

103^D CONGRESS
2^D SESSION

H. R. 4926

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 “(12) APPLICATION BY A BANK WHICH IS A
2 PERSON OF A FOREIGN COUNTRY.—In considering
3 any merger transaction under this subsection involv-
4 ing any bank which is a person of a foreign country
5 (as defined in section 7(j)(19)(B)), the responsible
6 agency shall take into account whether the Secretary
7 of the Treasury has published a notice, in accord-
8 ance with section 2(c) of the National Treatment in
9 Banking Act of 1994, that the possible denial of na-
10 tional treatment to United States banking organiza-
11 tions by such person’s home country identified under
12 section 2(a) of such Act may be having a significant
13 adverse effect on such organizations.”.

14 (f) AMENDMENT TO FEDERAL RESERVE ACT.—The
15 3d undesignated paragraph of section 9 of the Federal Re-
16 serve Act (12 U.S.C. 321) is amended in the proviso by
17 inserting “, including section 5155(i) of the Revised Stat-
18 utes,” after “limitations and restrictions”.

19 **SEC. 4. CONSISTENCY WITH BILATERAL AND MULTILAT-**
20 **ERAL AGREEMENTS.**

21 No authority under this Act or any amendment made
22 by this Act to any other law may be used to take any
23 action with respect to a foreign country which is inconsis-
24 tent with any bilateral or multilateral agreement that gov-
25 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:

Clerk.

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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.