

119TH CONGRESS
1ST SESSION

S. 2040

To establish the Office of Information and Communications Technology and Services within the Bureau of Industry and Security of the Department of Commerce, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 11, 2025

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

A BILL

To establish the Office of Information and Communications Technology and Services within the Bureau of Industry and Security of the Department of Commerce, 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 “Connected Vehicle Na-
5 tional Security Review Act”.

1 **SEC. 2. OFFICE OF INFORMATION AND COMMUNICATIONS**
 2 **TECHNOLOGY AND SERVICES.**

3 (a) IN GENERAL.—The Export Control Reform Act
 4 of 2018 (50 U.S.C. 4801 et seq.) is amended by adding
 5 at the end the following:

6 **“PART IV—OFFICE OF INFORMATION AND**
 7 **COMMUNICATIONS TECHNOLOGY AND SERVICES**
 8 **“SEC. 1785. DEFINITIONS.**

9 “In this part:

10 “(1) AGENCY.—The term ‘agency’ has the
 11 meaning given that term in section 551 of title 5,
 12 United States Code.

13 “(2) COMMERCE CONTROL LIST.—The term
 14 ‘Commerce Control List’ means the Commerce Con-
 15 trol List set forth in Supplement No. 1 to part 774
 16 of the Export Administration Regulations.

17 “(3) CONNECTED VEHICLE.—

18 “(A) IN GENERAL.—Except as provided by
 19 subparagraph (B), the term ‘connected vehicle’
 20 means a vehicle driven or drawn by mechanical
 21 power and manufactured primarily for use on
 22 public streets, roads, and highways, that inte-
 23 grates onboard networked hardware with auto-
 24 motive software systems to communicate via
 25 dedicated short-range communication, cellular
 26 telecommunications connectivity, satellite com-

1 munication, or other wireless spectrum
2 connectivity with any other network or device.

3 “(B) EXCLUSIONS.—The term ‘connected
4 vehicle’ does not include a vehicle operated only
5 on a rail line.

6 “(4) COVERED TRANSACTION.—The term ‘cov-
7 ered transaction’ means a transaction that—

8 “(A) is conducted by any person subject to
9 the jurisdiction of the United States or involves
10 property subject to the jurisdiction of the
11 United States;

12 “(B) involves—

13 “(i) ICTS (as the term is defined by
14 Executive Order 13873) that is—

15 “(I) designed, developed, manu-
16 factured, or supplied by persons
17 owned by, controlled by, or subject to
18 a jurisdiction or direction of a juris-
19 diction of concern; and

20 “(II) used in a connected vehicle;

21 or

22 “(ii) an item on the Commerce Con-
23 trol List that is used in a connected vehi-
24 cle; and

25 “(C) is—

1 “(i) an ICTS transaction (as de-
2 scribed in section 791.1 of title 15, Code of
3 Federal Regulations (or any successor reg-
4 ulation)); or

5 “(ii) a transaction relating to the ex-
6 port, reexport, or in-country transfer for
7 an item described in subparagraph (B)(ii).

8 “(5) CRITICAL INFRASTRUCTURE.—The term
9 ‘critical infrastructure’ means systems and assets,
10 whether physical or virtual, so vital to the United
11 States that the incapacity or destruction of such sys-
12 tems and assets would have a debilitating impact on
13 national security, national economic security, na-
14 tional public health or safety, or any combination of
15 those matters.

16 “(6) ENTITY.—The term ‘entity’ means any
17 firm, partnership, trust, joint venture, corporation,
18 or other association or organization.

19 “(7) ENTITY OF CONCERN.—The term ‘entity
20 of concern’ means an entity owned or controlled
21 by—

22 “(A) an entity listed on the Entity List set
23 forth in Supplement No. 4 to part 744 of the
24 Export Administration Regulation; or

“(B) a person subject to the jurisdiction of a country that is under a comprehensive United States arms embargo, as listed in Country Group D:5 in Supplement No. 1 to part 740 of the Export Administration Regulations.

“(8) INFORMATION AND COMMUNICATIONS TECHNOLOGY AND SERVICES; ICTS.—The terms ‘information and communications technology and services’ and ‘ICTS’ have the meaning given the term ‘information and communications technology or services’ in Executive Order 13873 (50 U.S.C. 1701 note; relating to securing the information and communications technology and services supply chain).

“(9) JURISDICTION OF CONCERN.—The term ‘jurisdiction of concern’ means any of the following:

“(A) The People’s Republic of China.

“(B) The Russian Federation.

“(C) The Islamic Republic of Iran.

“(D) The Democratic People’s Republic of Korea.

“(10) RELEVANT COMMITTEES OF CONGRESS.—The term ‘relevant committees of Congress’ means—

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

1 “(B) the Committee on Foreign Affairs of
2 the House of Representatives.

3 “(11) UNDUE RISK.—The term ‘undue risk’
4 means any of the following:

5 “(A) The undue risk of sabotage to or sub-
6 version of the design, integrity, manufacturing,
7 production, distribution, installation, operation,
8 or maintenance of ICTS in the United States.

9 “(B) The undue risk of catastrophic effects
10 on the security or resiliency of United States
11 critical infrastructure or the digital economy of
12 the United States.

13 “(C) The undue risk of an entity of con-
14 cern acquiring an item on the Commerce Con-
15 trol List.

16 **“SEC. 1785A. OFFICE OF INFORMATION AND COMMUNICA-**
17 **TIONS TECHNOLOGY AND SERVICES.**

18 “(a) ESTABLISHMENT.—There is established within
19 the Bureau of Industry and Security of the Department
20 of Commerce an Office of Information and Communica-
21 tions Technology and Services (in this section referred to
22 as the ‘Office’).

23 “(b) EXECUTIVE DIRECTOR.—The head of the Office
24 shall be an Executive Director, who shall—

25 “(1) be appointed by the Secretary; and

1 “(2) report to the Assistant Secretary ap-
2 pointed under section 1782(a)(2).

3 “(c) DUTIES.—The Office shall—

4 “(1) identify and prevent through mitigation or
5 prohibition the undue risk posed by certain trans-
6 actions; and

7 “(2) educate industry and other partners on
8 relevant risks and communicate decisions.

9 “(d) SPECIAL HIRING AUTHORITY.—The Executive
10 Director may appoint, without regard to the provisions of
11 sections 3309 through 3318 of title 5, United States Code,
12 candidates directly to positions in the competitive service
13 (as defined in section 2102 of that title).

14 “(e) TRANSITION RULES.—

15 “(1) CONTINUATION IN OFFICE OF THE EXECU-
16 TIVE DIRECTOR.—An individual serving as the Exec-
17 utive Director before the date of the enactment of
18 this part may serve as the Executive Director on
19 and after that date without the need for appoint-
20 ment under subsection (b).

21 “(2) REPORTING.—The Executive Director
22 shall report to the Under Secretary for Industry and
23 Security until such time as an Assistant Secretary is
24 appointed, by and with the advice and consent of the
25 Senate, under section 1782(a)(2).

1 **“SEC. 1785B. TRANSACTION REVIEW PROCESS.**

2 “(a) IN GENERAL.—The Secretary, acting through
3 the Office of Information and Communications Tech-
4 nology and Services, shall review covered transactions ac-
5 cording to the following procedures:

6 “(1) REVIEW.—The Secretary may review any
7 covered transaction that the Secretary suspects
8 poses an undue risk.

9 “(2) INVESTIGATIVE AUTHORITY.—In reviewing
10 a covered transaction described in paragraph (1) the
11 Secretary may do the following:

12 “(A) Require any person subject to the ju-
13 risdiction of the United States to furnish under
14 oath, in the form of a report or otherwise, at
15 any time as may be required by the Secretary,
16 complete information relative to any such trans-
17 action.

18 “(B) Require that any such report take a
19 particular form as directed in a request, regula-
20 tion, or other guidance provided by the Sec-
21 retary, which may be required before, during, or
22 after any such transaction.

23 “(C) Through any agency, conduct inves-
24 tigation, hold hearings, administer oaths, ex-
25 amine witnesses, receive evidence, take deposi-
26 tions, and require by subpoena the attendance

1 and testimony of witnesses and the production
2 of any book, contract, letter, paper, and other
3 hard copy or document relating to any matter
4 under investigation, regardless of whether any
5 such report has been required or filed.

6 “(b) MITIGATION OF RISK.—

7 “(1) IN GENERAL.—If the Secretary finds
8 under subsection (a) that a covered transaction
9 poses an undue risk, the Secretary shall mitigate the
10 undue risk as described in paragraph (2) or prohibit
11 the transaction.

12 “(2) MITIGATION OF RISK AUTHORITY.—The
13 Secretary may choose to mitigate any undue risk
14 posed by a covered transaction reviewed under sub-
15 section (a). To mitigate the undue risk, the Sec-
16 retary may do any of the following with regard to
17 any party to the covered transaction:

18 “(A) Negotiate, enter into or impose, and
19 enforce any agreement or condition.

20 “(B) Require adherence to certain cyberse-
21 curity standards and other mitigation require-
22 ments determined to be necessary by the Sec-
23 retary.

24 “(C) Require the exclusion (in whole or in
25 part) of certain components, including physical

1 parts or hardware, software, digital services,
 2 and digital components, of any ICTS or any
 3 sub-component of ICTS from any such trans-
 4 action.

5 “(D) Anything else the Secretary deter-
 6 mines to be appropriate or necessary to miti-
 7 gate the undue risk.

8 “(3) PROHIBITION OF TRANSACTION.—If the
 9 Secretary determines that the undue risk posed by
 10 a covered transaction cannot be effectively mitigated
 11 for any reason, the Secretary—

12 “(A) may prohibit the covered transaction;

13 and

14 “(B) if the Secretary prohibits the trans-
 15 action, shall—

16 “(i) notify any party subject to the re-
 17 view of the covered transaction of the pro-
 18 hibition; and

19 “(ii) publish the prohibition in the
 20 Federal Register.

21 **“SEC. 1785C. REGULATING COVERED TRANSACTIONS CON-**
 22 **NECTED TO ENTITIES OR JURISDICTIONS OF**
 23 **CONCERN.**

24 “(a) AUTHORIZATION TO ISSUE RULES FOR CER-
 25 TAIN CLASSES OF COVERED TRANSACTIONS.—The Sec-

1 retary may determine that, for certain classes of covered
2 transactions, a review conducted under section 1785B
3 may not effectively address undue risks and may promul-
4 gate, in accordance with section 553 of title 5, United
5 States Code, regulations that do the following:

6 “(1) Identify particular covered transactions,
7 entities of concern, or jurisdictions of concern that
8 warrant particular scrutiny for undue risk.

9 “(2) Establish mitigation measures to address
10 undue risk, to include prohibitions related to entities
11 of concern or jurisdictions of concern or for classes
12 of covered transactions.

13 “(3) Establish criteria by which particular cov-
14 ered transactions or particular classes of partici-
15 pants in the covered transaction supply chain may
16 be recognized as categorically included in or as cat-
17 egorically excluded from mitigation measures or pro-
18 hibitions.

19 “(4) Establish particular classes of covered
20 transactions or parties to covered transactions that
21 must abide by certain prohibitions or mitigation
22 measures.

23 “(5) Establish procedures to authorize or li-
24 cense transactions otherwise prohibited pursuant to
25 a regulation promulgated under this section.

1 “(6) Any other rule the Secretary determines to
2 be appropriate.

3 “(b) OTHER REVIEW BY SECRETARY PERMITTED.—
4 The promulgation of any regulation under subsection (a)
5 does not preclude the Secretary from initiating a review
6 of any covered transaction, including a covered transaction
7 that belongs to an identified category under this section.

8 **“SEC. 1785D. RISK ASSESSMENTS.**

9 “(a) DNI RISK ASSESSMENTS.—Not later than 180
10 days after the date of the enactment of this part, and an-
11 nually thereafter, the Director of National Intelligence
12 shall submit to the Secretary—

13 “(1) a risk assessment related to the threats
14 posed by entities of concern or jurisdictions of con-
15 cern to the United States by the supply chain of cov-
16 ered transactions that—

17 “(A) includes specific criteria to evaluate
18 any risk to the national security of the United
19 States; and

20 “(B) identifies any entities of concern, ju-
21 risdictions of concern, participants in such sup-
22 ply chain, and covered transactions or classes of
23 covered transactions posing the highest risks to
24 the national security of the United States; and

1 “(2) a risk assessment of the threats posed by
 2 the supply chains of covered transactions to the na-
 3 tional security of the United States.

4 “(b) SUBMISSION OF RISK ASSESSMENT.—

5 “(1) IN GENERAL.—Not later than 90 days
 6 after the date on which the risk assessments re-
 7 quired by subsection (a) are submitted to the Sec-
 8 retary, the Director of National Intelligence shall
 9 submit the risk assessments to the relevant commit-
 10 tees of Congress in unclassified format.

11 “(2) CLASSIFIED ANNEX.—The risk assess-
 12 ments submitted under paragraph (1)—

13 “(A) may include a classified annex; and

14 “(B) shall include in the classified annex
 15 only the identification of specific participants in
 16 the supply chain of covered transactions that
 17 pose risk to the national security of the United
 18 States.

19 **“SEC. 1785E. OTHER AUTHORITIES.**

20 “(a) REGULATIONS.—Any regulation the Secretary
 21 promulgated under Executive Order 13873 (50 U.S.C.
 22 1701 note; relating to securing the information and com-
 23 munications technology and services supply chain) and
 24 Executive Order 14034 (50 U.S.C. 1701 note; relating to
 25 protecting Americans’ sensitive data from foreign adver-

1 saries) before the date of the enactment of this part shall
2 continue in effect on and after such date of enactment.
3 In carrying out the requirements of this part, the Sec-
4 retary may amend regulations or promulgate new regula-
5 tions and procedures as the Secretary considers appro-
6 priate.

7 “(b) GUIDANCE.—The Secretary may issue guidance
8 and establish procedures to carry out this part.

9 “(c) TECHNICAL ADVISORY COMMITTEE.—

10 “(1) IN GENERAL.—Not later than 180 days
11 after the date of the enactment of this part, the Sec-
12 retary shall establish an ICTS technical advisory
13 committee to report to the Executive Director of the
14 Office of Information and Communications Tech-
15 nology and Services.

16 “(2) MEMBERSHIP.—The ICTS advisory com-
17 mittee established under paragraph (1) shall include
18 the following:

19 “(A) Industry academic experts on covered
20 transaction supply chains.

21 “(B) Representatives of private sector
22 companies, industry associations, and academia.

23 “(C) A designated Federal officer to ad-
24 minister the advisory committee and report to
25 the Executive Director.

1 “(d) CONFIDENTIALITY AND DISCLOSURE OF INFOR-
2 MATION.—Any information or document not otherwise
3 publicly or commercially available that has been submitted
4 to the Secretary under this part shall not be released pub-
5 licly excepted to the extent required by Federal law.

6 **“SEC. 1785F. ENFORCEMENT.**

7 “(a) INVESTIGATIONS.—

8 “(1) IN GENERAL.—The Secretary may conduct
9 an investigation of any violation of an authorization,
10 order, mitigation measure, regulation, or prohibition
11 issued under this part.

12 “(2) ACTIONS BY DESIGNEES.—In conducting
13 an investigation described in paragraph (1), the As-
14 sistant Secretary of Commerce for Export Enforce-
15 ment, or designated officers or employees of the Sec-
16 retary may, to the extent necessary or appropriate to
17 enforce this part, exercise such authority as is con-
18 ferred upon them by any other Federal law, subject
19 to policies and procedures approved by the Attorney
20 General.

21 “(b) PERMITTED ACTIVITIES.—An officer or em-
22 ployee authorized to conduct investigations under sub-
23 section (a) by the Secretary may do any of the following:

24 “(1) Inspect, search, detain, seize, or impose a
25 temporary denial order with respect to any item, in

1 any form, or conveyance on which it is believed that
2 there are items that have been, are being, or are
3 about to be imported into the United States in viola-
4 tion of this part or any other applicable Federal law.

5 “(2) Require, inspect, and obtain any book,
6 record, and any other information from any person
7 subject to the provisions of this part or other appli-
8 cable Federal law.

9 “(3) Administer an oath or affirmation and, by
10 subpoena, require any person to appear and testify
11 or to appear and produce books, records, and other
12 writings.

13 “(4) Obtain a court order and issue legal proc-
14 ess to the extent authorized under chapters 119,
15 121, and 206 of title 18, United States Code, or any
16 other applicable Federal law.

17 “(c) ENFORCEMENT OF SUBPOENAS.—In the case of
18 contumacy by, or refusal to obey a subpoena issued to,
19 any person under subsection (b)(3), a district court of the
20 United States, after notice to such person and a hearing,
21 shall have jurisdiction to issue an order requiring such
22 person to appear and give testimony or to appear and
23 produce books, records, and other writings, regardless of
24 format, that are the subject of the subpoena. Any failure

1 to obey such order of the court may be punished by such
2 court as a contempt thereof.

3 “(d) ACTIONS BY THE ATTORNEY GENERAL.—The
4 Attorney General may bring an action in an appropriate
5 district court of the United States for appropriate relief,
6 including declaratory and injunctive, or divestment relief,
7 against any person who violates this part or any regula-
8 tion, order, direction, mitigation measure, prohibition, or
9 other authorization or directive issued under this part.

10 **“SEC. 1785G. JUDICIAL REVIEW.**

11 “(a) RIGHT OF ACTION.—A claim or petition chal-
12 lenging this part or any action, finding, or determination
13 under this part may be filed only in the United States
14 Court of Appeals for the District of Columbia Circuit.

15 “(b) EXCLUSIVE JURISDICTION.—The United States
16 Court of Appeals for the District of Columbia Circuit shall
17 have exclusive jurisdiction over claims or petitions arising
18 under this part against the United States, any agency, or
19 any component or official of an agency, subject to review
20 by the Supreme Court of the United States under section
21 1254 of title 28, United States Code.

22 “(c) IN CAMERA AND EX PARTE REVIEW.—The fol-
23 lowing information may be included in the administrative
24 record and shall be submitted to the court only ex parte
25 and in camera:

1 “(1) Sensitive security information, as defined
2 in section 1520.5 of title 49, Code of Federal Regu-
3 lations.

4 “(2) Records or information compiled for law
5 enforcement purposes, as described in section
6 552(b)(7) of title 5, United States Code.

7 “(3) Classified information, meaning any infor-
8 mation or material that has been determined by the
9 United States Government pursuant to an Executive
10 order, statute, or regulation, to require protection
11 against unauthorized disclosure for reasons of na-
12 tional security and any restricted data, as defined in
13 section 11 of the Atomic Energy Act of 1954 (42
14 U.S.C. 2014).

15 “(4) Information subject to privilege or protec-
16 tions under any other provision of law, including
17 subchapter II of chapter 53 of title 31, United
18 States Code.

19 “(d) INFORMATION UNDER SEAL.—Any information
20 that is part of the administrative record filed ex parte and
21 in camera under subsection (c), or cited by the court in
22 any decision, shall be treated by the court consistent with
23 the provisions of this section. In no event shall such infor-
24 mation be released to the claimant or petitioner or as part
25 of the public record.

1 “(e) RETURN OF ADMINISTRATIVE RECORD.—After
 2 the expiration of the time to seek further review, or the
 3 conclusion of further proceedings, the court shall return
 4 the administrative record, including any and all copies, to
 5 the United States.

6 “(f) EXCLUSIVE REMEDY.—A determination by the
 7 court under this section shall be the exclusive judicial rem-
 8 edy for any claim or petition for review challenging this
 9 part or any action, finding, or determination under this
 10 part against the United States, any agency, or any compo-
 11 nent or official of any such agency.

12 “(g) RULE OF CONSTRUCTION.—Nothing in this sec-
 13 tion shall be construed as limiting, superseding, or pre-
 14 venting the invocation of, any privileges or defenses that
 15 are otherwise available at law or in equity to protect
 16 against the disclosure of information.

17 “(h) STATUTE OF LIMITATIONS.—A challenge to any
 18 determination under this part may only be brought not
 19 later than 180 days after the date of such a determination.

20 **“SEC. 1785H. PENALTIES.**

21 “(a) UNLAWFUL ACTS.—It shall be unlawful for a
 22 person to violate, attempt to violate, conspire to violate,
 23 or cause a violation of any regulation, order, direction,
 24 prohibition, or other authorization or directive issued
 25 under this part.

1 “(b) CRIMINAL PENALTIES.—A person who willfully
 2 commits, willfully attempts to commit, or willfully con-
 3 spires to commit, or aids and abets in the commission of
 4 a violation of subsection (a) shall be fined not more than
 5 \$1,000,000 for each violation, imprisoned for not more
 6 than 20 years, or both.

7 “(c) CIVIL PENALTIES.—

8 “(1) IN GENERAL.—The Secretary may impose
 9 the following civil penalties on a person for each vio-
 10 lation by that person of a rule promulgated under
 11 this section:

12 “(A) A monetary penalty that is the great-
 13 er of—

14 “(i) \$250,000; or

15 “(ii) an amount that is twice the value
 16 of the action that is the basis of the viola-
 17 tion with respect to which the penalty is
 18 imposed.

19 “(B) Revocation of any mitigation measure
 20 or authorization issued under this part to the
 21 person.

22 “(C) A prohibition or other restriction on
 23 the ability of the person to engage in any cov-
 24 ered transaction or class of such transactions.

1 “(2) PROCEDURES.—Any civil penalty imposed
2 under paragraph (1) may be imposed only pursuant
3 to a rule promulgated under this section.

4 “(3) STANDARDS FOR LEVELS OF CIVIL PEN-
5 ALTY.—The Secretary may, by rule, provide stand-
6 ards for establishing levels of civil penalty under
7 paragraph (1) based upon factors, including—

8 “(A) the seriousness of the violation;

9 “(B) the culpability of the violator, includ-
10 ing any pattern of reckless behavior; and

11 “(C) any mitigating factors, such as the
12 record of cooperation of the violator with the
13 Federal Government in disclosing the violation.

14 “(d) PRE-PENALTY NOTICES; SETTLEMENTS.—

15 “(1) PRE-PENALTY NOTICES.—

16 “(A) IN GENERAL.—If the Secretary has
17 reason to believe that there has occurred a vio-
18 lation of subsection (a) and determines that a
19 civil monetary penalty under subsection
20 (c)(1)(A) is warranted, the Secretary shall issue
21 a pre-penalty notice informing the alleged viola-
22 tor of the intent of the Secretary to impose a
23 monetary penalty. The Secretary shall consider
24 any voluntary disclosures of a violation before
25 issuing such notice.

1 “(B) FORM OF NOTICE.—A pre-penalty
2 notice issued under subparagraph (A) shall be
3 in writing and issued either electronically or by
4 mail to the alleged violator.

5 “(C) EFFECTS OF ACTIONS OF OTHER
6 AGENCIES.—A pre-penalty notice may be issued
7 under subparagraph (A) whether or not an
8 agency other than the Department of Com-
9 merce has taken any action with respect to the
10 matter.

11 “(2) RESPONSES.—

12 “(A) RIGHT TO RESPOND.—An alleged vio-
13 lator may respond to a pre-penalty notice issued
14 under paragraph (1)(A) in writing to the Sec-
15 retary.

16 “(B) DEADLINE FOR RESPONSE.—

17 “(i) IN GENERAL.—An alleged viola-
18 tor shall respond to a pre-penalty notice
19 issued under paragraph (1)(A), except as
20 provided by clause (ii), on or before the
21 30th day after the date of the issuance of
22 the notice. Failure to submit a response
23 during the time required by the previous
24 sentence shall be deemed to be a waiver of
25 the right to respond.

1 “(ii) EXTENSIONS OF DEADLINE.—If
2 the deadline under clause (i) for a response
3 to a pre-penalty notice falls on a Federal
4 holiday or weekend, that deadline shall be
5 extended to the following business day.
6 Any other extensions of the deadline shall
7 be granted, at the discretion of the Sec-
8 retary, only upon specific request to the
9 Secretary.

10 “(C) FORM AND METHOD.—A response
11 under subparagraph (A) to a pre-penalty notice
12 need not be in any particular form, but it is re-
13 quired to be typewritten and signed by the al-
14 leged violator or a representative thereof, con-
15 tain information sufficient to indicate that it is
16 in response to the pre-penalty notice, and in-
17 clude the identification number listed on the
18 pre-penalty notice. A digital signature is accept-
19 able.

20 “(D) CONTENT.—Any response under sub-
21 paragraph (A) to a pre-penalty notice is re-
22 quired—

23 “(i) to set forth in detail why the al-
24 leged violator either believes that a viola-
25 tion of subsection (a) did not occur or why

1 a civil monetary penalty under subsection
2 (c)(1)(A) is otherwise unwarranted under
3 the circumstances; and

4 “(ii) to include all documentary or
5 other evidence available to the alleged vio-
6 lator that supports the arguments set forth
7 in the response.

8 “(3) REPRESENTATION.—A representative of
9 the alleged violator may act on behalf of the alleged
10 violator, but any oral communication with the Sec-
11 retary prior to a written submission regarding the
12 specific allegations contained in the pre-penalty no-
13 tice is required to be preceded by a written letter of
14 representation, unless the pre-penalty notice was
15 served upon the alleged violator in care of the rep-
16 resentative.

17 “(4) SETTLEMENT.—Settlement discussions
18 may be initiated by the Secretary, the alleged viola-
19 tor, or the alleged violator’s authorized representa-
20 tive.

21 “(e) PENALTY IMPOSITION.—

22 “(1) IN GENERAL.—If, after considering any
23 written response to a pre-penalty notice under sub-
24 section (d)(2) and any relevant facts, including vol-
25 untary disclosure of a violation of subsection (a), the

1 Secretary determines that there was a violation by
 2 the alleged violator named in the pre-penalty notice
 3 and that a civil monetary penalty under subsection
 4 (c)(1)(A) is appropriate, the Secretary may issue a
 5 penalty notice to the violator containing a deter-
 6 mination of the violation and the imposition of the
 7 monetary penalty.

8 “(2) FINAL AGENCY ACTION.—The issuance of
 9 the penalty notice shall constitute final agency ac-
 10 tion for purposes of review under section 704 of title
 11 5, United States Code.

12 “(3) JUDICIAL REVIEW.—The violator may seek
 13 judicial review of that final agency action under sec-
 14 tion 1785G.

15 **“SEC. 1785I. RELATIONSHIP TO OTHER LAWS.**

16 “(a) RULE OF CONSTRUCTION RELATING TO OTHER
 17 LAW.—Nothing in this part shall be construed to alter or
 18 affect any other authority, process, regulation, investiga-
 19 tion, enforcement measure, or review provided by or estab-
 20 lished under any other provision of Federal law.

21 “(b) PAPERWORK REDUCTION ACT EXCEPTION.—
 22 The requirements of chapter 35 of title 44, United States
 23 Code (commonly referred to as the ‘Paperwork Reduction
 24 Act’), shall not apply to any action by the Secretary to
 25 implement this part.

1 “(c) COMMITTEE ON FOREIGN INVESTMENT IN THE
 2 UNITED STATES.—Nothing in this part shall prevent or
 3 preclude the President or the Committee on Foreign In-
 4 vestment in the United States from exercising any author-
 5 ity under section 721 of the Defense Production Act of
 6 1950 (50 U.S.C. 4565 et seq.) as would be available in
 7 the absence of this part.

8 “(d) RULE OF CONSTRUCTION FOR THE OICTS.—
 9 Nothing in this part may be construed as altering any of
 10 the authority of the Office of Information and Commu-
 11 nications Technology and Services under Executive Order
 12 13873 (50 U.S.C. 1701 note; relating to securing the in-
 13 formation and communications technology and services
 14 supply chain) and Executive Order 14034 (50 U.S.C.
 15 1701 note; relating to protecting Americans’ sensitive data
 16 from foreign adversaries).”.

17 (b) CONFORMING AMENDMENTS TO EXPORT CON-
 18 TROL REFORM ACT OF 2018.—

19 (1) DEFINITION OF UNITED STATES PERSON.—
 20 Section 1742(13)(A) of the Export Control Reform
 21 Act of 2018 (50 U.S.C. 4801(13)(1)) is amended, in
 22 the matter preceding clause (i), by striking “part I”
 23 and inserting “parts I and IV”.

1 (2) ANNUAL REPORT.—Section 1765(a) of the
 2 Export Control Reform Act of 2018 (50 U.S.C.
 3 4824(a)) is amended—

4 (A) in the matter preceding paragraph (1),
 5 by inserting “and part IV” after “this part”;

6 (B) in paragraph (8), by striking “; and”
 7 and inserting a semicolon;

8 (C) in paragraph (9), by striking the pe-
 9 riod and inserting “; and”; and

10 (D) by adding at the end the following:

11 “(10) a summary of how authorities under part
 12 IV are being used to ensure that entities of concern
 13 (as defined in section 1785) cannot undercut United
 14 States export controls by acquiring sensitive tech-
 15 nology within the United States.”.

16 (3) ASSISTANT SECRETARIES OF COMMERCE.—
 17 Section 1782(a) of the Export Control Reform Act
 18 of 2018 (50 U.S.C. 4852(a)) is amended—

19 (A) by striking “Senate, two” and insert-
 20 ing the following: “Senate—

21 “(1) two”;

22 (B) by striking the period at the end and
 23 inserting “; and”; and

24 (C) by adding at the end the following:

- 1 “(2) one Assistant Secretary of Commerce to
2 assist the Under Secretary in carrying out part IV.”.

