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Combating spyware via U.S. financial regulations: Introducing the Surveillance Technology Disclosure Rule

From Mexico to Hungary to Morocco, human rights activists, journalists, and lawyers are under attack around the world. As the damning Pegasus revelations made clear, governments are increasingly using surveillance technologies (ST) to unlawfully surveil activists and violate human rights. Even U.S. diplomats living abroad are victims of invasive spyware.

To stop these attacks, **it is critical that the U.S. government require companies to conduct human rights due diligence and provide transparency in the ST supply chain**.

Using the Conflict Minerals Disclosure Rule as a model, **Access Now urges the U.S. Congress to adopt the Surveillance Technologies Disclosure Rule.** The Rule should be applied to publicly traded or pre-IPO companies that sell ST. This is how the ST Disclosure Rule would work:

- First**,** if an issuer sells ST, the issuer must annually disclose whether their ST is provided, directly or indirectly, to "a government or government official."

- Second, if an issuer provides ST to a government or government official, the issuer must (1) conduct due diligence on end-uses of its ST, and (2) disclose an annual "ST Report," which must be audited and include the following four items:

    1. a list of countries to which the issuer provides ST, noting which are listed in the Bureau of Industry and Security's Country Group D or E (countries that pose national security concerns),
    2. a description of the due diligence on end-use of ST, which conforms to a national recognized framework, such as the U.S. Department of State Guidance,
    3. a list of received complaints about the end use of ST in a particular country, and
    4. a list of court cases where a plaintiff claims that their human rights were implicated or harmed by the issuer's ST.

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