

117TH CONGRESS
2D SESSION

S. 5050

To impose sanctions on certain foreign flash memory integrated circuit companies that threaten the interests of the United States.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 29, 2022

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To impose sanctions on certain foreign flash memory integrated circuit companies that threaten the interests of the United States.

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 “Defending Memory
5 Chip Supply Chains from the Chinese Communist Party
6 Act”.

7 **SEC. 2. IMPOSITION OF SANCTIONS ON CERTAIN FOREIGN**
8 **ENTITIES.**

9 (a) IN GENERAL.—

1 (1) ASSET BLOCKING.—On and after the date
2 that is 30 days after the date of the enactment of
3 this Act, the President shall exercise all the powers
4 granted to the President under the International
5 Emergency Economic Powers Act (50 U.S.C. 1701
6 et seq.) to the extent necessary to block and prohibit
7 all significant transactions in property and interests
8 in property of an entity described in subsection (b),
9 if such property and interests in are in the United
10 States, come within the United States, or are or
11 come within the possession or control of a United
12 States person.

13 (2) DETERMINATION OF SIGNIFICANCE.—For
14 the purposes of this subsection, in determining if
15 transactions are significant, the President may con-
16 sider the totality of the facts and circumstances, in-
17 cluding the factors set forth in section 561.404 of
18 title 31, Code of Federal Regulations (or any cor-
19 responding similar regulation or ruling).

20 (3) RULE OF CONSTRUCTION.—For purposes of
21 this section, participation in an international stand-
22 ards-setting organization or in the activities of such
23 an organization may not be construed to be trans-
24 actions.

1 (b) ENTITIES AFFILIATED WITH A COUNTRY OF
2 CONCERN DESCRIBED.—An entity is described in this
3 subsection if the entity is—

4 (1) Yangtze Memory Technologies Corporation
5 (YMTC), any of its subsidiaries, or any company in
6 which YMTC or its subsidiaries own at least 5 per-
7 cent; or

8 (2) an entity—

9 (A) that is engaged in the production of
10 flash memory integrated circuits of at least 128
11 layers; and

12 (B)(i) that receives or has received sub-
13 sidies or investments from any national, provin-
14 cial, county, municipal, or other government,
15 quasi-government, or party body of a country of
16 concern, including the Chinese Communist
17 Party;

18 (ii) that has links to the sale, transfer, or
19 research and development of technology for the
20 Armed Forces of a country of concern, includ-
21 ing the People’s Liberation Army;

22 (iii) that is directly or indirectly owned or
23 controlled by the government or ruling party of
24 a country of concern or by another entity de-
25 scribed in this subsection;

1 (iv) five percent or more of the outstanding
 2 voting stock or shares of which are owned, con-
 3 trolled, or held by the government or ruling
 4 party of a country of concern or by another en-
 5 tity described in this subsection;

6 (v) that is subject to substantial influence
 7 from either a country of concern or another en-
 8 tity described in this subsection;

9 (vi) that is domiciled in a country of con-
 10 cern and shares with another entity described
 11 in this subsection an employee in a position of
 12 material decisionmaking authority;

13 (vii) that is part of another entity that is
 14 headquartered in a country of concern, includ-
 15 ing a subsidiary, a holding company, a contract
 16 affiliate, or a variable interest entity; or

17 (viii) that is otherwise substantially influ-
 18 enced by a national of a country of concern or
 19 by another entity domiciled in the country of
 20 concern.

21 (c) EXCEPTIONS.—

22 (1) INTELLIGENCE ACTIVITIES.—Sanctions
 23 under this section shall not apply to any activity
 24 subject to the reporting requirements under title V
 25 of the National Security Act of 1947 (50 U.S.C.

1 3091 et seq.) or any authorized intelligence activities
2 of the United States.

3 (2) EXCEPTION RELATING TO IMPORTATION OF
4 GOODS.—

5 (A) IN GENERAL.—The authorities and re-
6 quirements to impose sanctions authorized
7 under this section shall not include the author-
8 ity or requirement to impose sanctions on the
9 importation of goods.

10 (B) GOOD DEFINED.—In this paragraph,
11 the term “good” means any article, natural or
12 manmade substance, material, supply or manu-
13 factured product, including inspection and test
14 equipment, and excluding technical data.

15 (d) WAIVER.—The President may waive the applica-
16 tion of sanctions under this section with respect to a for-
17 eign person for renewable periods of not more than 30
18 days each if the President determines and reports to Con-
19 gress that such a waiver is vital to the national security
20 interests of the United States.

21 (e) IMPLEMENTATION; PENALTIES.—

22 (1) IMPLEMENTATION.—The President shall ex-
23 ercise the authorities provided to the President
24 under sections 203 and 205 of the International
25 Emergency Economic Powers Act (50 U.S.C. 1702

and 1704) to the extent necessary to carry out this section.

(2) PENALTIES.—A person that violates, attempts to violate, conspires to violate, or causes a violation of subsection (a) or any regulation, license, or order issued to carry out that subsection shall be subject to the penalties set forth in subsections (b) and (c) of section 206 of the International Emergency Economic Powers Act (50 U.S.C. 1705) to the same extent as a person that commits an unlawful act described in subsection (a) of that section.

(f) DEFINITIONS.—

(1) IN GENERAL.—In this section:

(A) COUNTRY OF CONCERN.—The term “country of concern”—

(i) has the meaning given the term “foreign adversary” in section 8(c)(2) of the Secure and Trusted Communications Networks Act of 2019 (47 U.S.C. 1607(c)(2)); and

(ii) includes the People’s Republic of China, Russia, Iran, North Korea, Cuba, and Venezuela.

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

1 (i) a United States citizen or an alien
2 lawfully admitted for permanent residence
3 to the United States; or

4 (ii) an entity organized under the laws
5 of the United States or any jurisdiction
6 within the United States, including a for-
7 eign branch of such an entity.

8 (g) SEVERABILITY.—If any provision of this Act or
9 its application to any person or circumstance is held in-
10 valid, the invalidity does not affect other provisions or ap-
11 plications of this Act that can be given effect without the
12 invalid provision or application, and to this end the provi-
13 sions of this Act are severable.

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