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Affairs

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,*

3 **SECTION 1. SHORT TITLE.**

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

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

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

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

14 (2) based on more recent information that the
15 Secretary considers appropriate.

16 (b) ASSESSING WHETHER POSSIBLE DENIAL OF NA-
17 TIONAL TREATMENT MAY BE HAVING A SIGNIFICANT
18 ADVERSE EFFECT.—

19 (1) IN GENERAL.—The Secretary shall assess,
20 after consultation with the Federal banking agen-
21 cies, whether the possible denial of national treat-
22 ment to United States banking organizations by a
23 foreign country identified under subsection (a) may
24 be having a significant adverse effect on such orga-
25 nizations.

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

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

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

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

1 (D) The extent to which the foreign coun-
2 try—

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

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

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

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

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

24 (1) any assessment made under subsection

25 (b)(1) with respect to any country; and

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

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

6 (1) BANKING ORGANIZATION.—

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

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

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

24 (3) NATIONAL TREATMENT.—The term “na-
25 tional treatment” means, with respect to any foreign

1 country, treatment that offers United States bank-
2 ing organizations the same competitive opportunities
3 (including effective market access) in such country
4 as are available to the foreign country's domestic
5 banking organizations in like circumstances.

6 (4) SECRETARY.—The term “Secretary” means
7 the Secretary of the Treasury.

8 **SEC. 3. APPLICATIONS BY FOREIGN BANKS AND OTHER**
9 **PERSONS OF A FOREIGN COUNTRY.**

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

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

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

20 “(19) NOTICE BY A PERSON OF A FOREIGN
21 COUNTRY.—

22 “(A) IN GENERAL.—In considering a no-
23 tice under this subsection by a person of a for-
24 eign country, the appropriate Federal banking
25 agency shall take into account whether the Sec-

1 retary of the Treasury has published a notice,
2 in accordance with section 2(c) of the National
3 Treatment in Banking Act of 1994, that the
4 possible denial of national treatment to United
5 States banking organizations by such person's
6 home country identified under section 2(a) of
7 such Act may be having a significant adverse
8 effect on such organizations.

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

12 “(i) any entity that—

13 “(I) is organized under the laws
14 of the foreign country, or

15 “(II) has the entity's principal
16 place of business in the foreign coun-
17 try;

18 “(ii) an individual who—

19 “(I) is a citizen of the foreign
20 country, or

21 “(II) is domiciled in the foreign
22 country; and

23 “(iii) any person that is, directly or
24 indirectly, under the control of any entity

1 or individual described in clause (i) or
2 (ii).”.

3 (d) AMENDMENT TO NATIONAL BANK ACT.—Section
4 5155 of the Revised Statutes (12 U.S.C. 36) is amended
5 by adding at the end the following new subsection:

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

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

23 “(12) APPLICATION BY A BANK WHICH IS A
24 PERSON OF A FOREIGN COUNTRY.—In considering
25 any merger transaction under this subsection involv-

(f) AMENDMENT TO FEDERAL RESERVE ACT.—The 3d undesignated paragraph of section 9 of the Federal Reserve Act (12 U.S.C. 321) is amended in the proviso by inserting “, including section 5155(i) of the Revised Statutes,” after “limitations and restrictions”.

18 No authority under this Act or any amendment made
19 by this Act to any other law may be used to take any
20 action with respect to a foreign country which is inconsis-
21 tent with any bilateral or multilateral agreement that gov-
22 erns financial services in which such country is obligated

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

Passed the House of Representatives September 30,
1994.

Attest: DONNALD K. ANDERSON,
Clerk.