AMENDMENT TO RULES COMM. PRINT 117–54
OFFERED BY MR. PFLUGER OF TEXAS

At the appropriate place in title LVIII, insert the following:

SEC. ___. ACTIONS TO ADDRESS STATE-SPONSORED CYBER ACTIVITIES AGAINST THE UNITED STATES.

(a) DESIGNATION AS A CRITICAL CYBER THREAT ACTOR.—

(1) IN GENERAL.—The President, acting through the Secretary of State, and in coordination with the heads of other relevant Federal departments and agencies, shall designate as a critical cyber threat actor—

(A) each foreign person and each agency or instrumentality of a foreign state that the President determines to be knowingly responsible for or complicit in, or have engaged in, directly or indirectly, state-sponsored cyber activities originating from, or directed by persons located, in whole or in substantial part, outside the United States that are reasonably likely to result in, or have contributed to, a significant
threat to the national security, foreign policy, or economic health or financial stability of the United States and that have the purpose or effect of—

(i) causing a significant disruption to the availability of a computer or network of computers;

(ii) harming, or otherwise significantly compromising the provision of service by, a computer or network of computers that support one or more entities in a critical infrastructure sector;

(iii) significantly compromising the provision of services by one or more entities in a critical infrastructure sector;

(iv) causing a significant misappropriation of funds or economic resources, trade secrets, personal identifiers, health or financial information for commercial or competitive advantage or private financial gain;

(v) destabilizing the financial sector of the United States by tampering with, altering, or causing a misappropriation of data;
(vi) causing a significant disruption to
the energy sector of the United States by
tampering with or altering data or equip-
ment necessary for the operation of the en-
ergy sector in the United States; or

(vii) interfering with or undermining
election processes or government institu-
tions by tampering with, altering, or caus-
ing misappropriation of data;

(B) each foreign person that the President
has determined to have knowingly, significantly,
and materially assisted, sponsored, or provided
financial, material, or technological support for,
or goods or services to or in support of, any ac-
tivities described in subparagraph (A) by a for-
eign person or agency or instrumentality of a
foreign state designated as a critical cyber
threat actor under subparagraph (A);

(C) each agency or instrumentality of a
foreign state that the President has determined
to have significantly and materially assisted,
sponsored, or provided financial, material, or
technological support for, or goods or services
to or in support of, any activities described in
subparagraph (A) by a foreign person or agency
or instrumentality of a foreign state designated
as a critical cyber threat actor under subpara-
graph (A); and

(D) any person determined by the Presi-
dent to be responsible for or complicit in, or to
have engaged in, the receipt or use for commer-
cial or competitive advantage or private finan-
cial gain, or by a commercial entity, outside the
United States of data or information, including
trade secrets, misappropriated through cyber-
enabled means, knowing they have been mis-
appropriated, where the misappropriation of
such trade secrets is reasonably likely to result
in, or has materially contributed to, a signifi-
cant threat to the national security, foreign pol-
icy, or economic health or financial stability of
the United States or personal safety of Amer-
ican citizens.

(2) TRANSMISSION TO CONGRESS.—Not later
than 7 calendar days after designating a foreign per-
son or agency or instrumentality of a foreign state
as a critical cyber threat actor under paragraph (1),
the President shall transmit to the appropriate con-
gressional committees in classified or unclassified
form a report identifying the designee.
(b) NON-TRAVEL-RELATED SANCTIONS.—

(1) IN GENERAL.—The President shall impose one or more of the applicable sanctions described in paragraph (2) with respect to each foreign person and each agency or instrumentality of a foreign state designated as a critical cyber threat actor under subsection (a).

(2) SANCTIONS DESCRIBED.—The sanctions described in this paragraph are the following:

(A) The President may provide for the withdrawal, limitation, or suspension of non-humanitarian United States development assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.).

(B) The President may provide for the withdrawal, limitation, or suspension of United States security assistance under part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.).

(C) The President may direct the United States executive director to each international financial institution to use the voice and vote of the United States to oppose any loan from the international financial institution that would
benefit the designated foreign person or the
designated agency or instrumentality of a for-

gie state.

(D) The President may direct the United
States International Development Finance Cor-
poration, or any other United States Govern-
ment agency not to approve the issuance of any
(or a specified number of) guarantees, insur-
ance, extensions of credit, or participation in
the extension of credit.

(E) The President may, pursuant to such
regulations or guidelines as the President may
prescribe, prohibit any United States person
from purchasing or selling any publicly traded
securities, or any publicly traded securities that
are derivative of such securities or are designed
to provide investment exposure to such securi-
ties or investing in or purchasing significant
amounts of equity or debt instruments of the
designated foreign person.

(F) The President may, pursuant to proce-
dures the President shall prescribe, which shall
include the opportunity to appeal actions under
this subparagraph, prohibit any United States
agency or instrumentality from procuring, or
entering into any contract for the procurement
of, any goods, technology, or services, or classes
of goods, technology, or services, from the des-
ignated foreign person or the designated agency
or instrumentality of a foreign state.

(G) The President may terminate—

(i) sales to that country under the
Arms Export Control Act (22 U.S.C. 2751
et seq.) of any defense articles, defense
services, or design and construction serv-
ices; and

(ii) sales to that country of any item
on the United States Munitions List main-
tained pursuant to part 121 of title 22,
Code of Federal Regulations.

(H) The President may prohibit the entity
and, when acting for or on the entity's behalf,
its successors, assigns, directors, officers, em-
ployees, representatives, or agents, from directly
or indirectly participating in transactions in-
volving any commodity, software, or technology
subject to United States jurisdiction under the
Export Administration Regulations ("EAR") or
any other activity subject to the EAR, includ-
ing—
(i) applying for, obtaining, or using any license, license exception, or export control document;

(ii) carrying out negotiations concerning, ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or servicing in any way any item exported or to be exported from the United States that is subject to the EAR; and

(iii) benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the EAR.

(I) The President may prohibit any person, whether a United States or non-United States person, from engaging in the following activities, either directly or indirectly, with the entity:

(i) Exporting or reexporting to or on behalf of the entity any item subject to the EAR.

(ii) Facilitating the acquisition or attempted acquisition by the entity of the
ownership, possession, or control of any item subject to the EAR that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the entity acquires or attempts to acquire such ownership, possession or control.

(iii) Acquiring from or facilitating the acquisition or attempted acquisition from the entity or any item subject to the EAR that has been exported from the United States.

(iv) Obtaining from the entity in the United States any item subject to the EAR with knowledge or reason to know that the item will be, or is intended to be, exported from the United States.

(v) Engaging in any transaction to service any item subject to the EAR that has been or will be exported from the United States and which is owned, possessed, or controlled by the entity if such service involves the use of any item subject to the EAR that has been or will be exported from the United States (for pur-
poses of this paragraph “service” means installation, maintenance, repair, modification, or testing).

(J)(i) The President may exercise all of the powers granted to the President under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) (except that the requirements of section 202 of such Act (50 U.S.C. 1701) shall not apply) to the extent necessary to block and prohibit all transactions in property and interests in property of the designated foreign person if such property and interests in property are in the United States, come within the United States, or are or come within the possession or control of a United States person.

(ii) The penalties provided for in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) shall apply to a person that violates, attempts to violate, conspires to violate, or causes a violation of regulations prescribed under clause (i) to the same extent that such penalties apply to a person that commits an unlawful act.
described in subsection (a) of such section 206.

(K) The President may, pursuant to such regulations as the President may prescribe, prohibit any transfers of credit or payments between one or more financial institutions or by, through, or to any financial institution, to the extent that such transfers or payments are subject to the jurisdiction of the United States and involve any interest of the designated foreign person.

(c) **Travel-related Sanctions.**—

(1) **Aliens ineligible for visas, admission, or parole.**—An alien who is designated as a critical cyber threat actor under subsection (a) is—

(A) inadmissible to the United States;

(B) ineligible to receive a visa or other documentation to enter the United States; and

(C) otherwise ineligible to be admitted or paroled into the United States or to receive any other benefit under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

(2) **Current visas revoked.**—The issuing consular officer, the Secretary of State, or the Secretary of Homeland Security (or a designee of either
such Secretaries) shall revoke any visa or other
entry documentation issued to the foreign person
designated as a critical cyber threat actor under sub-
section (a) regardless of when issued. A revocation
under this clause shall take effect immediately and
shall automatically cancel any other valid visa or
entry documentation that is in the possession of
such foreign person.

(d) ADDITIONAL SANCTIONS WITH RESPECT TO
FOREIGN COUNTRIES.—

(1) IN GENERAL.—The President may impose
any of the sanctions described in paragraph (2) with
respect to the government of each country that the
President has determined aided, abetted, or directed
a foreign person or agency or instrumentality of a
foreign state designated as a critical cyber threat
actor under subsection (a).

(2) SANCTIONS DESCRIBED.—The sanctions re-
ferred to in paragraph (1) are the following:

(A) The President may provide for the
withdrawal, limitation, or suspension of non-hu-
manitarian or non-trade-related assistance
United States development assistance under
chapter 1 of part I of the Foreign Assistance
Act of 1961 (22 U.S.C. 2151 et seq.).
(B) The President may provide for the withdrawal, limitation, or suspension of United States security assistance under part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2301 et seq.).

(C) The President may instruct the United States Executive Director to each appropriate international financial institution to oppose, and vote against the extension by such institution of any loan or financial assistance to the government of the country.

(D) No item on the United States Munitions List (maintained pursuant to part 121 of title 22, Code of Federal Regulations) or the Commerce Control List set forth in Supplement No. 1 to part 774 of title 15, Code of Federal Regulations, may be exported to the government of the country or any entity under its influence, control, or ownership.

(E)(i) No intrusion software or IP network communications surveillance systems or related items that are subject to the Export Administration Regulations, whether or not enumerated on the Commerce Control List, may be exported, reexported, or transferred, directly or
indirectly, to the government of the country or any entity under its influence, control, or ownership.

(ii) For purposes of this subparagraph, the terms “intrusion software” and “IP network communications” mean any—

(I) systems, equipment, or components specially designed for the generation, operation or delivery of, or communication with, with intrusion software;

(II) software specially designed or modified for the development or production of such systems, equipment or components;

(III) software specially designed for the generation, operation or delivery of, or communication with, intrusion software; technology required for the development of intrusion software; and

(IV) internet protocol network communications surveillance systems or equipment and test, inspection, production equipment, specially de-
signed components therefor, and de-
velopment and production software
and technology therefor.

(e) IMPLEMENTATION.—The President may exercise
all authorities provided under sections 203 and 205 of the
International Emergency Economic Powers Act (50
U.S.C. 1702 and 1704) to carry out this section.

(f) COORDINATION.—To the extent practicable—
(1) actions taken by the President pursuant to
this section should be coordinated with United
States allies and partners; and
(2) the Secretary of State should work with
United States allies and partners, on a voluntary
basis, to lead an international diplomatic initiative
to—
(A) deter critical cyber threat actors and
state-sponsored cyber activities; and
(B) provide mutual support to such allies
and partners participating in such initiative to
respond to such state-sponsored cyber activities.

(g) EXEMPTIONS, WAIVERS, AND REMOVALS OF
SANCTIONS AND DESIGNATIONS.—
(1) MANDATORY EXEMPTIONS.—Activities sub-
ject to the reporting requirements of title V of the
National Security Act of 1947 (50 U.S.C. 413 et
seq.), and any authorized intelligence activities of
the United States, shall be exempt from the imposi-
tion of sanctions under this section.

(2) WAIVER.—The President may waive, on a
case-by-case basis, the imposition of sanctions de-
scribed in this section for a period of not more than
1 year, and may renew such waiver for additional
periods of not more than 1 year, if the President
transmits to the appropriate congressional commit-
tees a written determination that such waiver meets
one or more of the following requirements:

(A) Such waiver is in the national interests
of the United States.

(B) Such waiver will further the enforce-
ment of this Act or is for an important law en-
forcement purpose.

(C) Such waiver is for an important hu-
manitarian purpose.

(3) REMOVALS OF SANCTIONS AND DESIGNA-
tions.—The President may prescribe rules and reg-
ulations for the removal of sanctions under sub-
sections (b), (c), and (d) and the removal of designa-
tions under subsection (a) if the President deter-
mines that a foreign person, agency or instrumen-
tality of a foreign state, or government of a country
subject to such sanctions or such designations, as
the case may be, has verifiably ceased its participa-
tion in any of the conduct with respect to which
such foreign person, agency or instrumentality of a
foreign state, or government was subject to such
sanctions or designation, as the case may be, under
this section, and has given assurances that such for-
eperson, agency or instrumentality of a foreign
state, or government, as the case may be, will no
longer participate in such conduct.

(4) EXCEPTION TO COMPLY WITH UNITED NA-
TIONS HEADQUARTERS AGREEMENT.—Sanctions
under subsection (e) shall not apply to a foreign per-
son if admitting such foreign person into the United
States is necessary to permit the United States to
comply with the Agreement regarding the Head-
quarters of the United Nations, signed at Lake Suc-
cess June 26, 1947, and entered into force Novem-
ber 21, 1947, between the United Nations and the
United States, or other applicable international obli-
gations.

(h) RULE OF CONSTRUCTION.—Nothing in this sec-
tion may be construed to limit the authority of the Presi-
dent under the International Emergency Economic Powers
Act (50 U.S.C. 1701 et seq.) or any other provision of
law to impose sanctions to address critical cyber threat actors and malicious state-sponsored cyber activities.

(i) DEFINITIONS.—In this section:

(1) The terms “admitted” and “alien” have the meanings given such terms in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101).

(2) The term “appropriate congressional committees” means—

(A) the Committee on Foreign Affairs, the Committee on Financial Services, the Committee on the Judiciary, the Committee on Oversight and Reform, and the Committee on Homeland Security of the House of Representatives; and

(B) the Committee on Foreign Relations, the Committee on Banking, Housing, and Urban Affairs, the Committee on the Judiciary, and the Committee on Homeland Security and Governmental Affairs of the Senate.

(3) The term “agency or instrumentality of a foreign state” has the meaning given such term in section 1603(b) of title 28, United States Code.

(4) The term “critical infrastructure sector” means any of the designated critical infrastructure sectors identified in the Presidential Policy Directive

(5) The term “foreign person” means a person that is not a United States person.

(6) The term “foreign state” has the meaning given such term in section 1603(a) of title 28, United States Code.

(7) The term “knowingly”, with respect to conduct, a circumstance, or a result, means that a person has actual knowledge, or should have known, of the conduct, the circumstance, or the result.

(8) The term “misappropriation” means taking or obtaining by improper means, without permission or consent, or under false pretenses.

(9) The term “state-sponsored cyber activities” means any malicious cyber-enabled activities that—

(A) are carried out by a government of a foreign country or an agency or instrumentality of a foreign state; or

(B) are carried out by a foreign person that is aided, abetted, or directed by a government of a foreign country or an agency or instrumentality of a foreign state.

(10) The term “United States person” means—
(A) a United States citizen or an alien lawfully admitted for permanent residence to the United States; or

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