

States Government may be used for the creation, operation, or support of the International Debt Management Authority specified in section 5331 of this title, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of this review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 5331 of this title; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 5331 of this title.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 5331(c) of this title.

(b) Construction of section

Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

(Pub. L. 100–418, title III, §3112, Aug. 23, 1988, 102 Stat. 1378.)

§ 5333. IMF-World Bank review

(a) IMF review

The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 5331 of this title no later than 1 year after August 23, 1988.

(b) World Bank review

The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and De-

velopment to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 5331 of this title no later than 1 year after August 23, 1988.

(Pub. L. 100–418, title III, §3113, Aug. 23, 1988, 102 Stat. 1378.)

SUBCHAPTER III—PRIMARY DEALERS

§ 5341. Short title

This subchapter may be cited as the “Primary Dealers Act of 1988”.

(Pub. L. 100–418, title III, §3501, Aug. 23, 1988, 102 Stat. 1386.)

§ 5342. Requirement of national treatment in underwriting government debt instruments

(a) Findings

The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions’ participation in Ministry of Finance policy advisory councils.

(b) Designation of certain persons as primary dealers prohibited

(1) General rule

Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary

dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) Certain prior acquisitions excepted

Paragraph (1) shall not apply to the continuation of the prior designation of a company as a primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) Exception for countries having or negotiating bilateral agreements with United States

Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 2112(b)(4)(A) of title 19; or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) “Person of a foreign country” defined

For purposes of this section, a person is a “person of a foreign country” if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) Effective date

This section shall take effect 12 months after August 23, 1988.

(Pub. L. 100–418, title III, § 3502, Aug. 23, 1988, 102 Stat. 1386.)

SUBCHAPTER IV—FINANCIAL REPORTS

§ 5351. Short title

This subchapter may be cited as the “Financial Reports Act of 1988”.

(Pub. L. 100–418, title III, § 3601, Aug. 23, 1988, 102 Stat. 1387.)

§ 5352. Quadrennial reports on foreign treatment of United States financial institutions

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the

Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 5353 of this title.

(Pub. L. 100–418, title III, § 3602, Aug. 23, 1988, 102 Stat. 1387.)

§ 5353. Fair trade in financial services

(a) Discussions

When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and

(4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) Consultation before discussions

Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) Recommendations

After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) Construction of section

Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

(Pub. L. 100–418, title III, § 3603, Aug. 23, 1988, 102 Stat. 1387.)

DELEGATION OF FUNCTIONS

Functions of President under this section delegated to Secretary of the Treasury by section 1 of Ex. Ord. No. 12781, Nov. 20, 1991, 56 F.R. 59203, set out as a note under section 301 of Title 3, The President.