

116TH CONGRESS
1ST SESSION

H. R. 1493

To address state-sponsored cyber activities against the United States, and
for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 4, 2019

Mr. YOHO (for himself, Mr. McCAUL, Mr. LANGEVIN, Mrs. LESKO, Mr. SHERMAN, Mr. GOSAR, Mr. CURTIS, Mr. TED LIEU of California, Mr. SCHNEIDER, Mr. MEADOWS, Mr. CHABOT, Mr. FITZPATRICK, and Mr. RATCLIFFE) introduced the following bill; which was referred to the Committee on Foreign Affairs, and in addition to the Committees on Financial Services, Oversight and Reform, and the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To address state-sponsored cyber activities against 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 “Cyber Deterrence and
5 Response Act of 2019”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1 (1) On February 13, 2018, the Director of Na-
2 tional Intelligence stated in his testimony before the
3 Senate Select Committee on Intelligence that “Rus-
4 sia, China, Iran, and North Korea will pose the
5 greatest cyber threats to the United States during
6 the next year” through the use of cyber operations
7 as low-cost tools of statecraft, and assessed that
8 these states would “work to use cyber operations to
9 achieve strategic objectives unless they face clear re-
10 percussions for their cyber operations”.

11 (2) The 2017 Worldwide Threat Assessment of
12 the United States Intelligence Community stated
13 that “The potential for surprise in the cyber realm
14 will increase in the next year and beyond as billions
15 more digital devices are connected—with relatively
16 little built-in security—and both nation states and
17 malign actors become more emboldened and better
18 equipped in the use of increasingly widespread cyber
19 toolkits. The risk is growing that some adversaries
20 will conduct cyber attacks—such as data deletion or
21 localized and temporary disruptions of critical infra-
22 structure—against the United States in a crisis
23 short of war.”.

24 (3) On March 29, 2017, President Donald J.
25 Trump deemed it necessary to continue the national

1 emergency declared in Executive Order No. 13694
2 as “Significant malicious cyber-enabled activities
3 originating from, or directed by persons located, in
4 whole or in substantial part, outside the United
5 States, continue to pose an unusual and extraor-
6 dinary threat to the national security, foreign policy,
7 and economy of the United States.”.

8 (4) On January 5, 2017, former Director of
9 National Intelligence, James Clapper, former Under-
10 secretary of Defense for Intelligence, Marcel Lettre,
11 and the Commander of the United States Cyber
12 Command, Admiral Michael Rogers, submitted joint
13 testimony to the Committee on Armed Services of
14 the Senate that stated “As of late 2016 more than
15 30 nations are developing offensive cyber attack ca-
16 pabilities” and that “Protecting critical infrastruc-
17 ture, such as crucial energy, financial, manufac-
18 turing, transportation, communication, and health
19 systems, will become an increasingly complex na-
20 tional security challenge.”.

21 (5) There is significant evidence that hackers
22 affiliated with foreign governments have conducted
23 cyber operations targeting companies and critical in-
24 frastructure sectors in the United States as the De-

1 partment of Justice and the Department of the
2 Treasury have announced that—

3 (A) on March 15, 2018, five Russian enti-
4 ties and 19 Russian individuals were designated
5 under the Countering America’s Adversaries
6 Through Sanctions Act, as well as pursuant to
7 Executive Order No. 13694, for interference in
8 the 2016 United States elections and other ma-
9 licious cyber-enabled activities;

10 (B) on March 24, 2016, seven Iranians
11 working for Iran’s Revolutionary Guard Corps-
12 affiliated entities were indicted for conducting
13 distributed denial of service attacks against the
14 financial sector in the United States from 2012
15 to 2013; and

16 (C) on May 19, 2014, five Chinese military
17 hackers were charged for hacking United States
18 companies in the nuclear power, metals, and
19 solar products industries, and engaging in eco-
20 nomic espionage.

21 (6) In May 2017, North Korea released
22 “WannaCry” pseudo-ransomware, which posed a sig-
23 nificant risk to the economy, national security, and
24 the citizens of the United States and the world, as
25 it resulted in the infection of over 300,000 computer

1 systems in more than 150 countries, including in the
2 healthcare sector of the United Kingdom, dem-
3 onstrating the global reach and cost of cyber-enabled
4 malicious activity.

5 (7) In June 2017, Russia carried out the most
6 destructive cyber-enabled operation in history, re-
7 leasing the NotPetya malware that caused billions of
8 dollars' worth of damage within Ukraine and across
9 Europe, Asia, and the Americas.

10 (8) In May 2018, the Department of State,
11 pursuant to section 3(b) of Executive Order No.
12 13800, prepared recommendations to the President
13 on Deterring Adversaries and Better Protecting the
14 American People From Cyber Threats, which stated
15 “With respect to activities below the threshold of the
16 use of force, the United States should, working with
17 likeminded partners when possible, adopt an ap-
18 proach of imposing swift, costly, and transparent
19 consequences on foreign governments responsible for
20 significant malicious cyber activities aimed at harm-
21 ing U.S. national interests.”.

22 **SEC. 3. ACTIONS TO ADDRESS STATE-SPONSORED CYBER**
23 **ACTIVITIES AGAINST THE UNITED STATES.**

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

1 (1) IN GENERAL.—The President, acting
2 through the Secretary of State, and in coordination
3 with other relevant Federal agency heads, shall des-
4 ignate as a critical cyber threat actor—

5 (A) each foreign person and each agency
6 or instrumentality of a foreign state that the
7 President determines to be knowingly respon-
8 sible for or complicit in, or have engaged in, di-
9 rectly or indirectly, state-sponsored cyber activi-
10 ties that are reasonably likely to result in, or
11 have contributed to, a significant threat to the
12 national security, foreign policy, or economic
13 health or financial stability of the United States
14 and that have the purpose or effect of—

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

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

23 (iii) significantly compromising the
24 provision of services by one or more enti-
25 ties in a critical infrastructure sector;

1 (iv) causing a significant misappropriation of funds or economic resources,
2 trade secrets, personal identifiers, or financial information for commercial or competi-
3 tive advantage or private financial gain;

4 (v) destabilizing the financial sector of
5 the United States by tampering with, altering, or causing a misappropriation of data;
6 or

7 (vi) interfering with or undermining
8 election processes or institutions by tampering with, altering, or causing misappropriation of data;

9 (B) each foreign person that the President
10 has determined to have knowingly, significantly,
11 and materially assisted, sponsored, or provided
12 financial, material, or technological support for,
13 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
14 foreign state designated as a critical cyber threat actor under subparagraph (A); and

15 (C) each agency or instrumentality of a
16 foreign state that the President has determined
17 to have significantly and materially assisted,

1 sponsored, or provided financial, material, or
2 technological support for, or goods or services
3 to or in support of, any activities described in
4 subparagraph (A) by a foreign person or agency
5 or instrumentality of a foreign state designated
6 as a critical cyber threat actor under subpara-
7 graph (A).

8 (2) TRANSMISSION TO CONGRESS.—Not later
9 than 7 days after designating a foreign person or
10 agency or instrumentality of a foreign state as a
11 critical cyber threat actor, the President shall trans-
12 mit to the appropriate congressional committees in
13 classified or unclassified form a report identifying
14 the designee.

15 (b) NON-TRAVEL-RELATED SANCTIONS.—

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

22 (2) SANCTIONS DESCRIBED.—The sanctions de-
23 scribed in this paragraph are the following:

24 (A) The President may provide for the
25 withdrawal, limitation, or suspension of non-hu-

1 humanitarian United States development assist-
2 ance under chapter 1 of part I of the Foreign
3 Assistance Act of 1961.

4 (B) The President may provide for the
5 withdrawal, limitation, or suspension of United
6 States security assistance under part II of the
7 Foreign Assistance Act of 1961.

8 (C) The President may direct the United
9 States executive director to each international
10 financial institution to use the voice and vote of
11 the United States to oppose any loan from the
12 international financial institution that would
13 benefit the designated foreign person or the
14 designated agency or instrumentality of a for-
15 eign state.

16 (D) The President may direct the Overseas
17 Private Investment Corporation, the United
18 States International Development Finance Cor-
19 poration, or any other United States Govern-
20 ment agency not to approve the issuance of any
21 (or a specified number of) guarantees, insur-
22 ance, extensions of credit, or participations in
23 the extension of credit.

24 (E) The President may, pursuant to such
25 regulations or guidelines as the President may

1 prescribe, prohibit any United States person
2 from investing in or purchasing significant
3 amounts of equity or debt instruments of the
4 designated foreign person.

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

15 (G) The President may order the heads of
16 the appropriate United States agencies to not
17 issue any (or a specified number of) specific li-
18 censes, and to not grant any other specific au-
19 thority (or a specified number of authorities), to
20 export any goods or technology to the des-
21 ignated foreign person or the designated agency
22 or instrumentality of a foreign state under—

23 (i) the Export Control Reform Act of
24 2018;

25 (ii) the Arms Export Control Act;

1 (iii) the Atomic Energy Act of 1954;

2 or

3 (iv) any other statute that requires
4 the prior review and approval of the
5 United States Government as a condition
6 for the export or re-export of goods or
7 services.

8 (H)(i) The President may exercise all of
9 the powers granted to the President under the
10 International Emergency Economic Powers Act
11 (50 U.S.C. 1701 et seq.) (except that the re-
12 quirements of section 202 of such Act (50
13 U.S.C. 1701) shall not apply) to the extent nec-
14 essary to block and prohibit all transactions in
15 property and interests in property of the des-
16 ignated foreign person if such property and in-
17 terests in property are in the United States,
18 come within the United States, or are or come
19 within the possession or control of a United
20 States person.

21 (ii) The penalties provided for in sub-
22 sections (b) and (c) of section 206 of the Inter-
23 national Emergency Economic Powers Act (50
24 U.S.C. 1705) shall apply to a person that vio-
25 lates, attempts to violate, conspires to violate,

1 or causes a violation of regulations prescribed
2 under clause (i) to the same extent that such
3 penalties apply to a person that commits an un-
4 lawful act described in subsection (a) of such
5 section 206.

6 (I) The President may, pursuant to such
7 regulations as the President may prescribe, pro-
8 hibit any transfers of credit or payments be-
9 tween one or more financial institutions or by,
10 through, or to any financial institution, to the
11 extent that such transfers or payments are sub-
12 ject to the jurisdiction of the United States and
13 involve any interest of the designated foreign
14 person.

15 (c) TRAVEL-RELATED SANCTIONS.—

16 (1) ALIENS INELIGIBLE FOR VISAS, ADMISSION,
17 OR PAROLE.—An alien who is designated as a crit-
18 ical cyber threat actor under subsection (a) is—

19 (A) inadmissible to the United States;

20 (B) ineligible to receive a visa or other doc-
21 umentation to enter the United States; and

22 (C) otherwise ineligible to be admitted or
23 paroled into the United States or to receive any
24 other benefit under the Immigration and Na-
25 tionality Act (8 U.S.C. 1101 et seq.).

1 (2) CURRENT VISAS REVOKED.—The issuing
2 consular officer, the Secretary of State, or the Sec-
3 retary of Homeland Security (or a designee of either
4 such Secretaries) shall revoke any visa or other
5 entry documentation issued to the foreign person
6 designated as a critical cyber threat actor under sub-
7 section (a) regardless of when issued. A revocation
8 under this clause shall take effect immediately and
9 shall automatically cancel any other valid visa or
10 entry documentation that is in the possession of
11 such foreign person.

12 (d) ADDITIONAL SANCTIONS WITH RESPECT TO
13 FOREIGN STATES.—

14 (1) IN GENERAL.—The President may impose
15 any of the sanctions described in paragraph (2) with
16 respect to the government of each foreign state that
17 the President has determined aided, abetted, or di-
18 rected a foreign person or agency or instrumentality
19 of a foreign state designated as a critical cyber
20 threat actor under subsection (a).

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

23 (A) The President may provide for the
24 withdrawal, limitation, or suspension of non-hu-
25 manitarian or non-trade-related assistance

1 United States development assistance under
2 chapter 1 of part I of the Foreign Assistance
3 Act of 1961.

4 (B) The President may provide for the
5 withdrawal, limitation, or suspension of United
6 States security assistance under part II of the
7 Foreign Assistance Act of 1961.

8 (C) The President may instruct the United
9 States Executive Director to each appropriate
10 international financial institution to oppose, and
11 vote against the extension by such institution of
12 any loan or financial assistance to the govern-
13 ment of the foreign state.

14 (D) No item on the United States Muni-
15 tions List (established pursuant to section 38 of
16 the Arms Export Control Act (22 U.S.C.
17 2778)) or the Commerce Control List set forth
18 in Supplement No. 1 to part 774 of title 15,
19 Code of Federal Regulations, may be exported
20 to the government of the foreign state.

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

25 (f) COORDINATION.—To the extent practicable—

1 (1) actions taken by the President pursuant to
2 this section should be coordinated with United
3 States allies and partners; and

4 (2) the Secretary of State should work with
5 United States allies and partners, on a voluntary
6 basis, to lead an international diplomatic initiative
7 to—

8 (A) deter critical cyber threat actors and
9 state-sponsored cyber activities; and

10 (B) provide mutual support to such allies
11 and partners participating in such initiative to
12 respond to such state-sponsored cyber activities.

13 (g) EXEMPTIONS, WAIVERS, AND REMOVALS OF
14 SANCTIONS AND DESIGNATIONS.—

15 (1) MANDATORY EXEMPTIONS.—The following
16 activities shall be exempt from sanctions under sub-
17 sections (b), (c), and (d):

18 (A) Activities subject to the reporting re-
19 quirements of title V of the National Security
20 Act of 1947 (50 U.S.C. 413 et seq.), or to any
21 authorized intelligence activities of the United
22 States.

23 (B) Any transaction necessary to comply
24 with United States obligations under the Agree-
25 ment between the United Nations and the

1 United States of America regarding the Head-
2 quarters of the United Nations, signed June
3 26, 1947, and entered into force on November
4 21, 1947, or under the Vienna Convention on
5 Consular Relations, signed April 24, 1963, and
6 entered into force on March 19, 1967, or under
7 other international obligations.

8 (2) WAIVER.—The President may waive the im-
9 position of sanctions described in this section for a
10 period of not more than 1 year, and may renew such
11 waiver for additional periods of not more than 1
12 year, if the President transmits to the appropriate
13 congressional committees a written determination
14 that such waiver meets one or more of the following
15 requirements:

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

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

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

23 (3) REMOVALS OF SANCTIONS AND DESIGNA-
24 TIONS.—The President may prescribe rules and reg-
25 ulations for the removal of sanctions under sub-

1 sections (b), (c), and (d) and the removal of designa-
2 tions under subsection (a) if the President deter-
3 mines that a foreign person, agency or instrumen-
4 tality of a foreign state, or government of a foreign
5 state subject to such sanctions or such designations,
6 as the case may be, has verifiably ceased its partici-
7 pation in any of the conduct with respect to which
8 such foreign person, agency or instrumentality of a
9 foreign state, or government of a foreign state was
10 subject to such sanctions or designation, as the case
11 may be, under this section, and has given assurances
12 that such foreign person, agency or instrumentality
13 of a foreign state, or government of a foreign state,
14 as the case may be, will no longer participate in such
15 conduct.

16 (4) EXCEPTION TO COMPLY WITH UNITED NA-
17 TIONS HEADQUARTERS AGREEMENT.—Sanctions
18 under subsection (c) shall not apply to a foreign per-
19 son if admitting such foreign person into the United
20 States is necessary to permit the United States to
21 comply with the Agreement regarding the Head-
22 quarters of the United Nations, signed at Lake Suc-
23 cess June 26, 1947, and entered into force Novem-
24 ber 21, 1947, between the United Nations and the

1 United States, or other applicable international obli-
2 gations.

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

9 (i) DEFINITIONS.—In this section:

10 (1) ADMITTED; ALIEN.—The terms “admitted”
11 and “alien” have the meanings given such terms in
12 section 101 of the Immigration and Nationality Act
13 (8 U.S.C. 1101).

14 (2) APPROPRIATE CONGRESSIONAL COMMIT-
15 TEES.—The term “appropriate congressional com-
16 mittees” means—

17 (A) the Committee on Foreign Affairs, the
18 Committee on Financial Services, the Com-
19 mittee on the Judiciary, the Committee on
20 Oversight and Reform, and the Committee on
21 Homeland Security of the House of Representa-
22 tives; and

23 (B) the Committee on Foreign Relations,
24 the Committee on Banking, Housing, and
25 Urban Affairs, the Committee on the Judiciary,

1 and the Committee on Homeland Security and
2 Governmental Affairs of the Senate.

3 (3) AGENCY OR INSTRUMENTALITY OF A FOR-
4 EIGN STATE.—The term “agency or instrumentality
5 of a foreign state” has the meaning given such term
6 in section 1603(b) of title 28, United States Code.

7 (4) CRITICAL INFRASTRUCTURE SECTOR.—The
8 term “critical infrastructure sector” means any of
9 the designated critical infrastructure sectors identi-
10 fied in the Presidential Policy Directive entitled
11 “Critical Infrastructure Security and Resilience”,
12 numbered 21, and dated February 12, 2013.

13 (5) FOREIGN PERSON.—The term “foreign per-
14 son” means a person that is not a United States
15 person.

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

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

24 (8) MISAPPROPRIATION.—The term “misappro-
25 priation” means taking or obtaining by improper

1 means, without permission or consent, or under false
2 pretenses.

3 (9) STATE-SPONSORED CYBER ACTIVITIES.—

4 The term “state-sponsored cyber activities” means
5 any malicious cyber-enabled activities that—

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

9 (B) are carried out by a foreign person
10 that is aided, abetted, or directed by a govern-
11 ment of a foreign state or an agency or instru-
12 mentality of a foreign state.

13 (10) UNITED STATES PERSON.—The term
14 “United States person” means—

15 (A) a United States citizen or an alien law-
16 fully admitted for permanent residence to the
17 United States; or

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

22 **SEC. 4. CYBERSECURITY COOPERATION UNDER ASIA REAS-**
23 **SURANCE INITIATIVE ACT OF 2018.**

24 The Administration is encouraged to fully implement
25 section 215 of the Asia Reassurance Initiative Act of 2018

- 1 (Public Law 115–409) with regard to robust cybersecurity
- 2 cooperation between the United States and nations in the
- 3 Indo-Pacific region.

