described in subsection (a)(5)(B)(ii);

“(II) the Director of National Intelligence has completed an analysis pursuant to subparagraph (A) involving each foreign person that is a party to the transaction during the 12 months preceding the review or investigation of the transaction under this section; or

“(III) the transaction otherwise meets criteria agreed upon by the Committee and the Director for purposes of this subparagraph.”;

(4) in subparagraph (C), as redesignated by paragraph (2), by striking “20” and inserting “30”;

and

(5) by adding at the end the following:

“(F) ASSESSMENT OF OPERATIONAL IMPACT.—The Director may provide to the Committee an assessment, separate from the analyses under subparagraphs (A) and (B), of any
operational impact of a covered transaction on
the intelligence community and a description of
any actions that have been or will be taken to
mitigate any such impact.

“(G) SUBMISSION TO CONGRESS.—The
Committee shall submit the analysis required by
paragraph (A) with respect to a covered
transaction to the Select Committee on Intel-
ligence of the Senate and the Permanent Select
Committee on Intelligence of the House of Rep-
resentatives upon the conclusion of action under
this section (other than compliance plans under
subsection (l)(6)) with respect to the trans-
action.”.

SEC. 12. INFORMATION SHARING.

Section 721(c) of the Defense Production Act of 1950
(50 U.S.C. 4565(c)) is amended—

(1) by striking “Any information” and inserting
the following:

“(1) IN GENERAL.—Except as provided in para-
graph (2), any information”;

(2) by striking “, except as may be relevant”
and all that follows and inserting a period; and

(3) by adding at the end the following:
“(2) EXCEPTIONS.—Paragraph (1) shall not prohibit the disclosure of the following:

“(A) Information relevant to any administrative or judicial action or proceeding.

“(B) Information to Congress or any duly authorized committee or subcommittee of Congress.

“(C) Information to any domestic or foreign governmental entity, under the direction of the chairperson, to the extent necessary for national security purposes and pursuant to appropriate confidentiality and classification arrangements.

“(D) Information that the parties have consented to be disclosed to third parties.”.

SEC. 13. ACTION BY THE PRESIDENT.

(a) IN GENERAL.—Section 721(d) of the Defense Production Act of 1950 (50 U.S.C. 4565(d)) is amended—

(1) by striking paragraph (1) and inserting the following:

“(1) IN GENERAL.—Subject to paragraph (4), the President may, with respect to a covered transaction that threatens to impair the national security of the United States, take such action for such time
as the President considers appropriate to suspend or
prohibit the transaction or to require divestment.”;
and
(2) in paragraph (2), by striking “not later
than 15 days” and all that follows and inserting the
following: “with respect to a covered transaction not
later than 15 days after the earlier of—
“(A) the date on which the investigation of
the transaction under subsection (b) is com-
pleted; or
“(B) the date on which the Committee oth-
erwise refers the transaction to the President
under subsection (l)(2).”.

(b) CIVIL PENALTIES.—Section 721(h)(3)(A) of the
Defense Production Act of 1950 (50 U.S.C.
4565(h)(3)(A)) is amended by striking “including any
mitigation” and all that follows through “subsection (l)”
and inserting “including any mitigation agreement entered
into, conditions imposed, or order issued pursuant to this
section”.

SEC. 14. JUDICIAL REVIEW.

Section 721(e) of the Defense Production Act of 1950
(50 U.S.C. 4565(e)) is amended—
(1) by striking “The actions” and inserting the
following:
“(1) IN GENERAL.—The actions”; and

(2) by adding at the end the following:

“(2) CIVIL ACTIONS.—A civil action challenging an action or finding of the Committee under this section may be brought only in the United States Court of Appeals for the District of Columbia Circuit.

“(3) PROCEDURES FOR REVIEW OF PRIVILEGED INFORMATION.—If a civil action challenging an action or finding of the Committee under this section is brought, and the court determines that protected information in the administrative record, including classified, sensitive law enforcement, sensitive security, or other information subject to privilege or protections under any provision of law, is necessary to resolve the challenge, that information shall be submitted ex parte and in camera to the court and the court shall maintain that information under seal.

“(4) APPLICABILITY OF USE OF INFORMATION PROVISIONS.—The use of information provisions of sections 106, 305, 405, and 706 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1806, 1825, 1845, and 1881e) shall not apply in a civil action brought under this subsection.”.
SEC. 15. HIRING AUTHORITY.

Section 721(k) of the Defense Production Act of 1950 (50 U.S.C. 4565(k)) is amended by striking paragraph (4) and inserting the following:

“(4) HIRING AUTHORITY.—

“(A) SENIOR OFFICIALS.—

“(i) IN GENERAL.—Each member of the Committee shall designate an Assistant Secretary, or an equivalent official, who is appointed by the President, by and with the advice and consent of the Senate, to carry out such duties related to the Committee as the member of the Committee may delegate.

“(ii) DEPARTMENT OF THE TREASURY.—In addition to officials of the Department of the Treasury authorized under section 301 of title 31, United States Code, or any other provision of law, there are authorized at the Department of the Treasury, to carry out such duties related to the Committee as the Secretary of the Treasury may delegate, the following:

“(I) One official who shall be compensated at a rate not to exceed the rate of basic pay payable for level...
III of the Executive Schedule under section 5314 of title 5, United States Code.

“(II) One official who shall be compensated at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule of section 5315 of title 5, United States Code.

“(B) SPECIAL HIRING AUTHORITY.—The heads of the departments and agencies represented on the Committee may appoint, without regard to the provisions of sections 3309 through 3318 of title 5, United States Code, candidates directly to positions in the competitive service (as defined in section 2102 of that title) in their respective departments and agencies to administer this section.”.

SEC. 16. ACTIONS BY THE COMMITTEE TO ADDRESS NATIONAL SECURITY RISKS.

Section 721(l) of the Defense Production Act of 1950 (50 U.S.C. 4565(l)) is amended—

(1) in the subsection heading, by striking “MITIGATION, TRACKING, AND POSTCONSUMMATION MONITORING AND ENFORCEMENT” and inserting
“ACTIONS BY THE COMMITTEE TO ADDRESS NATIONAL SECURITY RISKS”;

(2) by redesignating paragraphs (1), (2), and (3) as paragraphs (3), (5), and (6), respectively;

(3) by inserting before paragraph (3), as redesignated by paragraph (2), the following:

“(1) SUSPENSION OF TRANSACTIONS.—The Committee, acting through the chairperson, may suspend a proposed or pending covered transaction that may pose a risk to the national security of the United States for such time as the covered transaction is under review or investigation under subsection (b).

“(2) REFERRAL TO PRESIDENT.—The Committee may, at any time during the review or investigation of a covered transaction under subsection (b), complete the action of the Committee with respect to the transaction and refer the transaction to the President for action pursuant to subsection (d).”;

(4) in paragraph (3), as redesignated by paragraph (2)—

(A) in subparagraph (A)—
(i) in the subparagraph heading, by striking “IN GENERAL” and inserting “AGREEMENTS AND CONDITIONS”;
(ii) by striking “The Committee” and inserting the following:
“(i) IN GENERAL.—The Committee”; (iii) by striking “threat” and inserting “risk”; and (iv) by adding at the end the following:
“(ii) ABANDONMENT OF TRANSACTIONS.—If a party to a covered transaction has voluntarily chosen to abandon the transaction, the Committee or lead agency, as the case may be, may negotiate, enter into or impose, and enforce any agreement or condition with any party to the covered transaction for purposes of effectuating such abandonment and mitigating any risk to the national security of the United States that arises as a result of the covered transaction.
“(iii) AGREEMENTS AND CONDITIONS RELATING TO COMPLETED TRANSACTIONS.—The Committee or lead agency,
as the case may be, may negotiate, enter
into or impose, and enforce any agreement
or condition with any party to a completed
covered transaction in order to mitigate
any interim risk to the national security of
the United States that may arise as a re-
sult of the covered transaction until such
time that the Committee has completed ac-
tion pursuant to subsection (b) or the
President has taken action pursuant to
subsection (d) with respect to the trans-
action.”; and

(B) by striking subparagraph (B) and in-
serting the following:

“(B) LIMITATIONS.—An agreement may
not be entered into or condition imposed under
subparagraph (A) with respect to a covered
transaction unless the Committee determines
that the agreement or condition resolves the na-
tional security concerns posed by the trans-
action, taking into consideration whether the
agreement or condition is reasonably calculated
to—

“(i) be effective;
“(ii) allow for compliance with the terms of the agreement or condition in an appropriately verifiable way; and

“(iii) enable effective monitoring of compliance with and enforcement of the terms of the agreement or condition.

“(C) JURISDICTION.—The provisions of section 706(b) shall apply to any mitigation agreement entered into or condition imposed under subparagraph (A).”;

(5) by inserting after paragraph (3), as redesignated by paragraph (2), the following:

“(4) RISK-BASED ANALYSIS REQUIRED.—

“(A) IN GENERAL.—Any determination of the Committee to suspend a covered transaction under paragraph (1), to refer a covered transaction to the President under paragraph (2), or to negotiate, enter into or impose, or enforce any agreement or condition under paragraph (3)(A) with respect to a covered transaction, shall be based on a risk-based analysis, conducted by the Committee, of the effects on the national security of the United States of the covered transaction, which shall include an assessment of the threat, vulnerabilities, and con-
sequences to national security related to the transaction.

“(B) Actions of Members of the Committee.—

“(i) In general.—Any member of the Committee who concludes that a covered transaction poses an unresolved national security concern shall recommend to the Committee that the Committee suspend the transaction under paragraph (1), refer the transaction to the President under paragraph (2), or negotiate, enter into or impose, or enforce any agreement or condition under paragraph (3)(A) with respect to the transaction. In making that recommendation, the member shall propose or contribute to the risk-based analysis required by subparagraph (A).

“(ii) Failure to reach consensus.—If the Committee fails to reach consensus with respect to a recommendation under clause (i) regarding a covered transaction, the members of the Committee who support an alternative recommendation shall produce—
“(I) a written statement justifying the alternative recommendation; and

“(II) as appropriate, a risk-based analysis that supports the alternative recommendation.

“(C) DEFINITIONS.—For purposes of subparagraph (A), the terms ‘threat’, ‘vulnerabilities’, and ‘consequences to national security’ shall have the meanings given those terms by the Committee by regulation.”;

(6) in paragraph (5)(B), as redesignated by paragraph (2), by striking “(as defined in the National Security Act of 1947)”;

(7) in paragraph (6), as redesignated by paragraph (2)—

(A) in subparagraph (A)—

(i) by striking “paragraph (1)” and inserting “paragraph (3)”;

(ii) by striking the second sentence and inserting the following: “The lead agency may, at its discretion, seek and receive the assistance of other departments or agencies in carrying out the purposes of this paragraph.”;
(B) in subparagraph (B)—

(i) by striking “DEzeigenated Agen-
cy” and all that follows through “The lead agency in connection” and inserting “DEzeigenated AGENCY.—The lead agency in connection”;

(ii) by striking clause (ii); and

(iii) by redesignating subclauses (I) and (II) as clauses (i) and (ii), respectively, and by moving such clauses, as so redesignated, 2 ens to the left; and

(C) by adding at the end the following:

“(C) COMPLIANCE PLANS.—

“(i) In general.—In the case of a covered transaction with respect to which an agreement is entered into under paragraph (3)(A), the Committee or lead agen-
cy, as the case may be, shall formulate, ad-
here to, and keep updated a plan for moni-
toring compliance with the agreement.

“(ii) Elements.—Each plan required by clause (i) with respect to an agreement entered into under paragraph (3)(A) shall include an explanation of—
“(I) which member of the Committee will have primary responsibility for monitoring compliance with the agreement; 

“(II) how compliance with the agreement will be monitored; 

“(III) how frequently compliance reviews will be conducted; 

“(IV) whether an independent entity will be utilized under subparagraph (E) to conduct compliance reviews; and 

“(V) what actions will be taken if the parties fail to cooperate regarding monitoring compliance with the agreement. 

“(D) Effect of Lack of Compliance.—

If, at any time after a mitigation agreement or condition is entered into or imposed under paragraph (3)(A), the Committee or lead agency, as the case may be, determines that a party or parties to the agreement or condition are not in compliance with the terms of the agreement or condition, the Committee or lead agency may, in addition to the authority of the Com-
committee to impose penalties pursuant to subsection (h)(3) and to unilaterally initiate a review of any covered transaction under subsection (b)(1)(D)(iii)(I)—

“(i) negotiate a plan of action for the party or parties to remediate the lack of compliance, with failure to abide by the plan or otherwise remediate the lack of compliance serving as the basis for the Committee to find a material breach of the agreement or condition;

“(ii) require that the party or parties submit a written notice under clause (i) of subsection (b)(1)(C) or a declaration under clause (v) of that subsection with respect to a covered transaction initiated after the date of the determination of noncompliance and before the date that is 5 years after the date of the determination to the Committee to initiate a review of the transaction under subsection (b); or

“(iii) seek injunctive relief.

“(E) USE OF INDEPENDENT ENTITIES TO MONITOR COMPLIANCE.—If the parties to an agreement entered into under paragraph (3)(A)
enter into a contract with an independent entity
from outside the United States Government for
the purpose of monitoring compliance with the
agreement, the Committee shall take such ac-
tion as is necessary to prevent a conflict of in-
terest from arising by ensuring that the inde-
pendent entity owes no fiduciary duty to the
parties.

“(F) Successors and Assigns.—Any
agreement or condition entered or imposed
under paragraph (3)(A) shall be considered
binding on all successors and assigns unless
and until the agreement or condition terminates
on its own terms or is otherwise terminated by
the Committee in its sole discretion.

“(G) Additional Compliance Meas-
ures.—Subject to subparagraphs (A) through
(E), the Committee shall develop and agree
upon methods for evaluating compliance with
any agreement entered into or condition im-
posed with respect to a covered transaction that
will allow the Committee to adequately ensure
compliance without unnecessarily diverting
Committee resources from assessing any new
covered transaction for which a written notice
under clause (i) of subsection (b)(1)(C) or decl-
laration under clause (v) of that subsection has
been filed, and if necessary, reaching a mitiga-
tion agreement with or imposing a condition on
a party to such covered transaction or any cov-
ered transaction for which a review has been re-
opened for any reason.”.

SEC. 17. MODIFICATION OF ANNUAL REPORT.

Section 721(m) of the Defense Production Act of 1950 (50 U.S.C. 4565(m)) is amended—

(1) in paragraph (2)—

(A) by amending subparagraph (A) to read
as follows:

“(A) A list of all notices filed and all re-
views or investigations of covered transactions
completed during the period, with—

“(i) a description of the outcome of
each review or investigation, including
whether an agreement was entered into or
condition was imposed under subsection
(l)(3)(A) with respect to the transaction
being reviewed or investigated, and wheth-
er the President took any action under this
section with respect to that transaction;
“(ii) basic information on each party
to each such transaction;

“(iii) the nature of the business activi-
ties or products of the United States busi-
ness with which the transaction was en-
tered into or intended to be entered into;

and

“(iv) information about any with-
drawal from the process.”; and

(B) by adding at the end the following:

“(G) Statistics on compliance plans con-
ducted and actions taken by the Committee
under subsection (l)(6), including subparagraph
(D) of that subsection, during that period and
a description of any actions taken by the Com-
mittee to impose penalties or initiate a unilat-
eral review pursuant to subsection
(b)(1)(D)(iii)(I).

“(H) Cumulative and, as appropriate,
trend information on the number of declara-
tions filed under subsection (b)(1)(C)(v), the
actions taken by the Committee in response to
those declarations, the business sectors involved
in those declarations, and the countries involved
in those declarations.”;
(2) in paragraph (3)—

(A) by striking “CRITICAL TECHNOLOGIES”

and all that follows through “In order to as-
sist” and inserting “CRITICAL TECH-
NOLOGIES.—In order to assist”;

(B) by striking subparagraph (B); and

(C) by redesignating clauses (i) and (ii) as

subparagraphs (A) and (B), respectively, and

by moving such subparagraphs, as so redesig-
nated, 2 ems to the left; and

(3) by adding at the end the following:

“(4) FORM OF REPORT.—All appropriate por-
tions of the annual report under paragraph (1) may
be classified. An unclassified version of the report,
as appropriate, consistent with safeguarding national
security and privacy, shall be made available to the
public.”.

SEC. 18. CERTIFICATION OF NOTICES AND INFORMATION.

Section 721(n) of the Defense Production Act of
1950 (50 U.S.C. 4565(n)) is amended—

(1) by redesignating paragraphs (1) and (2) as

subparagraphs (A) and (B), respectively, and by

moving such subparagraphs, as so redesignated, 2
ems to the right;
(2) by striking “Each notice” and inserting the following:

“(1) IN GENERAL.—Each notice”;

(3) by striking “paragraph (3)(B)” and inserting “paragraph (6)(B)”;

(4) by striking “paragraph (1)(A)” and inserting “paragraph (3)(A)”;

(5) by adding at the end the following:

“(2) EFFECT OF FAILURE TO SUBMIT.—The Committee may not complete a review under this section of a covered transaction and may recommend to the President that the President suspend or prohibit the transaction or require divestment under subsection (d) if the Committee determines that a party to the transaction has—

“(A) failed to submit a statement required by paragraph (1); or

“(B) included false or misleading information in a notice or information described in paragraph (1) or omitted material information from such notice or information.

“(3) APPLICABILITY OF LAW ON FRAUD AND FALSE STATEMENTS.—The Committee shall prescribe regulations expressly providing for the application of section 1001 of title 18, United States
Code, to all information provided to the Committee under this section by any party to a covered transaction.”

SEC. 19. IMPLEMENTATION PLANS.

(a) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the chairperson of the Committee on Foreign Investment in the United States and the Secretary of Commerce shall, in consultation with the appropriate members of the Committee—

(1) develop plans to implement this Act; and

(2) submit to the appropriate congressional committees a report on the plans developed under paragraph (1), which shall include a description of—

(A) the timeline and process to implement the provisions of, and amendments made by, this Act;

(B) any additional staff necessary to implement the plans; and

(C) the resources required to effectively implement the plans.

(b) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term “appropriate congressional committees” means—
(1) the Committee on Banking, Housing, and Urban Affairs and the Committee on Appropriations of the Senate; and

(2) the Committee on Financial Services and the Committee on Appropriations of the House of Representatives.

SEC. 20. ASSESSMENT OF NEED FOR ADDITIONAL RESOURCES FOR COMMITTEE.

The President shall—

(1) determine whether and to what extent the expansion of the responsibilities of the Committee on Foreign Investment in the United States pursuant to the amendments made by this Act necessitates additional resources for the Committee and the departments and agencies represented on the Committee to perform their functions under section 721 of the Defense Production Act of 1950, as amended by this Act; and

(2) if the President determines that additional resources are necessary, include in the budget of the President for fiscal year 2019 and each fiscal year thereafter submitted to Congress under section 1105(a) of title 31, United States Code, a request for such additional resources.
SEC. 21. FUNDING.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565) is amended by adding at the end the following:

“(o) FUNDING.—

“(1) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a fund, to be known as the ‘Committee on Foreign Investment in the United States Fund’ (in this subsection referred to as the ‘Fund’), to be administered by the chairperson.

“(2) APPROPRIATION OF FUNDS FOR THE COMMITTEE.—There are authorized to be appropriated to the Fund such sums as may be necessary to perform the functions of the Committee.

“(3) FILING FEES.—

“(A) IN GENERAL.—The Committee may assess and collect a fee in an amount determined by the Committee in regulations, to the extent provided in advance in appropriations Acts, without regard to section 9701 of title 31, United States Code, and subject to subparagraph (B), with respect to each covered transaction for which a written notice is submitted to the Committee under subsection (b)(1)(C)(i).
“(B) DETERMINATION OF AMOUNT OF FEE.—

“(i) IN GENERAL.—In determining the amount of the fee to be assessed under subparagraph (A) with respect to a covered transaction, the Committee shall base the amount of the fee on the value of the transaction, taking into consideration—

“(I) the effect of the fee on small business concerns (as defined in section 3 of the Small Business Act (15 U.S.C. 632));

“(II) the expenses of the Committee associated with conducting activities under this section;

“(III) the effect of the fee on foreign investment; and

“(IV) such other matters as the Committee considers appropriate.

“(ii) UPDATES.—The Committee shall periodically reconsider and adjust the amount of the fee to be assessed under subparagraph (A) with respect to a covered transaction to ensure that the amount of the fee remains appropriate.
“(C) DEPOSIT AND AVAILABILITY OF FEES.—Notwithstanding section 3302 of title 31, United States Code, fees collected under subparagraph (A) shall—

“(i) be deposited into the Fund for use in carrying out activities under this section;

“(ii) to the extent and in the amounts provided in advance in appropriations Acts, be available to the chairperson;

“(iii) remain available until expended; and

“(iv) be in addition to any appropriations made available to the members of the Committee.

“(4) TRANSFER OF FUNDS.—To the extent provided in advance in appropriations Acts, the chairperson may transfer any amounts in the Fund to any other department or agency represented on the Committee for the purpose of addressing emerging needs in carrying out activities under this section. Amounts so transferred shall be in addition to any other amounts available to that department or agency for that purpose.”.
SEC. 22. CENTRALIZATION OF CERTAIN COMMITTEE FUNCTIONS.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565), as amended by section 21, is further amended by adding at the end the following:

“(p) CENTRALIZATION OF CERTAIN COMMITTEE FUNCTIONS.—

“(1) IN GENERAL.—The chairperson, in consultation with the Committee, may centralize certain functions of the Committee within the Department of the Treasury for the purpose of enhancing inter-agency coordination and collaboration in carrying out the functions of the Committee under this section.

“(2) FUNCTIONS.—Functions that may be centralized under paragraph (1) include monitoring non-notified and non-declared transactions pursuant to subsection (b)(1)(H), and other functions as determined by the chairperson and the Committee.

“(3) RULE OF CONSTRUCTION.—Nothing in this section shall be construed as limiting the authority of any department or agency represented on the Committee to represent its own interests before the Committee.”.
SEC. 23. CONFORMING AMENDMENTS.

Section 721 of the Defense Production Act of 1950 (50 U.S.C. 4565), as amended by this Act, is further amended—

(1) in subsection (b)—

(A) in paragraph (1)(D)(iii)(I), by striking “subsection (l)(1)(A)” and inserting “subsection (l)(3)(A)”;

(B) in paragraph (2)(B)(i)(I), by striking “that threat” and inserting “the risk”;

(2) in subsection (d)(4)(A), by striking “the foreign interest exercising control” and inserting “a foreign person that would acquire an interest in a United States business or its assets as a result of the covered transaction”; and

(3) in subsection (j), by striking “merger, acquisition, or takeover” and inserting “transaction”.

SEC. 24. REQUIREMENTS TO IDENTIFY AND CONTROL THE EXPORT OF EMERGING AND FOUNDATIONAL TECHNOLOGIES.

(a) IDENTIFICATION OF TECHNOLOGIES.—

(1) IN GENERAL.—The President shall establish and, in coordination with the Secretary of Commerce, the Secretary of Defense, the Secretary of Energy, the Secretary of State, and the heads of other Federal agencies as appropriate, lead, a reg-
ular, ongoing interagency process to identify emerg-
ing and foundational technologies that—

(A) are essential to the national security of the United States; and

(B) are not critical technologies described in clauses (i) through (v) of section 721(a)(8)(B) of the Defense Production Act of 1950, as amended by section 3.

(2) PROCESS.—The interagency process estab-
lished under subsection (a) shall—

(A) be informed by multiple sources of in-
formation, including—

(i) publicly available information;

(ii) classified information, including relevant information provided by the Direc-
tor of National Intelligence; and

(iii) information relating to reviews and investigations of transactions by the Committee on Foreign Investment in the United States under section 721 of the De-
fense Production Act of 1950 (50 U.S.C. 4565);

(B) take into account—
(i) the development of emerging and foundational technologies in foreign countries; and

(ii) the effect export controls imposed pursuant to this section may have on the development of such technologies in the United States; and

(C) include a notice and comment period.

(b) COMMERCE CONTROLS.—

(1) IN GENERAL.—The Secretary of Commerce shall establish appropriate controls under the Export Administration Regulations on the export, reexport, or in-country transfer of technology identified pursuant to subsection (a), including by prescribing additional regulations.

(2) LEVELS OF CONTROL.—

(A) IN GENERAL.—The Secretary of Commerce may, in coordination with the Secretary of Defense, the Secretary of State, and the heads of other Federal agencies, as appropriate, specify the level of control to apply under paragraph (1) with respect to the export of technology described in that paragraph, including a requirement for a license or other authorization
for the export, reexport, or in-country transfer of that technology.

(B) CONSIDERATIONS.—In determining under subparagraph (A) the level of control appropriate for technology described in paragraph (1), the Secretary of Commerce shall take into account—

(i) lists of countries to which exports from the United States are restricted; and

(ii) the potential end uses and end users of the technology.

(C) MINIMUM REQUIREMENTS.—At a minimum, except as provided by paragraph (4), the Secretary of Commerce shall require a license for the export, reexport, or in-country transfer of technology described in paragraph (1) to or in a country subject to an embargo, including an arms embargo, imposed by the United States.

(3) REVIEW OF LICENSE APPLICATIONS.—

(A) PROCEDURES.—The procedures set forth in Executive Order 12981 (50 U.S.C. 4603 note; relating to administration of export controls) or a successor order shall apply to the review of an application for a license or other
authorization for the export, reexport, or in-
country transfer of technology described in
paragraph (1).

(B) CONSIDERATION OF INFORMATION RE-
LATING TO NATIONAL SECURITY.—In reviewing
an application for a license or other authoriza-
tion for the export, reexport, or in-country
transfer of technology described in paragraph
(1), the Secretary of Commerce shall take into
account information provided by the Director of
National Intelligence regarding any threat to
the national security of the United States posed
by the proposed export, reexport, or transfer.
The Director of National Intelligence shall pro-
vide such information on the request of the Sec-
retary of Commerce.

(C) DISCLOSURES RELATING TO COLLABO-
RATIVE ARRANGEMENTS.—In the case of an ap-
lication for a license or other authorization for
the export, reexport, or in-country transfer of
technology described in paragraph (1) sub-
mitted by or on behalf of a joint venture, joint
development agreement, or similar collaborative
arrangement, the Secretary of Commerce may
require the applicant to identify, in addition to
any foreign person participating in the arrangement, any foreign person with significant ownership interest in a foreign person participating in the arrangement.

(4) EXCEPTIONS.—

(A) MANDATORY EXCEPTIONS.—The Secretary of Commerce may not control under this subsection the export of any technology—

(i) described in section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)); or

(ii) if the regulation of the export of that technology is prohibited under any other provision of law.

(B) REGULATORY EXCEPTIONS.—In prescribing regulations under paragraph (1), the Secretary of Commerce may include regulatory exceptions to the requirements of that paragraph.

(C) ADDITIONAL EXCEPTIONS.—The Secretary of Commerce shall not be required to impose under paragraph (1) a requirement for a license or other authorization with respect to the export, reexport, or in-country transfer of
technology described in paragraph (1) pursuant to any of the following transactions:

(i) The sale or license of a finished item and the provision of associated technology if the United States person that is a party to the transaction generally makes the finished item and associated technology available to its customers, distributors, or resellers.

(ii) The sale or license to a customer of a product and the provision of integration services or similar services if the United States person that is a party to the transaction generally makes such services available to its customers.

(iii) The transfer of equipment and the provision of associated technology to operate the equipment if the transfer could not result in the foreign person using the equipment to produce critical technologies (as defined in section 721(a) of the Defense Production Act of 1950, as amended by section 3).

(iv) The procurement by the United States person that is a party to the trans-
action of goods or services, including manufacturing services, from a foreign person that is a party to the transaction, if the foreign person has no rights to exploit any technology contributed by the United States person other than to supply the procured goods or services.

(v) Any contribution and associated support by a United States person that is a party to the transaction to an industry organization related to a standard or specification, whether in development or declared, including any license of or commitment to license intellectual property in compliance with the rules of any standards organization (as defined by the Secretary by regulation).

(c) MULTILATERAL CONTROLS.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Commerce and the Secretary of Defense, and the heads of other Federal agencies, as appropriate, may propose that any technology identified pursuant to subsection (a) be added to the list of technologies controlled by the relevant multilateral export control regimes.
(2) ITEMS ON COMMERCE CONTROL LIST OR UNITED STATES MUNITIONS LIST.—

(A) IN GENERAL.—If the Secretary of State proposes to a multilateral export control regime under paragraph (1) to add a technology identified pursuant to subsection (a) to the control list of that regime and that regime does not add that technology to the control list during the 3-year period beginning on the date of the proposal, the applicable agency head may determine whether national security concerns warrant the continuation of unilateral export controls with respect to that technology.

(B) APPLICABLE AGENCY HEAD DEFINED.—In this paragraph, the term “applicable agency head” means—

(i) in the case of technology listed on the Commerce Control List set forth in Supplement No. 1 to part 774 of the Export Administration Regulations, the Secretary of Commerce, in consultation with the Secretary of Defense and the Secretary of State; and

(ii) in the case of technology listed on the United States Munitions List set forth
in part 121 of title 22, Code of Federal Regulations, the Secretary of State, in consultation with the Secretary of Defense and the heads of other Federal agencies, as appropriate.

(d) Report to Committee on Foreign Investment in the United States.—Not less frequently than every 180 days, the Secretary of Commerce, in coordination with the Secretary of Defense, the Secretary of State, and the heads of other Federal agencies, as appropriate, shall submit to the Committee on Foreign Investment in the United States a report on the results of actions taken pursuant to this section.

(e) Rule of Construction.—Nothing in this section shall be construed to alter or limit—

(1) the authority of the President or the Secretary of State to designate items as defense articles and defense services for the purposes of the Arms Export Control Act (22 U.S.C. 2751 et seq.) or to otherwise regulate such items; or

(2) the authority of the President under the Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.), the Nuclear Non-Proliferation Act of 1978 (22 U.S.C. 3201 et seq.), the Energy Reorganization Act of 1974 (42 U.S.C. 5801 et seq.), or the Export Ad-

(f) DEFINITIONS.—In this section:


(2) IN-COUNTRY TRANSFER.—The term “in-country transfer” has the meaning given to the term in the Export Administration Regulations.

(3) REexport.—The term “reexport” has the meaning given to the term in the Export Administration Regulations.

(4) UNITED STATES PERSON.—The term “United States person” means any person subject to the jurisdiction of the United States.

SEC. 25. EXPORT CONTROL ENFORCEMENT AUTHORITY.

(a) AUTHORITIES.—In order to enforce the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) (as in continued in effect pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.)) (in this section referred to as the “Export Administration Act
of 1979’’), the President shall delegate to the Secretary of Commerce the authority to—

(1) issue regulations, orders, and guidelines;

(2) require, inspect, and obtain books, records, and any other information from any person;

(3) administer oaths or affirmations and by subpoena require any person to appear and testify or to appear and produce books, records, and other writings, or both; and

(4) authorize any law enforcement officer of the Department of Commerce to—

(A) conduct investigations (including undercover) in the United States and in other countries using all applicable laws of the United States, including intercepting any wire, oral, and electronic communications, conducting electronic surveillance, using pen registers and trap and trace devices, and carrying out acquisitions, to the extent authorized under chapters 119, 121, and 206 of title 18, United States Code;

(B) inspect, search, detain, seize, or issue temporary denial orders with respect to items, in any form, that are subject to controls under the Export Administration Act of 1979, or conveyances on which it is believed that there are
items that have been, are being, or are about to
be exported, reexported, or transferred in viola-
tion of that Act;

(C) carry firearms;

(D) conduct prelicense inspections and
post-shipment verifications; and

(E) execute warrants and make arrests.

(b) ENFORCEMENT OF SUBPOENAS.—In the case of
contumacy by, or refusal to obey a subpoena issued to,
any person under subsection (a)(3), an appropriate dis-
trict court of the United States, after notice to the person
and a hearing, shall have jurisdiction to issue an order
requiring the person to appear and give testimony or to
appear and produce books, records, and other writings, re-
gardless of format, that are the subject of the subpoena.
Any failure to obey such an order of the court may be
punished by the court as a contempt thereof.

(c) BEST PRACTICE GUIDELINES.—The Secretary of
Commerce, in consultation with the heads of appropriate
Federal agencies, may publish and update best practices
guidelines to assist persons in developing and imple-
menting, on a voluntary basis, effective export control pro-
grams in compliance with regulations issued under the Ex-
(d) Reference to Enforcement.—For purposes of this section, a reference to the enforcement of, or a violation of, the Export Administration Act of 1979 includes a reference to the enforcement or a violation of any regulation, order, license, or other authorization issued pursuant to that Act.

(e) Immunity.—A person shall not be excused from complying with any requirements under this section because of the person’s privilege against self-incrimination, but the immunity provisions of section 6002 of title 18, United States Code, shall apply with respect to any individual who specifically claims such privilege.

(f) Confidentiality of Information.—

(1) Exemptions from disclosure.—

(A) In general.—Information obtained under the Export Administration Act of 1979 may be withheld from disclosure only to the extent permitted by statute, except that information described in subparagraph (B) shall be withheld from public disclosure and shall not be subject to disclosure under section 552(b)(3) of title 5, United States Code, unless the release of such information is determined by the Secretary to be in the national interest.
(B) INFORMATION DESCRIBED.—Information described in this subparagraph is information submitted or obtained in connection with an application for a license or other authorization to export, reexport, or transfer items or engage in other activities, a recordkeeping or reporting requirement, enforcement activity, or other operations under the Export Administration Act of 1979, including—

(i) the license application, license, or other authorization itself;

(ii) classification or advisory opinion requests, and any response to such a request;

(iii) license determinations and information pertaining to such determinations;

(iv) information or evidence obtained in the course of any investigation; and

(v) information obtained or furnished in connection with any international agreement, treaty, or other obligation.

(2) INFORMATION TO CONGRESS AND GAO.—

(A) IN GENERAL.—Nothing in this section shall be construed as authorizing the with-
holding of information from Congress or the
Comptroller General of the United States.

(B) AVAILABILITY TO CONGRESS.—

(i) IN GENERAL.—Any information

obtained at any time under any provision

of the Export Administration Act of 1979

or the Export Administration Regulations

under subchapter C of chapter VII of title

15, Code of Federal Regulations, including

any report or license application required

under any such provision, shall be made

available to a committee or subcommittee

of Congress of appropriate jurisdiction,

upon the request of the chairman or rank-

ing member of the committee or sub-

committee.

(ii) PROHIBITION ON FURTHER DIS-

cLOSURE.—No committee or subcommittee

referred to in clause (i), or member there-

of, may disclose any information made

available under clause (i) that is submitted

on a confidential basis unless the full com-

mittee determines that the withholding of

that information is contrary to the national

interest.
(C) Availability to GAO.—

(i) In general.—Information described in subparagraph (B)(i) shall be subject to the limitations contained in section 716 of title 31, United States Code.

(ii) Prohibition on further disclosure.—An officer or employee of the Government Accountability Office may not disclose, except to Congress in accordance with this paragraph, any information described in subparagraph (B)(i) that is submitted on a confidential basis or from which any individual can be identified.

(3) Information sharing.—

(A) In general.—Any Federal department, agency, or office that obtains information that is relevant to the enforcement of the Export Administration Act of 1979, including information pertaining to any investigation, shall furnish such information to each appropriate department, agency, or office with enforcement responsibilities under the Export Administration Act of 1979 to the extent consistent with the protection of intelligence, counterintel-
ligence, and law enforcement sources, methods, and activities.

(B) EXCEPTIONS.—The provisions of this paragraph shall not apply to information subject to the restrictions set forth in section 9 of title 13, United States Code. Return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, may be disclosed only as authorized by that section.

(C) INFORMATION SHARING WITH FEDERAL AGENCIES.—Licensing or enforcement information obtained under the Export Administration Act of 1979 may be shared with heads of departments, agencies, and offices that do not have enforcement authorities under that Act on a case-by-case basis, at the discretion of the Secretary of Commerce. Such information may be shared only when the Secretary makes a determination that the sharing of the information is in the national interest.

(g) REPORTING REQUIREMENTS.—In the administration of this section, reporting requirements shall be designed to reduce the cost of reporting, recordkeeping, and documentation to the extent consistent with effective enforcement and compilation of useful trade statistics. Re-
porting, recordkeeping, and documentation requirements shall be periodically reviewed and revised in the light of developments in the field of information technology.

(h) **Civil Forfeiture.**—

(1) **IN GENERAL.**—Any tangible items seized under subsection (a) by a law enforcement officer of the Department of Commerce shall be subject to forfeiture to the United States in accordance with applicable law, except that property seized shall be returned if the property owner is not found guilty of a civil or criminal violation under the Export Administration Act of 1979.

(2) **PROCEDURES.**—Any seizure or forfeiture under this subsection shall be carried out in accordance with the procedures set forth in section 981 of title 18, United States Code.

**SEC. 26. UNDER SECRETARY OF COMMERCE FOR INDUSTRY AND SECURITY.**

(a) **IN GENERAL.**—On and after the date of the enactment of this Act, any reference in the Export Administration Act of 1979 (50 U.S.C. 4601 et seq.) or any other law or regulation to the Under Secretary of Commerce for Export Administration shall be deemed to be a reference to the Under Secretary of Commerce for Industry and Security.
(b) Title 5.—Section 5314 of title 5, United States Code, is amended by striking “Under Secretary of Commerce for Export Administration” and inserting “Under Secretary of Commerce for Industry and Security”.

(c) Continuation in Office.—The individual serving as Under Secretary of Commerce for Export Administration on the day before the date of the enactment of this Act may serve as the Under Secretary of Commerce for Industry and Security on and after that date without the need for renomination or reappointment.

SEC. 27. LIMITATION ON CANCELLATION OF DESIGNATION OF SECRETARY OF THE AIR FORCE AS DEPARTMENT OF DEFENSE EXECUTIVE AGENT FOR A CERTAIN DEFENSE PRODUCTION ACT PROGRAM.

(a) Limitation on Cancellation of Designation.—The Secretary of Defense may not implement the decision, issued on July 1, 2017, to cancel the designation, under Department of Defense Directive 4400.01E, entitled “Defense Production Act Programs” and dated October 12, 2001, of the Secretary of the Air Force as the Department of Defense Executive Agent for the program carried out under title III of the Defense Production Act of 1950 (50 U.S.C. 4531 et seq.) until the date specified in subsection (c).
(b) DESIGNATION.—The Secretary of the Air Force shall continue to serve as the sole and exclusive Department of Defense Executive Agent for the program described in subsection (a) until the date specified in subsection (c).

(c) DATE SPECIFIED.—The date specified in this subsection is the date of the enactment of a joint resolution or an Act approving the implementation of the decision described in subsection (a).

SEC. 28. REVIEW OF AND REPORT ON CERTAIN DEFENSE TECHNOLOGIES CRITICAL TO THE UNITED STATES MAINTAINING SUPERIOR MILITARY CAPABILITIES.

(a) REVIEW REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Director of National Intelligence, in consultation with the Air Force Research Laboratory, the Defense Advanced Projects Research Agency, and such other appropriate research entities as the Secretary and the Director may identify, shall—

(1) jointly carry out and complete a review of key national security technology capability advantages, competitions, and gaps between the United States and “near peer” nations;
(2) develop a definition of “near peer nation” for purposes of paragraph (1); and

(3) submit to the appropriate congressional committees a report on the findings of the Secretary and the Director with respect to the review conducted under paragraph (1).

(b) ELEMENTS.—The review conducted under paragraph (1) of subsection (a), and the report required by paragraph (3) of that subsection, shall identify, at a minimum, the following:

(1) Key United States industries and research and development activities expected to be critical to maintaining a national security technology capability if, during the 5-year period beginning on the date of the enactment of this Act, the Secretary and the Director anticipate that—

(A) a United States industrial base shortfall will exist; and

(B) United States industry will be unable to or otherwise will not provide the needed capacity in a timely manner without financial assistance from the United States Government through existing statutory authorities specifically intended for that purpose, including assistance provided under title III of the Defense
Production Act of 1950 (50 U.S.C. 4531 et seq.) and other appropriate authorities.

(2) Key areas in which the United States currently enjoys a technological advantage.

(3) Key areas in which the United States no longer enjoys a technological advantage.

(4) Sectors of the defense industrial base in which the United States lacks adequate productive capacity to meet critical national defense needs.

(5) Priority areas for which appropriate statutory industrial base incentives should be applied as the most cost-effective, expedient, and practical alternative for meeting the technology or defense industrial base needs identified under this subsection, including—

(A) sustainment of critical production and supply chain capabilities;

(B) commercialization of research and development investments;

(C) scaling of emerging technologies; and

(D) other areas as determined by the Secretary and the Director.

(6) Priority funding recommendations with respect to key areas that the Secretary determines are—
(A) critical to the United States maintaining superior military capabilities, especially with respect to potential peer and near peer military or economic competitors, during the 5-year period beginning on the date of the enactment of this Act; and

(B) suitable for long-term investment from funds made available under title III of the Defense Production Act of 1950 and other appropriate statutory authorities.

(c) Form of Report.—The report required by subsection (a)(3) shall be submitted in unclassified form, but may include a classified annex.

(d) Appropriate Congressional Committees Defined.—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Banking, Housing and Urban Affairs and the Committee on Armed Services of the Senate; and

(2) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives.

SEC. 29. EFFECTIVE DATE.

(a) Immediate Applicability of Certain Provisions.—The following shall take effect on the date of the
enactment of this Act and apply with respect to any covered transaction the review or investigation of which is initiated under section 721 of the Defense Production Act of 1950 on or after such date of enactment:

(1) Sections 4, 6, 7, 8, 9, 12, 13, 14, 15, 16, 18, 19, 20, 22, 23, 24, 25, 26, and 27 and the amendments made by those sections.

(2) Section 11 and the amendments made by that section (except for clause (iii) of section 721(b)(4)(A) of the Defense Production Act of 1950, as added by section 11).

(3) Paragraphs (1), (2), (3), (4), (5)(A)(i), (5)(B)(i), (5)(C)(v), (6), (7), (8), (9), (10), (11), (12), (13), (14), (15), (16), and (17) of subsection (a) of section 721 of the Defense Production Act of 1950, as amended by section 3.

(4) Section 721(m)(4) of the Defense Production Act of 1950, as amended by section 17.

(5) Paragraphs (1), (2), and (4) of subsection (o) of section 721 of the Defense Production Act of 1950, as amended by section 21.

(b) DELAYED APPLICABILITY OF CERTAIN PROVISIONS.—
(1) IN GENERAL.—Any provision of or amendment made by this Act not specified in subsection (a) shall—

(A) take effect on the date that is 30 days after publication in the Federal Register of a determination by the chairperson of the Committee on Foreign Investment in the United States that the regulations, organizational structure, personnel, and other resources necessary to administer the new provisions are in place; and

(B) apply with respect to any covered transaction the review or investigation of which is initiated under section 721 of the Defense Production Act of 1950 on or after the date described in subparagraph (A).

(2) NONDELEGATION OF DETERMINATION.—The determination of the chairperson of the Committee on Foreign Investment in the United States under paragraph (1)(A) may not be delegated.

(c) AUTHORIZATION FOR PILOT PROGRAMS.—

(1) IN GENERAL.—Beginning on the date of the enactment of this Act and ending on the date described in subsection (b)(1)(A), the Committee on Foreign Investment in the United States may, at its
discretion, conduct one or more pilot programs to implement any authority provided pursuant to any provision of or amendment made by this Act not specified in subsection (a).

(2) P UBLICATION IN FEDERAL REGISTER.—A pilot program may not commence until the date that is 30 days after publication in the Federal Register of a determination by the chairperson of the Committee of the scope of and procedures for the pilot program. That determination may not be delegated.

SEC. 30. SEVERABILITY.

If any provision of this Act or an amendment made by this Act, or the application of such a provision or amendment to any person or circumstance, is held to be invalid, the application of that provision or amendment to other persons or circumstances and the remainder of the provisions of this Act and the amendments made by this Act, shall not be affected thereby.