

103<sup>D</sup> CONGRESS  
2<sup>D</sup> SESSION

# H. R. 4926

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## AN ACT

To require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “National Treatment  
3 in Banking Act of 1994”.

4 **SEC. 2. FAILURE TO ACCORD NATIONAL TREATMENT TO**  
5 **UNITED STATES BANKING ORGANIZATIONS.**

6 (a) IDENTIFYING COUNTRIES THAT MAY BE DENY-  
7 ING NATIONAL TREATMENT TO UNITED STATES BANK-  
8 ING ORGANIZATIONS.—The Secretary of the Treasury  
9 shall identify, after consultation with the Federal banking  
10 agencies, the extent to which foreign countries may be de-  
11 nying national treatment to United States banking organi-  
12 zations—

13 (1) based on information relating to banking in  
14 the most recent report under section 3602 of the  
15 Omnibus Trade and Competitiveness Act of 1988  
16 (or the most recent update of such report); or

17 (2) based on more recent information that the  
18 Secretary considers appropriate.

19 (b) ASSESSING WHETHER POSSIBLE DENIAL OF NA-  
20 TIONAL TREATMENT MAY BE HAVING A SIGNIFICANT  
21 ADVERSE EFFECT.—

22 (1) IN GENERAL.—The Secretary shall assess,  
23 after consultation with the Federal banking agen-  
24 cies, whether the possible denial of national treat-  
25 ment to United States banking organizations by a  
26 foreign country identified under subsection (a) may

1 be having a significant adverse effect on such orga-  
2 nizations.

3 (2) FACTORS TO BE CONSIDERED.—In making  
4 any assessment under paragraph (1), the Secretary  
5 shall consider appropriate factors, including the fol-  
6 lowing:

7 (A) The extent of United States trade with  
8 and investment in the foreign country, the size  
9 of the foreign country's markets for banking  
10 services, and the extent to which United States  
11 banking organizations operate or seek to oper-  
12 ate in those markets.

13 (B) The importance of operations by  
14 United States banking organizations in the for-  
15 eign country to the export of goods and services  
16 by United States firms to such country.

17 (C) The extent to which the foreign coun-  
18 try provides in advance to United States bank-  
19 ing organizations a written draft of any  
20 measure of general application that the country  
21 proposes to adopt, such as regulations, guide-  
22 lines, or other policies regarding new products  
23 and services, in order to allow an opportunity  
24 for such organizations to comment on the meas-

1           ure and for such comments to be taken into ac-  
2           count by the foreign country.

3           (D) The extent to which the foreign coun-  
4           try—

5                   (i) makes available, in writing, to  
6                   United States banking organizations the  
7                   foreign country's requirements for complet-  
8                   ing any application relating to the provi-  
9                   sion of financial services by any such orga-  
10                  nization;

11                  (ii) applies published, objective stand-  
12                  ards and criteria in evaluating any such  
13                  application from any United States bank-  
14                  ing organization; and

15                  (iii) renders administrative decisions  
16                  relating to any such application within a  
17                  reasonable period of time.

18           (3) SOLICITATION OF COMMENTS.—Before  
19           making any assessment under paragraph (1), the  
20           Secretary may solicit comments concerning the ef-  
21           fect of the possible denial of national treatment on  
22           United States banking organizations from interested  
23           parties.

24           (c) PUBLICATION.—The Secretary may publish a no-  
25           tice in the Federal Register of—

1           (1) any assessment made under subsection  
2           (b)(1) with respect to any country; and

3           (2) any change made with respect to any as-  
4           sessment under such subsection which was pre-  
5           viously published in the Federal Register.

6           (d) DEFINITIONS.—The following definitions shall  
7           apply for purposes of this section:

8           (1) BANKING ORGANIZATION.—

9                   (A) IN GENERAL.—The term “banking or-  
10                  ganization” means any bank, any bank holding  
11                  company (including any company required to  
12                  file reports pursuant to section 4(f)(6) of the  
13                  Bank Holding Company Act of 1956), and any  
14                  savings and loan holding company (as such  
15                  term is defined in section 10(a)(1)(D) of the  
16                  Home Owners’ Loan Act).

17                  (B) BANKING TERMS.—For purposes of  
18                  this paragraph, the terms “bank” and “bank  
19                  holding company” have the same meaning as in  
20                  section 2 of the Bank Holding Company Act of  
21                  1956.

22           (2) FEDERAL BANKING AGENCIES.—The term  
23           “Federal banking agencies” has the same meaning  
24           as in section 3(z) of the Federal Deposit Insurance  
25           Act.

1           (3) NATIONAL TREATMENT.—The term “na-  
2           tional treatment” means, with respect to any foreign  
3           country, treatment that offers United States bank-  
4           ing organizations the same competitive opportunities  
5           (including effective market access) in such country  
6           as are available to the foreign country’s domestic  
7           banking organizations in like circumstances.

8           (4) SECRETARY.—The term “Secretary” means  
9           the Secretary of the Treasury.

10 **SEC. 3. APPLICATIONS BY FOREIGN BANKS AND OTHER**  
11 **PERSONS OF A FOREIGN COUNTRY.**

12           (a) APPLICATIONS UNDER THE INTERNATIONAL  
13 BANKING ACT OF 1978.—Section 7(d) of the Inter-  
14 national Banking Act of 1978 (12 U.S.C. 3105(d)) is  
15 amended by adding at the end the following new para-  
16 graph:

17           “(6) ADDITIONAL STANDARD.—In acting on  
18           any application under paragraph (1), the Board  
19           shall take into account whether the Secretary of the  
20           Treasury has published a notice, in accordance with  
21           section 2(c) of the National Treatment in Banking  
22           Act of 1994, that the possible denial of national  
23           treatment to United States banking organizations by  
24           the foreign bank’s home country identified under

1 section 2(a) of such Act may be having a significant  
2 adverse effect on such organizations.”.

3 (b) APPLICATIONS UNDER THE BANK HOLDING  
4 COMPANY ACT OF 1956.—Section 5 of the Bank Holding  
5 Company Act of 1956 (12 U.S.C. 1844) is amended by  
6 adding at the end the following new subsection:

7 “(g) APPLICATIONS BY A FOREIGN BANK.—In con-  
8 sidering any application or notice under section 3 or 4 by  
9 any foreign bank (as defined in section 1(b) of the Inter-  
10 national Banking Act of 1978), the Board shall take into  
11 account whether the Secretary of the Treasury has pub-  
12 lished a notice, in accordance with section 2(c) of the Na-  
13 tional Treatment in Banking Act of 1994, that the pos-  
14 sible denial of national treatment to United States bank-  
15 ing organizations by the foreign bank’s home country  
16 identified under section 2(a) of such Act may be having  
17 a significant adverse effect on such organizations.”.

18 (c) AMENDMENT TO CHANGE IN BANK CONTROL  
19 ACT.—Section 7(j) of the Federal Deposit Insurance Act  
20 (12 U.S.C. 1817(j)) is amended by adding at the end the  
21 following new paragraph:

22 “(19) NOTICE BY A PERSON OF A FOREIGN  
23 COUNTRY.—

24 “(A) IN GENERAL.—In considering a no-  
25 tice under this subsection by a person of a for-

1           eign country, the appropriate Federal banking  
2           agency shall take into account whether the Sec-  
3           retary of the Treasury has published a notice,  
4           in accordance with section 2(c) of the National  
5           Treatment in Banking Act of 1994, that the  
6           possible denial of national treatment to United  
7           States banking organizations by such person’s  
8           home country identified under section 2(a) of  
9           such Act may be having a significant adverse  
10          effect on such organizations.

11           “(B) PERSON OF A FOREIGN COUNTRY DE-  
12          FINED.—For purposes of this paragraph, the  
13          term ‘person of a foreign country’ means—

14                   “(i) any entity that—

15                           “(I) is organized under the laws  
16                           of the foreign country, or

17                           “(II) has the entity’s principal  
18                           place of business in the foreign coun-  
19                           try;

20                   “(ii) an individual who—

21                           “(I) is a citizen of the foreign  
22                           country, or

23                           “(II) is domiciled in the foreign  
24                           country; and

1           “(iii) any person that is, directly or  
2           indirectly, under the control of any entity  
3           or individual described in clause (i) or  
4           (ii).”.

5           (d) AMENDMENT TO NATIONAL BANK ACT.—Section  
6 5155 of the Revised Statutes (12 U.S.C. 36) is amended  
7 by adding at the end the following new subsection:

8           “(i) APPLICATION BY A BANK WHICH IS A PERSON  
9 OF A FOREIGN COUNTRY.—In considering any application  
10 under this section by any bank which is a person of a for-  
11 eign country (as defined in section 7(j)(19)(B) of the Fed-  
12 eral Deposit Insurance Act), the Comptroller of the Cur-  
13 rency shall take into account whether the Secretary of the  
14 Treasury has published a notice, in accordance with sec-  
15 tion 2(c) of the National Treatment in Banking Act of  
16 1994, that the possible denial of national treatment to  
17 United States banking organizations by such person’s  
18 home country identified under section 2(a) of such Act  
19 may be having a significant adverse effect on such organi-  
20 zations.”.

21           (e) AMENDMENT TO FEDERAL DEPOSIT INSURANCE  
22 ACT.—Section 18(c) of the Federal Deposit Insurance Act  
23 (12 U.S.C. 1828(c)) is amended by adding at the end the  
24 following new paragraph:



1 to provide national treatment for United States banking  
2 organizations.

Passed the House of Representatives September 30,  
1994.

Attest:

*Clerk.*

103<sup>RD</sup> CONGRESS  
2<sup>D</sup> SESSION

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## **AN ACT**

To require the Secretary of the Treasury to identify foreign countries which may be denying national treatment to United States banking organizations and to assess whether any such denial may be having a significant adverse effect on such organizations, and to require Federal banking agencies to take such assessments into account in considering certain applications and notices by foreign banks and other persons of a foreign country.