

103^D CONGRESS
1ST SESSION

S. 1527

To provide for fair trade in financial services.

IN THE SENATE OF THE UNITED STATES

OCTOBER 7 (legislative day, SEPTEMBER 27), 1993

Mr. RIEGLE (for himself, Mr. D'AMATO, Mr. BRYAN, Mr. KERRY, Mr. DOMENICI, Mr. SASSER, Mr. SHELBY, Mr. CAMPBELL, Mrs. BOXER, Mrs. MURRAY, and Mr. SARBANES) introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To provide for fair trade in financial services.

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; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Fair Trade in Financial Services Act of 1993”.

6 (b) TABLE OF CONTENTS.—The table of contents for
7 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Effectuating the principle of national treatment for banking organiza-
tions.

Sec. 3. Effectuating the principle of national treatment for securities organiza-
tions.

Sec. 4. Financial interdependence study.

Sec. 5. Conforming amendments.

1 **SEC. 2. EFFECTUATING THE PRINCIPLE OF NATIONAL**
2 **TREATMENT FOR BANKING ORGANIZATIONS.**

3 The International Banking Act of 1978 (12 U.S.C.
4 3101 et seq.) is amended by adding at the end the follow-
5 ing new section:

6 **“SEC. 18. NATIONAL TREATMENT.**

7 “(a) **PURPOSE.**—The purpose of this section is to en-
8 courage foreign countries to accord national treatment to
9 United States banking organizations that operate or seek
10 to operate in those countries.

11 “(b) **IDENTIFYING COUNTRIES THAT DENY NA-**
12 **TIONAL TREATMENT TO UNITED STATES BANKS OR**
13 **BANK HOLDING COMPANIES.**—The Secretary shall iden-
14 tify the extent to which foreign countries deny national
15 treatment to United States banking organizations—

16 “(1) according to the most recent report under
17 section 3602 of the Omnibus Trade and Competi-
18 tiveness Act of 1988 (or update thereof); or

19 “(2) based on more recent information that the
20 Secretary deems appropriate.

21 “(c) **DETERMINING WHETHER DENIAL OF NA-**
22 **TIONAL TREATMENT HAS SIGNIFICANT ADVERSE EF-**
23 **FECT.**—

24 “(1) **IN GENERAL.**—The Secretary shall deter-
25 mine whether the denial of national treatment to
26 United States banking organizations by a foreign

1 country identified under subsection (b) has a signifi-
2 cant adverse effect on such organizations.

3 “(2) FACTORS TO BE CONSIDERED.—In deter-
4 mining whether and to what extent a foreign country
5 denies national treatment to United States banking
6 organizations, and in determining the effect of any
7 such denial on such banking organizations, the Sec-
8 retary shall consider appropriate factors, including—

9 “(A) the size of the foreign country’s mar-
10 kets for the financial services involved, and the
11 extent to which United States banking organi-
12 zations operate or seek to operate in those mar-
13 kets;

14 “(B) the extent to which United States
15 banking organizations may participate in devel-
16 oping regulations, guidelines, or other policies
17 regarding new products, services, and markets
18 in the foreign country;

19 “(C) the extent to which the foreign coun-
20 try issues written regulations, guidelines, or
21 other policies applicable to United States bank-
22 ing organizations operating or seeking to oper-
23 ate in the foreign country that are—

24 “(i) prescribed after adequate notice
25 and opportunity for comment;

1 “(ii) readily available to the public;
2 and

3 “(iii) prescribed in accordance with
4 objective standards that effectively prevent
5 arbitrary and capricious determinations;

6 “(D) the extent to which United States
7 banking organizations may offer foreign ex-
8 change services in the foreign country; and

9 “(E) the effects of the regulatory policies
10 of the foreign country on—

11 “(i) the lending policies of the central
12 bank of that country;

13 “(ii) capital requirements applicable
14 in that country;

15 “(iii) the regulation of deposit interest
16 rates by that country;

17 “(iv) restrictions on the operation and
18 establishment of branches in that country;
19 and

20 “(v) restrictions on access to auto-
21 mated teller machine networks in that
22 country.

23 “(d) DETERMINATION.—

24 “(1) PUBLICATION.—If the Secretary deter-
25 mines that the denial of national treatment to

1 United States banking organizations by a foreign
2 country has a significant adverse effect on such or-
3 ganizations, the Secretary—

4 “(A) may, after initiating negotiations in
5 accordance with subsection (g), and after con-
6 sultation with the United States Trade Rep-
7 resentative, the Secretary of State, and any
8 other department or agency that the Secretary
9 deems appropriate, publish that determination
10 in the Federal Register;

11 “(B) shall, not less frequently than annu-
12 ally, in consultation with any department or
13 agency that the Secretary deems appropriate,
14 review each such determination to determine
15 whether it should be rescinded; and

16 “(C) shall inform State bank supervisors
17 of the publication of that determination.

18 “(2) EXCEPTION FOR COUNTRIES THAT ARE
19 PARTIES TO CERTAIN AGREEMENTS GOVERNING FI-
20 NANCIAL SERVICES.—Paragraph (1) shall not apply
21 to a foreign country to the extent that a determina-
22 tion under that paragraph with respect to the for-
23 eign country would permit action to be taken under
24 this section that would be inconsistent with a bilat-
25 eral or multilateral agreement that governs financial

1 services that the President entered into with that
2 country and the Senate and the House of Represent-
3 atives approved, before the date of enactment of this
4 section.

5 “(e) SANCTIONS.—

6 “(1) ACTION BY FEDERAL BANKING AGENCY.—

7 If a determination under subsection (d)(1) is in ef-
8 fect with respect to a foreign country and a publica-
9 tion of that determination has been made in accord-
10 ance with subsection (d)(1)(A), in evaluating an
11 application or notice filed by a person of that foreign
12 country, the appropriate Federal banking agency—

13 “(A) shall consider the determination and
14 the conclusions of—

15 “(i) the reports required under section
16 3602 of the Omnibus Trade and Competi-
17 tiveness Act of 1988 (and updates there-
18 to); and

19 “(ii) the reports submitted in accord-
20 ance with subsection (h);

21 “(B) shall consult with the Secretary con-
22 cerning such determination and conclusions;
23 and

24 “(C) may, only with the concurrence of the
25 Secretary, deny the application or disapprove

1 the notice, based on the determination under
2 subsection (d)(1).

3 “(2) PREVENTING EXISTING ENTITIES FROM
4 BEING USED TO EVADE THIS SECTION.—

5 “(A) IN GENERAL.—If a determination has
6 been published in accordance with subsection
7 (d)(1)(A) with respect to a foreign country, a
8 bank, foreign bank described in section 8(a),
9 branch, agency, commercial lending company,
10 or other affiliated entity that is a person of that
11 country shall not, without prior approval of the
12 appropriate Federal banking agency, after con-
13 sultation with the State bank supervisor, di-
14 rectly or indirectly, in the United States—

15 “(i) commence any line of business in
16 which the person was not engaged as of
17 the date the determination was published
18 in the Federal Register; or

19 “(ii) conduct business from any loca-
20 tion at which the person did not conduct
21 business as of that date.

22 “(B) EXCEPTION.—Subparagraph (A)
23 shall not apply with respect to companies de-
24 scribed in section 2(h)(2) of the Bank Holding
25 Company Act of 1956.

1 “(f) EXEMPTIONS FROM SANCTIONS.—

2 “(1) IN GENERAL.—Subsection (e) does not
3 apply to the subsidiaries in the United States of a
4 person of a foreign country if the Secretary deter-
5 mines that the banking laws and regulations of the
6 foreign country, as actually applied, meet or ex-
7 ceed—

8 “(A) the standards for treatment of sub-
9 sidiaries of United States banking organizations
10 contained in the Second Banking Directive, and
11 in any amendment to the Second Banking Di-
12 rective, if the Secretary determines that such
13 amendment—

14 “(i) does not restrict any operation,
15 activity, or authority to expand any oper-
16 ation or activity, permitted under those
17 standards, of any subsidiary in the foreign
18 country of any such bank or bank holding
19 company; or

20 “(ii) is in accordance with national
21 treatment of subsidiaries of such banking
22 organizations; or

23 “(B) any set of standards that, taken as a
24 whole, is no less favorable to United States

1 banking organizations than the standards re-
2 ferred to in subparagraph (A).

3 “(2) STANDARDS FOR EXERCISE OF DISCRE-
4 TION.—In exercising any discretion under this sub-
5 section, the Federal banking agencies, after
6 consultation with the Secretary, shall consider, with
7 respect to a bank, foreign bank, branch, agency,
8 commercial lending company, or other affiliated en-
9 tity that is a person of a foreign country and is op-
10 erating in the United States—

11 “(A) the extent to which the foreign coun-
12 try is progressing toward according national
13 treatment to United States banking organiza-
14 tions; and

15 “(B) whether the foreign country permits
16 United States banking organizations to expand
17 their activities in that country, even if that
18 country determined that the United States did
19 not accord national treatment to the banking
20 organizations of that country.

21 “(g) NEGOTIATIONS.—

22 “(1) IN GENERAL.—The Secretary—

23 “(A) shall initiate negotiations with any
24 foreign country with respect to which a deter-

1 mination made under subsection (d)(1) is in
2 effect; and

3 “(B) may initiate negotiations with any
4 foreign country which denies national treatment
5 to United States banking organizations to en-
6 sure that the foreign country accords national
7 treatment to such organizations.

8 “(2) EXCEPTIONS.—Paragraph (1) does not re-
9 quire the Secretary to initiate negotiations with a
10 foreign country if the Secretary—

11 “(A) determines that the negotiations—

12 “(i) would be so unlikely to result in
13 progress toward according national treat-
14 ment to United States banking organiza-
15 tions as to be a waste of effort; or

16 “(ii) would impair the economic inter-
17 ests of the United States; and

18 “(B) gives written notice of that deter-
19 mination to the chairperson and the ranking
20 minority member of the Committee on Banking,
21 Housing, and Urban Affairs of the Senate and
22 of the Committee on Banking, Finance and
23 Urban Affairs of the House of Representatives.

24 “(h) REPORT.—

1 “(1) CONTENTS OF REPORT.—Not later than
2 December 1, 1994, and biennially thereafter, the
3 Secretary shall submit to the Congress a report
4 that—

5 “(A) specifies the foreign countries identi-
6 fied under subsection (b);

7 “(B) if a determination under subsection
8 (d)(1) is in effect with respect to the foreign
9 country, provides the reasons therefor;

10 “(C) if the Secretary has not made or has
11 rescinded such a determination with respect to
12 the foreign country, provides the reasons there-
13 for;

14 “(D) describes the results of any negotia-
15 tions conducted under subsection (g)(1) with
16 the foreign country; and

17 “(E) discusses the effectiveness of this sec-
18 tion in achieving the purpose of this section.

19 “(2) SUBMISSION OF REPORT.—The report re-
20 quired by paragraph (1) may be submitted as part
21 of a report or update submitted under section 3602
22 of the Omnibus Trade and Competitiveness Act of
23 1988.

24 “(i) DEFINITIONS.—For purposes of this section, the
25 following definitions shall apply:

1 “(1) APPROPRIATE FEDERAL BANKING AGEN-
2 CY.—The term ‘appropriate Federal banking agen-
3 cy’—

4 “(A) in the case of a noninsured State
5 bank or branch, means the Board of Governors
6 of the Federal Reserve System; and

7 “(B) in any other case, has the same
8 meaning as in section 3 of the Federal Deposit
9 Insurance Act.

10 “(2) BANKING ORGANIZATION.—The term
11 ‘banking organization’ means a bank, including a
12 branch or subsidiary thereof, or a bank holding com-
13 pany.

14 “(3) NATIONAL TREATMENT.—A foreign coun-
15 try accords ‘national treatment’ to United States
16 banking organizations if it offers them the same
17 competitive opportunities (including effective market
18 access) as are available to its domestic banking orga-
19 nizations.

20 “(4) PERSON OF A FOREIGN COUNTRY.—The
21 term ‘person of a foreign country’ means—

22 “(A) a person organized under the laws of
23 the foreign country;

24 “(B) a person that has its principal place
25 of business in the foreign country;

1 “(C) an individual who is—

2 “(i) a citizen of the foreign country,

3 or

4 “(ii) domiciled in the foreign country;

5 and

6 “(D) a person that is directly or indirectly
7 controlled by a person described in subpara-
8 graph (A) or (B), or by an individual described
9 in subparagraph (C).

10 “(5) SECOND BANKING DIRECTIVE.—The term
11 ‘Second Banking Directive’ means the Second Coun-
12 cil Directive of December 15, 1989, on the Coordi-
13 nation of Laws, Regulations, and Administrative
14 Provisions Relating to the Taking Up and Pursuit of
15 the Business of Credit Institutions and Amending
16 Directive 77/780/EEC (89/646/EEC).

17 “(6) SECRETARY.—The term ‘Secretary’ means
18 the Secretary of the Treasury.”.

19 **SEC. 3. EFFECTUATING THE PRINCIPLE OF NATIONAL**
20 **TREATMENT FOR SECURITIES ORGANIZA-**
21 **TIONS.**

22 (a) PURPOSE.—The purpose of this section is to en-
23 courage foreign countries to accord national treatment to
24 United States securities organizations that operate or seek
25 to operate in those countries.

1 (b) IDENTIFYING COUNTRIES THAT DENY NATIONAL
2 TREATMENT TO UNITED STATES SECURITIES ORGANIZA-
3 TIONS.—The Secretary shall identify whether and to what
4 extent foreign countries deny national treatment to United
5 States securities organizations—

6 (1) according to the most recent report under
7 section 3602 of the Omnibus Trade and Competi-
8 tiveness Act of 1988 (or update thereof); or

9 (2) based upon more recent information that
10 the Secretary deems appropriate.

11 (c) DETERMINING WHETHER DENIAL OF NATIONAL
12 TREATMENT HAS SIGNIFICANT ADVERSE EFFECT.—The
13 Secretary shall determine whether the denial of national
14 treatment to United States securities organizations by a
15 foreign country identified under subsection (b) has a sig-
16 nificant adverse effect on such organizations.

17 (d) DETERMINATION.—

18 (1) PUBLICATION.—If the Secretary determines
19 that the denial of national treatment to United
20 States securities organizations by a foreign country
21 has a significant adverse effect on such organiza-
22 tions, the Secretary—

23 (A) may, after initiating negotiations in ac-
24 cordance with subsection (g), and after con-
25 sultation with the United States Trade Rep-

1 representative, the Secretary of State, and any
2 other department or agency that the Secretary
3 deems appropriate, publish that determination
4 in the Federal Register; and

5 (B) shall, not less frequently than annu-
6 ally, in consultation with any department or
7 agency that the Secretary deems appropriate,
8 review each such determination to determine
9 whether it should be rescinded.

10 (2) EXCEPTION FOR COUNTRIES THAT ARE
11 PARTIES TO CERTAIN AGREEMENTS GOVERNING FI-
12 NANCIAL SERVICES.—Paragraph (1) shall not apply
13 to a foreign country to the extent that a determina-
14 tion under that paragraph with respect to the for-
15 eign country would permit action to be taken under
16 this section that would be inconsistent with a bilat-
17 eral or multilateral agreement that governs financial
18 services that the President entered into with that
19 country and the Senate and the House of Represent-
20 atives approved, before the date of enactment of this
21 section.

22 (e) SANCTIONS.—

23 (1) RECOMMENDATION BY THE SECRETARY.—
24 If a determination under subsection (d)(1) is in ef-
25 fect with respect to a foreign country, the Secretary

1 may, after consultation with the United States
2 Trade Representative, the Secretary of State, and
3 any other department or agency that the Secretary
4 deems appropriate, and subject to the specific direc-
5 tion of the President (if any), recommend to the
6 Commission that the Commission deny any applica-
7 tion or notice filed by a person of that foreign coun-
8 try.

9 (2) ACTION BY COMMISSION.—If a determina-
10 tion under subsection (d)(1) is in effect with respect
11 to a foreign country and a publication of that deter-
12 mination has been made in accordance with sub-
13 section (d)(1)(A), in evaluating any application or
14 notice filed by a person of that foreign country con-
15 cerning which the Commission has received a rec-
16 ommendation from the Secretary under paragraph
17 (1), the Commission—

18 (A) shall consider—

19 (i) the recommendation of the Sec-
20 retary; and

21 (ii) the determination and the conclu-
22 sions of the reports and updates under sec-
23 tion 3602 of the Omnibus Trade and Com-
24 petitiveness Act of 1988 and the reports

1 submitted in accordance with subsection
2 (g);

3 (B) shall consult with the Secretary con-
4 cerning the determinations and conclusions re-
5 ferred to in subparagraph (A)(ii); and

6 (C) may deny the application or disapprove
7 the notice, unless the Commission determines
8 that the denial or disapproval would be incon-
9 sistent with the public interest and the protec-
10 tion of investors.

11 (3) NOTICE REQUIRED TO ACQUIRE REG-
12 ISTERED SECURITIES ORGANIZATION.—

13 (A) IN GENERAL.—If a determination
14 under subsection (d)(1) is in effect with respect
15 to a foreign country, no person of that foreign
16 country, acting directly or indirectly, may ac-
17 quire control of any registered securities organi-
18 zation, unless—

19 (i) the Commission has been given no-
20 tice not less than 90 days in advance of
21 the acquisition, in such form as the Com-
22 mission shall prescribe by rule and contain-
23 ing such information as the Commission
24 may require by rule or order; and

1 (ii) the Commission has not dis-
2 approved the notice under paragraph
3 (2)(C).

4 (B) NOTIFYING SECRETARY.—The Com-
5 mission shall promptly notify the Secretary of
6 any notice received under subparagraph (A).

7 (C) EXTENDING 90-DAY PERIOD.—The
8 Commission may, by order, extend for an addi-
9 tional 180 days the period during which the
10 Commission may disapprove a notice received
11 under subparagraph (A).

12 (4) STANDARDS FOR EXERCISE OF DISCRE-
13 TION.—In exercising any discretion under this sub-
14 section, the Secretary and the Commission shall con-
15 sider, with respect to a securities organization that
16 is a person of a foreign country and is operating in
17 the United States—

18 (A) the extent to which the foreign country
19 is progressing toward according national treat-
20 ment to United States securities organizations;
21 and

22 (B) whether the foreign country permits
23 United States securities organizations to ex-
24 pand their activities in that country, even if
25 that country determined that the United States

1 did not accord national treatment to securities
2 organizations of that country.

3 (f) NEGOTIATIONS.—

4 (1) IN GENERAL.—The Secretary—

5 (A) shall initiate negotiations with any for-
6 eign country with respect to which a determina-
7 tion under subsection (d)(1) is in effect; and

8 (B) may initiate negotiations with any for-
9 eign country which denies national treatment to
10 United States securities organizations to ensure
11 that the foreign country accords national treat-
12 ment to such organizations.

13 (2) EXCEPTIONS.—Paragraph (1) does not re-
14 quire the Secretary to initiate negotiations with a
15 foreign country if the Secretary—

16 (A) determines that the negotiations—

17 (i) would be so unlikely to result in
18 progress toward according national treat-
19 ment to United States securities organiza-
20 tions as to be a waste of effort; or

21 (ii) would impair the economic inter-
22 ests of the United States; and

23 (B) gives written notice of that determina-
24 tion to the chairperson and the ranking minor-
25 ity member of the Committee on Banking,

1 Housing, and Urban Affairs of the Senate and
2 of the Committee of Energy and Commerce of
3 the House of Representatives.

4 (g) REPORT.—

5 (1) CONTENTS OF REPORT.—Not later than
6 December 1, 1994, and biennially thereafter, the
7 Secretary shall submit to the Congress a report
8 that—

9 (A) specifies the foreign countries identi-
10 fied under subsection (b);

11 (B) if a determination under subsection
12 (d)(1) is in effect with respect to the foreign
13 country, provides the reasons therefor;

14 (C) if the Secretary has not made, or has
15 rescinded, a determination under subsection
16 (d)(1) with respect to the foreign country, pro-
17 vides the reasons therefor;

18 (D) describes the results of any negotia-
19 tions conducted under subsection (f)(1) with the
20 foreign country; and

21 (E) discusses the effectiveness of this sec-
22 tion in achieving the purpose of this section.

23 (2) SUBMISSION OF REPORT.—The report re-
24 quired by paragraph (1) may be submitted as part
25 of a report or update submitted under section 3602

1 of the Omnibus Trade and Competitiveness Act of
2 1988.

3 (h) DEFINITIONS.—For purposes of this section, the
4 following definitions shall apply:

5 (1) BROKER.—The term “broker” has the same
6 meaning as in section 3(a)(4) of the Securities Ex-
7 change Act of 1934.

8 (2) DEALER.—The term “dealer” has the same
9 meaning as in section 3(a)(5) of the Securities Ex-
10 change Act of 1934.

11 (3) COMMISSION.—The term “Commission”
12 means the Securities and Exchange Commission.

13 (4) INVESTMENT ADVISER.—The term “invest-
14 ment adviser” has the same meaning as in section
15 202(a)(11) of the Investment Advisers Act of 1940.

16 (5) NATIONAL TREATMENT.—A foreign country
17 accords “national treatment” to United States secu-
18 rities organizations if it offers them the same com-
19 petitive opportunities (including effective market ac-
20 cess) as are available to its domestic securities orga-
21 nizations.

22 (6) PERSON OF A FOREIGN COUNTRY.—The
23 term “person of a foreign country” means—

24 (A) a person organized under the laws of
25 the foreign country;

1 (B) a person that has its principal place of
2 business in the foreign country;

3 (C) an individual who is—

4 (i) a citizen of the foreign country; or

5 (ii) domiciled in the foreign country;

6 and

7 (D) a person that is directly or indirectly
8 controlled by a person described in subpara-
9 graph (A) or (B), or by an individual described
10 in subparagraph (C).

11 (7) SECRETARY.—The term “Secretary” means
12 the Secretary of the Treasury.

13 (8) SECURITIES ORGANIZATION.—The term
14 “securities organization” means a broker, a dealer,
15 or an investment adviser.

16 (i) OTHER AUTHORITY NOT AFFECTED.—This sec-
17 tion does not limit the authority of the Commission, the
18 Secretary, or any other department or agency under any
19 other provision of Federal law.

20 **SEC. 4. FINANCIAL INTERDEPENDENCE STUDY.**

21 Subtitle G of title III of the Omnibus Trade and
22 Competitiveness Act of 1988 (22 U.S.C. 5351 et seq.) is
23 amended by adding at the end the following new section:

1 **“SEC. 3605. FINANCIAL INTERDEPENDENCE STUDY.**

2 “(a) INVESTIGATION REQUIRED.—The Secretary, in
3 consultation and coordination with the Securities and Ex-
4 change Commission, the Federal banking agencies, and
5 any other appropriate Federal department or agency des-
6 ignated by the Secretary, shall conduct an investigation
7 to determine—

8 “(1) the extent of the interdependence of the fi-
9 nancial services sectors of the United States and for-
10 eign countries—

11 “(A) whose financial services institutions
12 provide financial services in the United States;
13 or

14 “(B) whose persons have substantial own-
15 ership interests in United States financial serv-
16 ices institutions; and

17 “(2) the economic, strategic, and other con-
18 sequences of that interdependence for the United
19 States.

20 “(b) REPORT.—

21 “(1) REPORT REQUIRED.—Not later than 3
22 years after the date of enactment of this section, the
23 Secretary shall submit a report on the results of the
24 investigation under subsection (a) to the President,
25 the Congress, the Securities and Exchange Commis-
26 sion, the Federal banking agencies, and any other

1 appropriate Federal agency or department, as des-
2 ignated by the Secretary.

3 “(2) CONTENTS OF REPORT.—The report re-
4 quired under paragraph (1) shall—

5 “(A) describe the activities and estimate
6 the scope of financial services activities con-
7 ducted by United States financial services insti-
8 tutions in foreign markets (differentiated ac-
9 cording to major foreign markets);

10 “(B) describe the activities and estimate
11 the scope of financial services activities con-
12 ducted by foreign financial services institutions
13 in the United States (differentiated according
14 to the most significant home countries or
15 groups of home countries);

16 “(C) estimate the number of jobs created
17 in the United States by financial services activi-
18 ties conducted by foreign financial services in-
19 stitutions and the number of jobs created in
20 foreign countries by financial service activities
21 conducted by United States financial services
22 institutions;

23 “(D) estimate the additional jobs and reve-
24 nues (both foreign and domestic) that would be
25 created by the activities of United States finan-

1 cial services institutions in foreign countries if
2 those countries offered such institutions the
3 same competitive opportunities (including effective
4 market access) as are available to the domestic
5 financial services institutions of those
6 countries;

7 “(E) describe the extent to which foreign
8 financial services institutions discriminate
9 against United States persons in procurement,
10 employment, the provision of credit or other financial
11 services, or otherwise;

12 “(F) describe the extent to which foreign
13 financial services institutions and other persons
14 from foreign countries purchase or otherwise facilitate
15 the marketing from the United States of
16 government and private debt instruments and
17 private equity instruments;

18 “(G) describe how the interdependence of
19 the financial services sectors of the United
20 States and foreign countries affects the autonomy
21 and effectiveness of United States monetary
22 policy;

23 “(H) describe the extent to which United
24 States companies rely on financing by or
25 through foreign financial services institutions

1 and the consequences of such reliance (includ-
2 ing disclosure of proprietary information) for
3 the industrial competitiveness and national se-
4 curity of the United States;

5 “(I) describe the extent to which foreign fi-
6 nancial services institutions, in purchasing high
7 technology products such as computers and
8 telecommunications equipment, favor manufac-
9 turers from their home countries over United
10 States manufacturers; and

11 “(J) contain other appropriate information
12 relating to the results of the investigation re-
13 quired by subsection (a).

14 “(c) DEFINITIONS.—For purposes of this section the
15 following definitions shall apply:

16 “(1) DEPOSITORY INSTITUTION AND DEPOSI-
17 TORY INSTITUTION HOLDING COMPANY.—The terms
18 ‘depository institution’ and ‘depository institution
19 holding company’ have the same meanings as in sec-
20 tion 3 of the Federal Deposit Insurance Act.

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

24 “(3) FINANCIAL SERVICES INSTITUTION.—The
25 term ‘financial services institution’ means—

1 “(A) a broker, dealer, underwriter, clearing
2 agency, transfer agent, or information processor
3 with respect to securities, including government
4 and municipal securities;

5 “(B) an investment company, investment
6 manager, investment adviser, indenture trustee,
7 or any depository institution, insurance com-
8 pany, or other organization operating as a fidu-
9 ciary, trustee, underwriter, or other financial
10 services provider;

11 “(C) any depository institution or depository
12 institution holding company; and

13 “(D) any other entity providing financial
14 services.

15 “(4) SECRETARY.—The term ‘Secretary’ means
16 the Secretary of the Treasury.”.

17 **SEC. 5. CONFORMING AMENDMENTS.**

18 (a) REPORTS ON FOREIGN TREATMENT OF UNITED
19 STATES FINANCIAL INSTITUTIONS.—Section 3602 of the
20 Omnibus Trade and Competitiveness Act of 1988 (22
21 U.S.C. 5352) is amended—

22 (1) in the first sentence, by inserting “with up-
23 dates on significant developments every 2 years fol-
24 lowing the study conducted in 1994,” before “the
25 Secretary of the Treasury”; and

1 (2) by adding at the end the following: “For
2 purposes of this section, a foreign country denies na-
3 tional treatment to United States entities unless the
4 foreign country offers such entities the same com-
5 petitive opportunities (including effective market ac-
6 cess) as are available to the domestic entities of the
7 foreign country.”.

8 (b) NEGOTIATIONS TO PROMOTE FAIR TRADE IN FI-
9 NANCIAL SERVICES.—Section 3603(a)(1) of the Omnibus
10 Trade and Competitiveness Act of 1988 (22 U.S.C.
11 5353(a)(1)) is amended by inserting “effective” before
12 “access”.

13 (c) PRIMARY DEALERS IN GOVERNMENT DEBT IN-
14 STRUMENTS.—Section 3502(b)(1) of the Omnibus Trade
15 and Competitiveness Act of 1988 (22 U.S.C. 5342(b)(1))
16 is amended—

17 (1) by striking “does not accord to” and insert-
18 ing “does not offer”; and

19 (2) by striking “as such country accords to”
20 and inserting “(including effective market access) as
21 are available to”.

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