

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 420

To require the Secretary of the Treasury to perform a study of the structures, operations, practices and regulation of Japan's capital and securities markets, and their implications for the United States.

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## IN THE HOUSE OF REPRESENTATIVES

JANUARY 5, 1993

Mr. TORRICELLI introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Banking, Finance and Urban Affairs

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## A BILL

To require the Secretary of the Treasury to perform a study of the structures, operations, practices and regulation of Japan's capital and securities markets, and their implications for 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 "Foreign Capital and  
5        Securities Markets Study Act of 1993".

6        **SEC. 2. FINDINGS.**

7        The Congress finds that—

1           (1) Japan’s capital and securities markets have  
2 assumed a global significance;

3           (2) growing interaction between the capital and  
4 securities markets of the United States and Japan  
5 can affect national policies on exchange rates, in-  
6 vestment, fiscal policy, and public debt;

7           (3) Japan’s capital and securities markets have  
8 different structures, operations, practices, and regu-  
9 latory regimes than United States markets;

10          (4) the different structures, operations, prac-  
11 tices, and regulatory regimes of Japan’s capital and  
12 securities markets could cause significant economic  
13 effects in the United States; and

14          (5) a study by the Secretary of the Treasury  
15 therefore is required to gain a fuller understanding  
16 of the structures, operations, practices, and regula-  
17 tion of Japan’s capital and securities markets and  
18 their implications for the United States.

19 **SEC. 3. STUDY OF CAPITAL AND SECURITIES MARKETS.**

20          (a) IN GENERAL.—The Secretary of the Treasury  
21 (hereafter referred to as the “Secretary”) shall conduct  
22 a study of the capital and securities markets of Japan in  
23 accordance with subsection (b). Not later than 1 year after  
24 the date of enactment of this Act, the Secretary shall sub-  
25 mit a report to the Congress on the structures, operations,

1 practices, and regulation of Japan's capital and securities  
2 markets, and their implications for the United States.

3 (b) STUDY TOPICS.—In conducting the study re-  
4 quired by subsection (a), the Secretary shall consider—

5 (1) with regard to Japan's capital and securi-  
6 ties markets—

7 (A) methods used by Japanese companies  
8 to raise capital, and the cost of such capital, at  
9 present and historically;

10 (B) Japanese methods of corporate govern-  
11 ance, particularly with regard to the effective-  
12 ness of shareholder meetings, proxy sollicita-  
13 tions, and other methods of shareholder partici-  
14 pation, the strength of the consumer movement  
15 in Japan and its implications for shareholder  
16 rights, techniques used by corporate manage-  
17 ment regarding shareholder participation in cor-  
18 porate governance, and the general effectiveness  
19 of shareholder rights in the supervision of cor-  
20 porate managers;

21 (C) practices and techniques used by Japa-  
22 nese securities brokers and dealers;

23 (D) the prevalence of loss guarantees and  
24 similar practices in securities dealing;

1 (E) the prevalence of companies having  
2 common directors, especially directors common  
3 to financial institutions and client industrial  
4 companies;

5 (F) the practice known as “stable  
6 shareholding” and other reciprocal shareholding  
7 relationships, especially between vendors and  
8 customers;

9 (G) the role played by banks and other fi-  
10 nancial institutions in capital and securities  
11 markets, particularly with regard to equity par-  
12 ticipation, participation in corporate govern-  
13 ance, investment practices, and adequacy of col-  
14 lateral;

15 (H) the financial strength of Japanese  
16 banks, including the adequacy of capital and  
17 loan loss reserves, the impact of current trends  
18 in securities values on bank capital, and the im-  
19 pact of current trends in real estate values on  
20 bank profitability, loan defaults and the ade-  
21 quacy of collateral;

22 (I) trends in Japanese real estate and se-  
23 curities values, particularly in relation to sav-  
24 ings rates, the adequacy of collateral, loan de-  
25 falcations, bankruptcies, investment in the

1 United States, and capital repatriation from the  
2 United States;

3 (J) the adequacy of disclosure require-  
4 ments imposed on industrial corporations,  
5 banks, securities houses, and other financial in-  
6 stitutions and the extent of compliance by such  
7 organizations, including disclosure of primary  
8 bank and reciprocal or similar shareholding re-  
9 lationships;

10 (K) the use of securities and real estate  
11 holdings as collateral, and the implications of  
12 any decline in value of such collateral; and

13 (L) the adequacy of judicial relief available  
14 to foreign investors claiming injury under Japa-  
15 nese law, including, but not limited to, the  
16 availability of administrative remedies, the suf-  
17 ficiency and effectiveness of discovery proce-  
18 dures and the timeliness of relief; and

19 (2) with regard to the economic effects of such  
20 markets on the United States—

21 (A) the magnitude of United States invest-  
22 ment in Japanese securities, particularly by  
23 United States pension funds, and the implica-  
24 tions for United States investors of the struc-  
25 tures, operations, practices, and regulation of

1 Japan's capital and securities markets, includ-  
2 ing the safety of securities investments, the va-  
3 lidity of price and volume signals on Japanese  
4 exchanges, the ability to participate in cor-  
5 porate governance, and other protections of  
6 shareholders' rights;

7 (B) the implications for United States se-  
8 curities markets, particularly the risk that de-  
9 velopments in Japan could have consequences  
10 for the United States;

11 (C) the implications for United States cap-  
12 ital markets, including international liquidity,  
13 United States interest rates, Japanese invest-  
14 ment in the United States, capital repatriation  
15 to Japan, and domestic capital supply;

16 (D) the effect on United States macro-  
17 economic policies, including interest rate policy,  
18 exchange rate policy, fiscal policy, monetary  
19 policy, and public debt policy;

20 (E) the implications for the competitive-  
21 ness of United States enterprises, including the  
22 comparative cost of capital, duties to sharehold-  
23 ers, research and development expenditures,  
24 and investments in plant and equipment; and

1 (F) the effectiveness of remedies available  
2 to United States investors in Japanese securi-  
3 ties, and the amount of dealing in Japanese se-  
4 curities in the United States, whether directly  
5 or indirectly.

6 (c) CONSULTATIONS.—The Secretary shall consult  
7 with the Chairman of the Securities and Exchange Com-  
8 mission, the United States Trade Representative, and  
9 such other agencies or persons as the Secretary may deem  
10 necessary to complete the study and report required under  
11 this Act. The Secretary may consult with agencies of the  
12 Government of Japan, Japanese exchanges, and such  
13 other Japanese persons or organizations as the Secretary  
14 may deem appropriate.

15 **SEC. 4. DEFINITIONS.**

16 For purposes of this Act the term “security” has the  
17 same meaning as in section 3(a)(10) of the Securities Ex-  
18 change Act of 1934 (15 U.S.C. 78c(a)(10)).

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