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To direct the President to impose penalties pursuant to denial orders with respect to certain Chinese telecommunications companies that are in violation of the export control or sanctions laws of the United States, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JANUARY 16, 2019

Mr. COTTON (for himself and Mr. VAN HOLLEN) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To direct the President to impose penalties pursuant to denial orders with respect to certain Chinese telecommunications companies that are in violation of the export control or sanctions laws of the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Telecommunications
5 Denial Order Enforcement Act”.

1 **SEC. 2. STATEMENT OF POLICY.**

2 It shall be the policy of the United States to enforce
3 denial orders on covered telecommunications companies
4 (as defined in section 3(d)) found to have violated the ex-
5 port control or sanctions laws of the United States.

6 **SEC. 3. IMPOSITION AND ENFORCEMENT OF DENIAL OR-**
7 **DERS WITH RESPECT TO COVERED TELE-**
8 **COMMUNICATIONS COMPANIES.**

9 (a) IMPOSITION OF DENIAL ORDERS.—

10 (1) IN GENERAL.—Not later than 180 days
11 after the date of the enactment of this Act, and an-
12 nually thereafter—

13 (A) the President shall determine and re-
14 port to the appropriate congressional commit-
15 tees if any covered telecommunications company
16 is in violation of an export control or sanctions
17 law of the United States; and

18 (B) if the President makes an affirmative
19 determination with respect to a covered tele-
20 communications company under subparagraph
21 (A), the President shall impose penalties pursu-
22 ant to a denial order with respect to the com-
23 pany or its agents or affiliates as described in
24 paragraph (2).

25 (2) PENALTIES DESCRIBED.—The penalties de-
26 scribed in this paragraph are the following:

1 (A) The covered telecommunications com-
2 pany and when acting for or on their behalf,
3 their successors, assigns, directors, officers, em-
4 ployees, representatives, or agents (hereinafter
5 each a “denied person”), may not, directly or
6 indirectly, participate in any way in any trans-
7 action involving any commodity, software, or
8 technology (hereinafter collectively referred to
9 as “item”) exported or to be exported from the
10 United States that is subject to the Export Ad-
11 ministration Regulations (as codified in sub-
12 chapter C of chapter VII of title 15, Code of
13 Federal Regulations, or any successor regula-
14 tions), or in any other activity subject to the
15 Export Administration Regulations.

16 (B) No person may, directly or indirectly,
17 do any of the following:

18 (i) Export or reexport to or on behalf
19 of a denied person any item subject to the
20 Export Administration Regulations.

21 (ii) Take any action that facilitates
22 the acquisition or attempted acquisition by
23 a denied person of the ownership, posses-
24 sion, or control of any item subject to the
25 Export Administration Regulations that

1 has been or will be exported from the
2 United States, including financing or other
3 support activities related to a transaction
4 whereby a denied person acquires or at-
5 tempts to acquire such ownership, posses-
6 sion, or control.

7 (iii) Take any action to acquire from
8 or to facilitate the acquisition or attempted
9 acquisition from a denied person of any
10 item subject to the Export Administration
11 Regulations that has been exported from
12 the United States.

13 (iv) Obtain from a denied person in
14 the United States any item subject to the
15 Export Administration Regulations with
16 knowledge or reason to know that the item
17 will be, or is intended to be, exported from
18 the United States.

19 (v) Engage in any transaction to serv-
20 ice any item subject to the Export Admin-
21 istration Regulations that has been or will
22 be exported from the United States and
23 which is owned, possessed, or controlled by
24 a denied person, or service any item, of
25 whatever origin, that is owned, possessed,

1 or controlled by a denied person if such
2 service involves the use of any item subject
3 to the Export Administration Regulations
4 that has been or will be exported from the
5 United States.

6 (3) REPORT.—The President shall submit to
7 the appropriate congressional committees an annual
8 report on the implementation of this subsection.

9 (b) PROHIBITION ON MODIFICATION OF PEN-
10 ALTIES.—Notwithstanding any other provision of law, no
11 official of an executive agency may modify any penalty,
12 including a penalty imposed pursuant to a denial order,
13 implemented by the Government of the United States with
14 respect to a covered telecommunications company or its
15 agents or affiliates pursuant to a determination that the
16 company has violated an export control or sanctions law
17 of the United States until the date that is 30 days after
18 the President certifies to the appropriate congressional
19 committees that the company—

20 (1) has not, for a period of one year, conducted
21 activities in violation of the laws of the United
22 States; and

23 (2) is fully cooperating with investigations into
24 the activities of the company conducted by the Gov-
25 ernment of the United States, if any.

1 (c) REGULATIONS.—The President is authorized to
2 prescribe such regulations as may be necessary to carry
3 out this section.

4 (d) DEFINITIONS.—In this section:

5 (1) APPROPRIATE CONGRESSIONAL COMMIT-
6 TEES.—The term “appropriate congressional com-
7 mittees” means—

8 (A) the Committee on Financial Services
9 and the Committee on Foreign Affairs of the
10 House of Representatives; and

11 (B) the Committee on Banking, Housing,
12 and Urban Affairs and the Committee on For-
13 eign Relations of the Senate.

14 (2) COVERED TELECOMMUNICATIONS COM-
15 PANY.—The term “covered telecommunications com-
16 pany” means any of the following:

17 (A) Huawei Technologies Company or
18 ZTE Corporation (or any subsidiary or affiliate
19 of such entities).

20 (B) Any other telecommunications com-
21 pany domiciled in the People’s Republic of
22 China (or any subsidiary or affiliate of such en-
23 tities), excluding any subsidiary of a foreign
24 company domiciled in the People’s Republic of
25 China.

1 (3) EXECUTIVE AGENCY.—The term “executive
2 agency” means—

3 (A) an executive department specified in
4 section 101 of title 5, United States Code;

5 (B) a military department specified in sec-
6 tion 102 of title 5, United States Code;

7 (C) an independent establishment as de-
8 fined in section 104(1) of title 5, United States
9 Code; and

10 (D) a wholly owned Government corpora-
11 tion fully subject to chapter 91 of title 31,
12 United States Code.

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