

**[Discussion Draft]**

**AMENDMENT TO RULES COMM. PRINT 119–8**

**OFFERED BY MR. HUIZENGA OF MICHIGAN**

At the end of subtitle A of title XVII, add the following:

1 **SEC. 17 \_\_\_\_ . CHIP SECURITY ACT.**

2 (a) SENSE OF CONGRESS.—It is the sense of Con-  
3 gress that—

4 (1) technology developed in the United States  
5 should serve as the foundation for the global eco-  
6 system of artificial intelligence to advance the for-  
7 eign policy and national security objectives of the  
8 United States and allies and partners of the United  
9 States;

10 (2) the United States can foster goodwill,  
11 strengthen relationships, and support innovative re-  
12 search around the world by providing allies and  
13 partners of the United States with advanced com-  
14 puting capabilities;

15 (3) advanced integrated circuits and computing  
16 hardware that is exported from the United States  
17 must be protected from diversion, theft, and other  
18 unauthorized use or exploitation in order to bolster

1 the competitiveness of the United States and protect  
2 the national security of the United States;

3 (4) illegal diversion of advanced integrated cir-  
4 cuits and computing hardware, particularly diversion  
5 to the People's Republic of China, is a significant  
6 and growing issue that undermines the export con-  
7 trols and national security of the United States;

8 (5) implementing chip security mechanisms will  
9 improve compliance with the export control laws of  
10 the United States, assist allies and partners with  
11 guarding computing hardware, and enhance protec-  
12 tions from bad actors looking to access, divert, or  
13 tamper with advanced integrated circuits and com-  
14 puting hardware; and

15 (6) implementing chip security mechanisms may  
16 help with the detection of smuggling or exploitation  
17 of advanced integrated circuits and computing hard-  
18 ware, thereby allowing for increased flexibility in ex-  
19 port controls and opening the door for more inter-  
20 national partners to receive streamlined and larger  
21 shipments of advanced computing hardware.

22 (b) PRIMARY REQUIREMENTS FOR CHIP SECURITY  
23 MECHANISMS.—

24 (1) IN GENERAL.—Not later than 1 year after  
25 the date of the enactment of this section, the Sec-

1       retary shall require a covered integrated circuit  
2       product to be secured by a chip security mechanism  
3       that permits location verification, using technology  
4       that is feasible and appropriate on such date of en-  
5       actment, before it is—

6               (A) exported or reexported to a foreign  
7       country; or

8               (B) in-country transferred in a foreign  
9       country.

10       (2) NOTIFICATION REQUIREMENT.—Not later  
11       than 1 year after the date of the enactment of this  
12       section, the Secretary shall require each person that  
13       has received a license, or other authorization, under  
14       the Export Control Reform Act of 2018 (50 U.S.C.  
15       4811 et seq.) to export, reexport, or in-country  
16       transfer a covered integrated circuit product to  
17       promptly report to the Under Secretary of Com-  
18       merce for Industry and Security, if the person ob-  
19       tains credible information that such circuit prod-  
20       uct—

21               (A) is in a location other than the location  
22       specified in the application for the license or  
23       other authorization;

1 (B) has been diverted to a user other than  
2 the user specified in the application for the li-  
3 cense or other authorization; or

4 (C) has been subjected to tampering, or at-  
5 tempted tampering, including efforts to disable,  
6 spoof, falsify, manipulate, mislead, or cir-  
7 cumvent any chip security mechanism.

8 (c) DEVELOPMENT OF ENHANCEMENTS FOR CHIP  
9 SECURITY MECHANISMS.—

10 (1) ASSESSMENT.—

11 (A) IN GENERAL.—Not later than 2 years  
12 after the date of the enactment of this section,  
13 the Secretary shall—

14 (i) conduct an assessment, in robust  
15 consultation with the public, in a manner  
16 determined appropriate by the Secretary,  
17 and with any additional relevant Federal  
18 agencies or offices the Secretary deter-  
19 mines appropriate, to identify what en-  
20 hancements, if any, should be implemented  
21 into the chip security mechanisms required  
22 under subsection (b)(1) to improve—

23 (I) compliance with the Export  
24 Control Reform Act of 2018 (50  
25 U.S.C. 4811 et seq.);

1 (II) detecting a diversion of a  
2 covered integrated circuit product;

3 (III) identifying and monitoring  
4 smuggling intermediaries; and

5 (IV) any national security or for-  
6 eign policy objective of the United  
7 States that the Secretary considers  
8 appropriate; and

9 (ii) if the Secretary identifies any im-  
10 provement under clause (i), develop incen-  
11 tives for facilitating industrywide incorpo-  
12 ration of such improvement into covered  
13 integrated circuit products, including by  
14 developing expedited licensing procedures  
15 for covered integrated circuit products that  
16 incorporate such improvement.

17 (B) ELEMENTS.—The assessment required  
18 by subparagraph (A) shall include—

19 (i) an examination of the feasibility,  
20 scalability, reliability, and effectiveness of

21 (I) methods and strategies that  
22 prevent the tampering, disabling, or  
23 other manipulation of a covered inte-  
24 grated circuit product; and

1 (II) any other method the Sec-  
2 retary determines appropriate for the  
3 prevention of unauthorized use, ac-  
4 cess, or exploitation of a covered inte-  
5 grated circuit product;

6 (ii) an analysis of the potential costs  
7 associated with implementing each method  
8 examined under clause (i), including an  
9 analysis of—

10 (I) the potential impact of such  
11 method on the performance of a cov-  
12 ered integrated circuit product; and

13 (II) the potential for the intro-  
14 duction of new vulnerabilities into  
15 such circuit products;

16 (iii) an analysis of the potential bene-  
17 fits of implementing the methods examined  
18 under clause (i), including an analysis of  
19 the potential increase—

20 (I) in compliance of a covered in-  
21 tegrated circuit product with the re-  
22 quirements of the Export Control Re-  
23 form Act of 2018 (50 U.S.C. 4811 et  
24 seq.); and

1 (II) in detecting and deterring il-  
2 legal diversion of a covered integrated  
3 circuit product; and

4 (iv) an analysis of the susceptibility of  
5 the methods examined under clause (i) to  
6 tampering, disabling, or other forms of  
7 manipulation; and

8 (v) an estimate of the expected costs  
9 to implement at-scale methods to tamper  
10 with, disable, or manipulate a covered inte-  
11 grated circuit product, or otherwise cir-  
12 cumvent the methods examined under  
13 clause (i).

14 (2) REPORT TO CONGRESS.—

15 (A) IN GENERAL.—Not later than 1 year  
16 after the date of the enactment of this section,  
17 the Secretary shall submit to the appropriate  
18 congressional committees a report on the re-  
19 sults of the assessment required by paragraph  
20 (1)(A), which shall include—

21 (i) any enhancements for chip security  
22 mechanisms identified by the Secretary;  
23 and

1 (ii) if applicable, a roadmap for the  
2 timely implementation of such enhance-  
3 ments.

4 (B) FORM.—The report required by para-  
5 graph (1) shall be submitted in unclassified  
6 form, but may include a classified annex.

7 (3) IMPLEMENTATION.—

8 (A) IN GENERAL.—If, under the assess-  
9 ment required by paragraph (1)(A), the Sec-  
10 retary identifies any enhancements to chip secu-  
11 rity mechanisms, the Secretary shall, not later  
12 than 2 years after the date on which such as-  
13 sessment is completed, require any covered inte-  
14 grated circuit product to incorporate such en-  
15 hancements to the chip security mechanisms re-  
16 quired under subsection (b)(1).

17 (B) PRIVACY AND CYBERSECURITY.—In  
18 carrying out subparagraph (A), the Secretary  
19 shall prioritize the mitigation of confidentiality  
20 and cybersecurity risks.

21 (d) ENFORCEMENT AUTHORITY.—In carrying out  
22 this section, the Secretary may—

23 (1) verify, in a manner the Secretary deter-  
24 mines appropriate, the ownership and location of a  
25 covered integrated circuit product that has been—



1 (A) exported or reexported to a foreign  
2 country; or

3 (B) in-country transferred in a foreign  
4 country;

5 (2) maintain a record of covered integrated cir-  
6 cuit products and include in the record the location  
7 and current end-user of each such product; and

8 (3) require any person who has been granted a  
9 license or other authorization under the Export Con-  
10 trol Reform Act of 2018 (50 U.S.C. 4811 et seq.)  
11 to export, reexport, or in-country transfer a covered  
12 integrated circuit product to provide any information  
13 needed to maintain a **record** *of such export, reex-*  
14 *port, or in-country transfer/of such license or applica-*  
15 *tion?*.

*What is the record that is required to be main-  
tained?*

16 (e) ANNUAL ASSESSMENT AND REPORT ON NEW  
17 CHIP SECURITY MECHANISMS.—Not later than 2 years  
18 after the date of the enactment of this section, and annu-  
19 ally thereafter for 3 years, the Secretary shall—

20 (1) conduct an assessment of new chip security  
21 mechanisms that have been developed in the year  
22 preceding the date of such assessment; and

1           (2) submit to the appropriate congressional  
2 committees a report that includes—

3               (A) a summary of the results of the assess-  
4 ment required by paragraph (1);

5               (B) an evaluation of whether any of the  
6 new chip security mechanisms assessed under  
7 paragraph (1) should be added to or replace  
8 any of the existing chip security mechanisms re-  
9 quired by subsection (b)(1); and

10              (C) any recommendations for modifications  
11 to relevant export controls to allow for more  
12 flexibility with respect to the countries in which  
13 covered integrated circuit products may be ex-  
14 ported or reexported to, or in-country trans-  
15 ferred in, if such circuit products include chip  
16 security mechanisms that have implemented the  
17 enhancements identified under subsection  
18 (c)(1)(A).

19           (f) FOREIGN COMPETITIVENESS ASSESSMENT.—

20               (1) ANNUAL ASSESSMENT.—**【***Not later than ??,*  
21 *and annually thereafter,***】**the Secretary shall assess  
22 the competitiveness of foreign covered integrated cir-  
23 cuit products in relation to United States covered in-  
24 tegrated circuit products.

1           (2) FOREIGN DIRECT PRODUCT RULE.—The  
2       Secretary may issue a Foreign Direct Product Rule  
3       (section 734.9 of title 15, Code of Federal Regula-  
4       tions) with respect to a foreign covered integrated  
5       circuit products if the Secretary determines that it  
6       is necessary to prevent the diversion of such circuit  
7       products, ensure the global competitiveness of  
8       United States covered integrated circuit products, or  
9       otherwise achieve the goals of this section.

10          (3) WAIVER.—The Secretary may waive any re-  
11       quirements of this section after issuing a Foreign  
12       Direct Product Rule (section 734.9 of title 15, Code  
13       of Federal Regulations) if the Secretary determines  
14       that such rule does not address issues arising from  
15       the presence of sufficient volume of foreign covered  
16       integrated circuit products that undermined the  
17       goals of this section, provided that, not later than 7  
18       days before the date on which the Secretary exer-  
19       cises such a waiver, the Secretary submits a written  
20       notification to the appropriate congressional commit-  
21       tees containing detailed quantitative analysis sup-  
22       porting the use of such waiver.

23          (g) RULE OF CONSTRUCTION.—Nothing in this sec-  
24       tion may be construed as requiring the Secretary to—

1           (1) require any chip security mechanisms that  
2           may hinder the capability or functionality of a cov-  
3           ered integrated circuit product, such as a kill switch  
4           or geofencing mechanism, or undermine the cyberse-  
5           curity of the covered integrated circuit product;

6           (2) mandate the incorporation of a hardware-  
7           based location verification mechanism on a covered  
8           integrated circuit product;

9           (3) consider any requirements of this section as  
10          applicable to a person that fabricates covered inte-  
11          grated circuit products, unless such person also de-  
12          signs the respective covered integrated circuit prod-  
13          ucts; or

14          (4) require chip security mechanisms for ex-  
15          ports of integrated circuits, computers, electronic as-  
16          semblies, or components that are not marketed for  
17          artificial intelligence datacenter use.

18          (h) DEFINITIONS.—In this section:

19               (1) The term “appropriate congressional com-  
20               mittees” means—

21                       (A) the Committee on Banking, Housing,  
22                       and Urban Affairs of the Senate; and

23                       (B) the Committee on Foreign Affairs of  
24                       the House of Representatives.

1           (2) The term “chip security mechanism” means  
2           a software-, firmware-, or hardware-enabled security  
3           mechanism or a physical security mechanism, such  
4           as—

5                   (A) periodic on-site audits or inventories at  
6                   the end-user’s approved destination for the cov-  
7                   ered integrated circuit product;

8                   (B) periodic certifications by a United  
9                   States-headquartered entity, or its subsidiaries,  
10                  confirming that all covered integrated circuit  
11                  products are accounted for, provided the Sec-  
12                  retary determines that the United States-  
13                  headquartered entity or its subsidiaries  
14                  verifiably certifies that the United States-  
15                  headquartered entity or its subsidiaries main-  
16                  tain continuous and sufficiently secure control  
17                  and operation of said covered integrated circuit  
18                  products;

19                  (C) ping-based location verification  
20                  through a trusted, landmark server utilizing se-  
21                  cure software or firmware enabled mechanisms;  
22                  or

23                  (D) various other mechanisms that the  
24                  Secretary determines can verifiably demonstrate  
25                  that the covered integrated circuit product can

1 achieve geolocation verification with significant  
2 confidence.

3 (3) The term “covered integrated circuit prod-  
4 uct”

5 (A) means—

6 (i) an integrated circuit classified  
7 under Export Control Classification Num-  
8 ber 3A090 or 3A001.z (or any successor  
9 Export Classification Number);

10 (ii) a computer or other product clas-  
11 sified under Export Control Classification  
12 Number 4A090 or 4A003.z (or any suc-  
13 cessor Export Control Classification Num-  
14 ber); or

15 (iii) an integrated circuit or computer  
16 or a product containing an integrated cir-  
17 cuit or computer that is classified under an  
18 Export Control Classification Number that  
19 is substantially similar to the Export Con-  
20 trol Classification Numbers under subpara-  
21 graphs (A) and (B); and

22 (B) includes such modifications to the defi-  
23 nitions described in subparagraphs (A) through  
24 (C) that the Secretary may from time to time  
25 determine appropriate to ensure that only inte-

1           grated circuits, computers, electronic assembly,  
2           or components marketed for artificial intel-  
3           ligence datacenter use are subject to the re-  
4           quirements of this section.

5           (4) The term “export” has the meaning given  
6           that term in section 1742(3) of the Export Control  
7           Reform Act of 2018 (50 U.S.C. (3)).

8           (5) The term “in-country transfer” has the  
9           meaning given that term in section 1742(6) of the  
10          Export Control Reform Act of 2018 (50 U.S.C.  
11          4801(6)).

12          (6) The term “reexport” has the meaning given  
13          that term in section 1742(9) of the Export Control  
14          Reform Act of 2018 (50 U.S.C. (9)).

15          (7) The term “Secretary” means the Secretary  
16          of Commerce.

