

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

# H. R. 4926

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 applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956.

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## IN THE HOUSE OF REPRESENTATIVES

AUGUST 9, 1994

Mr. SCHUMER (for himself and Mr. LEACH) introduced the following bill; which was referred to the Committee on Banking, Finance and Urban Affairs

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## A BILL

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 applications by foreign banks under the International Banking Act of 1978 and the Bank Holding Company Act of 1956.

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 any appropriate Fed-  
10 eral banking agency, the extent to which foreign countries  
11 may be denying national treatment to United States bank-  
12 ing organizations—

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 any appropriate Federal  
24 banking agency, whether the possible denial of na-  
25 tional treatment to United States banking organiza-  
26 tions by a foreign country identified under sub-

1 section (a) may be having a significant adverse ef-  
2 fect on such organizations.

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 shall publish a no-  
25           tice in the Federal Register of—

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

3 (2) any change made with respect to any as-  
4 sessment under such paragraph 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) APPROPRIATE FEDERAL BANKING AGEN-  
9 CY.—The term “appropriate Federal banking agen-  
10 cy” has the same meaning as in section 3(q) of the  
11 Federal Deposit Insurance Act.

12 (2) BANKING ORGANIZATION.—

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

21 (B) BANKING TERMS.—For purposes of  
22 this paragraph, the terms “bank” and “bank  
23 holding company” have the same meaning as in  
24 section 2 of the Bank Holding Company Act of  
25 1956.

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.**

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

16           “(6) ADDITIONAL STANDARD.—In acting on  
17           any application under paragraph (1), the Board  
18           shall take into account whether the Secretary of the  
19           Treasury has made an assessment, in accordance  
20           with section 2(b) of the National Treatment in  
21           Banking Act of 1994, that the possible denial of na-  
22           tional treatment to United States banking organiza-  
23           tions by the foreign bank’s home country identified  
24           under section 2(a) of such Act may be having a sig-  
25           nificant adverse effect on such organizations.”.

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

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

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